

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
BOB CORNETT

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
JANUARY 10, 2008

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MR. TEASTER:

We're going to tape this, Bob, unless you've got a problem with it.

A. No.

MR. TEASTER:

We tape record the information so we don't have to rely on memory or notes completely, so ---.

A. You got my notes?

MR. TEASTER:

Yes, we do have your notes.

A. Okay.

MR. TEASTER:

And we have them here. And you feel free to rely on them at any time. Just to give you a little brief history of why we're here. As you know, the Assistant Secretary was on the site there at Crandall Canyon during most of the recovery, the rescue. And the agency since Pyro, which was around '89, they've done internal reviews. But the Secretary wanted to do a review of MSHA's actions at the mine, but she wanted to do an independent --- she didn't want anybody being subordinate to the Assistant Secretary, so Joe and I, being former MSHA employees, being retired, they called on us and asked us if we'd come back and help. Joe and I have both done internal reviews and we was with MSHA for quite a while. So we agreed to come back and conduct this, and we couldn't do it by ourselves, so we got all these fine people sitting behind you to assist us. They've got a lot of expertise in different fields to help us do this.

I want to keep it as informal as we can. If you don't

1 understand a question just let us know, if you want to refer to your notes at any time ---.
2 We want to keep this as informal --- you have information that we need to complete our
3 assignment. We appreciate you coming here and willing to share the information that
4 you have. Do you have any questions about anything?

5 A. No.

6 MR. TEASTER:

7 By the way, the way we do these, either Joe or I will lead the
8 questioning, but we'll just ask questions, clarifying questions any time we want. Then
9 after Joe and I complete ours, why we'll turn it over to the folks behind you, have them
10 ask any questions that they may have.

11 MR. PAVLOVICH:

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

said he wouldn't have any for him.

13 A. I thought he had all of 'em.

14 MR. TEASTER:

15 Well, he got a big stack of people. I had not noticed that
16 before. I don't know whether that's an indication.

17 UNIDENTIFIED SPEAKER:

18 That's for trying to hide behind.

19 MR. TEASTER:

20 I have a statement I'd like to read before we get into the
21 questions, Bob. The Secretary has assigned this group the task of evaluating MSHA's
22 performance during the period preceding the August 6th, 2007 coal bounce at the
23 Crandall Canyon Mine and the subsequent rescue effort. We will also be evaluating
24 issues that were raised during this period regarding Bob Murray and his interactions
25 with MSHA. This is not an investigation or review of any individual person, it's an

1 administrative review of MSHA's actions as an agency.

2 This evaluation will be presented to the Secretary in the near
3 future, and it's intended that the results of the evaluation will be made public. This
4 interview is being conducted to gather information for this assignment. We also intend
5 to interview a number of other MSHA employees. So that we may obtain unbiased
6 information from all persons to be interviewed, we ask that you not discuss this
7 interview with anyone until all the interviews have been completed. Since you're district
8 manager I would assume that you're not entitled to union representation?

9 A. I thought Joe was my union rep.

10 MR. PAVLOVICH:

11 I'll handle it.

12 BY MR. TEASTER:

13 Q. Bob, would you state your full name?

14 A. Bob Ellis Cornett.

15 Q. What is your current position?

16 A. Current position is district manager for District 3 in Morgantown, West Virginia.

17 Q. How long have you been in that position?

18 A. Since October 29th, roughly.

19 Q. What was your position prior to that?

20 A. Assistant district manager for inspections in District 9 in Denver.

21 Q. How long was you in that position, Bob?

22 A. Roughly three or four years. I don't know the exact date.

23 Q. How long have you been with the agency?

24 A. Twenty-five (25) plus years.

25 Q. Could you give us just a brief description of your mining background prior to

1 MSHA, ---

2 A. Okay.

3 Q. --- including what you done up to the time you got your assistant district
4 manager job?

5 A. Okay. To go back, I started in mining in 1974 in the Engineering Department
6 for Blue Diamond Mining at Scotia Mine. Was an engineer there for a couple of years,
7 which is a little different than what you would be an engineer at any other place. That
8 mine at underground mine at Scotia was fairly extensive, maybe not as big as some of
9 the McElroys and the bigger mines now, but then it was. So when you went
10 underground as an engineer at that time you were on a section all day. When you
11 finished setting your spads or whatever, you stayed and you ran a roof bolter or you ran
12 a shuttle car, or you did different --- whatever they needed at the time, that's what you
13 did. So for a while I did that.

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

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

19 and in 1976 Scotia
20 blew up twice, and then I went back to school in engineering. I wound up being the
21 resident engineer which is for that position, it's the chief engineer on the property for
22 the Blue Diamond Scotia operation, it included at that time probably four mines. I also
23 was a surface foreman.

24 I left Blue Diamond, ---and I'm going to guess at dates, but I left Blue Diamond
25 in 1980 or so. For two weeks worked for Jericho Mine, and figured out real quick that
wasn't where I wanted to be. I went back to Blue Diamond as an underground mine

1 foreman. I worked underground for a year being --- I don't know how far you want to
2 get into this, but basically they closed the mines down. If you have specific questions,
3 ask me, but they closed the mine down roughly in 1981 late 19 --- mid May, something
4 like that. I went to work doing construction at the time. Then I hired in with MSHA in
5 September or October. It would've been September, right before the fiscal year ended
6 in Harlan, Kentucky in 1982.

7 Q. As an inspector?

8 A. Yeah, I hired in as an inspector. I was a help specialist. They were asking for
9 volunteers after I got my AR card. And I thought, man, this is the greatest thing there
10 ever was, I can work four days a week and be off for long weekends. And that lasted
11 for about a year 'til I was pretty tired by then and went back to being a regular inspector.
12 Mostly at that time inspecting Wilcox miners in Harlan County. And there was an
13 ignition at Arch 37 Mine. At the time there were three workgroups in Harlan County,
14 and the area I had was not --- it was --- the Wilcoxes were smaller, probably what you'd
15 say the eastern end of Harlan County. Then they rotated workgroups and
16 assignments, and I lived in Cumberland, Kentucky, where my home was situated within
17 a couple of miles of about four of Arch's big mines that they'd bought from US Steel, so
18 I wound up inspecting one of those. But along about in 1986 they had an ignition at the
19 37 Mine, which was their big mine, and I went down on the investigation on it, I found
20 some things, and wound up being the resident inspector at the 37 Mine for a year.

21 Along about then, in late '87, '88, the last leadership development program, the
22 full-blown one where people went through it, I applied for it and was accepted into it.
23 Went through that training process for a couple of years. During that time was a
24 Philadelphia supervisor in Hindman, Kentucky; Jacksboro, Tennessee, kind of a
25 floating supervisor that I worked some out of Harlan, some out of Barbourville, never

1 did work out of Hazard, but most of those --- and at the time we had --- District s7 had
2 Birmingham in it also. I was asked to work with inspectors to travel with them to get
3 some kind of consistency as to how they wrote citations and what they saw in
4 enforcement. I did that in Harlan, Kentucky and Jasper, Tennessee. At roughly 1991
5 Granny Rose had happened to occur prior to this, but there was an impact team put
6 together that looked at Blue Gem Mining shooting on a solid. And part of what MSHA
7 did was had a supervisor and two inspectors that would go to two of the Blue Gem
8 Mines per day. One of the three stayed outside, the other two would crawl in. You
9 basically confiscated the telephone and wouldn't let 'em call underground. You'd try to
10 sneak up on them and try to catch --- almost everything you wrote was unwarrantable
11 failure.

12 Q. So most of your mining was back east?

13 A. At this point in time, yeah. This is in '90 --- '90 to '91.

14 Q. Who was you supervisor prior to going to your ADM job?

15 A. Well, there's a little bit of gap between there. In Harlan, Kentucky my
16 supervisor was Ken Fee (phonetic). When I went to work as a supervisor Carl Dunn
17 (phonetic) was back then our district manager, and he was my boss. In '92 I went to ---
18 a position opened up for education and training in Denver, and I applied for it and got it.
19 At that time my supervisor was Jerry Taylor. And I stayed in it about ---.

20 Q. Was that a supervisor job, Bob?

21 A. Huh?

22 Q. Was that a supervisor job with ET?

23 A. Yeah, a supervisor's job of education and training in Denver.

24 Q. Okay.

25 A. I stayed in it about a year. And I think there was some issues in Health. And

1 along about that time we were putting more emphasis in Health, and I was asked to go
2 into the Health position. Again, at no time did I ever --- you know, from education and
3 training you usually gave up your AR card, but I never did.

4 So I went into Health about 1993 and stayed in it a year or two, and then there
5 was some things come up and I was asked to go under roof control. I stayed in roof
6 control for a couple of years, and we had an Assistant Secretary who came in and put a
7 lot more emphasis on Health, and I was asked to go back to Health. I stayed in that,
8 and I'll be honest with you, I can't remember the exact time frames. But around 2002
9 somewhere in there, 2001 out west we'd had some turnover and I was asked to act as
10 the ADM for engineering. And I did and was in that position for a while. And when it
11 was advertised, I applied for it and got it. The exact day that happened I couldn't tell
12 you off the top of my head. But I stayed in that position for a year or two over
13 engineering.

14 And at that point Richard Gates was the AD --- at that time when I was out
15 west, Bill Holgate was the district manager when I first went out west. When Mr.
16 Holgate retired, we had Jim Oaks (phonetic) that came out for a little bit, and then Jack
17 Kuzar came out. So those were the district managers that I worked under.

18 Richard Gates at the time I got the ADM for engineering was placed into the
19 inspection ADM position. When Richard left, we were told that Bill Knepp was going to
20 be sent out west. He had been there earlier, but that he was coming back to take an
21 ADM position, and I was asked based on my background in mining to move from the
22 engineering position to the inspection position, and that's what happened. At that point
23 in time shortly after that Mr. Kuzar left and Allyn Davis was placed out there from
24 headquarters.

25 Q. So you got your ADM under Kuzar?

1 A. Yeah. No. When I got back, I started out acting under Kuzar, and during that
2 transition Al Davis was the one that hired me as the ADM full time.

3 Q. Bob, did you know Bob Murray prior to buying those mines in Utah?

4 A. No.

5 Q. Did you ever have any dealings with him prior to Crandall Canyon?

6 A. Prior to that, no, I had not. I had heard stories, but I had never met him, never
7 talked with him.

8 Q. Had you met him at all prior to the August 6th ---?

9 A. Face to face, I don't think I had. We had had a telephone conversation.

10 Q. What did that involve?

11 A. Mr. Murray when he bought those mines, there were some issues going on,
12 and he --- everything that I had heard is that he could be volatile. So he wanted to have
13 a kind of conference call because out west it's just not as easy to jump in a car and go
14 meet with a coal operator, because you're a six to eight hour drive from Price, Utah. So
15 he wanted to have the field office supervisors come to the mines and have someone in
16 the district on conference call and discuss the issues, which I didn't know what he
17 wanted to discuss other than he had just bought the mines, and maybe he wanted to
18 tell us how ---.

19 Q. This was all of his mines, not just any particular mine?

20 A. Yeah, it was all of the mines he had bought. Some of that background, though,
21 is that there had been a lot of accusations that I was hearing that inspectors were the
22 enemies of coal operators that were attributed to Mr. Murray. That was had an

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

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5 A. I'll get to that. He never directly said any of this to me. But to fill in the gaps a
6 little bit, Mr. Murray wanted to talk to someone. Al Davis asked me to sit in on a
7 conference call and I had concern. I'm maybe a little different than a lot of people that I
8 think MSHA deserves respect and should get it. We should give respect to the people
9 we deal with, but we deserve that same respect back. I'm not a person that you're
10 going to sit and cuss or harass, I just won't put up with it. Probably if you went back to
11 my inspection days, I probably --- if they started cussing me, I'd cuss back. If they
12 wanted to fight, we'd fight, and whatever, but that's old stuff. I learned pretty quick
13 that's not professional and that's not the way you do business.

14 My background is, I have been put in situations as a supervisor where we've
15 had federal marshals come in at two times, one for a direct physical attack on an
16 inspector, one for attempting to run over inspectors, that I worked with federal
17 marshals. And I came to the conclusion that federal marshals are the ones that are
18 paid to deal with people who want to be intimidating or harassing and not me or not our
19 inspectors. So when I was kind of told that I needed to be in on this conference call,
20 and make my concerns known that I'm not going to put up with him cussing me or any
21 of our people, and I called Mr. Jim Poulson from his Safety Department there at the
22 time, and told him you need to pass on to Mr. Murray that the first time he cusses me,
23 the phone conversation is over with, it's done, I won't stay on. So that was agreed.
24 When that phone call happened, I don't have the exact dates, but I think Ted Farmer
25 and Bill Taylor were both there at the office towards West Ridge Mine.

1 Mr. Murray told me, I got your message and I'll behave. And I appreciated that,
 2 and for the most part he got into discussing issues. He didn't get too wound up. There
 3 was a couple times that you could hear his voice --- you know, I'm not there looking at
 4 him, so I don't know what he was doing, but in his voice that he got agitated. One was
 5 with Ex. (b)(6) and Ex. (b)(7)(C) and that he was not going to be allowed on their property. My
 6 comments, I think, at the time were, if you do what I'm thinking you're going to do then
 7 we will deal with it appropriately with whatever we have to do.

8 The other time his voice got agitated, and this is my personal opinion on what it
 9 was, was telling me that if you get too tough on me, here's what's going to happen to
 10 you was that Ex. (b)(6) and Ex. (b)(7)(C) I guess at the time had closed
 11 one of their beltlines down. And according to Mr. Murray that it wasn't deserved, that
 12 he had political pull and he had talked to people, and he was very clear to say I didn't
 13 have him fired, but he got fired.

14 Q. He shared this over the phone?

15 A. Yeah. And I'm not fully aware of anything that ever really happened with Ex. (b)(6) and Ex. (b)(7)(C)
 16 Ex. (b)(6) and Ex. (b)(7)(C), but ---.

17 Q. But he told you that he had him fired?

18 A. Well, no, he said, I did not have him fired, but he was fired after I made a call. I
 19 mean, the way I personally took that was that I have connections and I will use them.

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

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

So we finished that

22 meeting, that was the only time. I've never seen Mr. Murray prior to physically meeting
 23 him at Crandall Canyon after the first event.

24 Q. My understanding he took ownership of these mines in August of '06. Can you
 25 identify any time in that time period when this meeting may have taken place?

1 A. It would've been --- and this is a best guess, late August, mid to late August or
2 the first part of September.

3 Q. The ^{Ex. (b)(6) and Ex. (b)(7)(C)} issue, do you know when that occurred?

4 A. Unless it's --- and I don't think it would be in my notes. I had a lot of that in
5 e-mails that I kept documented and saved in e-mails. I think I still have them, but
6 unless you guys have that, I don't have those exact dates.

7 Q. I think it was in July of '06 that he started to make an inspection at Crandall
8 Canyon is when that incident first surfaced. I don't know about ---. Was you involved in
9 ^{Ex. (b)(6) and Ex. (b)(7)(C)}

[Redacted]

11 MR. PAVLOVICH:

12 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
13 [Redacted]

14 MR. PAVLOVICH:

15 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
16 [Redacted]
17 [Redacted]

18 MR. PAVLOVICH:

19 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
20 [Redacted]

21 MR. PAVLOVICH:

22 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
23 [Redacted]

24 MR. PAVLOVICH:

25 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
[Redacted]

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

2 MR. PAVLOVICH:

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

4 MR. PAVLOVICH:

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

6 MR. PAVLOVICH:

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

8 MR. PAVLOVICH:

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

10 MR. PAVLOVICH:

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

12 MR. PAVLOVICH:

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

14 MR. PAVLOVICH:

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

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

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BY MR. TEASTER:

Q. Was he ever given any direction not to go back to the mine?

A. Not that I know of.

Q. Was his supervisors given any directions to keep him away from those mines?

A. I'm not aware of it.

Q. Well, if there was any given, wouldn't it come from the ADM to the supervisors?

A. Not necessarily, the DM could have.

Q. Was that a common practice, the DM going to the supervisors and not including the assistant district manager?

A. Probably not.

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

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

2 Q. How did you come about that again?

3 A. It was feedback that I got from Price, Utah.

4 Q. From the field office?

5 A. They have a field office --- and this is a very tight-knit community in Price, Utah.

6 Ex. (b)(6) and Ex. (b)(7)(C) and they're close-knit groups and things. The people
7 working at the mines live in the community. Andalex Resources, prior to Mr. Murray
8 taking over, had been more of a family-type situation, that it was the management, the
9 miners all felt like they were part of a family together working. They were very close. It
10 was a definite change to them when Mr. Murray came in. And, again, it's hearsay that I
11 know --- or I have heard that he would fire people and then hire them back, and there
12 was comments that the inspectors are your enemies, they are not your friends, and I
13 don't want to hear you call them friends. Those type comments within a close-knit
14 community, when an outsider comes in and starts making derogatory comments
15 towards people in the community, it does get around. Other than the phone
16 conversation when Mr. Murray talked Ex. (b)(6) and Ex. (b)(7)(C)

17 Ex. (b)(6) and Ex. (b)(7)(C) that was the only comments from the Murray group at that point in time that
18 were made.

19 Q. What do you know about combining all the Murray mines and moving them to
20 the other workgroup?

21 A. I know about that. And there was some issues right, wrong or indifferent. Ted
22 Farmer had part of those mines and Bill Taylor had part of those mines. There was a
23 concern of mine that I made known to Al Davis that Ted Farmer had Ex. (b)(6) and Ex. (b)(7)(C) who worked
24 for Mr. Murray, that pressure could be put on them, the appearance of being
25 inappropriate could be there. And I asked Al, could we give Bill all those mines and

1 redistribute those mines to keep Ted out of being put in that position.

2 Q. Do you know how long Ted's ^{Ex. (b)(6) and Ex. (b)(7)(C)} had worked at that mine?

3 A. No, I don't.

4 Q. Why was it particularly brought up at this time, do you recall?

5 A. With the attitude that seemed to be there, antagonistic, for the inspectors and
6 Mr. Murray moving people, firing people around, I didn't feel comfortable in having ---
7 putting Ted in a position where his ^{Ex. (b)(6) and Ex. (b)(7)(C)} could be used against him.

8 MR. PAVLOVICH:

9 Did Ted bring that up to you, Bob?

10 A. I don't remember who brought it up to me.

11 MR. PAVLOVICH:

12 I mean, did he kind of request that ---

13 A. No.

14 MR. PAVLOVICH:

15 --- from you? Was he the one that told you that my ^{Ex. (b)(6) and Ex. (b)(7)(C)} work
16 out there and I'm concerned for 'em if I'm inspecting them or anything like that?

17 A. No, I don't think Ted brought that up.

18 MR. PAVLOVICH:

19 How did that information get to you, do you know?

20 A. I'm not sure how it got to me, to be honest with you.

21 MR. PAVLOVICH:

22 Murray didn't tell you about it, did he?

23 A. No.

24 MR. PAVLOVICH:

25 How about any of his people, do you think it was somebody in

1 MSHA who told you?

2 A. I think it was an MSHA person that told me Ted has sons that work for the
3 mines.

4 MR. PAVLOVICH:

5 Did you ever talk to Ted about that?

6 A. Yeah.

7 MR. PAVLOVICH:

8 What did he say?

9 A. He told me his sons did work at that mine.

10 MR. PAVLOVICH:

11 I mean, did you tell him that's why you were going to change
12 the mines?

13 A. Yes.

14 MR. PAVLOVICH:

15 What did Ted say about that?

16 A. He was okay with it. I'm not saying he volunteered to do it or was happy about
17 doing it, but he understood my --- and I explained to him why I thought we should do
18 that and he was okay with it.

19 MR. PAVLOVICH:

20 Did it give the perception in Price that workgroup change was
21 made because of Murray's influence?

22 A. I don't know.

23 MR. PAVLOVICH:

24 Okay.

25 BY MR. TEASTER:

1 Q. Was you aware of any of the other inspectors or anyone else in that field office
2 that had relatives working there at the ---?

3 A. Not directly, no. I can't recall. I'm sure in that community there that there
4 probably is, but I don't know. But being a supervisor, Bill Taylor I don't think had any
5 Ex. (b)(6) and Ex. (b)(7)(C) working for Mr. Murray.

6 MR. PAVLOVICH:

7 So you think it would be different for a supervisor having Ex. (b)(6) and Ex. (b)(7)(C)
8 that worked at one of the Murray mines versus one of the inspectors in the workgroup
9 that had Ex. (b)(6) and Ex. (b)(7)(C)?

10 A. It's not good either way, I got to agree, but I think it's more critical if a
11 supervisor has Ex. (b)(6) and Ex. (b)(7)(C) working in an antagonistic situation, where you can see
12 potential problems coming.

13 BY MR. TEASTER:

14 Q. Did you consult with anyone before you made a decision to ---?

15 A. Al Davis.

16 Q. Al was agreeable to that?

17 A. Yeah.

18 MR. PAVLOVICH:

19 Did you talk to Al about the conference call you had with
20 Murray when he mentioned the issue about Ex. (b)(6) and Ex. (b)(7)(C) and that he wasn't going to
21 put up with you being tough and all that kind of stuff?

22 A. Yes.

23 MR. PAVLOVICH:

24 What did Al say about that?

25 A. I don't recall what he said.

1 MR. PAVLOVICH:

2 But he was aware of it?

3 A. He was aware of it.

4 BY MR. TEASTER:

5 Q. Had you ever reviewed the violation history of Crandall Canyon prior to the
6 accident on August the 6th?

7 A. Specifics I couldn't tell you now, but I know what I tried to do as an ADM is look
8 at mines where I thought we had issues and focus with --- with less resources focus
9 where we needed more of our resources to go to. I did look at inspectors' history of
10 how they wrote citations. And Crandall Canyon, an opinion, it was not one of the mines
11 that I would've been concerned about being probably in my top five of problem mines.

12 Q. How many of Murray's mines in that area would you put in that top five
13 category?

14 A. One. Well, it could've possibly been two a little bit later, but with West Ridge
15 just starting kind of getting going at the time, I mean right now it would probably be a
16 concern with some of the issues they've ran into. But Aberdeen definitely was one, with
17 bounce conditions that they had, with methane liberation that they had, and that the
18 mines really wasn't developed to ventilate a longwall section, and it created problems.

19 Q. But was it mine conditions or the violation history that brought these mines into
20 your concern?

21 A. It's a little bit of both, but the conditions generally seem to dictate the number of
22 citations a lot of times that happened, not always but generally.

23 Q. Did you have any specific discussions with the supervisors about the conditions
24 and the violations at those mines at West Ridge or particularly at Aberdeen?

25 A. At Aberdeen, yes.

1 Q. What was the context of those discussions?

2 A. That concern was the bleeder systems at Aberdeen and the methane liberation
3 and how they dealt with ---. It's kind of twofold. The bounce issue has always been
4 there. When I was in roof control is when they had the first bounce and had a fatal
5 there. Then they had pulled off of that first panel and went to the second panel and
6 started mining, had another bounce, and they decided to go panel, barrier, panel,
7 because of the depth of cover and the bounce-prone conditions they had. So that was
8 always a discussion that we have to really keep an eye on what's going on with
9 bounces, if possible. But the methane being another one, Aberdeen liberates quite a
10 bit of methane. Again, it was not developed as a mine to ventilate longwall panels, so
11 that was a little bit of an issue. But for the west, them doing barrier, panel, barriers, you
12 didn't have a district with a large number of longwall panels to ventilate, so a little bit
13 earlier to deal with. But it did seem that there was a problem that we had to keep a
14 close hand on ventilating the longwall and making sure they kept the gases away.

15 Q. So did this concern result in more presence at those mines than as compared
16 to some of the other mines? Was you doing more than the regular EO-1s?

17 A. At times we did. There was --- and I can't give you the exact time frames, but it
18 was probably a little bit before the Murray takeover with Andalex that --- it would've
19 been after Alma but prior to Murray that I had concerns of conditions on beltlines. And I
20 asked Al could we put together a supervisor and inspectors as a team to concentrate
21 on beltlines where we have issues at certain mines that get a lot of 75.400 violations
22 that have problems managing to keep our accumulations down. They generally
23 focused --- and Al agreed to let me do it, and we did. And we would have --- that team
24 would go to a mine and do the beltlines, inspect all the beltlines at that mine. If they
25 went to the face and started from the face outby they would do an imminent danger at

1 the face, and then they would start out the beltlines. They'd check for accumulations,
2 fire protection, ventilation on beltlines, electrical equipment in the beltlines. There was
3 quite a list that we had that they focused on. Murray mines were a part of that.

4 Q. All of that time was attributed to regular inspection?

5 A. For the most part, yes.

6 Q. Did it take away from your ability to complete your inspections?

7 A. We tried to balance that, because it probably in some ways may have had an
8 adverse impact if we took an inspector from Craig and an inspector --- because we
9 brought inspectors from other areas, also from Aztec and Craig in particular. And I
10 think we had some from Delta that was on the team then, and some from Price. But
11 what we tried to do was to tie that into the EO-1. And if tried --- if we took an inspector
12 from Delta, which was going to limit their ability to make an inspection then we'd pick a
13 mine in their area and had that team do beltlines at one of their mines, so we felt it kind
14 of balanced out that we didn't really lose efficiency.

15 Q. So do you think the program was successful in accomplishing better operation
16 and ---?

17 A. I think it did.

18 Q. Is that still an ongoing program?

19 A. I don't know.

20 Q. It was when you left?

21 A. Roughly in January of 2007, I was asked to go to Morgantown and act as
22 district manager. Up to that time we had, I don't remember the exact number of mines
23 that we had been to, probably ten of the underground mines, roughly, and had plans to
24 try and eventually get to all of them and do this same thing at all the mines, but I think
25 around in there was when we kind of slowed down on it because one of the

1 supervisors, Don Gibson, was over that team, he was brought in to act for me when I
2 left, and I don't know if they're still doing it or not.

3 Q. Do you think your focused efforts at Aberdeen Mine --- did conditions increase
4 --- improve and did the citations and orders go down?

5 A. I don't know that you could say that --- the citations and orders probably
6 increased a little because of the emphasis we put on it during that time frame. I don't
7 know that I ever saw the impact of what happened after that. Some of the plans seem
8 to have some improvements, at Aberdeen in particular that I can think of, from a
9 ventilation standpoint, being the AD ---. Aberdeen did not have a longwall when I was
10 the ADM over engineering. Once I went into Enforcement, I did not get --- I wasn't
11 included in that loop of reviewing plans, other than making comments if our inspector
12 said we've got an issue, you know, we'd like to deal with, but as far as reviewing what
13 was being approved for a full plan, I didn't see that. But there was several discussions
14 about methane control with the bleeder taps, the bleeder system on the back end. And
15 I think there was improvements made in those not based on what we were doing
16 particularly, but on feedback from the inspectors and what results we were getting on
17 methane gas.

18 Q. Did you notice any difference in the attitude toward management of those
19 Murray mines toward health and safety, did it get better, worse, stay the same?

20 A. As opposed to when Andalex ---

21 Q. Yes.

22 A. --- ran it? I think there was an antagonistic attitude from the Murray ---.
23 Andalex, again, was not a company that would argue as much as what I've seen Mr.
24 Murray argue. They tried to do things, they implemented on their own that barrier panel
25 barrier development for longwalls which was innovative at the time. You just didn't see

1 mines leaving big barriers of coal at the mine, and Andalex stepped in and did that.

2 Q. Bob, were you ever at those mines prior to Murray taking over?

3 A. Yes.

4 Q. Which ones did you visit?

5 A. Aberdeen, for sure.

6 Q. Okay.

7 A. I don't think I was ever in West Ridge. Well, I don't remember being in West
8 Ridge other than there was a fire there one time, or heat in the vent.

9 Q. Were you ever at Aberdeen or any of those mines after Murray took over?

10 A. No.

11 Q. So then you're going by just your perceptions of did they conference more, did
12 they complain more, did the inspectors complain more?

13 A. Did I hear more from the inspectors, yes.

14 Q. It's not personal observation that you actually went there and saw a decline or
15 decrease in compliance?

16 A. The only personal observation that I could have was Bruce Hill, who is --- I
17 don't know what his title is, but with the Murray Utah, wanted to have a meeting at ---
18 again, at the West Ridge complex there to discuss. It was to me --- they wanted to
19 meet with me and the supervisors. And at that time Ex. (b)(6) and Ex. (b)(7)(C)

20 Ex. (b)(6) and Ex. (b)(7)(C) and such and so I think it was Ted Farmer and Jim Martin that met, and I met with
21 (7) them. They had this paper, and I don't know if you guys have a copy of it, so I can't
22 quote it off the top of my head, but basically a three-tiered approach to what they
23 wanted to discuss. And Bruce and different people in that room discussed, okay,
24 here's what the conditions of the mine were prior to Murray buying them, here's
25 improvements that we have made. And then the last one was improving the

1 relationship between Murray and MSHA.

2 I think that Murray had more money to invest in a mine than Andalex
3 Resources had, and he could put more ---. And this is an opinion only, that he could
4 invest money to improve production that they couldn't do to make improvements. I
5 think he did make some improvements along those lines, which would impact safety to
6 some extent.

7 Q. You mean when you say impact, did you improve it?

8 A. It would improve it. I mean, if you make improvements on a beltline, being able
9 to get more coal out and it limits spillage, you've done an improvement for safety there.
10 But that wasn't the exact intent, it was to get more coal out. Again, this is an opinion
11 only. From a perspective, though, of looking at discussions with people that had
12 worked for Andalex that had vast knowledge of that mine, you had several of his safety
13 people left. Two of them came to MSHA, one went to Bridger Coal Company, one of
14 his managers, and I don't know titles, but Garth Nielson left and he was very intelligent
15 about conditions in that area. He left and went to Bridger. Some of the discussions
16 with them is that they did not want to work for Murray. They didn't want the stress of
17 being told, you're going to do this, you're not going to get along with inspectors, they're
18 your enemy-type thing.

19 Q. Do you know about when this meeting with Bruce Hill was held?

20 A. In my notes, if you all had them, or in my e-mails I think I had the dates on that,
21 but off the top of my head, I'm guessing.

22 Q. He had a piece of paper comparing things that existed prior to Murray taking
23 ownership and after he'd taken ownership?

24 A. Yes.

25 Q. Do you have a copy of that?

1 A. Not with me, no.

2 Q. No. Could you get us a copy of that?

3 MR. TEASTER:

4 I've not seen anything like that, have you, Joe?

5 MR. PAVLOVICH:

6 No.

7 A. I can try to find one.

8 BY MR. TEASTER:

9 Q. If you could just get them and we can get them maybe through Ex. (b)(6) and Ex. (b)(7)(C) or
10 something.

11 A. Moving, when I moved during all this time moving, I don't know where
12 everything is at yet, but I can see what I can find for you.

13 Q. Did you get a lot of calls from those Murray-operated mines about complaints
14 about too many violations or about particular violations?

15 A. No.

16 Q. No?

17 A. No, not a lot of calls, no.

18 Q. Did you get any that you can recall?

19 A. No. I mean, the best I can recall, no.

20 Q. What about the other operations in the mine, how would you compare the
21 Murray mines versus the other operations?

22 A. In the Western US?

23 Q. Well, let's start with Price, Utah, the field office.

24 A. In general, out of the Price field office you've got a larger coal operators, Arch,
25 Energy West, that have Safety Departments, have resources and I think they do an

1 excellent job. I don't think the Murray mines --- he had some tough conditions, I don't
2 want to use that as an excuse because there's other mines that have tough conditions
3 too. Probably I would say they were less safety oriented than the Arches and the
4 Energy West. You have a small operations kind of there, co-op mining, and I guess it
5 goes back to the Kingston family, which is a spin-off of the Mormon Church. They may
6 do a little less for safety than what I would say the Murray mines did. That's the best
7 comparisons I can give you.

8 Q. So based on the large-type operations, Murray would probably be down near
9 the bottom?

10 A. Yeah.

11 Q. But if you got to the smaller mines, they might appear to be a little better?

12 A. Yeah.

13 Q. How did that compare then with the other parts of the district?

14 A. The district is pretty big in the west. If you go to the far eastern side of it, you
15 have a small operator in Oklahoma that has a really tough time. They don't have the
16 resources to put into safety as much as larger companies, they're a little bit worse. I
17 won't say worse, but that you're concerned about that they don't have the money to
18 invest and they don't have a Safety Department to put into it. It's a very small
19 operation. That's probably one of the roughest ones we have. If you get into the other
20 areas you've got larger mines except for an underground mine in Montana that has a
21 lot of issues about ownership. And with changes of ownership and the lack of funds I
22 think they've been foreclosed on a couple of times. That's a concern there, but if you
23 look at the Craig area, Delta area, Aztec, New Mexico area, those are all large
24 operations with Safety Departments, with resources to devote to safety, and they would
25 compare with the Arches, and with the Deer Creek or with the Energy West mines they

1 would be more safety oriented, probably.

2 Q. So if you got your larger operations --- and let's just focus primarily on
3 Aberdeen now, would that have been your most problem mine as far as compliance
4 and conditions?

5 A. It would've been one of the top three, probably.

6 Q. What about the incident rates at those mines, how did they compare?

7 A. I couldn't off the top of my head give you a number on it.

8 Q. Never reviewed them that you could remember anything ---?

9 A. I couldn't remember the numbers, no.

10 Q. Have you ever had any request or did you have any when you were in District 9
11 to move any inspectors because of an enforcement action or for any reason from the
12 mine?

13 A. From a company or from MSHA's perspective?

14 Q. No, from a company's perspective.

15 A. Out of the Delta field office there was some personality differences. They
16 enforce the law pretty tough in Delta. It may be tougher from a numbers' perspective
17 than any other office we got. They write more citations than other offices, although
18 Price is pretty close, or was, I don't know now. But in particular West Elk Mine out of
19 the Delta office did have some personality problems. And they would have liked for us
20 to not only have moved inspections but to move supervisors or whatever. My thoughts
21 on it, when I sat and listened to them in several meetings, never moved inspectors
22 from ---. I did not ever move inspectors from that, but in several meetings that I had
23 with them they would have liked for us to do that.

24 Q. Are you aware of anybody in District 9 that would cause inspectors to be
25 moved?

1 A. No.

2 MR. PAVLOVICH:

3 So was it just West Elk that asked to move inspectors and
4 supervisors?

5 A. It's a very delicate situation to answer yes or no.

6 MR. PAVLOVICH:

7 Was it yes or no? Okay? Was there other mines that asked
8 to move inspectors?

9 A. Out of Delta, I think ---.

10 MR. PAVLOVICH:

11 Out of anywhere, Bob?

12 A. Well, out of Delta would have probably been the only one, other than Ex. (b)(6) and Ex. (b)(7)(C)
13 Ex. (b)(6) and Ex. (b)(7)(C)

14 MR. PAVLOVICH:

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

16 A. Yeah.

17 MR. PAVLOVICH:

18 Okay. Anywhere else that you know of?

19 A. No.

20 MR. PAVLOVICH:

21 When you said --- was it mine operators or MSHA that asked
22 to move inspectors? Anybody in MSHA ever ask you to move an inspector?

23 A. No.

24 MR. PAVLOVICH:

25 Okay. So you didn't mean anything by that, by mine operator

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or MSHA?

A. No, I just wanted --- If you all was asking me that MSHA said, I would've said no.

MR. PAVLOVICH:

Okay.

A. If you're saying the operator, I would've said yeah.

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. Just go back to that ^{Ex. (b)(6) and Ex. (b)(7)(C)} issue. Prior to Crandall Canyon, do you have any knowledge at all of him ever returning to a Murray mine?

A. I don't know.

Q. When you said you put him at ^{Ex. (b)(6) and Ex. (b)(7)(C)} I think, as acting supervisor, was that in addition to his abilities to do the job, w^{Ex. (b)(6) and Ex. (b)(7)(C)} thinking partly the fact that you'd get him out of that environment where there'd be no need for that?

A. Yes, it was. ^{Ex. (b)(6) and Ex. (b)(7)(C)} is excellent. And I think he needed some --- I think he would or will be a great supervisor and an asset to MSHA. I think he needed that ^{Ex. (b)(6) and Ex. (b)(7)(C)} experience at the time ^{Ex. (b)(6) and Ex. (b)(7)(C)}

^{Ex. (b)(6) and Ex. (b)(7)(C)}

Q. Was he fine with that?

A. Yes.

Q. Are you aware of any MSHA employees, including managers, being moved because of enforcement issues with the operator of any mine in District 9?

A. No.

1 Q. Do you have any thoughts of why Jack Kuzar was moved from District 9?

2 A. No, I wasn't involved in it and I don't know anything about it.

3 Q. Why do you think he was moved?

4 A. I don't know. If you ask an opinion, Jack was there a long time and things were
5 changing within MSHA that you don't see district managers moving like they used to,
6 but I mean used to --- it wasn't maybe five years you'd be in an area and you were
7 moved, or it seemed to me, at least my perspective being an inspector back then, Jack
8 was there in Denver longer than anybody I saw.

9 Q. You was acting ADM under Jack?

10 A. Yeah.

11 Q. Was you acting when he was transferred back to District 1 or to District 1?

12 A. Roughly in there, and that's why it's kind of difficult for me to say because it's
13 when you get paid and when you don't get paid there's a couple ---. And under Jack I
14 think I had started out being paid --- getting the 14 wages to be acting. There was
15 times that I acted that I wasn't getting paid, but then also they put other people in
16 because it seems like about a year that we went without an ADM under Jack. So I
17 wasn't in that that whole time there.

18 Q. Do you know if Jack was happy about being transferred back east?

19 A. He wasn't happy.

20 Q. He wasn't happy?

21 A. And that's my guess to say, no, he wasn't happy.

22 Q. Did he share that or did he say anything to make you think that way?

23 A. No, other than I think he Ex. (b)(6) and Ex. (b)(7)(C)

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

25 MR. PAVLOVICH:

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

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A. Yeah.

MR. PAVLOVICH:

Was this long before he was moved?

A. No.

MR. PAVLOVICH:

So it wasn't a move at Jack's request, is what you're telling us?

A. It wasn't Jack's request to move

MR. PAVLOVICH:

Do you think it was because of his enforcement posture in

District 9?

A. I think there was a perception that Jack was pretty tough.

MR. PAVLOVICH:

Perception or was Jack pretty tough?

A. Jack could be tough, but he wasn't as tough as what some people might think.

MR. PAVLOVICH:

Okay. Jack encouraged enforcement?

A. Yes.

BY MR. TEASTER:

Q. Bob, were you given any specific instructions concerning enforcement or plan approval at any of the Murray mines?

A. No. Specific meaning what?

Q. Any specific ---?

A. Different that anybody else?

Q. Right.

1 A. No.

2 Q. Did you ever get that for any mine in District 9, from MSHA?

3 A. No, not any different than any ---. I mean, each case is a little different and
4 may have a bearing on some things, but no, nobody ever --- I don't know if I understand
5 the question.

6 Q. Well, if you get a call let's say from Arlington about an issue at a mine, whether
7 it was enforcement or whether it involved an approval of a plan where you got some
8 specific instructions to say, go ahead and approve that plan or vacate that citation or
9 change it to enforcement action to a lower level.

10 A. No, I mean from a conference perspective, the conference officers probably
11 had more to do with that than anything. I don't mean this in a negative way, but I don't
12 recall anyone from Arlington ever saying, you need to reduce or increase. I just have to
13 let it go at that. I'm not sure that I ---.

14 Q. I'm not concerned so much about the increase or decrease, but on a specific
15 issue, in other words if you had a roof control plan that you had some issues with that
16 you didn't think it should be approved and maybe you got some influence from some
17 other MSHA people, let's go ahead and approve that plan?

18 A. No.

19 Q. The same thing would be about a citation, or let's say you issued a D order,
20 and they come back and said that D order should be vacated or it should be changed
21 to a ---?

22 A. Are you asking me directly was I given that or am I aware of it happening?

23 Q. Both ways.

24 A. I am aware of it happening. I don't think I was ever directly told to do anything
25 like that.

1 Q. Well, what was you aware of?

2 A. Out of the Delta field office again, and out of West Elk again, there was an
3 issue that an inspector wrote a D order on a piece of equipment for accumulations.
4 And this is just different personalities, but the company --- there are a couple pretty
5 outspoken people in that company and they complain a lot and they throw a fit --- to me
6 what I'd say is they throw a little fit and everything. And to me you listen to it and, okay,
7 and nod your head and go on. But I think what I understood from it was they were very
8 unhappy with getting that D order and they called Mr. Davis and asked him to come
9 and look at it. And he went --- as far as I know he went and looked at it and didn't
10 agree with what was written and told the inspector. I don't remember if it was vacated
11 or changed from a D to an A, but whichever it was, it was done.

12 Q. Do you remember about how long ago that was?

13 A. Probably about --- I don't know when Al first came out there, but I'm going to
14 guess around 2002.

15 Q. Was there any other instances that you're aware of like that?

16 A. Let's back up and let me get my mind straight on this about making changes.
17 I've been asked to go evaluate what has been done, and done no changes were made.

18 MR. PAVLOVICH:

19 Well, who asked you to evaluate?

20 A. Al.

21 MR. PAVLOVICH:

22 Okay. So someone had called Al ---

23 A. Yeah.

24 MR. PAVLOVICH:

25 --- and complained, and Al asked you to go check on it, in

1 some cases?

2 A. Yeah.

3 MR. PAVLOVICH:

4 But this one time at West Elk he went himself?

5 A. Yeah.

6 MR. PAVLOVICH:

7 Would you have been the ADM over enforcement at that time?

8 A. No, I would've been over engineering at that time.

9 MR. PAVLOVICH:

10 You was over engineering at that point. Did he ever tell you to
11 approve a plan that you didn't agree with?

12 A. No.

13 BY MR. TEASTER:

14 Q. Did you get any calls from Arlington at all over plans for West Elk ---?

15 A. No.

16 MR. TEASTER:

17 Let's take a short five-minute break.

18 A. Okay.

19 BY MR TEASTER:

20 Q. Bob, did you ever review the inspection hours for these Murray mines up in the
21 Price area?

22 A. No.

23 Q. Never did?

24 A. No. Well, I used to, --- again, Murray took over and I don't remember how
25 long, but anyway, what I would try to do, we have Mr. Stickler's come out with his ---

1 what's that report, AI?

2 UNIDENTIFIED SPEAKER:

3 Key indicator.

4 A. Yeah, the key indicator report. Well, I used to do that prior to, but I didn't look
5 at specific mines. I tried to look at a bigger picture. Some of the same thing --- well,
6 almost exactly the same things he's doing it's what I used to do, but I really hated to
7 look at one area alone, I wanted to look at a broader picture, so I could try and see
8 what our inspectors were doing. So I would take like four years' worth and look at what
9 had they done from an inspection standpoint, issuing citations and orders, and how
10 they utilized their time, overall, but not just the focus on one.

11 BY MR. TEASTER:

12 Q. And did you do that for the Price area?

13 A. Yes.

14 Q. And how did you find that --- their time?

15 A. The time, I think we got ---. I got to be delicate in how to say this, but I think it'd
16 be hard working for MSHA sometimes the way you're asked to turn time in, to be 100
17 percent honest on how you turn your time in. And by that, I think there's a lot of things
18 that you do that you try to figure out how do you wiggle this into one of these. It's like
19 putting a square peg in a round hole, how do you make it fit a category and actually be
20 honest with it. And I don't know how to better explain that, other than sometimes you
21 wonder if the numbers you're looking at are 100percent accurate. In Price, Utah,
22 without having that to set here and specifically identify it, I had more problems out of
23 Craig, Colorado looking at how inspectors utilize their time than I did in Price, Utah.

24 Q. Do you recall any particular issues out of Price?

25 A. On time?

1 Q. How they were using their time and ---?

2 A. To be honest with you, if you guys haven't seen it already, you will. I mean, I
3 had concerns over potentially -- well, some of them have retired. Ex. (b)(6) and Ex. (b)(7)(C) lack
4 of citations and wondering about how he utilized his time. The ones that are still there,
5 Ex. (b)(6) and Ex. (b)(7)(C) lack of --- issuing citations. When you look at a broad
6 picture, again, my concerns in looking at something like that was if you have a
7 workgroup that over a year's period of time, they all go to the same mines, they all see
8 the same conditions. Everyone in that workgroup issues 200 citations and somebody
9 issues 20, what's the problem with the one issuing 20, or if you have somebody issuing
10 --- the workgroup issued 200, and somebody issuing 400, what's the difference, what's
11 going on to have that big a variance?

12 MR. PAVLOVICH:

13 How did you deal with that, Bob?

14 A. Sat down a couple of times with the inspectors, talked with the supervisors,
15 had them travel with them. For the most part you would have what I saw from time to
16 time, the more pressure you put on them for a period of time, you would see a change,
17 and then they'd just drift back over a period and you have to start all over again.

18 BY MR. TEASTER:

19 Q. Did you look at --- folks like Ex. (b)(6) and Ex. (b)(7)(C) did their time seem to
20 be less or more, even though they were not issuing a lot of paper based on your
21 reviews? But how was their time?

22 A. Citations per hour were way less. A time in particular I can think of Ex. (b)(6) and Ex. (b)(7)(C)
23 his time didn't appear that --- how he utilized his time didn't appear to be that far off
24 from other people, but when you looked at the citations, you wondered what was going
25 on.

1 Q. So if someone inspected Crandall Canyon Mine and issued one citation, would
2 you think that was a major flag?

3 A. Yeah.

4 Q. Was you aware that that happened before the inspection ---?

5 A. No.

6 Q. So you identified these issues and then you talk to the supervisors and then
7 they try to work to correct this?

8 A. Yes.

9 Q. It would get better, but then you'd have to go back and kind of redo it again, it
10 was an ongoing process?

11 A. Yeah.

12 Q. Was there ever any disciplinary action taken as a result of any of this that
13 you're aware of?

14 A. Some, and I --- the way that worked out in Price, I know ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] at times
15 I've seen reports when he did his midyear appraisals, and at the end of the year where
16 he had documented talking to inspectors about needing to improve the quality of their
17 inspections, their deficiencies and what they need to do. ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED]
18 ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED]

19 MR. PAVLOVICH:

20 Do you think one workgroup was stronger in enforcement than
21 the other, Bob?

22 A. Overall as a group, if you had to say, I would say, yes, I think there were good
23 people in both groups. One group seemed to be --- have a couple of weaker enforcers
24 in it than the other one did.

25 BY MR. TEASTER:

1 Q. How would you characterize the working relationship between the two
2 workgroups?

3 A. Strained.

4 Q. And how were they strained, in your opinion?

5 A. Personality issues was a big part of it. Bill --- the two supervisors, I don't think
6 got along personally very well and there was some issues.

7 MR. PAVLOVICH:

8 Do you think that would have any impact on the relationship
9 between the inspectors in the different workgroup?

10 A. It could have. I don't think it did. I think there --- if you're looking for issues
11 within a workgroup, I think there is one person in Ex. (b)(6) and Ex. (b)
12 (7)(C) that doesn't
13 get along with anybody, and I think that probably put more strain on the workgroups
14 than any relationship between Bill and Ted.

14 MR. PAVLOVICH:

15 Did you take any specific actions to try to reduce this strain
16 and try to improve the relationship between the two supervisors?

17 A. Action meaning set down and talking with them, yes. And tell them, I don't care
18 if they like each other, they got to be professional and they got to work together.

19 MR. PAVLOVICH:

20 Did you ever discuss with Al Davis the tension you had
21 between the two workgroups?

22 A. Yes.

23 MR. PAVLOVICH:

24 Did he have any recommendations or any thoughts?

25 A. No. Basically when I would talk to Al, I'd tell him, this is what I think we should

1 do and where we should go, and he was okay with it.

2 MR. PAVLOVICH:

3 Did you ever have any strong confrontations between the two
4 supervisors?

5 A. Yes.

6 MR. PAVLOVICH:

7 How strong was it?

8 A. The best --- I wasn't there, this is feedback I've been given. They were at the
9 point of yelling at each other, and one closed, slammed, whatever you want to say, the
10 door in the other one's face.

11 MR. PAVLOVICH:

12 Do you know if the inspectors were present and observed a lot
13 of this?

14 A. Some inspectors were. I don't know, but I think there were some inspectors
15 that ---. The Price office, and I'm sure you all have been there, I mean, if you yell, you
16 could hear it from one end of the building to the other.

17 MR. PAVLOVICH:

18 Was there any disciplinary action taken as a result of that?

19 A. Other than talking with them, no.

20 MR. PAVLOVICH:

21 This was just a discussion, this wasn't any form of a
22 reprimand?

23 A. No.

24 MR. PAVLOVICH:

25 And was there any --- what was the discussion, don't do that

1 no more, if you do, there's going to be some further action?

2 A. I asked them to sit down and tell me what was going on. One of them had
3 accused the other one of being Ex. (b)(6) and Ex. (b)(7)(C) or whatever. And I told him that's not acceptable,
4 we've got to be professional. And, again, I don't care if you don't like each other for
5 personal reasons, you are both supervisors, what you both did in this case was
6 unprofessional and impacts both your workgroups. You don't need to be acting like this
7 in front of your people. You need to keep your relationship professional here, and if you
8 don't like each other, I didn't really care, but it had to be a professional relationship.

9 BY MR. TEASTER:

10 Q. And did you think things improved after that discussion?

11 A. Somewhat, I mean I don't think --- they still didn't like each other, but they were
12 more professional in the office anyway.

13 Q. Did you have any more reports of any incidents between the two?

14 A. No.

15 Q. Are you aware of any difference in enforcement policies between the two
16 workgroups?

17 A. No.

18 Q. Was there ever any action taken by the district that you're aware of that to
19 ensure uniformity and application of the standards so that you wouldn't have one
20 workgroup enforcing the standard this way and one another?

21 A. Am I aware it --- and I'm going to go back to an issue where the best --- and
22 this is the best I can remember. That we had one inspector and it would have probably
23 been prior to Bill Taylor being there, I think Gene Wright (phonetic) was the supervisor
24 there at the time, where he had one inspector who viewed an interpretation of where
25 you take a gas sample of the bleeder tap, that based on his interpretation of it, allowed

1 more methane than we would want to be in an area. We didn't want it --- and I am
2 aware of that there was discussions with the vent group going over there to work and
3 explain where to take those gas tests for the bleeder tap, prior to it mixing with another
4 flow of air. I sit down and went over that with both workgroups.

5 Now, on a smaller scale, personally, there was a discussion about how much
6 water could be allowed to accumulate like in a bleeder or a return air course before you
7 would side it and there was different interpretations on some saying you could walk
8 through it knee deep, and some, none over ankle deep and things like that.

9 Q. And what was done to resolve this?

10 A. That if it was going to be a tripping hazard, that that should be a violation on
11 that ---.

12 Q. So the district settled and then established what ---?

13 A. What it should be. Now, what each inspector individually did after that, they
14 were told what we were expecting from them. And I'm not aware of any negative
15 feedback or feedback one way or the other that anything deviated from what we told
16 them, or what I told them.

17 Q. Are you aware of any policy in District 9 that says that the inspector should
18 complete their inspections of a working section within three days?

19 A. No.

20 Q. Have you ever heard of that ---

21 A. No.

22 Q. --- number floating around?

23 A. It doesn't sound unreasonable to me, but I'm not unaware of it ever being said
24 that was a policy.

25 Q. Do you know what the policy was in District 9 for inspectors charging time for

1 MMU whenever in the office?

2 A. No, other than one of the issues we always had was if you wrote citations on
3 MMU, turn your time in for the MMU, whether it was in the mine office writing them or
4 what.

5 Q. So if you was back at the office and wrote it, then you would count that MMU
6 time toward the office ---?

7 A. Yes, but it shouldn't --- it was not a policy that you came back to the office and
8 wrote citations. That was not a district policy.

9 Q. Do you know if that was going on?

10 A. Occasionally from time to time I would hear it was going on, and that there
11 could be special circumstances as to why a person ran out of paper for the printer, they
12 ran out of ink for their printer. Something like that they would come back and do it, but
13 it was always reiterated, you are to write 'em at the mines before you leave.

14 Q. What was the process for dealing with complaints? We'll go through the
15 different types of complaints, starting with 103-G, how did the district deal with the
16 different types of complaints that was filed by the miners?

17 A. Okay. Talking strictly --- first I'd start talking with Code-a-Phones, if that's okay.
18 With the system in place when we got a Code-a-Phone complaint, we were notified by
19 myself or whoever was acting for me. And again, there's a little bit of difference in
20 District 9 than other districts because of the travel times, that to go to an office, there's
21 a lot of times that I may be gone for a couple weeks, a month. So somebody would
22 have to be acting for me. So on a complaint that came in on a Code-a-Phone, usually
23 it would be the next morning after it was called in before we got it, so whoever was
24 there, me or acting in my place, should've reviewed it. Normally that would be Bill
25 Denning or myself, most of the time. They would review that complaint, my secretary's

1 the one that handled pulling it, letting us know about it. We would make the call on if
2 there are imminent dangers or not and what office it goes to. And at that point, we
3 would get --- an e-mail would go out to that office that you have a complaint, and they'd
4 deal with it.

5 Our --- practice-wise that we wanted it dealt with fairly. If it was imminent
6 danger, you have no options, in my opinion, you got to deal with that right now. If we
7 got it late in the afternoon and it was an imminent danger complaint, I'd wind up calling
8 the office. We would get an inspector even if they had to travel six hours to get to
9 wherever they was going, we dealt with it then, right then. If it wasn't imminent danger,
10 sometimes you have to ---. And I know we had from the audits in the past issues
11 saying we weren't timely in how we dealt with it, but for the most part I think we were. If
12 it's not an imminent danger and you have mine that's an eight-hour drive away --- you
13 get it late in the afternoon, the inspector, if he doesn't get it, sometimes they're coming
14 in early in the morning so they're not going to be there to see it. In particular talk about
15 Craig field office, at the time we had two inspectors there, that's it. Two AR inspectors
16 to cover that area. If they are gone to the mines, we have no one that we could get
17 going that day for that complaint. But in general, within two days, we would have
18 someone going to check the complaint.

19 Now, you got to realize you got a day's travel to get to some of the mines. So
20 you get the complaint on Monday afternoon, the inspector's not there Tuesday, he
21 doesn't even know about it until Tuesday afternoon. By Wednesday morning, he is
22 going to that mine to check that complaint. He might have an eight-hour drive on
23 Wednesday, so it may actually be Thursday before he gets there, before he gets to the
24 mine.

25 Q. So when you get the complaint, do you log it in to any kind of system --- you

1 send it out to the field office, they investigate it, and then it comes back through and all
2 this stuff is tracked and logged?

3 A. Yeah.

4 Q. What about when you get an anonymous call?

5 A. To the district?

6 Q. Yes.

7 A. Okay. We handle it pretty much the same way. Except --- at the time --- and
8 now it may be a little different, but at the time we had --- Code-a-Phone complaints
9 were dealt with ---. They're dealt with the same way, but there was two different
10 tracking systems in place, and they were both the same except one was logged in as a
11 Code-a-Phone, the other one was logged in as a D-9 complaint. But how you handle
12 them were both the same way.

13 Q. What about in the field office if you get an anonymous call?

14 A. Most of --- and I can't say that always --- I would like to think that 100 percent
15 of the time, although I can't guarantee that, that when the field office gets a complaint,
16 they notify the district that they've had a complaint. There is a form that they fill out
17 what --- the secretaries or the complaint form for there. They fill that out, it's entered
18 into the system. They may have to fax a copy sometimes over to my secretary or my
19 old secretary in Denver. She'd put it in and assign it a number, because it's a district
20 number. She has to give them that number, they don't have it, but it's entered into the
21 system at that point, but they may actually be investigating it prior to getting that
22 number.

23 Q. What about if you get a face-to-face complaint, you're out at Wal-Mart, some
24 miner comes up and tells you they got bad conditions over at ---?

25 A. What we ask them to do, the inspectors or supervisors, which ever one gets

1 that, we would ask them to deal with the same way that someone called in. Although
2 they don't have pencil and paper, they're to write down the notes on what the complaint
3 is, but to come in the office the next day, try to the best of their memory to fill that out
4 and deal with it.

5 Q. Would you track that in a similar fashion?

6 A. It should be tracked the same way.

7 Q. Are you aware of any incidents where they would not treat a face-to-face
8 complaint ---?

9 A. I'm not aware of it, but I can see where it would happen. And the best example
10 I could give you ---- not necessarily Wal-Mart, but if an inspector is at the mines and
11 somebody discreetly talks to them about an issue, he might deal with it and we may
12 never know about it.

13 Q. But would there be any concern about --- would you determine ---? Would the
14 supervisor or the inspector try to determine whether or not this guy was a miner,
15 whether he actually worked at the mine?

16 A. Again, for Price, Utah, you're in a really small enclosed community and I think
17 that just my experience in Harlan, Kentucky that you know who works at the mines and
18 you know the people, so I'm thinking they would know who it is. I mean, if I just put
19 myself in their shoes, I wouldn't know if a person is or not.

20 MR. PAVLOVICH:

21 Do you ever review those reports, Bob? And did you ever
22 notice how many face-to-face complaints were ever done out of Price?

23 A. I reviewed all of them. Face to face, no, I wouldn't. I couldn't give you ---.

24 MR. PAVLOVICH:

25 You wouldn't know that?

1 A. You would know it when you looked at it, probably.

2 MR. PAVLOVICH:

3 Okay. If there was one filed, you would know?

4 A. Yeah.

5 MR. PAVLOVICH:

6 Did you ever look at how many were filed face to face?

7 A. Face to face as opposed to a phone call, no, I wouldn't make that distinction.

8 To me it was ---.

9 MR. PAVLOVICH:

10 Well, I mean the form says it; right? The form differentiates
11 how they ---?

12 A. Yeah. Now this is a little different, see. We're kind of mixing apples and
13 oranges. This form now is a little different than the one two years ago.

14 MR. PAVLOVICH:

15 Okay. In the last two years, did you ever look at them?

16 A. Yeah, but I don't know that I ever made a distinction to see if it was face to
17 face.

18 MR. PAVLOVICH:

19 Okay.

20 A. What I would mostly --- you want me to look at the form, what I would mostly
21 be interested in is looking at --- it does have a verbal face to face. And I'm looking at,
22 okay, what is the complaint, where is it at, is there any specific notes to it?

23 MR. PAVLOVICH:

24 So you're looking more was the complaint handled properly?

25 A. Yeah, did we handle the complaint, not ---.

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MR. PAVLOVICH:

Not how many of each was filled out?

A. No.

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. Do you know what MSHA's policy --- could you tell us what MSHA's policy is in dealing with face to face?

A. Different than any other one, no --- than any other complaint.

MR. PAVLOVICH:

So you investigate them all?

A. Yeah.

BY MR. TEASTER:

Q. And you track them all?

A. Yeah. If we know them. And that's what I'm getting at, is that you're talking about at Wal-Mart. We ask our people, go ahead if you're --- if you're getting that complaint at Wal-Mart and you got to come in the next day, we'd like to have that put on either this form or the other form that we had. Now it'd be this one. We want to get it entered into the system. If I was at a mine as an inspector, I don't know that we'd get maybe everything that they're doing at a mine, because a lot of times as an inspector you're walking through and a guy will say, hey, we got an issue over here, there's too much paper in the dinner hole. And he may deal with that without ever putting it in a complaint.

MR. PAVLOVICH:

I don't think you ever get that listed as a complaint much, ---

1 A. No.

2 MR. PAVLOVICH:

3 --- if somebody mentions it at the mine.

4 A. Yeah.

5 MR. PAVLOVICH:

6 I think we're talking more as ---

7 A. At Wal-Mart ---.

8 MR. PAVLOVICH:

9 --- if you see somebody on the street or at church or at
10 Wal-Mart or whatever. Even if it's me, and I come up and said, Bob, you're an
11 inspector, I don't work at the mines, but I know a miner who told me there's some gas
12 in such and such mine. Would you inspect it or would you say, well, that's secondhand,
13 I'm not going to do that?

14 A. No, we would investigate it.

15 MR. PAVLOVICH:

16 You would assume that people were investigating that?

17 A. Yes, and I have to --- based on all the knowledge that I've got with both
18 supervisors that we have in Price, Utah, they were very good to call me up that next
19 day after something has happened, and say, we got this --- something was told us that
20 we --- you know, a complaint, that someone at Wal-Mart came up and said so and so.

21 BY MR. TEASTER:

22 Q. Do you remember any particular ---?

23 A. No, I don't remember any particulars, no.

24 UNIDENTIFIED SPEAKER:

25 Can I ask a question? I don't want to go out of place ---.

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MR. TEASTER:

Go ahead.

UNIDENTIFIED SPEAKER:

On average, Bob, would you have an estimate how many you got in District 9 for a week or a month that you reviewed?

A. To answer that, the one that always sticks out to me, is we had --- specific to Price, Price probably had less complaints than some offices, but in the specifics that I would answer that, Allyn, is we had one mine in Wyoming that's a good six- hour drive from the office and it seems like they would make a complaint that's a United Mine Workers mine, which has nothing to do with it, but they would make a complaint and then wait until our inspectors left and started driving home where they couldn't be reached and we would get another complaint. And out of Craig office, we may have actually gotten a couple a week.

UNIDENTIFIED SPEAKER:

How about in Price? How many complaints would you say you get a month?

A. Two or three. And that could vary. I mean, there's --- if there's an issue going on at some mines, you may get more some months than you do other months.

BY MR. TEASTER:

Q. Bob, can you recall any specific instructions during any of your staff meetings with the supervisors that dealt with this that would hone in on this specific issue that when you have a face-to-face complaint such as you get at Wal-Mart or church or someone identifying a condition of the mine, that you should go look at, that you would treat that as a complaint like any other complaint, to the extent that you would review it, send someone to the mine to look at it and you'd go through similar processes? I

1 mean, I know there's difference in 103-G and that, but that it's a complaint that you
2 would consider a valid complaint and that you'd have to deal with it and track it like you
3 would the others?

4 A. Go back to the first part of that ---.

5 Q. Was there any --- when you have meetings and staff meetings with your
6 supervisors, was there ever any, that you can recall, any instructions that said when
7 you have these types of complaints, such as Wal-Mart, church ---?

8 A. Specifically dealing with Wal-Mart or church, I don't think we did ever have ---
9 address a specific to that point, but in general, that when we have complaints, we take
10 them serious and we deal with them, even if they seem frivolous, it doesn't matter. If
11 it's a complaint, someone had a concern enough to make it, we need to deal with it.
12 We don't have options, in my opinion. And I think that's what we conveyed to the
13 supervisors.

14 Q. Bob, did you feel that you had adequate people to make your required
15 inspections?

16 A. No.

17 Q. Why not?

18 A. The best example I can give you is the time --- is in Ex. (b)(6) and Ex. (b)(7)(C). We had
19 --- at one point, on paper, we had four inspectors, four underground inspectors working
20 out of that mine --- out of that office. At that given point in time, we had 2 active
21 underground mines and both of them fairly large and probably 13 large to medium
22 sized surface mines Ex. (b)(6) and Ex. (b)(7)(C)

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

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

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A. Yeah.

Q. Do you feel that any special-emphasis programs had any impact on your inspection program, your ability to complete your required inspections?

A. Yes. There was a period of time where we were getting special-emphasis requests to go out. Everybody across the country has got to go out on a certain day and we've all got to do this at the same time. It's a little bit more difficult out west to do that, because it's just not as simple as driving a couple hours down to the place, you got a lot longer. So we were giving a little bit more leeway as to being able to do that, but it does, any time you take --- and we were generally always told, try to do it on your regular inspection, but that doesn't always work. And even if you do do it on your regular inspection, you tied up time that took you away from being able to make ---. I think there were benefits to it, yes. I think there were some benefits that you make people aware of a certain problem that's came up, that's a benefit. But when you tie it in, does it take away from your time on inspections, yeah, it did.

Q. What about going around and checking all the seals and counting them, was that something that was beneficial, you think, that helped?

A. Inspectors should be checking those on each inspection. And I know we didn't put the emphasis on it pre-Sago, pre-McClane Canyon , pre-Darby. The emphasis to go out and look at them not necessarily counting them, if you go out and look at them and get a better focused look than we had in the past, was probably a good idea. Did it

1 also mean that it was more difficult to complete an inspection, yeah. Was it bad, I don't
2 know that you can say it was bad, because maybe we weren't giving as close attention
3 to seals prior to those events as we did afterwards.

4 Q. Do you know what your completion rate was for your EO-1 inspections for the
5 last fiscal year in District 9?

6 A. No. The last quarter everybody got 100 percent. Prior to that, I don't think we
7 could get 'em. I don't know the physical numbers, but it was very difficult to meet. In
8 District 9 for probably at least three years, we have to try and get our inspections
9 made. We have had the offer --- the overtime that's just now being offered to the rest
10 of the country, because we didn't have the people to do it. So we did put in more
11 overtime than anybody else, trying to get 'em done. The undergrounds we focused on
12 more than we did the surface. I know that we missed surface mines by focusing on the
13 underground. The surface mines should've been close to 100 percent complete. I
14 mean, the underground mines should've been close to 100 percent complete. I doubt
15 that they were, I would say it was --- my best guess, I would say it was in the 90s.

16 Q. Do you think we ever sacrificed the quality of inspections to get them
17 completed?

18 A. We hope not. One of the things that I always try to tell our people, numbers is
19 not that important to me, we have to do quality. I don't want run-throughs, I don't want
20 just a number. It has to be a quality inspection. And if we miss one, we miss one, but I
21 don't want you missing something at a mine that somebody can get hurt on.

22 Q. Did you ever discuss with the district manager that you needed more people?

23 A. Yes.

24 Q. And do you know --- what was his response?

25 A. He was aware that we needed more people. In staffing requests from

1 Arlington, we tried to justify why we needed more people and he was aware of that.

2 Q. Do you know what type of response you got back from Arlington?

3 A. In particular instances of the [redacted] field office that we're talking about, we
4 weren't going to be allowed to hire people until [redacted] Ex. (b)(6) and Ex. (b)(7)(C)
5 [redacted] Ex. (b)(6) and Ex. (b)(7)(C) until they retired.

6 Q. So how do you deal with a situation where you figure you're not getting your
7 money's worth out of people because they're not able to perform the job the way they
8 should?

9 A. It's a touchy situation when it's a physical disability or whatever that creates
10 that. I mean, an inspector can utilize his leave time, sick leave, or whatever, if he's
11 unable to work. And you just really can't get that back. If they're physically not able to
12 do their job, I really try to ask the supervisors to look at it. And I'm not one that believes
13 that we can wear people out and kick them out the door when their usefulness is over,
14 because they still have usefulness. We got to look at how we can utilize them. But it
15 comes to a point that if a person physically cannot do the job, I want the supervisor to
16 look at it, to talk to them and find out what the issue is, why they can't do their job. And
17 we got to figure out what it is one way or the other that if you can't do it, you really may
18 have to look at retirement or whatever is available.

19 Q. Do you know if it ever came to that?

20 A. That someone retired or ---?

21 Q. Well, dealing specifically with the [redacted] Ex. (b)(6) and Ex. (b)(7)(C)

22 A. [redacted] Ex. (b)(6) and Ex. (b)(7)(C)
23 [redacted] Ex. (b)(6) and Ex. (b)(7)(C)

24 Q. What about the specialists, the district staff and the specialists within the
25 district, do you think you had an adequate number of those folks?

1 A. That's difficult to say. Depends on what you ask those specialists to do. If
2 you're strictly only looking to set in the office reviewing plans, I think one of the big
3 issues out west is the vent group has a lot of problems out there, spontaneous
4 combustion, hydrogen sulfide, methane liberations. That was a group that I think at the
5 time everybody focused on, let's try to keep that fully staffed to get those plans through
6 because there's more --- more ventilation changes come quicker than in any other
7 group. I know when --- from my perspective when I was the ADM over engineering and
8 inspections, that when we had to have --- we tried to get specialists utilizing time going
9 to the mines. When they review the mine plans, they're at the mines tying into the
10 EO-1 inspections and spending time out west. If you're going to go to some place, you
11 might as well tie up the whole week with it and then go ahead and help inspect was my
12 personal thoughts, because you're losing two days travel where you go from the district
13 office, one day there and one day back. So if you're going to tie up that much time,
14 take the other three days of the week while you're somewhere and help inspect. Tie
15 into your plan review, too.

16 But from the ventilation perspective, I did both ways, been the ADM in both
17 ones, utilized the ventilation group less than the other groups. You had the issues of
18 deep cover and roof control, rib problems, for the most part. You could look back in
19 hindsight now and say, the stresses, the bumps and the bounces, there may not have
20 been adequate people in that group to focus on it, but the dynamics of it has changed a
21 lot from when I was the ADM over engineering since then.

22 But to answer directly to what you're saying, probably, no, we didn't have
23 enough people. You didn't have health people. I know we only had a couple health
24 people. Roof control, you have an impoundment, or have an impoundment specialist,
25 one out in the field. And pretty much nobody in the district but Billy Owens. I mean, it's

1 an honest to God roof control type person.

2 MR. PAVLOVICH:

3 How many years were you in District 9?

4 A. Fifteen (15) plus.

5 MR. PAVLOVICH:

6 In District 9?

7 A. Oh, yeah, in District 9, 15-plus years.

8 MR. PAVLOVICH:

9 Okay. Did you see the overall staffing of District 9 decrease
10 during that 15-year period?

11 A. Yes, I did.

12 MR. PAVLOVICH:

13 Did you see the number of inspectors decrease significantly
14 over that period?

15 A. Yes.

16 MR. PAVLOVICH:

17 Did you see mining decrease commensurate with the
18 decrease in inspectors?

19 A. No.

20 MR. PAVLOVICH:

21 So mining increased or stayed the same, but you lost a lot of
22 inspectors?

23 A. Yes.

24 MR. PAVLOVICH:

25 And what was headquarters' attitude toward that when you

1 asked to staff up to previous level?

2 A. There was always a ratio MMU to inspector or whatever, which is difficult.

3 MR. PAVLOVICH:

4 Somebody fabricated the number, in other words?

5 A. Yeah, if you had X number of MMUs or mines that you'd have X number of
6 inspectors and that we had ---.

7 MR. PAVLOVICH:

8 To kind of make it fit what you had?

9 A. It never ---.

10 MR. PAVLOVICH:

11 Or was it a legitimate ---?

12 A. In my opinion, it never fit what we had.

13 MR. PAVLOVICH:

14 Oh, even the ratio they gave you didn't fit what you had?

15 A. Well, their ratios it fit, but mine didn't.

16 MR. PAVLOVICH:

17 Okay. That's what I meant. The one they gave you all fit?

18 A. Yeah.

19 BY MR. TEASTER:

20 Q. An example, would that be Crandall Canyon where you got that as a one MMU
21 that you got a pretty large area there to inspect? Is that one place where it wouldn't fit?

22 A. Crandall was one I would never have considered I don't guess at that point in
23 time.

24 MR. PAVLOVICH:

25 That's not what he's asking --- in other words, you might say, I

1 think I need one inspector for every three MMUs. I'm just throwing that out.

2 A. Okay.

3 MR. PAVLOVICH:

4 Okay. That's a ratio that you're saying that what you think
5 maybe would be adequate, okay. Well, if headquarters says you got one inspector for
6 five and that's just right for you. Okay, now that's where you answered my question. I
7 think what Ernie says is, you got a mine that's this size, okay, it's one MMU. Is that
8 even a viable ratio to use when you could have a mine that's 500-feet deep, that's one
9 MMU as compared to this mine that's one MMU?

10 A. That is --- I guess I'm thinking about what you're saying. I have a problem
11 when I'm told that there is a ratio of five MMUs and having to work in the eastern U.S.
12 where you got --- well in Harlan County, Kentucky where you got less --- the mines are
13 smaller. You may have more mines, but they're smaller. To say that a three or a five-
14 MMU ratio per inspector is adequate when you look at mine that you said 500 feet, I'm
15 saying it could actually be 2,500 feet. And you could have five of those that are 2,500
16 feet deep, a one MMU mine that's got one belt that runs straight in and straight back
17 out. That's not even close to being comparable to a three MMU mine that has 18 to 20
18 miles of belts and returns that you got to make. And I don't think you can correlate and
19 say they are equal.

20 MR. PAVLOVICH:

21 So the correlations don't match?

22 A. No.

23 MR. PAVLOVICH:

24 Because you could have a mine that's one mile deep that's 24-
25 inches high, and one mile deep that's 8 -foot high, which is easier or harder to make

1 and which takes longer.?

2 A. Yes. I keep trying to forget those 24-inch mines, but if you go to the west ---.

3 MR. PAVLOVICH:

4 I'm glad I reminded you.

5 A. Yes, you did quite often. But I mean it's really easier for the west if you're riding
6 in a pickup truck in the small mines, than if you are --- I mean there's difference not just
7 the western U.S. but the eastern. The conditions vary so much, you can't compare 24-
8 inch mines to an 8-foot high coal mine.

9 MR. PAVLOVICH:

10 So you're thinking those numbers don't really match?

11 A. To me they never did.

12 MR. PAVLOVICH:

13 So who needs to make the decision on manpower,
14 headquarters or the district?

15 A. I guess if you're looking at --- and if I was in the position, I would say there's got
16 to be some oversight some headquarters so that you don't basically just have a wish
17 list ---

18 MR. PAVLOVICH:

19 Okay.

20 A. --- to go out.

21 MR. PAVLOVICH:

22 But does it need to be realistic?

23 A. I think there's a lot of realism that needs to go into it. And it goes not just to
24 that, but what you expect your inspectors to do. If you look at what we're mandated to
25 do, we're mandated to make four inspections a year at underground mines two at

1 surface mines. Now, you can do those to some extent with less number of people than
2 you can if you try to look at a program where you look at specific concerns or specific
3 problems to an area and you want to focus more resources on that area. It takes more
4 people to do that, and in a way we are mandated to do some of those things because
5 we're supposed to be looking at the safety of the miners. And sometimes the safety of
6 the miners, you have to go back multiple times to an area to make sure that it's been
7 taken care of. and that's kind of a balancing act because we basically say that the
8 companies are responsible for their own safety. And that's true, but you have some
9 companies who put less emphasis on it.

10 And this is where to me it gets real delicate because sometimes if you're not
11 real careful, you get to be the company's safety department, and we don't want to go
12 there. We don't want to be the company's safety department. And I've heard
13 inspectors at times say, I can't leave the mines, I need --- even though I could basically
14 finish my mandated inspection quicker, I need to be around because when I leave,
15 they're going to quit complying with the law. Now, that's the delicate balancing act to
16 me that you're mandated on one hand to get the fours and twos but on the other hand
17 you're mandated to get --- to take care of the safety of the miners. And you need to
18 have some flexibility to have resources to not be their safety department, but to have a
19 more increased presence at some mines than you do at others.

20 MR. PAVLOVICH:

21 How about all the special emphasis projects and all that stuff?

22 A. That takes more resources, too.

23 MR. PAVLOVICH:

24 And has there been a lot of that in the last few years?

25 A. Yes, it seems to have slowed down some, but there still are those projects out

1 there.

2 BY MR. TEASTER:

3 Q. Bob, do you have a feel for how many positions that you have or had in the
4 District 9 that had collateral duties? One example, if an inspector was ---?

5 A. Official collateral duties or unofficial collateral duties?

6 Q. Well, official.

7 A. Okay. Official, you got another two people who are conference officers that are
8 collateral duty, conference officers. One of them is an inspector, one of them is an SI.
9 And you have the --- I don't know --- the unofficial you have accident investigators who
10 fall into that category, too, and there's at least one and sometimes two in every office or
11 more in every office out there. So that is a shared one, although it's not something you
12 officially do.

13 Q. Right.

14 A. So those are the two that right off the top stick out to me.

15 Q. Well, how would you balance --- say, for example, if you got --- you're out doing
16 accident investigations versus inspection, you got to do your inspections, you got to do
17 your accident investigation, how do you try to balance that?

18 A. To be efficient in trying to do it, I don't know that you can balance it, but you just
19 got to try to be efficient in what you do in the mine. What I try to do is to focus and give
20 the time --- it costs a little bit more money, but take the time to complete the accident
21 investigation and get it done and out of the way and then get back to working on our
22 inspections. My opinion that when you start trying to split duties during the day and
23 you're working a little bit of inspections and a little bit of accident investigations, you
24 lose your focus on both of them.

25 MR. PAVLOVICH:

1 I think if we get away from accident investigations, Bob, but
2 let's do the one where you got a guy that's an inspector and a CLR, how do you assign
3 him a number of inspections when you don't know what his CLR activity will be for that
4 quarter?

5 A. Well, we had a control over that.

6 MR. PAVLOVICH:

7 How?

8 A. That --- again, that's not in my area that I dealt with them, but I was asked ---.

9 MR. PAVLOVICH:

10 It would be as being your inspector, though; right?

11 A. Yes, but ---.

12 MR. PAVLOVICH:

13 The CRL part wouldn't have been, but he would've been your
14 inspector. What did you assign him to do?

15 A. Okay. What I was expected to do when a CLR said, I need help, he would go
16 to Al Davis. Al would come to me. And I realized that the CLR's have a load on them
17 and have work to do, and I would ask, okay, I will try to give you two weeks.

18 MR. PAVLOVICH:

19 Okay. So you would try and give time based on that?

20 A. You focus two weeks and get done what you can get done in two weeks, and
21 then they need to be back inspecting.

22 MR. PAVLOVICH:

23 Okay. You would still assign him inspections?

24 A. Yes.

25 MR. PAVLOVICH:

1 What if Al said, I need two months?

2 A. Well, Al's the boss, if he wanted two months, he got two months.

3 MR. PAVLOVICH:

4 So then somebody else had to do those inspections?

5 A. Yes.

6 MR. PAVLOVICH:

7 Okay.

8 BY MR. TEASTER:

9 Q. Going back to the Price field office, do you have a feel for how the morale was
10 in the Price field office?

11 A. Better than it is now. It's not good. I mean, I don't think that you can just focus
12 just on the Price field office. I think MSHA in general, morale is down.

13 Q. Why is that though?

14 A. I think we have --- and this is going to tie into some of the other questions.
15 When I started in District 9, I think we had somewhere around 115 FTEs. Somewhere
16 around the early 2000s, we were down at 90 or something. That many people taken
17 away. And the during that time frame, we had emphasis on health, adding more to
18 what the inspectors were doing. We've added more note taking into what they were
19 doing, things that were more time-consuming, time-intensive. We were asking more
20 from the inspectors and giving them less people to do it. And I think the morale slipped
21 at that point when --- I have mixed emotions about asking people to work overtime,
22 because I think on a short-term basis that might work, but the longer you ask people to
23 work continued long hours, I think they start burning out and I think you see morale slip
24 at that point, too. And in District 9 like I said already, that we've been for at least
25 probably three years asking people to work overtime to get inspections done, I think it's

1 frustrating to the inspectors to look at it and say we need people and we don't have
2 "em, and you're asking me to do more and I'm tired.

3 Q. Bob, did you ever go into a mine without notifying the supervisor that had
4 responsibility for that mine, without notifying him that you were going?

5 A. No.

6 Q. Are you aware of the district manager ever going into an area of the mine and
7 not notifying you that he was going into a mine in your area?

8 A. I'm not sure I follow that question.

9 Q. Well, that he went to a mine and didn't notify you.

10 MR. PAVLOVICH:

11 Or the supervisor.

12 MR. TEASTER:

13 No, I have supervisor next.

14 BY MR. TEASTER:

15 Q. I'm just asking, did he ever go to the mine that you were not aware that he was
16 at the mine?

17 A. The district manager?

18 Q. Yes.

19 A. Probably did. If I wasn't around in the office, if I was out somewhere else, I
20 might not know where he's at. Most of the time if I'm in the district office, I knew where
21 he was going.

22 MR. PAVLOVICH:

23 Would he ask you normally to go with him?

24 A. Sometimes, not always.

25 MR. PAVLOVICH:

1 Are you aware of the district manager going to a mine without
2 notifying the supervisor?

3 A. No.

4 MR. PAVLOVICH:

5 Did the supervisor never complain to you about this
6 happening?

7 A. Not about the district manager, no.

8 MR. PAVLOVICH:

9 About anybody going to their mine?

10 A. Sometimes with tech support and sometimes with our own technical people,
11 I've heard those comments, that they didn't know they were going to be there.

12 MR. PAVLOVICH:

13 But never the district manager?

14 A. Never heard a complaint about the district manager going somewhere.

15 MR. PAVLOVICH:

16 Did the mine operators ever contact you directly at the office or
17 at home concerning enforcement actions that's been taken by ---?

18 A. Yes.

19 MR. PAVLOVICH:

20 And what was the gist of their concerns?

21 A. That we were too tough.

22 MR. PAVLOVICH:

23 Were too tough, or not tough enough, was there a response?

24 A. Sometimes.

25 MR. PAVLOVICH:

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Who was making those calls to you?

A. Different companies, if you want examples, I can give you some.

MR. PAVLOVICH:

Okay.

A. Peter Saint used to work for me in health. And he is a very good inspector.

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

Went to Texas to inspect some mines. And I guess he wrote this particular mine had maybe an average of five to ten citations --- surface mines, five to ten citations. Pete probably wrote 15 the first day he was there. And I got a call at home complaining about the number of citations that Pete wrote. And my response was, knowing Pete, I'm surprised you didn't get wrote some more.

Another example, when I first took the ADM for enforcement, West Elk called me, and the inspector had issued an order on the longwall for accumulation and shut the longwall down. My outlook on it, when people call me and complain about inspectors, is I'm not there looking at it, I don't know. I trust my inspectors, they know what they're doing, they've been trained well, they know what to do in certain situations, you need to deal with them. Other people don't look at that sometimes the same way. I think when companies find out that you will back off as a manager, that you don't support the inspectors, maybe that's not a good way of saying it, but when you make changes to what the inspectors are doing, then they feel like, well, I'm going to do it again, I'll come back again. Any time I don't like what they're doing, I'll come back to you. West Elk tried that on me with this particular case. And I told them, I'm not there. And they told me, we want you to come look at it, which kind of astonished me. I think it was a Sunday night. And what astonished me about it, you're willing --- you know it's at least a five-hour drive for me, and not even counting getting ready to drive over

1 there, but it's at least a five-hour drive for me to get there. You're willing to not clean
2 that longwall any and let it sit there until I come and look at it? And they were very
3 adamant, yes, they wanted to do that.

4 Again, there's personality issues in that office. And knowing that I would not
5 normally do this, but knowing the situation we were in there, I told them I will come and
6 look at it, but I'm not even going to look at it unless the inspector's there to go with me,
7 because I don't know what you're doing, I don't know what it looked like when he saw it.

8 I want him with me to tell me, yes, this is what I saw and, no, it's not what I saw. And I
9 told them, I will try to call the inspector, if I can't get him, maybe you're going to have to
10 call him, because I am not going to go look at it without him being there with me. And I
11 did go that night over there. I got there before the inspector did. I read his citation. I
12 probably would not have written it the way he did, but I mean it documented every
13 shield, had X amount here, X amount here. I couldn't believe that anybody could ever
14 fabricate what he put in his citation.

15 It was also something like the 80th citation for 75.400, that's in the body of the
16 citation for 75.400, about the company had been put on notice to take better care of
17 their cleanup. All these things. The inspector shows up. Basically, the bottom line was
18 after I looked at the conditions and looked at what he had written, talked with him, that,
19 yes, this is what I saw, the company asked me where are we at. And I said your
20 longwall's shut down, you're going to have to clean it. And they never called me again
21 on that ---- on any of those situations.

22 BY MR. TEASTER:

23 Q. Do you know if there was --- if the mine operators would go to the district
24 manager, directly to the district manager, and bypass your office and ---

25 A. Yes.

1 Q. --- make complaints about ---? Do you know why that was?

2 A. Oh, we're talking about a specific district manager, now, okay? I mean, they
3 probably have done that with Kuzar ,and they've done it with AI. I know they've done it
4 with AI. I'm assuming they did it with Kuzar. Now, what was --- ask me again.

5 Q. Why the company would go directly to the district manager as opposed to
6 coming to you?

7 A. They didn't like what I was doing would be the first thing. And then if a
8 manager agreed with what they said or whatever, they would probably come back
9 again.

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

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12 Q. Do you have any specifics that you can share with us where you would not
13 agree maybe with AI's actions?

14 A. Yeah. Again, going back to the Delta field office, there was a lot of personality
15 problems there. Larry Ramey is a supervisor, is tough in enforcement. He likes
16 numbers. I'm not real high on a numbers-type person ---. I agree --- I think if the
17 citations are there, we've got to write 'em, we've got evaluate 'em for what their
18 conditions are. And they stand on their own. I've lost this while you guys was ---.

19 Q. I'm sorry. No, we have a note to ourselves. I'm sorry we just don't have this.
20 I'm sorry, that's my fault.

21 A. Refresh me again.

22 Q. You was talking about why they would go to AI. And AI would be more
23 sympathetic to their cause and you were giving us an example.

24 A. The example is, okay, again, that Delta field office. And they write more
25 citations than the other field offices. A difference of opinion between AI and I, I know AI

1 would --- when he would get a call, especially from West Elk, would, in general,
2 normally would take the company's word without even consulting with the inspector as
3 to what's going on.

4 MR. PAVLOVICH:

5 Does that happen commonly, Bob?

6 A. Yeah.

7 MR. PAVLOVICH:

8 So if any company called AI and complained, he normally
9 takes the company's word as opposed to finding out ---

10 A. I don't know that I can' say ---.

11 MR. PAVLOVICH:

12 --- from the inspector?

13 A. I don't know that I can say that across the board, for some companies, yes.

14 MR. PAVLOVICH:

15 Okay. So was it just for some companies?

16 A. I can't --- there's no clear distinction like is somebody more friendly to one
17 company than another.

18 MR. PAVLOVICH:

19 Okay. So you can't ---.

20 BY MR. TEASTER:

21 Q. But you can say it for West Elk?

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

2 A. Yes. But in this particular case, Al would tell me, you got to go over there and
3 talk to him, they're getting pretty far out. Sometimes I would agree that some of the
4 things that were written were maybe stretching what we should be doing. But the
5 difference of opinion came when I looked at things --- when I looked at the numbers
6 that you're talking about out the Delta field office, that you may have the most high
7 hazard mines. Not talking about the way they run, I'm looking for more high hazard
8 mines than the district with rib conditions with accumulations with methane, with
9 SPONCOM. And when I look at strictly numbers and I see that we got what I consider
10 maybe the most high hazard mines and we're looking at ten percent S & S, I've got a
11 bigger problem of what our understanding of S & S is than I do what they're ---. I
12 haven't got a problem with what they're writing, it's just how they're evaluating it is more
13 of my problem, where I think Al was more concerned they were writing too much.

14 BY MR. TEASTER:

15 Q. On the rescue effort, Ron Paletta issued a D order at West Ridge for
16 accumulations.

17 A. I am aware of that. When you brought it up --- if you want me to answer that,
18 tell me what you want me to answer that and I'll answer it.

19 Q. Well, it was my understanding that they called Al, and Al or someone directed
20 for Ron to vacate that order because they had taken the scoops or some equipment
21 from that mine, West Ridge, and taken it over to the Crandall Canyon Mine. So just tell
22 us what you know about how that came about.

23 A. I was aware that the company went to Al when Ron Paletta issued --- I think
24 they were orders, unwarrantables, I believe. That's the best to my memory. The
25 company --- and it's a Murray mine, and they went to Al, you guys, you know, are

1 complaining about the actions that Ron Paletta took. And I don't remember the
2 specifics of how I got into it, but I think Al was thinking we should vacate those. And I
3 thought ---. And I told him I think we need to talk to Ron Paletta first, because I don't
4 know anything about what he's written, other than what the company is telling me, and I
5 don't know that's 100 percent accurate, because I haven't talked to Ron. I don't know
6 why he wrote what he wrote --- any of those circumstances. And my suggestion to Al
7 was, we've got to focus on what we're doing here. There is a process in place if they
8 disagree with that, they can conference it, and I think it should go that route. And Al
9 had Ron Paletta vacate the citations.

10 Q. Do you know who made the request from the company, was it Bob Murray?

11 A. I don't know.

12 Q. You don't know who discussed it with Al?

13 A. No.

14 Q. Did Al give you any reason for vacating?

15 A. Basically, and this is the best I can remember, because I never did know the
16 full extent without --- and I didn't get to talk to Ron Paletta about everything on those
17 citations. That he had written up something about cleanup and it wasn't acceptable
18 and the company's argument was, we don't have anything to clean up with, we've shut
19 that mine down, basically taking the people from that mine and brought 'em to Crandall
20 Canyon, along with those scoops that we would've been using to clean up, so that there
21 are extenuating circumstances as to why it is what it is. My thoughts would've been
22 more along the lines of let them conference it, let them present their case and maybe it
23 mitigates negligence, I don't know about the way they did the citation.

24 MR. PAVLOVICH:

25 It might mitigate an extension of time?

1 A. It could.

2 MR. PAVLOVICH:

3 But was it a violation or not?

4 A. Yeah.

5 MR. PAVLOVICH:

6 Is there other instances when Al told you or have you instruct
7 your inspectors to vacate violations, they're wrong?

8 A. He did not instruct me then to do that.

9 MR. PAVLOVICH:

10 Who did he instruct to do that?

11 A. I've got to believe either ---.

12 MR. PAVLOVICH:

13 No, not on this particular item with Ron Paletta, I think we
14 understand that, but other times?

15 A. The other time, I briefly touched on that a minute ago, that I'm aware of ---.

16 MR. PAVLOVICH:

17 Is in Delta?

18 A. Was in Delta when David Head issued the citation. And I went back to David
19 later and asked him, David, what happened here? And he said, I issued the order on a
20 piece of equipment for accumulations, the company didn't like it. They were going to
21 go to Al and said they were going to bring the scoop outside and let it sit for Al to look
22 at. And I guess Al looked at it. And I asked David what happened. He said, Al told me
23 to vacate it. And I said, David, when you went back to vacate it, was it in the same
24 conditions that you saw it when you issued it. And he said, no, it had been cleaned.

25 MR. PAVLOVICH:

1 MR. PAVLOVICH:

2 Okay. So would you say then that you saw a decreased level
3 of enforcement emphasis when AI came as opposed to Kuzar?

4 A. Probably.

5 MR. PAVLOVICH:

6 How about an increase in more favorable plan activity for the
7 operators when AI came as opposed to Kuzar?

8 A. You'd have to ask somebody else that about the plans.

9 MR. PAVLOVICH:

10 Well, you look at plans.

11 A. After the fact ---.

12 MR. PAVLOVICH:

13 I mean, you're ---.

14 A. I don't know ---.

15 MR. PAVLOVICH:

16 After the fact, but you ---?

17 A. But I don't know that if there weren't ---.

18 MR. PAVLOVICH:

19 What was your opinion of it, Bob, after you see some of these
20 plans coming out now that your guys have to enforce? Do you ever wonder why?

21 A. I wonder why I guess if you're asking for specifics that we allow Christmas-tree
22 type mining.

23 MR. PAVLOVICH:

24 Was that done before?

25 A. When I was in roof control, I tried to cut it all out, not have any.

1 MR. PAVLOVICH:

2 When Jack was there, he didn't allow it, but when Al came in,
3 Al allowed it?

4 A. Well, I don't know that it was completely gone when Jack was there. We were
5 trying to limit that. Bottom coal mining is another instance I was not favorable to that it
6 appears as ---.

7 MR. PAVLOVICH:

8 And now those things are easier to get through?

9 A. They're there.

10 MR. PAVLOVICH:

11 Okay. They're in now. Want to take a break, Ernie, or you got
12 some more on that one there?

13 MR. TEASTER:

14 No, that completes that one I was going to get these other two,
15 and then we can get into plans, but we can break here.

16 SHORT BREAK TAKEN

17 BY MR. TEASTER:

18 Q. Bob, do you know what the status of any 110-C citations that were issued at
19 the Murray mines, including any such citation resulting from the December 2006
20 inspection ---? To refresh your memory on that, they had a complaint from --- a miner
21 called in and had a complaint about actions there at the Crandall Canyon Mine and Ted
22 Farmer took some inspectors out. They issued a lot of paper out there on the belt
23 shutting it down. It was an unwarrantable failure type paper. And it was the cause of
24 negligence involved, I guess they recommended that we investigate.

25 A. Can I see 'em? Do you have it or --- it's not ringing a bell right off.

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UNIDENTIFIED SPEAKER:

We didn't bring that box.

A. And I don't doubt there was a lot of stuff going on. I just don't recall right off.

BY MR. TEASTER:

Q. Gary Jensen was involved, as I understand it, investigating that. And he went to the mine sometime in May. You don't have no recollection, specifically?

A. Not right off, no.

Q. What do you know about a meeting that occurred on February the 1st of 2007 between Bruce Hill and some District 9 employees?

MR. PAVLOVICH:

Is that the meeting you were talking about earlier?

A. February 1st, 2007, I think I was in Morgantown.

BY MR. TEASTER:

Q. Okay. So you don't think you know --- it's not the Bruce Hill meeting where Bruce ---

A. No, that's not the one I ---.

Q. --- Hill presented this information to you? You think you weren't there?

A. No.

Q. Okay.

A. You've asked me questions about --- and I didn't get to finish the meeting with Bruce Hill.

Q. Oh, I'm sorry.

A. And now may be the time to best say that, but at that particular meeting I was in, once they had went through everything they were telling us, my perception of the last part of that, that the relationship with MSHA and Murray ---. And, again, this is all pre-

1 Crandall Canyon events, was that if MSHA will quit writing tough paper, we'll get along.

2 Q. Okay.

3 A. All right. And my discussion, he asked me did I have any comments. And I
4 was trying to be really nice about it, and I said, yeah, if you don't care, I do have some
5 comment, when you're bringing up about a working relationship with MSHA and trying
6 to improve it, we're going to do our job. We're going to cite the violations that are there.
7 That's what I want. I don't, you know, I want them marked however they are whether
8 it's unwarrantable, S&S, whatever. They have to be what they are. But since you
9 brought up a working relationship with me, if Murray Energy comes in here and wants a
10 good working relationship with MSHA, some of the things that's got to change from
11 Murray's perspective is that you can't walk in here and say that MSHA's your enemy
12 and we are not your friend. That perception by itself creates friction. The issues that
13 are going on with Ex. (b)(6) and Ex. (b)(7)(C) is another one. And I said I need to let you all know
14 up front that if you try to take some kind of action to have Ex. (b)(6) and Ex. (b)(7)(C) first
15 off, to me it's fairly comical for you to even say that because you have to get a county
16 judge or somebody to issue a warrant and a county sheriff come out here and serve it.
17 And if you all go that far, we'll have federal marshals here and then we'll see where we
18 go from there. But beyond that, whoever makes that phone call to do it is who I'm
19 going to be coming after. And I said --- and I did tell them I don't think Mr. Murray will
20 make that phone call so I figure it will be somebody in this room, and you just need to
21 be aware of where I'm coming from, that if you're willing to make that phone call, then
22 that's where I'm coming.

23 And there was another issue of Barry Grosely that wrote a lot of tough paper,
24 and I guess allegedly some comments were made, we've got rid of one inspector, we'll
25 get rid of another one. And I said, that's the wrong kind of attitude if you're wanting to

1 work with MSHA because you aren't going to get rid of anybody, we're going to
2 continue to come here and do our job.

3 And when I finished, Bruce Hill told me that everything I said was inappropriate
4 to bring up and they didn't appreciate my comments. And my response to him was,
5 you asked me how to improve the relationship and I just told you how to improve the
6 relationship.

7 MR. PAVLOVICH:

8 He didn't take those in very good light, did he?

9 A. No.

10 BY MR. TEASTER:

11 Q. The only way he saw improvement was to not issue paper?

12 A. Yeah.

13 Ex. (b)(6) and Ex. (b)(7)(C)
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16 Ex. (b)(6) and Ex. (b)(7)(C)
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MR. PAVLOVICH:

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MR. PAVLOVICH:

Did your inspectors have any input on plan approval? Did they ever get to review the plan prior to it being approved?

A. Not that I'm aware of.

MR. PAVLOVICH:

No.

BY MR. TEASTER:

Q. Would the operators ---?

A. Now, let me back up on that. And to say that we had no involvement's not 100 percent accurate. There were instances where I was aware of a company --- and it wasn't often that I found these out, that a company was coming in to discuss a plan. And I would go back again to the West Elk situation as the one that always comes to mind, that there were times I was aware they were coming in to look at --- to meet with the district manager to get a plan changed. And there were times when I think the company painted a picture that wasn't 100 percent accurate. You can't say it's a lie, but it wasn't 100 percent accurate. If I knew those things were coming, I did have an inspector and a supervisor. In this particular case, Mr. Ramey and whatever supervisor was at the mines to come to that meeting in Denver to be involved in that particular plan that the company says, we want to do this. Like if you're looking at this Crandall Canyon map and say we want to --- such as rib bolting at West Elk was an issue that we did get involved in, saying we needed --- from the inspection standpoint we're issuing citations and not taking care of the rib. We need to get rib bolting in. The company didn't want to do it, so what I had was the inspector and the supervisor come over and sit down and the company said, we've never had a problem in any of these areas. And I had the people there that said, oh, yeah, we've written you several

1 citations in this stretch right here where we have problems with it. And I think at that
2 point that influenced the plan to being something that it would not have been had they
3 not been there.

4 Q. But that was kind of on your own initiative that you got involved?

5 A. Yes.

6 Q. Not the process? The process didn't include you at all?

7 A. That wasn't the process, no.

8 Q. If an operator had some problems getting a plan approved, did you ever have
9 an instance where they would call you from the enforcement side, we think this is the
10 best approach, but maybe the specialists didn't think that was the best approach?

11 A. No.

12 Q. Could you describe how the plan process works there in District 9?

13 A. Okay.

14 Q. Well, I mean, like a plan that's approved, how it's ---?

15 A. Well, if you start from the beginning the operator submits a plan.

16 MR. PAVLOVICH:

17 Just in general, because we're not going to get through these
18 questions if you tell me an hour long about how the process works.

19 A. Yeah, I don't want to get deep into that, but basically they come in, they're
20 logged in. They go to the vent group, if it's a vent plan. It's assigned out to an
21 inspector who investigates it.

22 BY MR. TEASTER:

23 Q. An inspector?

24 A. Mine inspector, the specialist who is assigned to that mine. And then he
25 reviews it. For my part of being in that process in the past, that person would review it.

1 It goes to the supervisor who looks at what he's done and reviews it. Then it goes to
2 the ADM for inspection, who signs off on it. They don't approve it. And then it goes to
3 the DM, who's the one who signs and approves it. And that's kind of the process.

4 Q. So enforcement from inspector, supervisor, and ADM has no involvement as a
5 general rule?

6 A. In general, no, except that they do have to tie in the --- I don't remember the
7 number of the form, 2000 whatever.

8 Q. That's after --- this is not the approval?

9 MR. PAVLOVICH:

10 That's after the initial ---.

11 A. That's after the fact, but it does come into play when you do your six-month
12 review or when another plan, an amendment, comes in.

13 BY MR. TEASTER:

14 Q. What kind of communication did you have with the technical services group on
15 approval plans? Did they consult with you on it very often or was it just they done their
16 job of plan approval and you done yours with ---?

17 A. Pretty much they do their job. I mean, there might be instances where they
18 would come and say something, do you have anything on this. But in general they do
19 their job and we did ours.

20 Q. Was there any process that you're aware of to incorporate addendums, when
21 you start getting a lot of addendums and had a lot of these site-specific plans, the
22 plan's starting to be quite voluminous? Do you know if there was a process where you
23 would try to incorporate them?

24 A. The vent plan, the vent group --- I don't know about the roof control, but the
25 vent group had a process where they would try to go through them on their six-month

1 reviews and reduce those down, removing parts that were no longer applicable and
2 condensing the plans. And occasionally they'd tell them, you need to send a new
3 condensed plan. That's what you actually got.

4 Q. But you don't know about the roof control?

5 A. No.

6 Q. Did you have the occasion during the rescue effort or before to look at the roof
7 control plan that was approved, current approved plan?

8 A. No.

9 Q. It seemed to be a quite voluminous load. There's a lot of addendums in there.
10 Is it common in District 9 to mine barrier pillars?

11 A. Common, no. I mean, for the majority of the work out there has been longwall
12 mining, there's just a few pillar mines out there. The ones that do pillar mining, yeah,
13 I'd say it's common to hit the barrier pillars in some form or another.

14 Q. And you're familiar with how the barrier was mined in the north barrier there in
15 west mains in Crandall Canyon and the south barrier, how they were --- four entries
16 was driven up the barrier themselves?

17 A. I was not. I don't know if I'm answering this --- what you're asking, but ---.

18 Q. Well, no, my question is that this type of mining in the barrier, where you're
19 actually driving entries within the barrier, is that a common practice?

20 A. For mines that are going pillar, probably, yes.

21 Q. With this kind of cover, 1,500 to 2,000 feet of cover?

22 A. Generally, I wouldn't be aware of that many mines that we've got that are doing
23 this in that depth of cover.

24 Q. Are you aware of any mines specifically that we could go look at that says
25 where they've split --- driving entries within the barrier block?

1 A. Under this type cover, or in general?

2 Q. Any mine in District 9.

3 A. You could try King Coal, the old King Coal Mine.

4 Q. Do you know what the depth of cover there is, generally?

5 A. Not right off, but I would say it's a thousand feet or less.

6 Q. Are you familiar with the mining that was done over in the south barrier or the
7 south mains?

8 A. Let me look at it to catch up where you're talking about now.

9 UNIDENTIFIED SPEAKER:

10 Right here, Bob.

11 A. Now, specifically what are you asking me?

12 MR. PAVLOVICH:

13 He says are you aware that this retreat mining was done in the
14 south mains?

15 A. Oh.

16 MR. PAVLOVICH:

17 You know where this --- this of course is the accident area.

18 A. Yeah, okay.

19 MR. PAVLOVICH:

20 So this is south mains.

21 A. Am I aware? No, not really.

22 BY MR. TEASTER:

23 Q. Well, my point is this. Do you see how they go up in here and mine these
24 barriers ---

25 A. Yes.

1 Q. --- this way as they were retreating out, the rooms up there, how this mining
2 would differ. Would you see a difference in this type of mining of the barrier as
3 opposed to mining up at the south or north barriers or west mains?

4 A. What I'd be concerned, I guess, about would be the depth of cover in this area
5 had there been any stresses like we've seen before and what their plan is to actually
6 mine it. But I guess when you look back at this one, we're pretty --- I mean, you've got
7 very small barrier between these two right here to me as opposed to over here. It looks
8 like you've left more of the barrier.

9 Q. What knowledge did you have --- let's go back and ---. What knowledge did
10 you have, Bob, of mining up in those --- in the north barrier of the west mains?

11 A. Okay. Which one's the north barrier in the west mains? None, right off. I just
12 have to make a general statement. No, I wasn't. Nothing that I kept up with on a day-
13 to-day basis.

14 Q. Was you aware that mining was going on in the west barrier --- I mean the
15 south barrier of west mains?

16 A. This south?

17 MR. PAVLOVICH:

18 Were you gone --- when were you gone to ---?

19 A. End of January until first of June. Now, again, when I came back, I actually
20 didn't come back to work until right before Crandall Canyon happened, shortly before
21 that.

22 MR. PAVLOVICH:

23 So you're basically gone almost all of 2007?

24 A. Yeah.

25 MR. PAVLOVICH:

1 Okay.

2 BY MR. TEASTER:

3 Q. Are you aware of any handling or any handling of any procedure or policy that
4 District 9 had to deal with plans that were unique or unusual?

5 A. There's a lot of unique and unusual plans to District 9 as opposed to the rest of
6 the country, so I guess yeah.

7 Q. So they wouldn't be unique and different to the District 9?

8 A. No, not really.

9 Q. I'm talking about within the district itself.

10 A. Uniqueness being when we first ran into hydrogen sulfide at San Juan, which is
11 the first one that really comes to mind. Yeah, there were some very unique plans there.
12 There's some unique plans about how they inject nitrogen down there and seal each
13 panel as they go and inject nitrogen to keep them inert. I mean, those are type unique
14 things to the west that is unique to that mine.

15 Q. Well, let me deal specifically ---. Would the mining here in the west main, now
16 that you're familiar with what transpired, would mining this north barrier and also them
17 mining the south barrier, is that something that you would think would be unusual to get
18 a --- request a plan for that type of mining?

19 A. No.

20 Q. Or whether gob on both sides had been mined out previously?

21 A. No. I wouldn't think it's unusual.

22 Q. Common occurrence?

23 A. Well, I can't say common. I mean, like I say, most of the mines are longwall
24 out there so you don't really have these. But when you go --- when it gets to me what I
25 would say is this is a smaller version of a mine. Even the area may be a little bit big it's

1 still a small mine to me. And when they're looking at going back in and just mining
2 what's available coal, I would expect that they would try to mine this barrier. I don't
3 know if that would be unusual for me to think that they wouldn't. I don't know the
4 specifics of the plan they came up with that would say they could do this safely.
5 Agapito was a company that we would have probably trusted. Billy, with his knowledge
6 and expertise, I would have trusted him.

7 Q. Are you aware of any BLM reports that dealt with mining up in this area that
8 said that mining these tight barriers was not common?

9 A. No.

10 Q. If inspectors discovered a deficiency in the plan, how would they go about
11 getting this deficiency corrected?

12 A. They've got the forms they have to fill out that goes in with every inspection of
13 what they see as deficiencies. On top of that what I was used to and what I'd expect is
14 that if they found an issue they felt was critical, they'd go to the supervisor. And most of
15 the time he's going to come to me with it and say we need to look at this, can we get
16 with the plan group.

17 Q. So the inspector would bring it to the attention of a supervisor?

18 A. Yes.

19 Q. The supervisor would call you, and then he would get technical services group
20 involved in it?

21 A. Yeah.

22 Q. And does that happen on a frequent or infrequent basis?

23 A. I don't know to say that it would be really frequent, but it's not unusual for that
24 to happen and request that we have somebody in the technical group come out and
25 look at this because we got a concern on it.

1 Q. Did you normally get a response when you brought these to the attention to
2 the ---?

3 A. Yes.

4 Q. --- plan group?

5 A. I don't know if you can say it's a really quick response because with people
6 being stretched fairly thin, but yes, you'd get a response.

7 Q. What about when the inspector fills the form out? Just at the end of his
8 inspection he writes the form out, if he just mentions what he considers a plan
9 deficiency, sends that on up through the line, would you get a copy of that? Would you
10 review that?

11 A. Not always.

12 Q. Would that go directly to the plans group?

13 A. It would go to the plan group.

14 Q. Do you know what kind of response the field office was getting back from those
15 types of ---?

16 A. When I was in the engineering group, we wrote a written response back to
17 whatever came in on those forms, that either agreed this, agreed or asked for more
18 information on it to that inspector.

19 Q. You always got back to the inspector or the supervisor?

20 A. Yes.

21 Q. Do you know if that continued to happen?

22 A. I don't know if it was or not.

23 Q. Do you have any feel for how a mine operator would get plans approved and
24 get copies of those plans in advance, a couple of weeks or so in advance of the field
25 office?

1 A. No.

2 Q. Are you aware of any of that happening?

3 A. No, I wasn't. Maybe if the mail was slow. If it was a plan amendment that they
4 --- occasionally you'll get a call in and say, we've got to make a change tonight because
5 we're going to do something or whatever. If it's got to be a rush job, my personal
6 experience with it has been once that plan's signed off, it's faxed to the field office first,
7 and then it's faxed to the company. But it goes to the field office first. When it goes out
8 in the mail on a general plan, one thing I did notice out west, though, and I can't say
9 that it would be two weeks, but the mail was slow in certain areas out west, slower than
10 you would think.

11 Q. So you would fax it to the field office and mail it to the mine, or would you fax it
12 to the mine?

13 A. Not a full plan. I'd say the amendments we faxed --- if it was a rush
14 amendment, we would --- when I was in engineering we faxed it to the field office first
15 and then we faxed a copy of that same approval to the company.

16 Q. Did you keep written records when you made contact back when you were over
17 in on the technical services side? Did you keep a record of contacts that you made
18 back to the inspectors or the supervisors concerning deficiencies that they had ---?

19 A. There would be a copy, should be a copy of that kept in ---. There's a
20 ventilation history file I think that they keep in the district, and it should be in it.

21 MR. PAVLOVICH:

22 Bob, I just want to clarify a little bit. When you were the health
23 supervisor, if a 2000 204 form came in from an inspector and it identified some
24 problem with the respirable dust control plan, you would always address that in writing
25 to the inspector that you either took care of it or ---?

1 A. Through the vent group.

2 MR. PAVLOVICH:

3 Through the vent group?

4 A. Through the vent group, because they were the ones that deal with the whole
5 plan. We would address the health issues.

6 MR. PAVLOVICH:

7 All right. What about plans that were 204 forms that came in
8 identifying ventilation deficiencies or roof control deficiencies, would you know if they
9 were always responded to?

10 A. The only one I can recall was when I was in health working with the --- closer
11 with the vent group we did it. When I was in roof control, that's what I expected to do,
12 that you don't --- my past experience as an inspector, if I took the time as an inspector
13 to find a problem and wrote it down, I appreciated getting a response back one way or
14 the other. And I do know that there were instances where it's kind of like a wish list
15 where an inspector says I think this should be changed but really didn't give you any
16 reason for why it should be changed other than we used to do it where I worked.

17 MR. PAVLOVICH:

18 Were you in roof control prior to Billy Owens being there?

19 A. Yes.

20 MR. PAVLOVICH:

21 You were the roof control supervisor?

22 A. For a year or two. It wasn't ---.

23 MR. PAVLOVICH:

24 Okay. And then when you left that job, Billy took it?

25 A. I think so.

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MR. PAVLOVICH:

What was the reason you left that job?

A. Davitt McAteer was the Assistant Secretary of Labor, and he had an emphasis on health, and I think the health group asked for me to get back into health to deal with the issues.

MR. PAVLOVICH:

To go back to health, okay.

A. And it just worked out at that time is when tech support was closing down there and they had an opportunity to get Billy, which was a good fit into that roof control.

BY MR. TEASTER:

Q. What experiences have you had with bumps, bounces?

A. You go back to about 1994 or so with old Sanborn Creek Mine that used to have a lot of bounces. And they did room and pillar mining which you could to some extent say was similar to Crandall Canyon, except they didn't have longwall panels at the time. At that time it was all room and pillar prior to longwalls being put in. That was my beginning of it. I was kind of blessed. At the time I had David Elkins. They let me have him in roof control when Carl Schmuck left tech support and came to roof control with me. And I had those two guys work on the Sanborn Creek issues. After Sanborn Creek, we had the Aberdeen fatal where we had the bump over there, and I was on the investigation on it, and then the one that came about a couple weeks after the first one. But been exposed to bumps in the west probably for 15 years.

Q. Do you think that there's a way that we can prevent bumps?

A. I really wonder. I don't know. I mean, I think that the innovative action that Aberdeen took and the barrier panel barrier situation gave you more support to --- I don't know that you can say eliminate but maybe lessen the impact of bumps. I don't

1 know that any of us really understand once you get to 3,000 foot of cover what
2 technologically you're going to be able to do to prevent a bump. And I think when we've
3 looked at every one, other than to change the way of mining, put different size pillars in
4 to some extent. But when you look at that, most of them are designed to yield at some
5 point, which you're artificially creating a small bump there anyway. So I don't know that
6 you'll eliminate them completely with the technology we have. You just try to limit the
7 extent, the magnitude, of the bumps that you have.

8 Q. Well, you eliminate as best you can by design, and then what's your thoughts
9 on providing protection, personal protection?

10 A. We've went that route. We put up barriers. I know at Aberdeen we put up
11 barriers, shields, on the longwall that hung down to prevent the pops that come out and
12 getting into the walkway where the people travel. And I know there's been occasions
13 where they wear the hockey suits or chest protectors, face masks, all those things.
14 Those are not going to --- all you're trying to do is limit the damage after one happens
15 when you do those, to me. You know, it's better than nothing, but to say that it's good,
16 I'm not sure that I 100 percent agree with that.

17 Q. So what should we do? I mean, what options do we have?

18 A. Look at some form of better plans. Either figure out somebody beyond me to
19 sit down in rock mechanics and figure out what you can do in certain areas. And in
20 Utah area in particular where you have massive sandstone bottoms and massive
21 sandstone roofs that don't give, so the only thing you have to give is the coal, someone
22 smarter than me has got to be able to figure out, okay, at what point can we --- here is
23 what design we can do that's going to limit problems. And other than that we may
24 come to a point where we say, this is the extent as far as we can run with the
25 technology that's available, that we can't go beyond this point.

1 Q. Bob, where these mine operators provide this protective equipment and require
2 --- some require the miners to wear them, what's District 9's policy on providing that
3 equipment for inspectors for them to wear while they're in those areas?

4 A. It's not just this. That's kind of a broad range for different things like life vests
5 even when they have to be out in impoundments or in a boat or something, out on a
6 pontoon. If we can, we will try to provide --- we did, I should say, try to provide things
7 that we can provide. And if it's something we don't really have and can't, we expect the
8 operator, if they're requiring it for their people, to provide it for ours, just as they would a
9 visitor that comes in, you know. If you were a consultant that came there and they
10 were going to require you to have it, then they should have it for those people.

11 Q. You don't think MSHA's got any obligation to provide that sort of support?

12 A. I do. I do think we should, honestly. But when you're talking about at the
13 district level, you have a budget and you've only got so much. I don't know that you can
14 always do everything that you --- quickly that you'd want to do.

15 Q. I don't know if it's still in there but there used to be a requirement that MSHA
16 inspectors would comply with all company rules and policies regarding safety and so
17 forth unless it interferes with their conducting their inspections and performing their
18 duties. As far as you know, is that still ---?

19 A. As far as I know that's still there.

20 Q. So if a company was requiring their miners to wear these jackets, and our
21 inspectors went there, do you think they would be required to wear those jackets?

22 A. Yes. And we should provide it.

23 Q. And if they opt not to wear it because they didn't want to wear the company's
24 stuff, then they were actually violating that policy; right?

25 A. Yes. And I know for me, I always --- again, it's not just this one particular area,

1 but there's a broad spectrum. Metatarsal protection's not required everywhere. Rubber
2 boots aren't required everywhere, but in some places they are. And what myself, I
3 always tried to tell our inspectors, if you go to the mines and they're requiring their
4 people to do certain things, you need to comply with that. And I know that in Price at
5 least one person there who doesn't like that. They don't like to agree with very many
6 things anybody tells them to do, but they have been told. I don't know if they don't do it,
7 but I know they've been told that's what they're supposed to do.

8 Q. Based on your knowledge of the mines in District 9, do you think all the efforts
9 that are available are being taken to prevent bumps, to minimize bumps?

10 A. I think a valid effort has been made to do that, from the best understanding that
11 people have. And I understand that there can be personal differences in what one
12 person thinks as opposed to another one, whether it's right or wrong. Based on my
13 experience with Sanborn Creek early in the '90s when I saw the bounce problems they
14 were having there doing pillar mining, taking bottom coal when you're pillar mining is
15 not a good practice. To say that it can't be done anywhere, I don't know, but it's
16 something personally I would not want to see done. When you have some other
17 conditions, narrow corridors, I guess, of barriers, and I don't want to say --- make this
18 sound crazy, but if you got a small barrier of coal between two panels, personally I
19 wouldn't feel comfortable with slabbing in that barrier. And if you ask me a magic
20 number, I have no number for what that whip would be, but at some point I'd feel
21 uncomfortable about slabbing into a small barrier between two panels.

22 Q. From your familiarity with roof control plans in District 9, that mine is being
23 designed as best it can to deal with the bumps and control, at least minimize the
24 number of bumps?

25 A. Yes, yes. Early on we started working with Agapito. Well, we didn't, the

1 company started working with Agapito, which seems to be the biggest one out west.
2 Not only them, there's a couple others, but they are one that stands out as to
3 developing programs to simulate what stresses will be met. What's his name that used
4 to be with tech support ---. There was a group out there that they did some of this
5 work, and if they can come in and show you a proven engineering design that this is
6 safe, I don't know that MSHA has --- by itself without tech support has the resources
7 and knowledge to be able to go back in and check to verify that all of that ---. So a lot
8 of time I think we take them at their word.

9 Q. We'll get into it a little bit later, but you know Agapito had done a lot of work
10 there in the west mains?

11 A. They did a lot of work in the entire west, I'd say.

12 Q. Did you ever look at how much time inspectors were spending at a bump-prone
13 mine versus another?

14 A. No.

15 Q. Do you know if a specialist or the inspectors inspect bump-prone mines any
16 differently than they do other type mines? They might focus on more particular areas?

17 A. Well, I think if it's bump-prone, if your methane liberation --- if you have rib
18 problems, if you have SPONCOM problems and you're the inspector there and you're
19 aware that they have those conditions, I think you probably look at it a little closer than
20 you would at a mine where you don't have those conditions. But to do it differently, I
21 don't know that you do it differently. And I guess a hard part that something may
22 change or may come out after Crandall Canyon is that I don't know that we ever fully
23 get reported or know or are aware of all the bumps that actually take place. And I think
24 that handicaps us to some point and I don't think there's a clear understanding of at
25 what point other than if you block the area or you stop mining or somebody's been hurt

1 what other bumps do you report. So I'm thinking that there probably are more bumps
2 than what we know of that are going on, and actually maybe some such as Crandall
3 Canyon that have happened that we aren't aware of. Like for me personally, I would
4 not have at that point in time considered Crandall Canyon a bump-prone mine based
5 on the knowledge that I had. West Ridge, Dugout Canyon, Aberdeen, Elk Creek, West
6 Elk, those type mines I would have said okay, bump prone. For me Crandall Canyon
7 would not have been one that I would have put into that category.

8 Q. Okay. Bob, what type of relationship, communication, did you maintain with
9 tech support?

10 A. I think I communicated very well with tech support whenever I needed them to
11 talk to them.

12 Q. Did you utilize them very often?

13 A. I did, yes. As frequently --- and they're restricted with their lack of manpower
14 as well as we are, and there'd be times they'd tell them we can't get there really quick,
15 but if we had an issue generally they tried to get --- pretty quick get to us.

16 Q. And who would normally make that request? Would you make the request to
17 tech support?

18 A. Not always. At times, yes, it would be me. If it was a ventilation issue or
19 something, maybe Bill Reitze would or roof control. Maybe Billy Owens would or Al
20 may do it or Bill Knepp may do it. It would just depend on what it was that you were
21 needing.

22 Q. Was there any specific guidance as to when you really determined that you
23 needed the assistance of tech support?

24 A. Specific, no. I think if we got into a situation that we felt we didn't have the
25 expertise to deal with, then we would be asking for tech support help. Or if we --- there

1 are times that maybe we do but because of problems that may arise, we may go ahead
2 and ask for them to come out also. I mean, we had a prep plant that an inspector put
3 an imminent danger on because of structural damage. And we have a civil engineer in
4 Denver who came out and looked at it, but --- and I went with him to this situation. We
5 went in. We got up there looking at it. Do I think our civil engineer was knowledgeable
6 enough to deal with it, yes, but looking at the implications beyond it that if you shut this
7 prep plant, you shut the entire mines down which basically feeds this power plant that
8 covers this area of the western United States and the employment for that small
9 community is shot, I didn't feel comfortable with leaving that all on him and I asked for
10 tech support to come out. And they came out with in a couple of days and they went
11 through it with structural engineers. So those type situations we did get very good
12 response and communication with tech support.

13 Q. Who normally makes the determination? If Billy Owens, for example, if he
14 determined that he needed help, would he call tech support directly or ---?

15 A. He would normally --- I'm just assuming because Billy's never really worked for
16 me. Well, he did for a while. But Billy would come to me and if he had a problem, you
17 know, we'd like to get tech support and I'd tell him that's fine, who do you want to get,
18 you know, let's talk to them. Billy was from tech support, had contacts in tech support.
19 He had a feel for who may be --- have strengths in a certain area and that's who I'd say,
20 okay, we'll let the district manager Kuzar, Al Davis or whoever, that we're going to
21 request this. If we need a formal request from a head to a head, then we get Al to
22 e-mail or call who he needed to call. And if we could do it a little more informally than it
23 may be me, Billy, or Knepp, or whoever was involved, you know, do it.

24 Q. And how would you do that normally, with a phone call, or would you send a
25 written request?

1 A. That would be the original way is to do a phone call and touch base with them
2 as to what we can do and then follow it up with an e-mail. And if it needed to be really
3 formal than maybe have the district manager send a letter.

4 Q. And would the process be any different on the enforcement side if your
5 inspector or supervisor felt that they need some technical assistance?

6 A. Probably not. It would go through the same channels, but there would be one
7 extra step. They would either come to Billy Owens, Bill Reitze, and then me. Just one
8 other step would be all.

9 Q. Okay. Do you normally follow up with an e-mail or a written request when you
10 make a phone call?

11 A. Not 100 percent of the time, but most of the time I would say yes.

12 Q. Do you know if the district has any --- has an SOP for dealing with requesting
13 assistance from tech support?

14 A. I think SOPs have changed two or three times since I've been out west, and I
15 couldn't tell you what's in it right now specifically to deal with.

16 Q. Do you feel that you've gotten good and quick responses from the requests you
17 made from tech support?

18 A. Sometimes and sometimes no. Sometimes when you ask for an evaluation,
19 and again, realizing they're shorthanded, that they're running from here to there, they
20 can get out and do a field evaluation, give you some comments, but you may not get a
21 written response for six months or more. And that's kind of slow and it makes it difficult
22 then for you to take any kind of action without that written response. But yeah, it's a
23 slow process at times.

24 Q. What about --- did you get a timely response? Did they respond to the request
25 like if they had to come out to the district?

1 A. They tried to make a physical presence, and I think they tried to do those
2 timely.

3 Q. But the biggest problem was getting the report back?

4 A. Getting the written report back. By the time they go back and figure out all their
5 numbers and put 'em all into place and then come up with what from an engineering
6 standpoint is the most feasible or practical way of dealing with whatever the situation
7 was, those aren't always timely.

8 Q. Did you see any improvement in that over the last year or two, or were you
9 speaking to the last year or two?

10 A. Over the last 15 years I would say, yeah, I've seen a pretty good improvement
11 in it. The last year or two I don't know that it's gotten better or worse.

12 Q. So in your overall opinion is --- tech support is helpful or not helpful or ---?

13 A. They're helpful, it's just slow help sometimes.

14 Q. What do you think of the quality of their reports? Do they seem to be
15 consistent?

16 A. Yes. And I'll say that with a kind of a question mark because sometimes when
17 you get the report back there has been a problem. Tech support doesn't have AR
18 cards and they don't enforce the law. So they look at it more from an engineering
19 standpoint as here's what should be done. And sometimes legally that's not where you
20 want to go, so it doesn't really fit the two of them together, from an engineering and an
21 enforcement standpoint don't always match.

22 Q. And what do you do in those cases?

23 A. Well, the law takes precedence to start with. I mean, you have to have the law.
24 I mean, it has to meet the law. Then from that point on you try to work the best way you
25 can to be the safest you can be with whatever the recommendations were.

1 Q. You were out in District 9 when they had a western tech support center?

2 A. Yes.

3 Q. How did the response and timeliness of the reports and all that compare then
4 as it does today?

5 A. You had access to them there in the west, and they were available. I know for
6 me personally I could go downstairs. We were in the same building. Go downstairs
7 with an issue. If they were able, and most of the time they were able, the next day we
8 could be going out to look at whatever an issue, if I went with them and I had some of
9 those happen when I was in various positions out west. We'd go out and do the
10 physical review. And with me being with them listening to what they have seen and
11 recommendations without throwing all the numbers together, it would be quicker. But
12 to get that written response was still slow, slow. And it's just a process of reviewing
13 numbers, going through various steps that each step has to approve and look at it and
14 say is this okay, do we need to change something here. That's a slow process.

15 Q. Do you think that the miners and the agency would benefit had the center
16 stayed there or if it was moved back out there, had a western tech support center?

17 A. Yes, I do.

18 Q. Think it would be better?

19 A. I say that from the perspective that I think you would have to keep what you
20 have here in the east and not reduce it to some extent and add to the west. And so
21 you've added more bodies and more intelligence out there that you've reduced some of
22 that pressure back here on the east. And now you have one that's focused specifically
23 on the west.

24 The other issue that you run into on the western portion of it, conditions are
25 different in the west, as you can see at Crandall Canyon. For the most part you don't

1 have some of these conditions in the east. And if you have a technical support group
2 that's focused strictly on the west, they're, in my opinion, more in tune with what's
3 needed in the western US. They might not know some of the things about the
4 Pittsburgh seam of coal here, but they know what's needed in the west as far as
5 SPONCOM, bounce-prone conditions, methane liberation, two-entry systems with
6 stresses. They know those because that's what they deal with all the time. And I think
7 that would benefit --- that expertise for that area would benefit the Western United
8 States.

9 Q. Bob, what type of guidance, if any, did you get from tech support on preventing
10 or minimizing, reducing, the occurrences of bumps or bounces?

11 A. I don't know. You kind of lost me on that one.

12 Q. Any guidance that you got from tech support on how to minimize the
13 occurrences of bumps.

14 A. Okay. Going back a few years when we had tech support out west and you
15 had programs that they could --- for me it was easier being in the same building with
16 them that if we had got a plan in from Agapito or whoever that did the plan work for the
17 company and sent it in and they had --- their modeling design showed this is what the
18 stresses were --- and I actually did this with Sanborn Creek, which I thought was helpful
19 for me is I could go downstairs with them and say, okay, let's plug in those numbers
20 that they're showing us on our simulator and show me what we've got, where's our high
21 stress areas, is this going to work. And then I could sit and look at it with them and they
22 could explain to me, well, here's where we can go. I think that benefited me.

23 Guidance that they give, I'm just kind of at a loss of words to say how
24 guidance ---. They can look at those things you got.

25 Q. Well, let's just deal specifically with the fatal that you had there at Aberdeen

1 involving a bump that resulted in a fatality. Did you get any guidance from tech support
2 as to how to try to prevent that or minimize that type of an occurrence?

3 A. Now, my best memory I can think of, I had Karl Zipf and Carl Schmuck both
4 from tech support went with me on that investigation and they came up with some
5 designs that as far as your yield pillars and the different sizes that you needed to look
6 at, they were very helpful in that area. Again, at that particular one, Aberdeen took on
7 one to go to barrier panel barrier to get away from that stress levels. And I think part of
8 that too was from tech support guidance that the conditions you have at best, you will
9 get to this point. And that's not going to guarantee anything, but that's the best we can
10 do. And I think they were helpful there and it maybe steered Aberdeen into going to
11 barrier panel barrier.

12 Q. So the answer would be, yes, ---

13 A. Yes.

14 Q. --- in that particular instance. Are there other instances where you may have
15 gotten some guidance like that that benefited the mine?

16 A. Yes. I think also at Sanborn Creek with all the bounce --- that we knew
17 bounces there that were significant, in looking at how the design --- as they drove
18 panels up what size pillars to put in. And as they looked at how much they could pull by
19 mining off to the right and left room and pillar mining, what size pillars they could put
20 there and what the stresses were going to be and also what size barriers to leave
21 between each panel. And I think they were very helpful there.

22 Q. What about headquarters? Did you get any guidance from headquarters that
23 would help you in trying to minimize the occurrences of bumps?

24 A. I think they kind of depended on tech support, too, you know. It's been years
25 since I dealt with that so I don't --- but I think they kind of leaned on ---

1 Q. But you can't recall ---

2 A. --- tech support.

3 Q. --- any specific guidance that you got that you could take out and apply that ---

4 A. Not like on bumps and bounces.

5 Q. --- you would go to tech support? Did you ever request any assistance from
6 headquarters?

7 A. Probably did. I mean, I got to think with some of the bounces that we've had
8 out there I would have took help from anywhere it would have came from, that anybody
9 had the knowledge to work with me. And I know, yeah, I got to say yes, we did
10 because Al Davis was in headquarters then. And at that time he had worked at Mid-
11 Continent, and I guess that was prior to my time out west, but Mid-Continent was a very
12 bounce-prone mine and Al had been there, and his expertise was telling us what they
13 had done. So, yeah, we did get --- asked for and get help from headquarters at that
14 time.

15 Q. You've mentioned Agapito several times. How familiar are you with Agapito?

16 A. Just knowing that they do a lot of work in the west on conditions out there as
17 far as designing and developing mines under deep cover.

18 Q. And you said something earlier that you just routinely accept their analysis
19 because we don't have anybody that ---?

20 A. Through the years looking at what they've presented, and I know we've had
21 some court cases that not necessarily them but it opened my eyes as to what we
22 maybe want to be looking at, they appear to be knowledgeable in what they're doing
23 and maybe have a little more expertise specifically related to deep cover than other
24 companies do. So, yes, we would think they're credible.

25 Q. Does that mean that you would accept their analysis as opposed to ---

1 A. Not completely, not completely.

2 Q. --- somebody in tech support?

3 A. I got to think we would call tech support in or if we had people. Like I say, Billy
4 Owens had worked in tech support out there, has some knowledge. I don't know what
5 Billy's knowledge of it is but he has the knowledge to look at it and --- I don't know how
6 in-depth Billy could get if he has the programs to look at what they've done and
7 simulate what they've done, but he could at least look at the numbers and know if he
8 felt comfortable with what they were saying or not.

9 Q. Did Agapito --- they represented a lot of mines in the west, or were they
10 specific?

11 A. It seemed like they represented several mines out west.

12 Q. It wasn't just Crandall Canyon ---

13 A. No.

14 Q. --- or Murray-operated mines?

15 A. No.

16 Q. What type of interaction did you have or does District 9 have with BLM?

17 A. Very little.

18 Q. What little bit you had, what did that mostly involve?

19 A. We used to get --- I don't even know what you would call them, but if they were
20 going to make a change in a regulation and they wanted you to review it, see what
21 impact it had from an MSHA standpoint or something, that would be about it. If they
22 were going to renew a lease or something, they would send you a copy of a little formal
23 letter.

24 Q. Was that true for the Forest Service BLM?

25 A. I've never dealt with the Forest Service, but BLM, yeah.

1 Q. Do you know of any relationship that Price --- that field office supervisors or
2 inspectors might have had with BLM?

3 A. I think Barry Grosely used to work for BLM. And other than that I don't know
4 that they have any first-hand dealings with BLM.

5 Q. Are you familiar with the BLM reports involving Crandall Canyon, mining in the
6 west mains?

7 A. No.

8 Q. You've never seen no reports that deals ---?

9 A. No.

10 Q. Have you ever talked to anyone in BLM about Crandall Canyon?

11 A. No.

12 Q. They've got a statement in one of their reports that's dated August 13th, 2007.
13 It states inspectors confirmed with MSHA the water problems in the north barrier panel.
14 They have mined the north barrier up and it encountered some water, and they didn't
15 drive it up to the projected end, so they had to, I guess, because of not mining it all they
16 had to get permission from BLM. So are you aware --- and so they apparently called
17 MSHA to see if they had water. Do you know of any contacts?

18 A. I'm not aware of it. I would think they would probably call the field office and
19 not the district. And I can assume, maybe wrongfully so, but I can assume that. I don't
20 know who owned the property, if it was B ---. I know part of the property at Aberdeen
21 was privately owned. But if it was BLM, when they went to barrier panel barrier, I've got
22 to believe that they had to make BLM aware of it and that BLM had to ask us is this
23 true, are they going to have to do that, and we would have said yes.

24 MR. TEASTER:

25 Do you want to break for lunch?

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MR. PAVLOVICH:

Yeah, I just want to ask Bob one question. You made a --- it was in a discussion about Agapito. If a plan came in from an operator that had Agapito information attached to it as opposed to a plan from an operator that didn't have, do you think it would be easier and a smoother transition to approve those plans based on the Agapito recommendations as opposed to not? Normally would you have seen that to be the case?

A. I don't know if I can answer that directly, but I think that certain people have more credibility than other people do. And if you have a company that has credibility, you probably lean a little bit more towards ---

MR. PAVLOVICH:

Okay. So would you say ---

A. --- doing that.

MR. PAVLOVICH:

--- Agapito had more credibility at District 9 than some of the others?

A. Than some.

MR. PAVLOVICH:

Or if you had no consultant company?

A. If you had no consultants we may question more than we would with Agapito, how did you come up with what you came up with.

MR. PAVLOVICH:

So it would almost appear that if you got Agapito to help you with your plans you kind of got some preferential treatment?

A. I don't know about preferential treatment, but probably MSHA felt that ---?

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MR. PAVLOVICH:

Less scrutiny maybe? Less scrutiny?

A. MSHA may have felt more comfortable in what they presented than if you had done it on your own.

MR. PAVLOVICH:

Okay.

MR. TEASTER:

Let's take a break to eat lunch.

LUNCH BREAK TAKEN

BY MR. TEASTER:

Q. Bob, were you aware of the plans to develop and treat the north barrier before the accident?

A. Before the accident, no.

Q. You had no knowledge or information at all? I mean, this took place in mid ---.

A. Let me back up and better clarify this, when you say the north mains and I know --- so that I can refresh ---.

Q. North barrier.

A. The north barrier, so I can refresh myself. No, I'm not aware of them, no. Is that on this map?

Q. No, it's parallel to this.

UNIDENTIFIED SPEAKER:

No. It would be the barrier up here.

A. This one up here. No, I'm --- not right off the top of my head. No, I don't remember anything about it.

BY MR. TEASTER:

1 Q. Are you aware that Laine Adair had asked Billy Owens to provide a cursory
2 review of the Agapito report?

3 A. No.

4 Q. Is there any information or knowledge that you had at all of what transpired in
5 that area prior to the accident on the 6th as far as mining?

6 A. No.

7 Q. Were you aware of any inspection activity that went on up in those areas by the
8 inspectors?

9 A. Not specific to that area. I mean, I'm aware that we inspected the mines, but
10 anything specific to any of this, no.

11 Q. Did you ever read the Agapito report? There's a few of those, one dated July
12 the 20th of '06.

13 A. No.

14 Q. Never seen it?

15 A. No.

16 Q. Are you aware that they gave that report to Billy to review and he gave it to Del
17 Duca?

18 A. No.

19 Q. You have no knowledge of any of that?

20 A. No.

21 Q. Are you now aware of anything --- I mean, at that time --- are you aware now of
22 an Agapito report that Del Duca identified some issues?

23 A. I don't know that I'm aware from watching TV that --- and not by name, but that
24 we had a graduate student approving plans, which is not a true statement.

25 Q. Okay.

1 A. But that a graduate student did look at it, I'm aware of that. And in all honesty I
2 would have no problem with it because it would be a good exercise for him to look at as
3 long as somebody with more knowledge looked at it after him in thorough detail.

4 Q. Are you aware of any discussions regarding in the district after the accident
5 involving Del Duca's evaluation of that Agapito report?

6 A. No.

7 Q. Did you have any knowledge of a bump that transpired up in the north barrier
8 around March 10th or 11th?

9 A. Not until after the events at Crandall Canyon. While I was at Crandall Canyon I
10 think the news media brought it up and I was asked about it. Had no knowledge of it,
11 but I was asked to check with the company. And I met with their engineer and he
12 informed me of what happened, and that's about all I had on that.

13 Q. What did he share with you?

14 A. That they had had a bump but they were moving out of the area and it wasn't
15 --- they decided not to do anything and just move on out of the area.

16 Q. Were you ever aware that the company notified someone in the district in
17 ventilation?

18 A. Not prior to this coming out in the news media, no.

19 Q. So what you learned you learned in the news media?

20 A. Yes.

21 Q. Did you have any follow-up discussions on that ---

22 A. No.

23 Q. --- with Bill Reitze?

24 A. No.

25 Q. Did you have any knowledge of anybody contacting Billy Owens?

1 A. No.

2 Q. Based on what you know about that bump and the results, is that a --- was that
3 a reportable under Part 50, was that a bump that should have been reported?

4 A. I don't know any of the specific facts about it.

5 MR. TEASTER:

6 Do you have that thing over there?

7 MR. PAVLOVICH:

8 I found it.

9 A. Do you all want to help me find where I need to go or ---?

10 MR. PAVLOVICH:

11 Just right there.

12 MR. TEASTER:

13 Just right here.

14 MR. PAVLOVICH:

15 That shows a map of the area and all the purple lines are the
16 ribs that were affected by the bump.

17 A. This is the March 11th or whatever?

18 MR. PAVLOVICH:

19 Yeah.

20 A. The date of that last bump?

21 MR. PAVLOVICH:

22 Right.

23 A. If I looked at this, would I think it's reportable?

24 MR. PAVLOVICH:

25 Yeah.

1 A. Based on this alone I don't have enough information because this purple area
2 affected --- what did it do? Was it just sloughage off the ribs?

3 MR. PAVLOVICH:

4 Well, look at the pictures. You can't get out of it that easy,
5 Bob.

6 A. Some of the pictures indicate that it probably would be reportable. Some of
7 them I don't know that it would be or not. Just like I say, I don't know if there's numbers
8 on them.

9 MR. PAVLOVICH:

10 What's your opinion of when a bump would be reportable,
11 Bob?

12 A. When it affects the ventilation, disrupts the ventilation, when you have an
13 accident or when it disrupts mining for more than 30 minutes.

14 MR. PAVLOVICH:

15 Okay. You think from looking at some of those pictures that
16 would disrupt mining for ---?

17 A. Yeah, I do. On some of them, some of them it would.

18 MR. PAVLOVICH:

19 Well, I mean, it all happened at once.

20 A. Yeah. With all of them together ---.

21 MR. PAVLOVICH:

22 Not individually. It's not an individual ---.

23 A. Well, when I look at each individual picture some of them, if this had been the
24 only thing there, no, it wouldn't be.

25 MR. PAVLOVICH:

1 Well, the only thing, but I mean you have to look at it all
2 together.

3 A. Yeah. But yeah, it does look like it would be reportable.

4 MR. PAVLOVICH:

5 Okay.

6 A. The only other issue that I would question about it is when we said did it disrupt
7 mining for more than 30 minutes or whatever. Not having more information that they
8 were withdrawing from this section, if it happened in by where they were working, I don't
9 know if it would have disrupted mining. And that's parts that I don't know.

10 MR. PAVLOVICH:

11 Okay.

12 A. If they had --- and I don't have the information, but if they had been moving out
13 of there before that bump happened, potentially it might not have been. But if they
14 were still in there working, I would think, yes, it would have been reportable.

15 BY MR. TEASTER:

16 Q. If you got a call and said that we've had a bump and it damaged our bleeder
17 entry up there and we're moving out, would that raise any flags to you that this may
18 have been something more significant that they were going to pull out, out of that area?

19 A. Yes, it would. I would have asked the field office where it had occurred had to
20 have somebody go up and investigate it and see what's going on.

21 Q. This bump occurred over the weekend, I think, on the 11th of March. And just
22 maybe the next day or within the next couple of days we had an inspector at the mine.
23 And he went in the mine. But would you think if he learned that they was pulling out of
24 that section that he would try to figure out why?

25 A. I can't second guess the inspector. I mean, knowing we've been shorthanded

1 doing inspections, and if he's going up to an area that's --- he's going to a different area
2 of the mines to complete his inspection and he gets there and the company says, well,
3 we're just decided we're going to --- it's not worth our time and our effort up here where
4 we've been mining, we're going to pull out and seal it off and move somewhere else, I
5 don't know that that would trigger me to want to go check what had happened there by
6 itself. And I don't know what information he had when he was there to look at it to base
7 what he was doing on.

8 Q. Do you know if he got any instructions from anybody to go to the mine that day
9 or go to that area and check?

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

11 Q. What is a policy for inspecting areas where seals are being installed? Do you
12 have a policy for what the inspectors are to do as far as visiting those areas and what
13 he's to do ---?

14 A. When they're being built?

15 Q. Yes.

16 A. Excuse me. We would like for them to go and inspect the area. We would like
17 for them to look at it for cleaning up material around where it's at, is there water
18 present, and what's the roof conditions present. And if possible, if they can watch
19 portions or all of the construction process going in place, that's what we would like for
20 them to do.

21 Q. Do you have any feel for --- this occurred on the 11th. I think he was there on
22 the 12th or 13th, the inspector. It was the 12th ---.

23 MR. PAVLOVICH:

24 The 14th.

25 MR. TEASTER:

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13th.

UNIDENTIFIED SPEAKER:

His first date was on the 13th, ---

MR. TEASTER:

Okay.

UNIDENTIFIED SPEAKER:

--- staying on the surface.

BY MR. TEASTER:

Q. Do you know whether that equipment had been moved out of that area? Do you have any ---?

A. No, I don't know. If you're asking do I know if he would have been moved out before he got there?

Q. Right.

A. I don't know.

Q. Have you reviewed his inspection tracking map of that inspection?

A. No.

Q. What was the policy in the district for investigating bumps?

A. Okay. I'll back up, but the policy for investigating a bump that's been reported would ---. It's going to depend on what area of the mine it's in. If it's in an abandoned area that the examiner is --- no one's around, whatever, we probably wouldn't put as high a priority on it as if it's in an active area of the mines. If it's in an active area of the mines ---.

Q. Well, it has to be reportable under Part 50.

A. Yeah.

Q. So I mean it's going to disrupt ventilation, disrupt ---?

1 A. Yeah, true.

2 Q. So it's in that category when it's reportable.

3 A. Then we would want an inspector to go and investigate it and give us a report
4 back if he can as to what the extent is if he sees anything that may have been
5 contributory that helped cause it or whatever. But get a report back verbally at
6 minimum. And if we're doing the investigation then it would be in writing.

7 Q. And how does that process work? Does a bump --- is it called into whom and
8 then how is it dealt with? How is notification received from the operator?

9 A. Currently it would be they would call in and report it to the MSHA accident line
10 and then we would be notified back from that.

11 Q. And how long has that been in effect, Bob, do you know, roughly?

12 A. Off the top of my head I would say roughly a year. Prior to that it could have
13 been different ways that the company --- the company could have called in and
14 reported it to the district or to the field office and then it gets to the district anyway. And
15 at that point, you know, we would enter it and make the decision to go out and
16 investigate it.

17 Q. Do you have any feel for the number of bumps that would have been reported
18 in the district ---

19 A. No.

20 Q. --- over a six-month period?

21 A. No, I don't.

22 Q. Do you feel it would be one or two, six, or would it --- a regular occurrence?

23 A. Over the whole district, I'm thinking over a six-month period between six and
24 ten, probably.

25 Q. And the inspectors would normally conduct those, or would it be someone out

1 of the district office?

2 A. It could be someone out of the district office. And that depends upon where it's
3 at, what mine it's at. If this mine has had a history of it before, we're more than likely to
4 send someone from the district to do it.

5 Q. And is there a formal report written on that?

6 A. Sometimes there is. I can't guarantee that it's done all the time, but sometimes
7 there is a formal report.

8 Q. Is there anything to determine whether there's a formal report or not?

9 A. I generally left that up to Bill Denning as to whether we wanted to go with a
10 formal report or just an informal part of the EO-1 or during whatever inspection we
11 were doing at the time.

12 Q. Do you know whether or not the mine operator's required to record on a mine
13 map --- the bumps that are reportable under Part 50, are to be recorded on the mine
14 map?

15 A. No. No. That's a good question because rock falls is one thing, bumps is
16 something else. And something that you asked the question, that's the first time I even
17 thought of that.

18 Q. I think the same requirement --- I can't ---.

19 MR. PAVLOVICH:

20 It says a rock fall or burst of coal or material, burst of coal or
21 rock.

22 A. And that's a good point.

23 BY MR. TEASTER:

24 Q. In 75.323 -something?

25 A. Yeah.

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MR. PAVLOVICH:

Would you know if anybody in District 9 was recording ---

A. No.

MR. PAVLOVICH:

--- bursts of material on the mine maps, ---

A. No.

MR. PAVLOVICH:

--- like they would roof falls?

A. I'm not aware of it.

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. Do you know how much consideration bumps was considered in approving a roof control plan?

A. On Crandall Canyon?

Q. For all the mines.

A. For any mines?

Q. Yeah.

A. Some mines it's given a whole lot of consideration, especially like where you have a bump-prone --- what we would say is a bump-prone. I know that's not a good word, but where you've had a history of bumps at a mine. Yeah, that's a --- it is a consideration in approving a plan.

Q. You know, we've heard a lot about bumps that occurs in longwall in mining. Is there a frequent occurrence of bumps in areas outside of mining a longwall that you're familiar with?

1 A. Sanborn Creek was one that was frequently bumping on room and pillar
2 sections, not longwall.

3 Q. So the type bump that occurred there on the 6th at Crandall Canyon is not
4 uncommon? I mean, that one's uncommon, but ---.

5 A. That size is uncommon.

6 Q. Yeah.

7 A. I think it went beyond the scope of what anybody would have imagined. But to
8 have bumps on a room and pillar mine in the western US, realizing that we have very
9 few of them that would be room and pillar and in those type conditions, but Sanborn
10 Creek being one of the few mines that would be that way, it was what we would have
11 thought a bump-prone mine. So it wasn't uncommon to see bumps in that area.

12 Q. Did you say that you had not read the Agapito reports for April the 7th?

13 A. No, I hadn't.

14 Q. If you had got a --- read a statement, and I think this statement was included in
15 the roof control. It said a large bump occurred at this point resulting in heavy damage
16 to the entries located between Crosscuts 133 and 139. Now, this is over in the north
17 barrier. That's that bump that we're talking about that occurred in the north barrier
18 resulting in damage to the entries located between Crosscuts 133 and 139. The
19 remaining north panel was abandoned in favor of mining the south barrier. Now,
20 reading that statement would you think that they pulled out of that section because of
21 damage to the bleeder entry?

22 A. I don't know if I can see that and just make sure I understand it. Is it this one?

23 MR. TEASTER:

24 Yes.

25 MR. PAVLOVICH:

1 It's the italicized part there, Bob.

2 A. Okay. Now ask me the question. I've got the statement down now.

3 BY MR. TEASTER:

4 Q. If you read that statement, would you think that the reason that they pulled out
5 of this north barrier ---?

6 A. That's what it sounds like to me, that they pulled out based on the bump.

7 Q. Right. Because you think the damage to the bleeder entry would have been
8 cause or it had been more severe than just damage to the bleeder entry?

9 BRIEF INTERRUPTION

10 A. Would I think that --- ask me again.

11 BY MR. TEASTER:

12 Q. Well, basically would that statement, would that indicate that a major bump had
13 occurred in the north barrier?

14 A. Yeah.

15 Q. And what should you have done with that if you got that notification? Take into
16 consideration now we've got a report, it's in April --- in May. This occurred in March,
17 March, so what would you do with that information once you considered that a
18 notification that a bump had occurred?

19 A. Once I guess if I got the information that we had a bump in the magnitude that
20 you showed me the pictures and it had done that much damage, and that it had
21 occurred in March and I didn't find out about it until May, I think I would have issued a
22 citation for not reporting an accident. Now, I don't know what else I could have done
23 because I'm not sure at what time frame that area was sealed or where you didn't no
24 longer have access to get to it, but I would have been a --- if it had been able to get to,
25 I would have been concerned to go up there and see what in the world went on.

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MR. PAVLOVICH:

It had already been sealed by then.

A. Okay.

MR. PAVLOVICH:

It was sealed fairly quickly right after. Within probably a week after the bump, it was sealed.

A. Okay.

A. Okay. The credibility of reporting would have been --- I would allow some credibility in whoever was running the operation as to what was going on and why he didn't let us know and why all of a sudden --- or what happened that we didn't know about.

BY MR. TEASTER:

Q. Are you familiar with ARMPS?

A. Not real familiar. I've seen it, but not real familiar with it.

Q. The model?

A. No.

Q. Have you ever conducted an analysis on it?

A. Other than sitting with tech support when they were in Denver and running through these, and I know there's been a lot of modification since the mid-'90s when I would have looked at it, no, I'm not familiar with anything newer than that.

MR. PAVLOVICH:

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

A. Yes.

MR. PAVLOVICH:

I mean, you've met him several times, talked to him, had

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MR. PAVLOVICH:

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

MR. PAVLOVICH:

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BY MR. TEASTER:

Q. Bob, did you feel that the supervisors and inspectors that you had there in the Price field office had a pretty good knowledge and understanding of bumps and bounces?

A. Some had better knowledge than others. In general probably I would say overall they had a fairly good working knowledge of it. There may be a couple of individuals who I always wondered if they had as much as others.

Q. And you indicated earlier that sometimes they would investigate a reportable bump and sometimes the district would do it?

A. Yeah.

Q. Was that just based on the availability of the district staff?

A. For the most part, other than if you got a mine that has a history of bumps and a history of problems with deep cover or design of the mine or whatever that can create some of this. And the more history you have into it that adds a lot of other variables to what causes the bumps, then you want a specialist to go look at it more so than just a

1 regular inspection. If it's a first bump they've had in the mine, it depends upon the
2 magnitude. If it's a small one that they've called in and all you had is like the end of the
3 tailgate is bounced out and it really hadn't --- it probably is not reportable by definition,
4 but they reported it anyway, an inspector may go look at that. If you've had a mine like
5 Aberdeen that has a history of bumps or bounces, or Sanborn Creek, or one of those
6 and you have issues, then you're more than likely going to send a specialist or ask tech
7 support to go look at it and give an opinion at that point.

8 Q. Are you aware of any bumps in which the field people there in Price
9 investigated and initiated some action to cause change at the mine where the bump
10 occurred?

11 A. Not specifically. I couldn't give you a specific instance on any of that. I'm sure
12 it probably has happened, but I couldn't give you anything specific.

13 Q. Are you aware of any report by the Utah Division of Gas and Oil that said
14 mining should not be permitted up in the main west area of the mine?

15 A. No.

16 Q. Kevin testified at the Congressional hearings that mining was ceased in that
17 north barrier because the barrier --- the bleeder entry could not be traveled. Do you
18 know where this information came from?

19 A. No.

20 Q. Do you know who provided this information to Kevin?

21 A. No.

22 Q. You had no prior knowledge prior to the 6th of August of the plans to develop
23 and retreat the south barrier?

24 A. No.

25 Q. You first learned of that when?

1 A. Of the plan?

2 Q. The mining in the south barrier.

3 A. And that's just --- where the bump occurred; right?

4 Q. Yes.

5 A. I first learned of that when I --- when this happened.

6 MR. PAVLOVICH:

7 Bob, let me ask you something. Once a plan is approved, the
8 mine operator gets a copy, obviously. The field office gets a copy. You as the ADM in
9 enforcement, do you get a copy?

10 A. No.

11 MR. PAVLOVICH:

12 How do you even know what's approved in your area then?

13 A. You don't.

14 MR. PAVLOVICH:

15 How do you know what plans you got?

16 A. You don't other than the feedback you get from the field.

17 MR. PAVLOVICH:

18 So you don't have any knowledge of either when a plan prior to
19 approval or after approval --- there's an ADM sitting in Denver over enforcement that
20 even a plan has been approved for someone?

21 A. Other than maybe hearing that we approved a plan for them, but then you don't
22 get the specifics of that plan. You just know that they've got a plan approved, and
23 that's it.

24 MR. PAVLOVICH:

25 So you don't have a plan file in Denver?

1 A. Not for the ADM for enforcement.

2 MR. PAVLOVICH:

3 Not for the ADM. You don't get a copy of any approved plans?

4 A. No.

5 MR. PAVLOVICH:

6 They just go to the field office unless the field office

7 supervisor ---

8 A. Or an inspector.

9 MR. PAVLOVICH:

10 --- someone would call you and say, I've got a problem with
11 this, then you wouldn't even know about it?

12 A. Yeah, that's true.

13 MR. PAVLOVICH:

14 Okay. Do you think that's a good practice?

15 A. In hindsight, probably not. But when you look at an organizational structure, to
16 me you have a specific function for each group. And the plan approval group has their
17 function what they're supposed to be doing. The enforcement group has a function for
18 what they're supposed to be doing. Now, they do intermix when you want to get an
19 effected plan and stuff, but to say that up front every time, no, it doesn't always happen.
20 And I think that's part of that structure.

21 MR. PAVLOVICH:

22 Well, that's may be true as far as if you're saying you want to
23 separate your functions and these guys will inspect mines and these guys will approve
24 plans. But once a plan is approved, then it's just as much the law as the law is?

25 A. Agreed.

1 MR. PAVLOVICH:

2 And, therefore, why wouldn't the enforcement people not
3 know?

4 A. Well, the enforcement people know --- your inspectors ---.

5 MR. PAVLOVICH:

6 Well, you're an enforcement person.

7 A. Yes, but the inspectors know. They're sitting there looking at it every day and
8 they go over to the mines and go through it.

9 MR. PAVLOVICH:

10 Okay.

11 A. From the level where I'm at, no, I didn't see it every day. I want them to
12 enforce the law, the inspectors, and expect that they are going to enforce the plans that
13 are approved the way they're approved.

14 MR. PAVLOVICH:

15 Okay. But you would never get a copy of the plan?

16 A. No.

17 MR. PAVLOVICH:

18 Okay.

19 BY MR. TEASTER:

20 Q. Who do you think knows those mines best, inspectors, specialists?

21 A. Yes. There's a lot of technical ends to that that the inspectors don't know as
22 well as the specialists, too, though.

23 Q. Right. When you combine the two of them, would you think that's when you
24 would end up with your best bundle?

25 A. Yes, I do. And I think there's a process there though and I can see where there

1 is a weakness that up front you have a plan that's approved that hasn't had any
2 feedback from the inspection personnel. But at the same time my past experience, the
3 inspection personnel don't understand a lot of the technical things that go into a plan.
4 How did you figure out whether to use a cable bolt or a mechanical bolt or what loads
5 or one of those holes, and they don't understand that portion of it, where a technical
6 person can look at the --- you know, what's sent in on the plan of geology and
7 everything and come up with a minimum plan.

8 MR. PAVLOVICH:

9 I think we're agreeing that you wouldn't want your inspectors
10 involved in the technical aspect, but would it not be useful to have both sides, both the
11 practical and technical in the plan approval process?

12 A. To a lot it could be. Seeing like it really would, but I think you ---.

13 MR. PAVLOVICH:

14 Do you think one of the reasons that never evolved or wasn't
15 done in Denver is because of distance?

16 A. That could be a part but I don't think it's --- I think it's kind of that way in every
17 district.

18 MR. PAVLOVICH:

19 You do?

20 A. I do. I know from my working in ---.

21 MR. PAVLOVICH:

22 You don't think that inspectors get any prior information about
23 what ---?

24 A. I don't think that any district I've ever been in that an inspector is given a copy
25 or a supervisor is given a copy of a plan before it's approved and say, would you review

1 this before we approve it. And part of the reason for that is they just don't have the time
2 to sit down and review a plan and say, okay, here's what I would do different, you know,
3 up front.

4 Now, after the fact I think that you do see a lot more input from inspectors into
5 the plan process than you do up front. But I don't think I've ever seen any place where
6 any district sends a full plan. Now, I'm not talking about amendments. We're talking
7 about full plans, where you will send a full plan. You've seen how thick some of the
8 plans are and what they are that you send it to the field and ask them to review that and
9 give --- make their comments on that. I've never seen that.

10 MR. PAVLOVICH:

11 How about amendments?

12 A. Amendments, you may see that now because when you get to amendments
13 you're getting to a little bit more specific thing. And you do get more feedback on
14 those, but not a full plan.

15 MR. PAVLOVICH:

16 Okay.

17 BY MR. TEASTER:

18 Q. What do you mean you get more feedback? Are they shared with the inspector
19 prior to approval?

20 A. Some of the amendments from the technical group, if something comes in
21 specific to a certain situation or to a certain area, the technical group will get in touch
22 with the field group and say --- we talked a little bit about some of the ones out west
23 where I brought an inspector in and the supervisor said, okay, now you're going to be
24 involved in this. That portion of it on amendments, I think you do see. Maybe not all
25 the time.

1 after the approval has been made and the inspector runs across it?

2 A. On an addendum I think truthfully it does need to be up front. If they're going to
3 make changes in the plan, other than a minor change or something. But I mean, by
4 minor change I'm talking about something smaller that doesn't impact a lot. But if
5 they're going to be something like they're going to change the ventilation plan and face
6 ventilation from 15,000 to 10,000, I want to know, wait a minute, let's see what's going
7 on. There's more to it than that. And you've got to look at methane. You've got to look
8 at dust, but ask the inspectors what are you seeing when you're at the mines.

9 Q. Okay.

10 A. Will this work or will it not? Is there some problem we're not seeing? And
11 when I say some minor things, if you change the continuous miner out and one had 30
12 sprays on it and the other one has 28, I don't know that that's a significant change that
13 you --- that's why I don't know if we would have an inspector involved in something
14 minor like that.

15 MR. TEASTER:

16 Joe, did you have something else you wanted to get into
17 before we start rescue and recovery?

18 MR. PAVLOVICH:

19 Well, yeah. Let me find what I'm looking for here, Ernie.

20 BY MR. TEASTER:

21 Q. Do you have any knowledge of Billy Owens going to the Crandall Canyon mine
22 and going to visit the north barrier during the development, and then again he went
23 over and made a visit to the mine when they were developing the south barrier?

24 A. No. Can I back up, I mean now because you've asked me would it be better or
25 what and maybe clarify one of the things that ---?

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MR. PAVLOVICH:

You just get one shot, Bob. That's it. You can't back up.

A. Having worked in District 7, sometimes partial District 6, what's now District 11, in the last 15 years, plus in District 9, in all of those instances I have never been aware that when a full plan came in that it was ever shared with inspectors down to the inspection level to look at that plan. I've never seen that happen.

BY MR. TEASTER:

Q. What about the addendums?

A. Addendums, yes. And again ---.

Q. Was it routine --- was addendums shared with the inspectors?

A. It depends on what the addendum was, but a lot of them, yes, they were shared to get feedback from the field, either from the inspector or the supervisor.

Q. Do you know what you're doing in District 3 in regard to that now?

A. Specifically no, although I mean, again, full plans, no, I don't think they're shared.

Q. No, I'm talking addendums now.

A. Oh, addendums. I think some of them are, especially when I worked at ventilation and health issues. I know we've had some ground control since Tri-Star that we asked the inspectors to go out and look at and we're getting plans in and getting feedback.

Q. An occasion for getting a full plan, you know, you were talking about a new mine, or when --- you know, when you get a full roof control plan mostly it's a new mine.

A. Yeah.

Q. Or if it's a mine that's been out of existence for some time or inactive and then comes back with a plan, maybe. But I can see where an inspector may not be involved

1 in a plan for these mines because he don't have much experience there either and a lot
2 of them are approved before they even open the mine.

3 A. When mines change hands, they've got to make their switchover, that's kind of
4 where I'm going.

5 Q. Yeah. That's more of an administrative thing, isn't it?

6 A. For the most part, yeah.

7 Q. Yes.

8 A. But I know at some time you brought up a while ago where you clean your
9 plans up ---

10 Q. Right.

11 A. --- and get rid of some of the crap that's been in it. And we will ask them just
12 submit us a whole new plan, cleaning their plan up, getting rid of this and what you
13 have in it. And that's more along the lines of what I was talking about.

14 MR. PAVLOVICH:

15 Bob, let me show you the --- this is the roof control plan that
16 was approved to mine the south barrier. And primarily what part of it I'm looking at is
17 the drawing, mining the south barrier. And you can see there that it specifies that you
18 would mine --- slab the barrier and take blocks one and two and leave the block
19 between the three and four entry as a bleeder entry?

20 A. Yeah.

21 MR. PAVLOVICH:

22 Okay. It also shows that when you get back to Pillars 13 and
23 14 that then the operator must leave eight blocks or three rows of pillars around where
24 this offset entry was, okay. And then could resume again slabbing the barrier and
25 mining the two --- two pillars in a row.

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MR. PAVLOVICH:

How would a --- if it wasn't, how would an inspector enforce that?

A. Well, pretty much to his discretion which plan he wants to go by.

MR. PAVLOVICH:

Okay.

A. I don't agree with that. They should be consistent. The vent and roof control plans should match.

MR. PAVLOVICH:

This statement that goes with the vent map, okay, says the bleeder system proposed is a wraparound bleeder type. Would you consider this single entry a wraparound bleeder?

A. No.

MR. PAVLOVICH:

And where do you think that verbiage comes from?

A. I don't know.

MR. PAVLOVICH:

It also goes on to say the bleeder measurement point location, MPL, will be located at the deepest point of penetration of the edge of the accumulated roofed water, assuming, I guess, that water is going to accumulate in this entry as they retreat, and that you only have to now examine to the tow of the water. What do you think of an evaluation point, basically a floating evaluation point, in a bleeder entry like that?

A. Personally, I don't like that. If you had a swag down here you could be basically impounding methane if that was the case inby that point. Well, you've

1 basically blocked ventilation, and it may not be all the way across, or you potentially
2 could have a buildup back here that can have a potential way to get back down on your
3 active section.

4 MR. PAVLOVICH:

5 So you'll agree as you come out of there, if you're only going to
6 examine to the tow of the water, you're going to knock out a stopping just inby that tow
7 or at that tow ---

8 A. Short circuit.

9 MR. PAVLOVICH:

10 --- to short circuits, so that as water builds up in the back it
11 doesn't block the one open you have; right?

12 A. Yes.

13 MR. PAVLOVICH:

14 But yet based on the pitch in that area, is it conceivable you
15 could have from the tow of the water to the roofed area a pretty great distance?

16 A. Yes.

17 MR. PAVLOVICH:

18 So why would they approve a plan like that?

19 A. I don't know.

20 MR. PAVLOVICH:

21 Okay. Would that also be contradictory to the roof control
22 plans that say that all bleeder entries shall remain free of standing water?

23 A. Yes, it does.

24 MR. PAVLOVICH:

25 Well, then how could those be approved like that, ---

1 A. I don't know.

2 MR. PAVLOVICH:

3 --- in your opinion?

4 A. They shouldn't be, in my opinion. How could they be? I don't know.

5 MR. PAVLOVICH:

6 Okay. All right. So you don't feel they should have been
7 approved in that manner?

8 A. Not with those conflicting statements.

9 MR. PAVLOVICH:

10 Okay. Were you aware of these at any chance --- at any time?

11 A. No, no.

12 MR. PAVLOVICH:

13 Were you ever aware of them before today?

14 A. No.

15 MR. PAVLOVICH:

16 Okay. Was there anything else on these plans?

17 MR. TEASTER:

18 No.

19 MR. PAVLOVICH:

20 Okay. Nothing that Bob would ---. Thank you.

21 A. Can I go to the restroom real quick?

22 MR. TEASTER:

23 Yeah, we'll take five minutes and let you go.

24 SHORT BREAK TAKEN

25 BY MR. TEASTER :

1 Q. Bob, tell us when you were notified of the accident there at Crandall on August
2 the 6th, how you were notified and when.

3 A. I'm looking at my notes. Bill Denning called me at home. And I don't
4 remember if that was Sunday or Monday morning. Monday morning, I think, whatever
5 it was, that we'd had a bounce at Crandall Canyon and there were six --- I think it was
6 six people missing. And in all honesty, I was hoping I didn't have to go over. But that's
7 how I was notified.

8 Q. And what --- what actions did you take following notification?

9 A. That would've been, I don't know, three or four o'clock in the morning. It
10 would've been fairly early in the morning. I tried to, hopefully, think nothing. I mean, it's
11 a bounce. We've got people missing. And in my mind is nothing of the magnitude that
12 happened. I'm thinking more along the lines that you've had a bounce and the guys ran
13 back and they've called this in, it's a bounce, it's reportable, but the guys are okay. All
14 that's a matter of doing is getting them an access out of there. Not anything like what
15 we're really looking at, but something simple, that was by the time I get to work in the
16 morning, they're going to be out and everything is okay, and we'll have people over
17 there to investigate it. I had --- nothing in my thoughts were of the magnitude of what
18 we had. That time of morning, I couldn't get back to sleep, and I just went on in to work.

19 MR. PAVLOVICH:

20 Did you call anybody in Price to go check it out?

21 A. I'm trying to remember about what it was. And I couldn't honestly tell you for
22 sure 100 percent. I think Bill Denning was the one that called me, and that we had ---
23 I'm trying to remember if it was me or Bill called over there, but I think one of us --- it
24 may have been me, may have been Bill --- talked to Bill Taylor and that Barry Grosely
25 was going. I think he was the one that was going to the mines, and they would get

1 back with us.

2 And I noticed when I looked at the notes, some of the things that I tried to jot
3 down that I would think on, and some other issues that came up. And I think these
4 notes were actually taken either very shortly after I arrived ---. Well, they would've been
5 taken very shortly after I arrived at work. I was trying to figure out, okay, once we found
6 out that they are, we haven't got to 'em, we can't get there, what do we need to be
7 doing now?

8 BY MR. TEASTER:

9 Q. When did you leave the office and travel to the mine?

10 A. That would've been later in the day, because, at that point, I still really was
11 hoping I didn't have to go over there. And a lot of reasoning in that, personal reasoning
12 in it, things that I've been exposed to, I had hoped that Al and Bill Knepp would go, and
13 I would be left in Denver. And I found out pretty quickly that's not going to be the case.

14 And this would've been pretty early in the morning, 'cause I called home (7)(C)

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

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

18 And so that would've been fairly early, probably before seven
19 o'clock when that occurred. But in the meantime --- it was probably eleven o'clock
20 before we left Denver, headed to Price. And that would've thrown us --- and we were
21 pretty quick getting up there.

22 MR. PAVLOVICH:

23 What time did you get to the office that morning, Bob?

24 A. Probably about 5:30, something ---.

25 MR. PAVLOVICH:

Was anybody else there?

1 A. I don't remember.

2 MR. PAVLOVICH:

3 Was anybody there to talk to about this accident?

4 A. I'm thinking that Al was there. I don't remember if Knepp or Bill Denning, either
5 one, was there.

6 MR. PAVLOVICH:

7 So were you getting any information, at that time, from the
8 mine, or --- ?

9 A. We were trying to contact the field office and see what information they had,
10 and we didn't have a lot at that time.

11 MR. PAVLOVICH:

12 Okay. Were you able to get a map, at any time, or anything
13 like that?

14 A. Yeah. I think. If I come back to it, I think maybe Reitze was there and we
15 pulled maps up. And I'm trying my best to remember. They may have had them laying
16 out on Al's table there when I came in, but I think there was a map out.

17 MR. PAVLOVICH:

18 Okay.

19 BY MR. TEASTER:

20 Q. You said you felt they might send Bill Knepp, as opposed to sending you over.
21 Do you know why the decision to send you and not Bill?

22 A. No.

23 Q. Was it ever discussed?

24 A. No.

25 MR. PAVLOVICH:

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Did you tell Al about your concerns about going over, because of your past experiences?

A. The past issues that, to me, I had, is that prior to Crandall Canyon, prior to Sago, we had the explosion at McClane Canyon, and the mine fire at West Elk, and I'd been asked to stay --- even though Knepp came over to McClane Canyon, it wasn't very long and then I was asked to stay at West Elk through that whole process until the longwall was recovered, which, 16 hours a day, 7 days a week, was pretty wearing in me. And if --- and maybe it's personal reasons,

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

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

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. Do you know if there was any discussions for Billy Owens to go to the mine?

A. No, I don't.

Q. Do you know why he never showed up at the mine?

A. No, I don't.

Q. Who would you say in the district has probably more knowledge and experience with dealing with mine bumps?

1 A. Out of the district office, you would think Billy Owens. Al Davis and Billy
2 Owens. And probably, if you go three people, me, Al Davis, and Billy Owens.

3 Q. Do you recall what time you arrived at the mine?

4 A. No, I really don't. It was in the afternoon. And I've got to think, probably five
5 o'clock or somewhere in that area.

6 Q. What did you find when you got to the mine? How was things being operated?
7 What was going on?

8 A. They --- I'm trying to guess, remember back then. It seems like we had --- the
9 command center was there, and Bill Taylor and Ted Farmer were both there. And they
10 had set up and had people underground. There was --- I don't remember all the rescue
11 teams that were there, but I know Energy West was there. There were a lot --- I think
12 there were a lot of rescue teams there, but the one I can remember working with was
13 Energy West that went underground. And we'd had several of our inspectors with
14 them, and right off, I can't recall everybody that was there. I think Brad Allen had been
15 with them. I think Gary Jensen, probably was with them, maybe Randy Gunderson,
16 part of our rescue teams.

17 MR. PAVLOVICH:

18 So that was either in process or had already been done, about
19 breaching the Number One seal and going in there, by the time you go to the mine?

20 A. Somewhere at that point. And I don't know exactly, but I know that it was
21 shortly after Energy West's team and our people had came back out and were briefing
22 us on what they had ran into. And I don't remember those specific time frames about
23 when the seal was breached and what they did.

24 MR. PAVLOVICH:

25 Do you know how that plan to breach that seal and go in was

1 approved?

2 A. No.

3 MR. PAVLOVICH:

4 So you had no involvement in that?

5 A. Not that I'm aware of.

6 MR. PAVLOVICH:

7 Do you know if Al had any involvement in it?

8 A. I'm hoping he did. I don't know.

9 MR. PAVLOVICH:

10 Would it have been by phone?

11 A. Yeah, probably would have had to have been by phone.

12 MR. PAVLOVICH:

13 But no one asked you about it?

14 A. No.

15 MR. PAVLOVICH:

16 Okay.

17 BY MR. TEASTER:

18 Q. Who --- was Bill Taylor in charge of the operation when you arrived?

19 A. I think, yeah, Bill was probably the one there. I don't remember anybody else
20 being there but Bill and Ted, that I can recall.

21 Q. What role did you assume when you got there?

22 A. We kind of started setting up --- originally, I was told we like to have a manager
23 on all shifts. And the way it worked out, they asked Tommy Hooker from metal/non-
24 metal to come over, so we started trying to delegate who will do what on what shifts. Al
25 Davis was going to be the manager there on the dayshift. I was going to be the

1 manager on the afternoon, and Tommy was going to be the manager on the midnights.
2 So when we first got there, realizing all the things that we had going on, what I thought I
3 could be best doing was trying to arrange schedules for inspectors that we wanted
4 there, for rescue team members that we wanted there, for everybody that we had,
5 family liaisons. And in the notes, you can see some notes over there about the people
6 or whatever. But really trying to sit down and come up with a plan that we figure we're
7 going to be here more than a day or two, how are we going to allocate our people on
8 what shifts? And that's what I started trying to do.

9 Q. And what was the structure? You said you had a manager that was in charge
10 of that shift, and then ---.

11 A. And then had a supervisor underneath the hierarchy or the structure that you
12 had. And if you don't care, I'm going to jump to my notes real quick.

13 Q. Sure, you --- any time you want to.

14 A. But what I tried to look at, what our intent was, is that we have a manager there
15 each shift and a supervisor there each shift, at least one. If you notice on the dayshift,
16 we had four supervisors --- or four. We had two supervisors, Bill Taylor and Larry
17 Ramey. But Larry was over the rescue team for the west, so that's why Larry was there
18 on the dayshift. And he actually spent time underground and not just being the
19 supervisor on the surface.

20 And we had --- originally, what we kind of had was two inspectors and rescue
21 team members. And I'm trying to place the numbers at the original part. It changed
22 every day, but originally, we had two inspectors, and I think, adding them up, three
23 rescue people on each shift. And what the intent was to have -- we had one person
24 that would be outside in the command center taking notes from the mine phone,
25 recording what was going on and answering the phone, if there was questions. And

1 then if it was something that the supervisor or manager should be involved in, then they
2 could get involved in that discussion. But if it was just that we're going to do something,
3 you know, we're moving from one area to another one, we're looking at this, here's
4 where we're at, those type things, they just recorded those in the logbook. They were
5 the ones that stayed on the mine phone. So pretty much that structure was, you had a
6 manager, supervisor, and inspector outside on the phone each shift and you had one
7 rescue team member we kept on the surface. So there was two rescue team members
8 and two inspectors underground.

9 Q. And what was the duties of the supervisor, in the command center?

10 A. From my perspective, their duty was to sit there and be involved in the things
11 that were going on, because I know on dayshift, and at least for half of the afternoon
12 shift, I would get tied up in some other areas, where maybe questions were coming.
13 Once Mr. Stickler and Kevin got there, if they had anything, I was trying to get answers
14 for them, or be looking at what we need to be putting together. So the supervisor was
15 right there at the phone with that person so if there's any questions that come up at
16 least either the supervisor or the manager would be there to answer those questions.

17 Q. And you say Al was the manager on the dayshift, you were on the second shift,
18 and Tommy on the third?

19 A. Yeah.

20 Q. Who was in charge of the overall operation?

21 A. Al, a little bit, but when Mr. Stickler and Kevin arrived, Mr. Stickler was in
22 charge.

23 Q. So you think when Arlington --- what role did Kevin play?

24 A. Kevin was there, and he was involved in it, but I mean, he --- Mr. Stickler took
25 the lead.

1 Q. So there was no question of who was in charge at that overall operation?

2 A. No.

3 Q. It was Mr. Stickler. Did that change anything the way the process was working,
4 with them being in charge?

5 A. I don't know that I understand that question.

6 Q. Was they the ones that approved the plan? Was Mr. Stickler the one that was
7 required to approve the plans?

8 A. The plans, for the most part, from my perspective, were worked out on the
9 dayshift, with all the management together, which would be Murray's people. There
10 was some, a little bit of State involvement from time to time, but not a lot. But prior to
11 Mr. Stickler and Kevin getting there, Al kind of took care of that. And then Al also on
12 his shift, generally was the person who talked to the families and the media. Once Mr.
13 Stickler got there, all the roles kind of changed a little bit.

14 Q. How did it change or affect your role?

15 A. The only thing that really kind of changed my role or any part of it, was that
16 Kevin came to me and said, Mr. Stickler wanted me to be involved somewhat that if we
17 were going to be talking to the families and the media he felt comfortable if I had to do
18 it, that he would like for that. And I --- and the only thing I asked of them at that point
19 was me being on the second shift. I'm not really involved. I haven't seen --- there
20 would always --- before they meet with the families and the media, there would be a sit
21 down discussion with MSHA and Murray, and the State, as to what we're going to do.
22 Now, I don't know that all that happened when Al was by himself there. Because some
23 of it seemed like it would be a surprise when you got to the press conference, with what
24 was going on prior to Mr. Stickler getting there. Once he got there, it got better
25 organized, to an extent, I think.

1 And I asked him, if you all don't care, I'm going to come out, and I want to be
2 involved to see what you all are doing, how you're setting up the press conferences.
3 Because if I'm going to be stuck with Mr. Murray, I don't want to be treated like I've
4 seen what he's done, Al, and all of the sudden, he goes off on a tangent, and any hard
5 question's asked, and he dumps it back, well, you know, let MSHA answer that
6 question. I didn't want to be put in that situation without knowing what was discussed
7 before you ever went to the meetings with the family and with the media. So they said,
8 okay. And I came out one day and sat through that planning process of what we were
9 going to do and where we were going to go. And that was the only day that I came out
10 early and did that. And I never did have to meet with the family or the media.

11 Q. Where was that meeting held?

12 A. Aracoma, at the mine. They had brought a trailer up. Well, they had a trailer
13 there already, the company did. And it was kind of an open, big trailer with a big table
14 in it. And I'm sure there had to have been probably 25 people or so in there in that
15 meeting, and it was Mike Gauna and Zelanko was in there. They had been
16 underground and they discussed what's the best options we can do.

17 Q. So they had this trailer on site the first day?

18 A. To the best I can remember, it was already there.

19 MR. PAVLOVICH:

20 What day was this meeting, Bob?

21 A. I don't recall. All those days what I was spending --- I couldn't tell what day of
22 the week. I called Denver on Sunday one day trying to get somebody to tell me
23 something and forgot nobody was working on Sunday. So the days ran together to me.
24 I couldn't tell you what day it was.

25 BY MR. TEASTER:

1 Q. Can you tell us how the meeting went, describe how they was going to deal
2 with the press and the families?

3 A. The discussion started off, was how --- what is it, based on the
4 recommendation from Zelanko and Gauna, that we can best support or control --- I
5 don't know how you'd want to say that --- but what can we do best to make it safer for
6 people working underground? And then it kind of went, and it didn't really get into too
7 much about how we were going to go down and talk to the families or the press. It was
8 more along the lines of what kind of a plan are we going to implement underground.

9 Q. And Zelanko and Gauna, were they on site at that time?

10 A. Yes.

11 Q. They were there on that day?

12 A. Yeah.

13 Q. And they was going to rely on them to recommend the types of support?

14 A. Everybody listened to them. They were the experts and there was some
15 comments made, can't we do this, or can't we do that. And a lot of the things had
16 already been implemented using the jacks and the way we were narrowing the
17 roadways down. And I noticed that some of my notes were highlighted, somewhat,
18 about not cutting bottom. And that was a concern I had, that, you know, we got to keep
19 --- when you're cleaning this up, you don't want to cut no coal. You definitely don't want
20 to get into the bottom, cuttin' the bottom. Those type things of what is it we were going
21 to have to get the people underground doing to understand that to eliminate as much
22 exposure as we can for them.

23 Q. As I understand it, the first attempt for rescue that went up to load material was
24 in the Number Four entry. Was you aware of that, that they started loading in --- ?

25 A. Yeah.

1 Q. And do you know why they left Number Four entry?

2 A. I think there was some concerns. General concerns that you would have after
3 --- this is, again, after some other things that happened when they went through the
4 sealed area over here. The roof was --- there used to be a map, and you guys
5 probably got a copy of it somewhere. It showed rock falls and bad roof and things.
6 And they pretty much, painted themselves into a corner with the team in there. And as
7 they came out, it fell in right behind them. And the rescue team said, we are not going
8 to go back over there. Because that had been discussed as another issue of taking
9 people up through here and trying to punch over to get in. And they told them, no. We
10 will --- nobody on our team will ever go back in there. There was a lot of concerns over
11 here. There was concerns of migration of any type of low oxygen that we had,
12 whatever, that if you're in Number Four entry, it's going to come back, if it does, down
13 through here.

14 So that to me seemed like part of the process of why we went over to Number
15 One. And there actually may have been less damage over in that Number One area,
16 as opposed to what you saw in Number Four. And I don't know if damage is the best
17 word to say, but it, but I think that Zelanko and Gauna both agreed that Number One
18 would be the entry that you really want to try to get up through there, again, as opposed
19 to Number Four.

20 Q. How did the plan approval process work?

21 A. For after the fact; right? For the plans that are put into place to go in and try to
22 rescue the people?

23 Q. Yes.

24 A. Meetings were held on the dayshift with whoever was there at the time.

25 Whether, if this was prior to Stickler and Kevin arriving, then it was Al Davis and Bill

1 Taylor who met with the company and worked out the plans. Most of the time, by the
2 time I got to the mines, they already had the plans set for the day, and I was told, this is
3 what we've got. You're going to see my name on some of those, initialed out, but
4 basically all of those are after sitting down and being discussed, this is what we want.
5 They've got to make these corrections. If these corrections are in place, that's going to
6 be the plan. And when they would bring it back, usually, it would be Laine Adair and
7 myself signing it on second shift. But it would be the plan that was agreed to on
8 dayshift.

9 Q. So this plan to go in here and explore with the rescue teams, that plan was
10 approved prior to your arrival at the mine?

11 A. I've got to believe it was, because it wasn't really discussed, I don't think, with
12 me, other than we were either already doing it or about to do it when I got there.

13 Q. But you don't know who approved it?

14 A. No.

15 Q. When Mike Gauna and Joe Zelanko got to the mine, as I understand it, they
16 were asked to go underground to evaluate --- well, do you know why they were sent
17 underground?

18 A. They were the specialists that are supposed to be the experts. And I think that
19 they were sent underground to look at the conditions and tell us what can we do that's
20 going to make it as safe as we can to do what we need to do. And I know also, part of
21 that is, not just to see what's there, but what is potentially there. And by that I mean, if
22 we're seeing stresses, or if they're seeing stresses that indicate we're going to have a
23 problem somewhere we're not aware of, let us know about it.

24 Q. Was you getting any feedback from anybody about what the conditions were
25 underground, ---

1 A. You got ---.

2 Q. --- prior to Zelanko and --- ?

3 A. Each shift --- well, for me it would've been when the dayshift came out. And
4 they kind of overlapped just a little bit. Our people on second shift we tried to brief
5 them on, this is what we're going to be doing tonight, or this is what we need to be
6 doing. Let's go that direction. And get feedback from the dayshift on this is what's
7 happened during the day. We've had this, you know, we've ran into this, we've ran into
8 that, those type situations, and brief them. And then when the dayshift came out, we'd
9 sit down with the inspectors that were underground and they would tell us what they've
10 ran into through the day.

11 Q. Let's back up a little bit, Bob. Your first day at the mine. Do you know what
12 time you left the mine?

13 A. Midnight, one o'clock in the morning.

14 Q. Can you just walk us through what happened that day?

15 A. I can try, but I can't guarantee it.

16 Q. Okay.

17 A. I can recall that the teams came out. Mr. Murray was looking at about different
18 avenues of how --- and he had plans that these were different ways we can go in there
19 to get to the people. One of them being through the old --- whatever this panel's called,
20 Main West. And the one being, drill holes, which wasn't a big priority. And the other
21 one, trying to dig through --- once we decided that Number Four didn't appear to be the
22 way, then through Number One. And I don't remember if that was the first day or not,
23 but I think it was the first day that it was changed over to Number One. And the reason
24 I say that is, there was some issues about where --- how much were we advancing, and
25 on what were we really doing. There was a lot of, I don't know if you'd say confusion or

1 whatever, but congestion of trying to get equipment in to get set up, to get enough cars
2 in here, get the miner over here, get the belt set up. All these type --- electrical
3 installations, roof bolters, you know, a lot of congestion down in the area, probably from
4 110 on up to 118 or so, somewhere in that area.

5 Q. And what would that --- reestablishing ventilation?

6 A. Partially, was reestablishing ventilation, but partially was trying to set up the
7 equipment, as to where we could start trying to dig to 'em, or trying to work our way to
8 'em.

9 Q. What's your understanding as to when they --- when did they cease
10 advancement in Number Four entry?

11 A. I don't know. I really don't know what time they ---.

12 Q. Was you ever aware of a bump that occurred while they were in the process of
13 loading that over in Number Four entry?

14 A. Not particularly, no.

15 Q. Ron Paletta being knocked down, another miner being knocked down?

16 A. There was some talk, that I can remember about, but I don't know the days that
17 they happened, what days they occurred or anything like that, but I am aware that there
18 was a concern. But it doesn't seem like that was the first day. That sounds like the
19 second or third day. I mean, that's the best of my recollection. I don't remember it
20 being the first day.

21 Q. It was about 1:13, the morning of the 7th, which would've been the next day,
22 but just barely into the next day.

23 MR. PAVLOVICH:

24 This is information that we took out of the logbook. It was in
25 the command center, Bob. It was being called out. Of course, there's some

1 preliminary bumps here, that were being recorded by the University of Utah on the 3rd
2 and the 5th. On the 6th, there was a 3.9 magnitude ---. This is the bump that trapped
3 the six miners. Okay? The mine rescue team went underground, breached the seal,
4 went in, explored, came back out, and at 17:02, there was a 1.9 magnitude seismic
5 event that happened inby the seal that blew the curtain out of the fresh air base and
6 gassed off the fresh air base with low oxygen. Were you aware of that?

7 A. That sounds like the first day that they came out and briefed us, right after we
8 got there.

9 MR. PAVLOVICH:

10 Okay. Then August the 7th, at 1:13 a.m., which, if you left at
11 midnight, would've been shortly after you left, there was a 2.2 magnitude bounce. The
12 bounce occurs. Men moving back until it clears out, and we'll take a head count.

13 This is from Ron Paletta's notes. I was standing in front of the
14 feeder breaker when a bounce hit and took over --- took out ventilation and suspended
15 dust in the air. Could not see the lifeline. The bounce knocked out ventilation. Two
16 people were knocked down. And Number Four entry filled back up with coal. Would
17 not let anyone go back into the area of the bounce, but to do ventilation work. Head
18 count was taken. Everyone accounted for. And in addition to --- you know, Ron was
19 also knocked down.

20 A. Uh-huh (yes).

21 MR. PAVLOVICH:

22 Did you know that happened that night?

23 A. At some point, yes, I did. It may have been the next day before I found out
24 about it, but I do know that Ron had said he had been knocked down.

25 MR. PAVLOVICH:

1 A. No.

2 Q. Was there any activity going on underground, as far as loading?

3 A. Not the first day, I don't think.

4 Q. Now we're on the second day.

5 A. Oh, the second day. And, again, I'm going to say that I don't --- can't
6 differentiate days, as to what day that they started loading. But if you've got notes or
7 something in there, I'm sure it'll tell you. Then maybe that would refresh me and help
8 me out, but, I don't know exactly when they started loading.

9 Q. I think they ceased loading, as Joe pointed out, right after that bump and pulled
10 people out of the mine, and they decided, at that point, to go to the Number One entry.
11 And they was in the process, probably, when you got there, getting everything set up so
12 they could start mining. Do you remember when ---?

13 MR. PAVLOVIC:

14 Well, let me --- while you're on that, let me just --- this is a, of
15 course you've got the original K order, and, you know, that just says there was an
16 accident. This was a --- the first modification to that.

17 A. Uh-huh (yes).

18 MR. PAVLOVICH:

19 It appears to allow work to the ventilation controls and also the
20 exploration into the seal in the west mains, Main West area. And this was written by
21 Barry Grosely. Do you think that would be right?

22 A. 6:00 a.m. sounds awful fast to me. What's the time on the --- I mean, the time
23 on the original K was what I was going to ask you.

24 MR. PAVLOVICH:

25 Well, the --- the time on the original K ---.

1 A. Because that really sounds fast to me.

2 MR. PAVLOVICH:

3 The time on the original K is 4:41.

4 A. Potentially, it could have been. If they got the rescue teams there that fast, I
5 would think --- I don't think that they actually ---.

6 MR. PAVLOVICH:

7 Well, maybe they weren't there yet, but maybe the plan was
8 approved ---

9 A. Yeah, could be.

10 MR. PAVLOVICH:

11 --- to do that already.

12 A. Yeah.

13 MR. PAVLOVICH:

14 But would you have still been in Denver at that time with AI?

15 A. At 6:00 in the morning, I definitely would've been.

16 MR. PAVLOVICH

17 Okay. Would've you ever known that, that was --- ?

18 A. Yeah. I should have, yeah, to be honest with you.

19 MR. PAVLOVICH:

20 Okay. So you think --- you've discussed that on the phone with
21 somebody.

22 A. Over the phone or in Denver, yeah.

23 MR. PAVLOVICH:

24 Okay. But you didn't remember that when we asked you?

25 A. No.

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MR. PAVLOVICH:

Okay.

A. I mean, and I could have been in and out of the office during that thing, huntin' something or getting ready or whatever it was, 'cause at that 6:00 time frame, somewhere in that area, is when I would've been calling home to get ---

MR. PAVLOVICH:

So you all knew that the rescue teams were planning on going in, ---

A. Yeah.

MR. PAVLOVICH:

--- had been approved, verbally, by somebody in Denver, and you knew that at that time. This is a plan that was, at 10:45 p.m., it was signed by Laine Adair and Al. And it says the plan has been developed to define the recovery activity that will take place in the Number Four entry.

A. Uh-huh (yes).

MR. PAVLOVICH:

So of course this would be the Number Four entry. It talks about cleaning up the material. If the belt's not active, they'll just dump the material somewhere in the crosscuts. And do this other ventilation work. At 10:45 p.m., the bump that happened that basically stopped the work there was at 1:13. Were you aware of what was going on here and why this plan --- how this plan approval came about? You would've been there with Al at 10:40 or --- ?

A. Yeah, I was there, but I don't think I was with Al in this meeting about how they came up with the plan, because, like I said ---.

MR. PAVLOVICH:

1 they could advance the Number One entry, to give some feedback on that. And as I
2 recall, they went in the mine at 5:30 p.m. on the 7th.

3 A. Okay.

4 Q. And that plan that Joe's got there with him, was approved to advance the
5 Number One entry, and as well as some other things, at 5:50. So 20 minutes ---.

6 A. No, no, no, no.

7 MR. PAVLOVICH:

8 Not that one.

9 A. There.

10 MR. PAVLOVICH:

11 There's two plans here. This says, prioritize plan to, I don't
12 know. It's got a whole list of things. But what's it say? On --- to move equipment into
13 the section. Okay? This was signed by you at 5:50. Okay?

14 A. Yes.

15 MR. PAVLOVICH:

16 There's also a plan that's a recovery plan, 8/7/07, okay, that
17 says, the plan is developed to define the recovery activity that is being planned for the
18 South Block of the Main West. The recovery will take place in the Number One entry.

19 A. Uh-huh (yes).

20 MR. PAVLOVICH:

21 Okay? That seems to have already been decided. And then it
22 talks about going on, how that information, or how it will be done. It talks about the roof
23 supports that will be put in. That was signed by you at 5:50.

24 A. Yeah.

25 MR. PAVLOVICH:

1 Well, okay, but it had already been approved.

2 A. Yeah.

3 MR. PAVLOVICH:

4 Were you aware of that before them?

5 A. I signed it, so, yeah.

6 MR. PAVLOVICH:

7 No, I mean, as far as asking them to go in and ---.

8 A. I have to just give you my best opinion of it. These are the two guys we've
9 asked to come out to be the experts on looking at the bounce or telling us what we
10 need to do.

11 MR. PAVLOVICH:

12 Okay.

13 A. They get there, and it makes the most sense for them to go underground and
14 look at it right then.

15 MR. PAVLOVICH:

16 Okay. What --- do you remember what instructions were given
17 to them, Bob?

18 A. No.

19 MR. PAVLOVICH:

20 Do you remember what kind of briefing was given to them
21 when they showed up?

22 A. No.

23 MR. PAVLOVICH:

24 Well, let me ask you this, when you showed up on the 6th,
25 what kind of briefing did you get?

1 A. Just briefing from Bill Taylor as to what was going on.

2 MR. PAVLOVICH:

3 And what was your understanding of what was going on?

4 A. I'll be honest with you, to pinpoint it, I could not exactly tell you everything, other
5 than what I can remember is that Energy West came back out. And I don't know the
6 exact times, but they had been over in that area behind the seals, that it wasn't safe,
7 even areas back down and outby the sealed area wasn't safe to be in.

8 MR. PAVLOVICH:

9 Did anybody go over with you the extent of the material that
10 was bounced here?

11 A. Basically, it sounded like --- and I don't know if it's in here or not, but --- and I
12 don't see it real quick right here, but there was, at some point, that it was --- and I'm
13 trying to remember the exact locations that teams were able to get in to about 124 or
14 125, somewhere in that area ---.

15 MR. PAVLOVICH:

16 So they told you that someone was able to crawl over the
17 material up to 124?

18 A. Yeah, up to whatever that number was.

19 MR. PAVLOVICH:

20 Did you talk to those guys that crawled over?

21 A. It was the rescue teams, and they were the ones giving us the briefing.

22 MR. PAVLOVICH:

23 Would it have been --- was Grosely or Gunderson or anybody
24 with them that you talked to?

25 A. Yeah, and that's what I was trying to remember. I think Brad Allen was

1 involved in it. And I don't know about Grosely.

2 MR. PAVLOVICH:

3 Okay.

4 A. But it seemed to me like it was Brad Allen, Gary Jensen, and Randy
5 Gunderson, maybe. And that's best guess at that point, as to trying to remember who
6 was there.

7 MR. PAVLOVICH:

8 Okay. Do you remember what they found or anything of what
9 they said they found?

10 A. Some of the roof material was, you know, I don't know what you say, but --- you
11 know they have screening up, and some of it's down in a way and makes it a little bit
12 tougher to crawl through.

13 MR. PAVLOVICH:

14 Okay.

15 A. But up to a point, they were able to crawl, to some extent, and then there would
16 be some intersections, and I don't remember the exact numbers, that would be a little
17 more open. But I'm trying to remember. It seemed like 126 might have been one
18 where they thought it was roofed out and they couldn't go any further.

19 MR. PAVLOVICH:

20 Okay.

21 A. Somewhere in there. I don't recall it all.

22 MR. PAVLOVICH:

23 Okay.

24 BY MR. TEASTER:

25 Q. Going back to your reference about two individuals from Tech Support, Joe

1 and Mike, being the experts. But if you go back to this plan, the plan that was pretty
2 much utilized throughout that whole process had been set in place prior to their making
3 the evaluation and making the recommendation. If you go back to the initial plan to use
4 to advance the Number One entry, it was to use rock props or timber. And I
5 understand they never did use timber beyond that they got the rock props. It was rock
6 props. It was spaced on two-and-a-half foot centers, which was required in the initial
7 plan. The only difference maybe then was the wire ropes. They was using one, I think
8 here and they ultimately ended up with three. And that came about through some
9 discussion, I think, through the recommendation from some of the company ---. The
10 support system was pretty much determined, although they may have agreed with it,
11 but it was pretty much determined and put into place, prior to any input from Tech
12 Support.

13 A. Yeah.

14 Q. Would you agree with that?

15 A. Yes.

16 MR. PAVLOVICH:

17 Bob, were you there when Zelanko and Gauna got outside?

18 A. Probably.

19 MR. PAVLOVICH:

20 Do you remember debriefing them?

21 A. Not right off, I don't. I mean, there was so many times that we talked, I don't
22 remember.

23 MR. PAVLOVICH:

24 Do you remember them coming out and anybody sitting down
25 with them and going over this plan that was submitted and asking their opinion of it?

1 A. I don't remember, Joe.

2 MR. PAVLOVICH:

3 Okay. Would you have been in the command center, though?

4 A. Probably would have been.

5 MR. PAVLOVICH:

6 Being in the MSHA command center, were you privy to much
7 information, or was most of the information being disseminated up in the company
8 command center?

9 A. Such as --- ?

10 MR. PAVLOVICH:

11 I mean, most of the discussions about plans and, and work,
12 and other things?

13 A. Most of the --- and it kind of varied between different places. Most of the major
14 meetings that were held on plans ---. Now this is the best that I can tell you, not being
15 involved with them that much, but most of 'em I would assume would've been in the
16 company's --- close to their command center. Because they had a little room up there.
17 They had a lot more room and a big table that you don't have in a command vehicle.

18 MR. PAVLOVICH:

19 So most of the planning was being done in the company one,
20 to your knowledge?

21 A. Yes.

22 MR. PAVLOVICH:

23 And, primarily, the MSHA command center was somewhere
24 the guys came in to grab their gear or look at the phone log, and check the phone log?

25 A. Where they staged or where Tech Support came in to use computers and do

1 whatever, different things.

2 MR. PAVLOVICH:

3 Okay. They had that capability?

4 A. Yeah.

5 BY MR. TEASTER:

6 Q. Was the plans --- was it a cooperative plan that was developed, or did the
7 company say, this is what we want to do, and MSHA provided input into that, and
8 agreed or disagreed with portions of it, and then they formulated a plan? Or do you
9 know how that system worked?

10 A. I wasn't involved enough.

11 Q. You didn't get involved in any meeting that was, where they discussed ---

12 A. Other than that, other than that one. And, again, I don't know what day it was,
13 but I do know Zelanko and Gauna came in and briefed everybody there on what they
14 had seen underground. And I don't know what day that was. And they went over, and I
15 think looked at this plan and said, okay, what you all are doing is about the max you
16 can do. That meeting I was involved in. That was one when Mr. Stickler and Kevin
17 were there.

18 Other than that, I was not privy to the major meetings. Now, when I would
19 come to work, and you'd see some of these little plans, they would be sitting down, and
20 I would sit down with Al and Laine Adair. There would be different people around there,
21 and I mean those two particularly were there for most of the time, where you have this
22 general plan written out on something like this, and they're saying, okay, but you need
23 to make some changes. And there was a few times when I would say this --- this is not
24 defined enough for me --- and I can't give you specific examples --- but what does it
25 mean? Can you tell me a little bit better --- explain a little bit better what it is we're

1 doing there. And at that point, when AI was still there, the general portions of the plans
2 were already done. They briefed me on those, showed me the changes that need to be
3 made into 'em, and then when AI would leave, Laine or the company people made all
4 those or made notes, and is this what we want? This is what we want. When they
5 brought it back, then we would sign it.

6 Q. Did you ever have the occasion that you approved a plan that AI said was okay,
7 that you didn't sit down and discuss the plan with AI?

8 A. No. Every plan that was brought to me to sign was one AI had told me, this is
9 what we want.

10 Q. Did you ever reject a plan while you were there?

11 A. No, not reject a plan. I made comments on things that I thought --- if I saw
12 something that I thought stuck out --- and one of 'em was about --- you've made some
13 marks on my notes. I saw that with some of the comments about ---.

14 MR. PAVLOVICH:

15 I did?

16 A. Yes, you did. These little yellow things. Somebody did. I don't know who did.

17 MR. PAVLOVICH:

18 Accuse me.

19 A. Well, then you'll see there some of the things. And I was the one that made
20 the comment, we don't want cutting in the bottom. We don't want them to cut the place
21 that's not cut, but load out the places as narrow as we can. We don't want to be
22 widening out and getting further. I think there was some discussion at one time that we
23 were finding out that they were trying to go in and load out further than we wanted to.
24 And when they'd finish loading cars, then they'd send a bunch of people up and maybe
25 set five or six jacks at a time, which we didn't feel was the right thing to do, probably not

1 advance more than two jacks and not have people inby where you're working. You
2 know, you've got 10, 12, feet there, that you have people inby. You don't really have a
3 jack completely set yet. So we try to --- comments like that, that when they go in to set
4 maybe two jacks or three jacks. So those type things that I did make comments on. I
5 never did reject a plan or anything, 'cause they were pretty much worked out by the
6 time I got there.

7 BY MR. TEASTER:

8 Q. You can't recall a time where a plan was formulated on your shift and was
9 given to you and Ted ---

10 A. No.

11 Q. --- and ya'll said no ---

12 A. No.

13 Q. --- and it was later, subsequently, approved?

14 A. No. I mean, if you give me something specific, it might jog my memory, but
15 right off, no. I better take that back. Because, yes, there was a specific instance where
16 I said, no, hell, no. And Ted said, no, hell, no. And we found out that it was a different
17 way. It had already been decided that it was going to be okay to do. And that's when
18 they brought the news media up there to go underground.

19 MR. PAVLOVICH:

20 We thought you approved it.

21 A. No.

22 MR. PAVLOVICH:

23 We'll get to that point, but we appreciate you bringing it up in
24 advance.

25 BY MR. TEASTER:

1 Q. Yeah. Are you aware of any plans that was rejected? I mean, or was they all
2 worked out prior to coming down?

3 A. They worked the plans out, in principle, before I ever got there. And all that
4 needed doing, was in writing, to tweak it, get exactly what they wanted in it. And Al
5 would sit down with me, and we would, and with Laine Adair, and different people. And
6 like I said, there was more than just us three, but it just kind of --- different people
7 would come and go. But the three major people in this whole thing would've been me,
8 Al, and Laine Adair sitting down, going over what they had written up. If there was
9 some minor changes, making me aware of what those minor changes are going to be,
10 and then when they got their person, whoever it was that put these together, they would
11 make those corrections, at some point, and bring them back to me, and that's when I'd
12 sign them.

13 Q. Who had the authority to approve a plan?

14 A. In principle or in reality?

15 Q. In reality.

16 A. The reality of it was that probably Al, Stickler and Kevin would've been the ones
17 right up front. Because when Al was there by himself, Al mostly. When Mr. Stickler
18 came there, he had the overall --- .

19 Q. Well, your signature's on there, as well as some others and ---.

20 A. Agreed.

21 Q. And so, I mean, you're technically the one that approved that plan.

22 A. You're right.

23 Q. Who else besides yourself had authority to approve a plan?

24 A. On my shift, only me.

25 Q. What about the other shifts, do you know who?

1 A. And Tommy Hooker on midnights, and Al Davis on days.

2 Q. There's plans that's approved by Bill Taylor.

3 A. He would've been with Al, and I don't know if Al directed him to approve 'em or
4 not. I don't know. And if he did it before Al got there, that would've been another
5 instance where he's doing it under the direction of a different manager.

6 Q. Other than that, as far as you know, it was the manager in charge of that
7 particular shift?

8 A. Yes.

9 Q. You mentioned something earlier about limiting the number of people inby.
10 Could you explain a little bit of that?

11 A. Our inspectors would come out and give us feedback every day. And some of
12 the feedback was that we're getting --- we're afraid we're getting a little bit too much
13 that we're trying to log out 10 or 12 feet, and now all of a sudden when you go up there
14 to sit the jacks on two-and-a-half foot centers, you've got two people basically setting a
15 jack, and all of a sudden you've got four jacks to set and you've got eight people on the
16 side, where you don't have the jacks fully set. So you've got a person --- two people,
17 ten feet inby or so, roughly, whatever the numbers work out, and then two--and-a-half
18 feet back from them, two more people, before you have all those behind you set. And
19 we didn't feel comfortable ---. And when I say we, probably Ted Farmer and I at the
20 time didn't feel comfortable with doing that, and thought we ought to back up and make
21 it two jacks. You advance, you set two jacks. And it's not that --- it doesn't slow down
22 the process that much, 'cause you have to get your cars up there anyway. It's a slow
23 process with one roadway. We don't need to be puttin' an excess number of people
24 inby what you would consider the permanent support for the jack.

25 Q. So you required the plan to be modified to require that?

1 A. I don't remember if we got that in the plan. It should be, but I don't know if it's
2 in there or not, but --- .

3 Q. What activity, as far as you know, was being done in areas outby what we call
4 the fresh air base, 119?

5 A. What activities were going on outby there?

6 Q. Yeah.

7 A. Other than doing some of their examinations outby and maybe having to clean
8 up or repair some of the equipment outby, or bringing more equipment in, or moving
9 equipment around, I don't know that anything should have been going on a whole lot
10 beyond that.

11 Q. Well, they had some areas out there where they were concerned with the roof.
12 They was installing some support. Are you aware of anything cleaning belts?

13 A. No. I'm not aware of cleaning belts.

14 MR. PAVLOVICH:

15 Bob, what would 70 people be doing in the mine?

16 A. There was a lot of people, probably from 110 up to whatever, in this area here,
17 for whatever reason, working on different things. There was a lot of repairing. They
18 were bringing a lot of equipment in, swapping around. You asked me why 70 people
19 were in the mine. I don't know.

20 BY MR. TEASTER:

21 Q. What did our K order limit, in terms of people in the mine?

22 A. I don't know. Without looking at it, I don't know what it ---. If you had to guess
23 right off the bat, it was only what's necessary to do certain jobs, but I think it kind of got
24 stretched into more people, 'cause I think it --- in the initial stages of this, it was throwin'
25 a whole lot of people to get everything moved real quick, which was --- caused

1 congestion a lot of the times, and things to be in the way at somewhat. But probably
2 there were more people than should've been there, initially. And then it seemed like we
3 scaled back about the second or third day, the number of people that was involved.

4 MR. PAVLOVICH:

5 Well, it didn't really say. The fourth modification says that the
6 K order is hereby modified to allow recovery operations to continue in accordance with
7 approved site-specific plans. The approved site-specific plans will be reviewed and
8 approved by MSHA, and signed by the onsite senior mine operations official, and the
9 senior MSHA official prior to implementation of any plans. Now the modification that
10 was 03, says the K order is hereby modified to permit the necessary personnel to travel
11 underground to make repairs to damaged ventilation devices, to clean in and around
12 the feeder breaker, and advance the Number One entry. Additional equipment and
13 materials will be moved underground as deemed necessary for current site. It's very
14 vague, but Four kind of supersedes Three. And Four says that any plan that's
15 approved will be valid from here forth.

16 And none of these plans specify how many people. They just
17 talk about all of the work that is going to be done somewhere. You don't remember
18 there ever being a limit on the number of people or anything, do you, Bob?

19 A. No. Like I say, there was a discussion about the second or third day when we
20 saw we weren't going very fast. And it looked like it was going go be a drawn out, more
21 drawn out process, that we've got to scale back the number of people that we've got
22 underground. With that, you're going to notice, if you haven't already, that some of my
23 planning, we changed from what we originally had there, to where we only had one
24 inspector and three rescue people on each shift , instead of two inspectors. We also,
25 at that point, brought a trainee, somewhere around that time frame, brought trainees up

1 there and let them be the ones that manned the phone and recorded in the logbook.

2 BY MR. TEASTER:

3 Q. Was there any efforts, that you can recall, to ensure that the only activity going
4 on underground was that which was permitted by the K order, or that was directly in
5 some way related to this rescue effort?

6 A. It was my understanding that we had our people underground, kind of in areas
7 where some of this was being done. I can't say that were everywhere where work was
8 being done. But that we should have only had the people necessary for what was
9 needed. But that kind of got expanded, because you're trying --- Mr. Murray brought all
10 kinds of equipment in there. And he was bringing it up there and then, like I said, it got
11 really congested back outby where they was trying to park everything in the world they
12 could get into crosscuts, put it wherever they could get it, just so they had it there in
13 case something broke down. They brought another miner in and those type things
14 were going on outby, that we would --- we didn't have anybody back there monitoring
15 what all was going on outby. You got some other stuff, I notice, or someone has
16 highlighted some other stuff in my notes that I had a concern on one later on, that I'm
17 sure you'll probably get to, and I'll get to that whenever you get there.

18 Q. Okay. What about check in and check out? What kind of control did MSHA
19 have on people going in and out of the mine?

20 A. There was, their check in and out system, which they have in place prior to all
21 this. And there was through their, I don't know what you call it, Conspec system or
22 whatever, they were logging people in and out. They also had a tag check in and out
23 system. I can't answer for what people did on the other shifts. We had them, roughly
24 every hour, from Conspec, bring us a list of people down. And they had zones where
25 they were working, and if they were underground and if they were out. We sat down,

1 when we got that every hour and looked at 'em, and we did find discrepancies where
2 we knew people --- our people weren't underground, they were down at Price, Utah.
3 And we would have that corrected. We talked to our people to make sure when they
4 came out of the mines that they were checked out. We also tried to verify with the
5 company who they had underground, to make sure it was --- and we did find
6 discrepancies from time to time. And there was actually a point where I sat down with
7 Gary Peacock, I believe, and told him, if you don't get a handle on checking people in
8 and out of the mines, we don't want to get there, but if you don't get a handle on doing a
9 better job than what you're doing, we're going to stop the operation, and bring
10 everybody outside and verify who's underground and who's not. And what we could
11 see, after that, you would still have a few discrepancies, but it cleaned up a whole lot.

12 Q. Did you ever consider having an MSHA person there at the portal to check
13 people in and out of the mine?

14 A. No. Not that I'm aware of. And we ---.

15 MR. PAVLOVICH:

16 Bob, here's a check-in log on the 16th. Crews going on shift.
17 These are guys going in, these are guys are going in, these are guys going in, these
18 are guys going in. Now, four pages of names going in on the 16th. When you got that,
19 how do you know when they come out?

20 A. I didn't recall seeing this one. I'll be honest with you, 'cause there was a
21 different report that we were getting.

22 MR. PAVLOVICH:

23 Well, where was it being generated from?

24 A. From the Conspec system, when they check in and out. They ---.

25 ATTORNEY MR. PAVLOVICH:

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MR. PAVLOVICH:

You don't know? You've never seen piece here?

A. No, I've not seen that.

MR. PAVLOVICH:

You don't even know where this was coming from?

A. No.

BY MR. TEASTER:

Q. And you said there was some deficiencies identified with the company's check in, check out. Was there times when it showed our inspectors as being in the mine when they were actually down at the motel?

A. Yes.

Q. And that happened more than once?

A. Yes.

Q. And that's what caused you to initiate your discussion with --- ?

A. That was the easiest thing for us to check when it came out. It wouldn't always be me. And I can only answer for my shift. And it would have probably been me or Ted Farmer. Two that checked, when they brought their logs out and looked at it, although Dewayne Brown was a trainee, and he's really sharp on who the people are, that he could look at it and say, I know so and so's not here, and bring it to our attention. But on our shift, one of the two of us would try to look over their log that they brought out to us, as to who was underground. And we would look it over, and when we knew there was something wrong with it, we went right back to them and told them, you've got to fix this. You have to figure out, are they --- we know these people aren't underground, but are --- you tell us if everybody's underground.

Q. What was the problem? Was it failure to comply with the program, or just the

1 program just didn't lend itself to picking up everything?

2 A. There's, to me, part of it was our people were depending upon the company
3 people to report them being back out. And it wasn't happening because their people
4 didn't know who our people were. That's part of it, I think. And then I think there's
5 another part that goes along with it that, that was --- I think, partially, that is our own
6 deficiency, that we talk to our people, that when you come out, you tell them you are
7 out. And we didn't --- we didn't actually do a good job of doing that.

8 MR. PAVLOVICH:

9 Who would've those two guys that's highlighted there have
10 been, Bob, do you know?

11 A. Don't know either one of them.

12 MR. PAVLOVICH:

13 Well, where do you think they --- visitor one and visitor two ---?

14 A. I don't know.

15 MR. PAVLOVICH:

16 Were they letting visitors go in the mine?

17 A. Other than --- other than the news media going up in there ---.

18 MR. PAVLOVICH:

19 Would those have been the news media people?

20 A. I don't know. I don't know the news media people.

21 MR. PAVLOVICH:

22 Well, it says they went in at 7:48.

23 A. That wouldn't have been, that wouldn't have been them.

24 MR. PAVLOVICH:

25 That wouldn't have been it?

1 A. Unless ---.

2 MR. PAVLOVICH:

3 Or was there other times they took news media in, that you
4 know?

5 A. No, that's the only one I know of. Now they did take family members in. There
6 was two family members.

7 MR. PAVLOVICH:

8 That's not the family members.

9 A. I don't know them either, so I couldn't answer that.

10 MR. PAVLOVICH:

11 No, it's not.

12 A. And the only other time --- and I don't know the dates ---. That doesn't appear
13 to be a date that, that would've been. I don't know who these two people are, to be
14 honest with you. But the only other time that I would've known anything about a visitor,
15 is when Mr. Murray brought his people from, from the east out there to rotate other
16 people out. And that's the only other time I would've have ---.

17 MR. PAVLOVICH:

18 Okay. That's not --- but they would've been coming to work,
19 though, not a visitor.

20 A. I don't know who the visitor would've been. I would not hope that we had
21 people just straggling in.

22 MR. PAVLOVICH:

23 Okay.

24 A. It would help if I knew who those two people were, but I don't know.

25 MR. PAVLOVICH:

1 Well, yeah. I just wondered if you recognized the names.

2 A. No.

3 MR. PAVLOVICH:

4 Okay.

5 BY MR. TEASTER:

6 Q. Have you been at emergency sites before?

7 A. What?

8 Q. Rescue and recovery operations before this one?

9 A. Yes, I have.

10 Q. Did MSHA normally have somebody along with a company person, at the
11 portals, checking people in and out or at the cage, whatever?

12 A. Not always. I'm aware of being delegated to the State Police check, not
13 underground. I'm talking about an emergency on the surface, where the State Police
14 check people in and out of the pit for us, to keep up with that. And I'm aware of that
15 happening.

16 Q. What about an underground mine?

17 A. Underground mines I've been at, and I've seen where we've had MSHA people
18 there at the portal checking people in and out, and other times, I've seen where we
19 didn't.

20 Q. Do you know, was there a difference in --- what was the difference, maybe,
21 doing it here and not doing it there?

22 A. The new regulations would've been one. Under the old system, all you had
23 was your check in and out board. And under this new system, you've got zones where
24 you're recording people going in and out and the company having more active role in
25 checking, actively checking people in and out of the other than turning a tag over on a

1 board.

2 Q. Well, we know that, that system didn't work; right?

3 A. In all honesty, in every situation where I've been, I don't know that we've been
4 100 percent accurate on checking people in and out, whether we had an MSHA person
5 there or not.

6 Q. What measures were taken, Bob, to ensure that --- or were there any taken to
7 ensure that we always had an MSHA person underground?

8 A. What actions were taken to ensure that?

9 Q. Yeah, what was --- when you changed shifts or whenever one was --- what did
10 you do to ensure that just miners and mine personnel were left underground?

11 A. Without --- I don't know that we ever had a situation I was there for, where
12 there was no MSHA person underground while miners were underground.

13 Q. Did you take any specific steps to ensure that that didn't happen?

14 A. Well, the specific steps that we had, is our shifts kind of overlap. And by that, I
15 mean, I'm speaking again, only for the shift that I'm on, 'cause I don't know what every
16 other one did, but what I saw is that the dayshift, whenever they went in --- I don't know
17 when they went in, but our second shift, MSHA personnel went underground before
18 they came out. They passed, they briefed each other, I hate to say at the face, 'cause
19 it's not at the face, but up here at the fresh air base, somewhere in that area, they
20 briefed each other at that point. The second shift people were then there. The dayshift
21 people came out. On midnights, it was the same way. When the midnight people
22 came in, the company had people there to take them underground. I mean, I can't give
23 you the exact hours, but say, like, 10:00. They show up at 10:00 and go underground,
24 by 11:00 the nightshift is come out and the third shift is already in there. So that was in
25 place.

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MR. PAVLOVICH:

Were your inspectors given specific instructions to do that, change out at the face, roll call or on the section?

A. Not specifically change out there, but that they overlap.

MR. PAVLOVICH:

They were told that? They were instructed to do that?

A. I don't know if they was instructed to do it, but ---.

MR. PAVLOVICH:

You just assume it was being done?

A. But assuming is being done, is that the --- overlapping shifts ---.

MR. PAVLOVICH:

Did you ever hear any of them complain about transportation in or out of the mine, that they had to catch the first available ride, or ---

A. No.

MR. PAVLOVICH:

--- any other thing, that they had no designated transportation, so, therefore, it was hit and miss how you got in and out?

A. No. No, on my shift, and the company people always said, are your people ready to go underground, we'll have 'em a ride. And, again, I can't address other shifts, but on that evening shift ---.

BY MR. TEASTER:

Q. Bob, you mentioned several times, on your shift. Was there a --- I'll call it a plan, or at least some kind of a protocol that this is the way we want to do things, so it wouldn't be done different on the different shifts?

A. I don't think there's --- I don't think there was a designed written plan that says,

1 you are going to do this and this and this. I think what I tried to put in place was here's
2 our schedule for our workers. You arrive here. You're underground from 3:00 to 11:00,
3 or whatever those hours were, and I don't remember, and then they kind of overlapped.

4 Q. But that was the way you've seen things should have been done? Do you
5 know how Tommy was doing it or how Bill Taylor would have done it?

6 A. No.

7 Q. There was no set thing, this is the way we're going to run the operation, we're
8 going to have somebody to brief people as they go under? When they come out, we're
9 going to have people to go transfer, to hop seat, so to speak, underground, and stay
10 there 'till they come out? There was no discussion of this, this is how we're going to do
11 things, whether it's in writing or not, but at least discuss that with the managers?

12 A. With the supervisors who worked for me, that's what I told them, Ted, Bill, and
13 Don Gibson, that here is the schedule. And there was some concerns, can we come in
14 later? And I said, no, you've got to be here at these hours, because I expect you to go
15 on underground and not tell 'em they had the hop seat change out at the face, but just
16 the way it kind of worked out, that's the way it was. And no, it wasn't --- that I'm aware
17 of, it wasn't set down and discussed and said, this is the way it's going to be. It was
18 just assumed that, that was what they were going to do.

19 Q. Are you aware of any time that there was miners left underground ---

20 A. No.

21 Q. --- without MSHA people being there?

22 A. No.

23 Q. These scheduled meetings that you referenced earlier, these daily meetings
24 with MSHA and the company, where were they normally held?

25 A. I don't remember who it was, the Governor or whoever, but they put a tent up

1 outside the Goose, and put some tables out there for us to sit on. And in general, that
2 time of year in Utah in August, it can get pretty warm, and it can actually rain in the
3 evenings, but we would try to sit out there, where it was a little bit cooler and away from
4 the phone a little bit where you weren't being distracted. But it could've either been
5 outside underneath that tent at the Goose or inside in the Goose, sitting around the
6 table.

7 Q. And what was the purpose of those meetings?

8 A. They --- again, for me, they were briefing me on what the plans were for that
9 day. Here's what we have set up, we want to discuss with you. This is what needs to
10 be corrected. The company is going to come back --- because it seemed to me like
11 around 2:00, 'cause a lot of times they sat down ---. Early in the morning, I don't know
12 what they did, but I know they started kind of like with the families. It seemed like the
13 family and the news media briefing started anywhere from 8:00 to 9:00, and they drug
14 out to about 2:00 in the afternoon. And then they had another meeting with the families
15 and the media, later on, 5:00, 6:00, somewhere in there in the afternoon. So you had
16 that window, basically, from 2:00 to 5:00, roughly, in there that they would sit down and
17 start the meeting. And they may have actually had meetings earlier in the morning.
18 But that window was the one to sit down and work out the specifics of what you see in
19 the plans.

20 Q. And who normally attended those meetings?

21 A. The ones I was in? Again, it would be me --- the three main people --- me, Al
22 Davis, and Laine Adair. And there could've been other people, both from the company
23 and MSHA that was in at different times.

24 Q. Was there other meetings? Scheduled meetings?

25 A. I'm sure there was. I'm sure there had to have been, because Bill Taylor would

1 brief me when I would get there in the afternoon, as to things that had went on, and
2 there would be meetings, occasionally, on them.

3 Q. Do you know if Al or Richard were not available, who would attend the
4 meeting?

5 A. Bill Taylor, I would think.

6 Q. Did Bill or whoever's attending those meetings have the authority to make the
7 decisions?

8 A. They probably had the authority, but I can't imagine them doing it without
9 briefing Al and Mr. Stickler. I don't think they would've made a decision, not a major
10 decision.

11 Q. Was you aware of any meetings between Mr. Stickler and Mr. Murray?

12 A. Private one on one?

13 Q. Private meeting, one on one?

14 A. No.

15 Q. Do you know why they would have any meetings?

16 A. No.

17 Q. How often was they required to update you on the activities going on
18 underground?

19 A. The company?

20 Q. No, MSHA people.

21 A. Every hour.

22 Q. And how did that hourly come into being? Was you moving that fast?

23 A. No. The problem started when we first got there and asking the company ---
24 and I don't know, this could have been the second day or whatever when we started,
25 but I can remember in particular, the day that we made the change. And I'm probably

1 the one that made the change. Is that the company, we would ask them where are we
2 at on it. And I'm --- Laine Adair would tell me we're at 120. Okay. Come back in an
3 hour. Where we at? We're at 120. Come back an hour later and said, man, we're
4 really moving good. I said, where we at Laine? Well we're at 120. And I'm thinking,
5 we've been three hours and we're moving really good and we haven't went anywhere.
6 What's up?

7 We got to asking our people, and our people said, no, we're not there. We're
8 getting close. And I said, okay. What I want you to do, our people, you report to us.
9 And this is a little bit drawn out, what I'm going to answer you, but you tell us where
10 you're at. Where are we at and how much have we got done? So it evolved from that
11 first listening of the company to our people telling us, and then it got to the point, it got
12 to be a little bit more defined, and a little bit more defined, to where at the end, we had
13 them measuring. There were spads that technically weren't in the center of the
14 intersections, for whatever reason they offset them or something, but there was a spad
15 number there. So I had our people measuring from a spad to the tail of the miner, and
16 I forget if it, roughly --- I don't remember what it is, 30-some feet. I don't remember the
17 exact distance from the tail to the head. But we would --- I want you to tell us what the
18 distance is from that spad to the tail of the miner. And we had it, and it's in the notes,
19 I'm sure, in there somewhere, what that distance is. That would be what we recorded
20 the progress. We're now at 100 feet inby 121.

21 And I know Mr. Stickler came to me one time and said, well, if you add this up,
22 we're inby 123. And I said, we are? And he said, well, why aren't you going by 123?
23 And I said, because I don't have a guarantee where that spad is in 123, and they'd have
24 to be guessing at it. and he'd already chewed me out for guessing at where we're at in
25 an entry. I said, I know where that spad is back here. I can measure and I can give

1 you an exact distance from it, but I cannot give you an exact distance from the spad up
2 here at the miner sitting ---. So that's why we're doing that.

3 But it also evolved that they told us not only where the tail of the miner was,
4 they told us where the jacks were on each side, at what location, those type issues.
5 They took air readings anywhere from different places every hour or every two hours.
6 So they gave us air quality and quantity readings at certain locations back down at --- I
7 don't remember the exact breaks, 114, 115. It had to be inby 118 to catch us up
8 through there. But we'd get readings all the way across and actually try to get some
9 kind of air quality over here, because I always had a concern that at some point, if we
10 knocked a hole through, we didn't want people over in this Main West area, at all,
11 because if we somehow knocked the hole through here to let air go inby and it
12 circulated back here, we'd be pushing low oxygen out on us. So we was kind of critical
13 on keeping air quantity or quality readings back down in this whole area here, because
14 of the people we had. Even though they may not --- that was another decision I was
15 pretty adamant on. I would not let anybody go over there, because we don't know what
16 it's going to be. But those, those were how we evolved into what they
17 reported to us every hour.

18 Q. You indicated in your answer there that you'd been chewed out. What was that
19 about?

20 A. Personalities a little bit. You have to understand the people involved. Ex. (b)(6) and Ex. (b)(7)(C)

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

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25 For me, there was the instance where Mr. Stickler asked me, where are we at

1 in a break. And we had an inspector underground who decided that, for whatever
2 reason, he wanted to add the distance of the miner onto it. So that when you look all
3 the sudden on this one hourly reading, you went from --- and they weren't moving that
4 fast, but you added 30 feet to wherever we were at, and all of a sudden we were further
5 than we should have been. And he said, what are you doing? want to know the exact
6 distance where we're at. And then you back up and find that the inspector underground
7 added 30 feet onto it, and we had to back up and say, no, no, no, no. You go to the
8 end of the miner. You tell me, because when I tell Mr. Stickler exactly where we're at, I
9 want to be sure that's where we're at.

10 Q. Do you know why that seemed to be so important to Mr. Stickler?

11 A. I think that the media and the families wanted to be kept up to date, and there
12 was a lot of misinformation getting out that we were at places where we weren't. And
13 he wanted to know those exact numbers so that he could tell them exactly this is where
14 we're at.

15 Q. And they had to go ---.

16 MR. PAVLOVICH:

17 Was he telling them that every hour, Bob?

18 A. No, he wasn't, but we were reporting to him.

19 MR. PAVLOVICH:

20 Well, why would he want to know that every hour? I mean,
21 some hours you didn't even move a foot.

22 A. I know.

23 MR. PAVLOVICH:

24 Well, what was the ---?

25 A. I don't know.

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MR. PAVLOVICH:

Think --- what were the inspectors doing to get that measurement?

A. Measuring from the spad to the tail of the miner.

MR. PAVLOVICH:

And they had to do it at a specific time; right?

A. Yeah.

MR. PAVLOVICH:

When the miner was loading or shuttle cars were --- ?

A. Well, it wouldn't be dead on that, but at least somewhere in the range of an hour, they would do it between cars.

MR. PAVLOVICH:

But you wanted it, not during the range of an hour, 'cause you want to know at that hour what it is.

A. Close to that hour. If we move by 15 to 20 minutes after the hour I was tickled to death.

MR. PAVLOVICH:

Fifteen (15) minutes after the hour?

A. Yeah. If we say 2:00, ---

MR. PAVLOVICH:

Okay.

A. --- if they could tell me by ten after 2:00 where we were at, I was okay with that, because I had to understand that there's not going to be exact time, every hour, when they can do this.

MR. PAVLOVICH:

1 Did anybody tell them that?

2 A. They'd do it when you got ---.

3 MR. PAVLOVICH:

4 That you got leeway to do it when you can? Do you think they
5 understood it, or do you think they knew --- they felt they needed to call it out a few
6 minutes before the hour, so that it was in that book on the hour?

7 A. Well, I know they didn't actually understand it that way, 'cause they didn't do it
8 that way.

9 MR. PAVLOVICH:

10 So they just called it out any time?

11 A. And if they didn't, we called them and asked them. If by 15 minutes after the
12 hour they hadn't called us, we called them and asked, okay, where are you at?

13 BY MR. TEASTER:

14 Q. Bob, did they go inby that last rock prop to get measurements to the back of
15 the --- ?

16 A. You didn't have to do that to get to the tail of the miner.

17 MR. PAVLOVICH:

18 Why not? What was the rock prop set to?

19 A. When they set 'em up, they'd try to set 'em up as close as they could to the
20 back end of the miner, which meant you had about 10 feet to play with there, 10 or 15
21 feet.

22 BY MR. TEASTER:

23 Q. So what did they do, just --- I mean, from what I gather, the precision that we're
24 talking about here, you couldn't just estimate that distance between that last rock prop
25 and the tail of that --- of the bumper of that miner. They needed to be measured in

1 some way; right?

2 A. Yeah.

3 Q. You didn't want 'em to estimate?

4 A. No.

5 MR. PAVLOVICH:

6 Were the rock props ever inby the bumper of the miner?

7 A. No, you couldn't get 'em inby the bumper of the miner.

8 MR. PAVLOVICH:

9 Okay. So they were always outby the bumper of the miner?

10 A. Yeah. But you had the boom ---.

11 MR. PAVLOVICH:

12 But you had to measure to the bumper of the miner?

13 A. No, the boom. The tail of the boom.

14 MR. PAVLOVICH:

15 The boom or the bumper?

16 A. Well, I don't know what you're calling the bumper now, but the discharge end of
17 the miner.

18 MR. PAVLOVICH:

19 Now, wait. You're saying they were measuring to the end of
20 the boom.

21 A. The back part, the tailpiece of the miner. Whatever terminology we call it.

22 MR. TEASTER:

23 Here's your miner here. This is the bumper.

24 MR. PAVLOVICH:

25 Well, you know what the bumper is, and you know what the

1 end of the boom is, just like I do. Okay?

2 A. Well, the end of the boom is where ---.

3 MR. PAVLOVICH:

4 Where were they measuring to, the end of the boom or the
5 bumper?

6 A. The end of the boom, not to the bumper.

7 MR. PAVLOVICH:

8 Well, so far, you're the first person that's told us that.

9 A. That's what they were told to do.

10 MR. PAVLOVICH:

11 Because everybody's told us so far, we measured to the
12 bumper.

13 A. We were off on all of our measurements, if that's what they were doing.

14 MR. PAVLOVICH:

15 Did anybody hear anything different? And that's why we kept
16 asking you about the bumper.

17 A. Well, I'll tell you, if that's what they were doing, we were always ten plus feet off
18 on our measurements.

19 MR. PAVLOVICH:

20 Plus, you were always in by the last jack, if you went to the
21 bumper.

22 A. Yeah, and that wasn't the intent of what was set up. It's to go to the boom.
23 The tailpiece, the tail boom.

24 BY MR. TEASTER:

25 Q. So the hourly updates was your idea?

1 A. Yeah. Well, and I was told to get 'em. My idea was to have our people tell us
2 where we were at, as opposed to the company.

3 MR. PAVLOVICH:

4 Okay.

5 A. But the hourly came from above me, and I did ---.

6 MR. PAVLOVICH:

7 So prior to that, the company people were giving you the
8 hourly update?

9 A. Yeah.

10 MR. PAVLOVICH:

11 And that's where you felt you were getting misleading or it
12 wasn't --- but so then you said, you told the inspectors to do it every hour?

13 A. Yeah.

14 MR. PAVLOVICH:

15 And so they had to take the air measurements, the gas
16 readings, and the measurement to the end of the miner somewhere, and call it out
17 every hour?

18 A. Yeah.

19 MR. PAVLOVICH:

20 Okay. All right. We've established that so far.

21 A. Ya'll threw one at me. Now, if they measured to the bumper, that's news to
22 me.

23 MR. TEASTER

24 Well, it's news to us, to the bumper.

25 MR. PAVLOVICH:

1 Unless they're all calling the bumper, the tail of the boom, but
2 that's not what I would call the bumper. The bumper's the end of the body of the
3 machine.

4 A. Yeah, and that's not where we were telling them to go to. Again, terminology
5 may be off, but I'm talking about, right there is your miner, and here's the boom coming
6 out loading into the car. The car can run all the way up into here.

7 MR. PAVLOVICH:

8 That's true.

9 A. And he's dumping in. We wanted it measured back here, because that's the
10 distance we had from here to the head, what we were adding onto it.

11 MR. PAVLOVICH:

12 Okay.

13 UNIDENTIFIED SPEAKER:

14 What were you adding on?

15 A. I don't, I don't remember right off Ex. (b) (6) and but I mean, it's like 21 feet to the
16 bumper, and the boom's like --- Ex. (b) (7)(C)

17 MR. PAVLOVICH:

18 Thirty-five (35). It's usually 35 feet.

19 A. You know, 30 feet or something --- yeah. And I don't remember that exact
20 number. It would be wrote down, and that, 'cause I don't know what miner they had.
21 But we had --- okay, this is a set figure. We can see what we're doing now. Be more
22 consistent than what we had then.

23 MR. PAVLOVICH:

24 Now, to follow up on that hour, you said someone gave you
25 instructions. They wanted those readings hourly? Do you know who that was?

1 A. I think Mr. Stickler wanted those readings hourly, and I'm saying I think that.

2 MR. PAVLOVICH:

3 Mr. Stickler wanted them hourly? Did anybody explain to you
4 why they wanted them?

5 A. It came to me from Bill Taylor, if I had to be best guess, that he's the one that
6 told me we've got to do this hourly.

7 MR. PAVLOVICH:

8 Okay. So Stickler never told you or Ken or Al?

9 A. No.

10 MR. PAVLOVICH:

11 Bill Taylor relayed that information to you, as we're doing that
12 hourly now, and you'd better have 'em hourly.

13 A. But, I also know that Mr. Stickler would get his notepad out when I came in, in
14 the evening, and he got back from his conferences, and he would sit down and look at
15 that log, and he would record every hour where everything was.

16 MR. PAVLOVICH:

17 Did he record anything else out of that book, or was it just the
18 footage?

19 A. I don't know. I didn't really look at his book. But I know he ---.

20 MR. PAVLOVICH:

21 You weren't looking over his shoulder, Bob?

22 A. No, no, no, I tried to stay away from him.

23 MR. PAVLOVICH:

24 Now, Bob.

25 A. Now, Joe.

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MR. PAVLOVICH:

Can we take a five-minute break?

MR. TEASTER:

Sure.

OFF RECORD DISCUSSION

BY MR. TEASTER:

Q. We talked about the measurements of the vents. What about the rock props, what was the deal on measuring those?

A. To see how far we had supports set, supports were set at.

Q. And we couldn't just measure from one jack to the other, we had to go back to the spad?

A. That gave you an exact measurement of where we were at and out of gas or not, saying that one might have been two feet and the other one might have been three feet. You had an exact measurement where it was at.

Q. Do you think the frequency of these things and the emphasis that was placed on these measurements, that the focus that was placed on these took away the ability for these guys to do the job as far as looking out for the safety of the people underground?

A. I don't know that I could say that. I don't know that I could answer that question. I don't think --- my understanding of how we did it, it may have been a little bit of aggravation to some extent, but I don't see how it slowed the operation down any or done the way that I envisioned it being done was negative towards the safety.

Q. Did it affect the ability to function there in the command center with all of these updates, hourly update recording all this information?

A. I don't think so.

1 Q. What about the updates to Arlington, how did that --- how often were they ---?

2 A. You saw in my notes here during the day. I don't really --- this has been awhile
3 back, and I can't recall but it seemed like it was every hour. But there was some point
4 when the decision made --- and I forget what exact time they quit and Arlington quit
5 manning the command center in Arlington with a full staff or whatever it was they were
6 doing. But we were going every two hours with reports back to Arlington.

7 Q. What do you think the need for that was when the chiefs of Arlington were
8 there present at the mine? Why was it so important, you think, to call that back to
9 Arlington?

10 A. Well, it seemed to me --- and I don't know whether the best guess that I have
11 that ---. If you've been --- I've been west of the Mississippi and I've not been exposed
12 to as much politics as people in the east are exposed to. But they was a high interest, I
13 got to believe, from Congress or what people say is the hill or across the river or
14 whatever terminology you use. And I don't have names to put with all of that stuff, but I
15 got to think that the Secretary of Labor and Congress was wanting to be updated every
16 morning. And other than that, I don't know.

17 Q. Do you think that you just called them every hour, every two hours?

18 A. Yeah.

19 Q. Which?

20 A. That's what I say. During the day until they quit whatever hour it was, and I
21 don't remember right now. Probably at ten o'clock at night seems to ring a bell to me,
22 which is eight o'clock in Price, Utah. Up until that point in time we called them every
23 hour, and then it went to every two hours after that.

24 Q. Every two hours after. Ten o'clock back east. You think they was concerned
25 that the Secretary might be calling over at midnight wanting to know?

1 A. I don't know. That or Congressmen, senators. I don't know, but somebody
2 above may have had an interest in what was going on.

3 Q. Okay. Fair enough. What all were the duties of this person that was on the
4 phone, manning the phone? He was getting calls from underground, recorded all of the
5 readings that were getting for the gases and the measurements for rock props and the
6 rate of advancement? What other duties did he have maintaining the log?

7 A. We got a copy of that log and I kind of go through them and maybe give you
8 some examples, but --- do you have a copy of it?

9 UNIDENTIFIED SPEAKER:

10 What?

11 A. Copy of the log ---

12 UNIDENTIFIED SPEAKER:

13 Sure.

14 A. --- or any log or ---.

15 UNIDENTIFIED SPEAKER:

16 We have a copy of the log.

17 UNIDENTIFIED SPEAKER:

18 Keep on going through it.

19 A. Yeah, I try to get one in the middle instead of one at the beginning and one at
20 the end because it changes. That's like 17888. Part of the other thing where you had
21 to keep up with where the grills on the surface were done. They were calling in every
22 hour, where are they at? Where are they at? I'm getting drilling. I do know that the
23 family liaisons every hour would --- if I didn't call them, they were calling me wanting to
24 know those same things that we've been talking about. Where's the miners at, where
25 the rock props are at, where the drill rigs on the mountain are at? They would get ---

1 the families would be asking the family liaisons where are we every hour? We want
2 know, so I know they would call up and be interested in that, but they kept up with the
3 drill rigs as to if they're building roads, if they're building paths, how far down have they
4 drilled, have they changed steel, have they changed drill bits. If anything broke down
5 during the shift, that was logged in. They kept up with that. They basically sat her at
6 the phone and listened to conversations that were coming back and forth.

7 BY MR. TEASTER:

8 Q. Was there other phones that they had responsibility to answer?

9 A. They didn't really have responsibility, but we had the landline. I don't know how
10 they terminate the regular phone system in the command center. And there was about
11 five different phones. Now, at different times if they weren't busy and somebody wasn't
12 there, they would answer one of those phones. Generally that would be the supervisor
13 that would answer that phone, or for me if I was there and the phone rang, I would
14 answer it because most of the time I would know it was either for one of those phones.
15 Arlington was calling with a question or if like Al Davis wanted to call and ask how
16 things were going at night from the Price Motel then I'd answer, try to do it. If
17 something came up that I wasn't in, the supervisor was the next one that would do it. If
18 he had to step out, then that same person sometimes would answer the phone, but it
19 wasn't real frequent.

20 Q. Are you aware of any instances where Mr. Stickler had some discussion, you
21 said, with Ex. (b)(6) and Ex. (b)(7)(C) and some with you about these measurements? Are you aware of
22 him discussing that with someone else, any other people there at the mine?

23 A. MSHA people?

24 Q. Yes. Did he do --- I'd be interested if he got some company specifically ---.

25 A. I don't know any discussions he would have had with company people without

1 keeping up with those things because once we --- I know he questioned me real quick
2 on why we had went three hours and we were still in the same spot and that everybody
3 is telling us we're moving right along. And that's when we decided to go what I said, but
4 I do know that overhearing a conversation that he had with Ex. (b)(6) and Ex. (b)(7)(C) didn't get
5 him a direct answer. He told him, when I ask you a direct question, I want a direct
6 answer. I also know that about the second or third day of probably having to go
7 through those same type scenarios when I was there he --- and I don't think it was
8 specifically of me, but I was in there. The trainee was in there on the phone, and he
9 wanted accurate information, and there was some concern about inaccurate
10 measurements that we had made where we were adding --- where the inspectors
11 adding footage on it, were we adding footage? They just --- you had to really watch.
12 For me, I started watching every hour what was called out, and sometimes you'd get a
13 measurement that didn't add up, that said, yes, we're still advancing. Or at two o'clock
14 it said we were 120 feet inby and at three o'clock it said we're 118 feet inby, and yet
15 they saying we're still advancing. And say, are you sure --- do you need to check that?
16 And I know he got pretty agitated at some of the numbers that didn't look as they
17 should and made a comment that, if you can't do what I ask you to do, I don't need you.

18 Q. He told that to who?

19 A. I don't know particularly. I would bet money that it was directed at Ex. (b)(6) and Ex. (b)(7)(C) at
20 that particular time, but it was Ex. (b)(6) and Ex. (b)(7)(C) that weren't in the
21 office --- in the command center.

22 Q. So you think it might have been Ex. (b)(6) and Ex. (b)(7)(C) as opposed to Ex. (b)(6) and Ex. (b)(7)(C)?

23 A. Yes.

24 Q. Did you ever hear of any finger pointing, pointing his finger, sitting there talking
25 pointing his finger at someone?

1 A. No.

2 Q. Do you think these measurements in any way slowed down any of the
3 advancements?

4 A. No.

5 Q. Were the inspectors required to go inby the last rock prop ---

6 A. No.

7 Q. --- to get these measurements?

8 A. No. That was not the intent as we explained it. If they had measured to the
9 end of the boom, they wouldn't have been inby rock props when they measured.

10 Q. You don't have any knowledge of anybody having to go inby ---?

11 A. No. Oh, well, other than to set the next props, that's the only ---.

12 Q. No, I'm talking about to get a measurement.

13 A. No.

14 Q. Could you see where there would be a need to go inby if they understood that
15 they needed to go to the bumper to measure as opposed to the end of the boom?

16 A. They would have been inby to do that, but that never was my intent or my
17 direction.

18 Q. Do you know if it was --- what directions were given on the other shift or how
19 that ---?

20 A. The other shifts were told to do the same thing that I was telling my people to
21 do.

22 Q. And who told them that?

23 A. Me.

24 Q. You told all three shifts?

25 A. Yes.

1 Q. And the names of like Tommy Hooker and ---?

2 A. Ron Gibson and Bill Taylor. They were the supervisors that worked for me at
3 the time. They were the ones that I --- and Ted Farmer was on my shift, but he had to
4 deal with me every day anyway.

5 MR. PAVLOVICH:

6 Were you ever underground, Bob?

7 A. No. There's a reason for that. Ex. (b)(6) and Ex. (b)(7)(C)

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

9 BY MR. TEASTER:

10 Q. So you --- I mean, you can visualize in your mind by looking at that map what
11 it's like down there, but as far as what it took to get these measurements, you never
12 were there to see how they were taken ---

13 A. No.

14 Q. --- or what you had to do to get the air reused and the gas readings and all that;
15 right?

16 A. Yes.

17 Q. I mean, you ---?

18 A. I didn't see that.

19 Q. You're just looking at the map and saying, you can get this ---?

20 A. There was a decision made that we had three people underground later on,
21 and that was so we could free one of them up to do --- one of them could do the air
22 readings and leave the other two to work, stay in the face area.

23 Q. Do you think Mr. Stickler was more concerned about the advancement footage,
24 location of the rock props or more concerned about the bump activity that was taking
25 place underground?

1 A. I would think he would be more concerned with the bump activity that was
2 taking place.

3 MR. PAVLOVICH:

4 Did he ever ask you about it?

5 A. He read those books. That's another thing that they logged in, was what was
6 reported to them, bump activity during the shifts that the miner worked on.

7 BY MR. TEASTER:

8 Q. Did he ever discuss or ask you about the bumps?

9 A. No.

10 MR. PAVLOVICH:

11 Did he ever discuss the footage with you?

12 A. Yeah.

13 BY MR. TEASTER:

14 Q. Did he ever get on anyone that you're aware of about anything other than how
15 they recorded the footage and the rock prop?

16 A. In asking questions, which I don't know the full extent of what he was asking
17 Bill Taylor, but I got the end result of it. You didn't answer what I asked.

18 MR. PAVLOVICH:

19 Did you ever get fired, Bob, threatened to get fired there?

20 A. Directly, no.

21 MR. PAVLOVICH:

22 Indirectly?

23 A. The implication was whoever's here that can't answer my questions, I don't
24 need them.

25 MR. PAVLOVICH:

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Those questions were in relation to what?

A. Some were ---.

MR. PAVLOVICH:

Footage?

A. Footage was one thing, but the other issue that I had was when I asked about the bounce of March whatever the date was, 11th, I think. Was that in the old towns. I was not aware of that and ---.

MR. PAVLOVICH:

The March 11th?

A. Yeah.

MR. PAVLOVICH:

Okay.

A. And Mr. Stickler asked me if I could find out for him when that area was sealed, and in looking at the map I told him, I can give you my best estimate and I will check on it. And I came back and told Mr. Stickler that the best I can see it would have been sealed around mid-March, and I was told, I asked you specifically what day in March and that's what answer I want to know. What day in March was it sealed? And I said, yes, sir, I will find out that answer. And I left and I went to their engineers and told them I need to know the exact day you sealed this, not when roughly that it was sealed in the week of March 15th or 20th or whatever. I need to know what date, and I got that answer and reported it.

MR. PAVLOVICH:

Do you remember the date?

A. No.

BY MR. TEASTER:

1 Q. Did you have a trainee from Craig --- I can't remember the name, but it's a
2 trainee from Craig that was on the log on another shift?

3 A. Possibly, but right off the bat I don't know. The people that I can think of were
4 off in either Delta or Price, Brad Serazio.

5 Q. That's Brad from ---?

6 A. He's from Delta.

7 Q. Are you aware of any incidents between him and Mr. Stickler?

8 A. No. No. Brad was on day shift and I wasn't around. I can see where they
9 could be some issues. Not with Brad, but, again Ex. (b)(6) and Ex. (b)(7)(C)

10 Ex. (b)(6) and Ex. (b)(7)(C) . That could be a problem.

11 Q. The threats that were received from Mr. Stickler on this log, do you think that
12 they would have been carried through had that problem continued with the log? In
13 other words, do you think he was joking?

14 A. I took him serious, dead serious. That if we couldn't do what he wanted, we'd
15 be somewhere else. Maybe not fired, but we'd be --- we wouldn't be there working at
16 Crandall Canyon.

17 Q. What was Mr. Murray's involvement in the command center?

18 A. Little to none.

19 Q. Did he influence any decision making that you're aware of?

20 A. Not from the command center. I don't know what went on in the meetings that
21 were held, but in the command center Mr. Murray very seldom was there.

22 Q. Did you ever hear him talk about continuing with or attempting to stop the
23 rescue operation?

24 A. Mr. Murray?

25 Q. Yeah.

1 A. The only comment that I heard him make one time was not --- it was not
2 directly stopping the rescue operation, was that drill holes cost X amount of money and
3 at some point in time we'd have to stop drilling holes.

4 Q. Did you ever hear him say, we've got --- the last hole I'm going to drill, I don't
5 want to drill no more holes?

6 A. No, not directly those words, but like I said, what I heard him say is that these
7 drill holes cost whatever amount. And he said millions of dollars and that at some point
8 I'm not going to be doing any more holes.

9 Q. Was there ever any discussion issuing a J order?

10 A. None that I'm aware of.

11 Q. You heard no discussion at all between him --- you was not privy to ---?

12 A. No.

13 Q. How was the plans that were formulated and approved? How was that
14 information disseminated to the underground rescue workers?

15 A. When the plans were approved or signed off on that for me most of the time
16 that would have been in the afternoon. If Al signed them, I'd get a copy of them. I
17 made 10 to 12 copies and for the people on my shift I sent copies underground to
18 them. If they were already underground for the midnight shift when they came on, I
19 made sure they had copies and we left copies there for the day shift to have when they
20 came to work for the inspector to carry with them.

21 Q. Was there any ever discussion --- I'll call ---. I'll say training, but discussion to
22 make sure that everyone was familiar with the requirements of the plan and clearly
23 understood them?

24 A. For me --- I don't know about other shifts. I know for me that there would be
25 discussions when people would read some and say, okay. But I don't have any

1 specifics, but there would be some discussion. If they had a question about them,
2 they'd ask at that time.

3 Q. So the people underground they were just sent, ---

4 A. They were sent a copy of the plan

5 Q. --- so they basically just read it and ---?

6 A. Yeah.

7 Q. What was the structure, Bob, for briefing and debriefing people as they went
8 underground and when they came back out to the surface?

9 A. When they --- just take it from when I first get there to the mines. Bill Taylor
10 would try to brief myself and Ted Farmer on what had been going on during the day,
11 potential floor plans, different things that had happened during the day. Myself or Ted
12 would try to talk to the second shift people that worked with us as to what had went on
13 and brief them as to what happened during the day.

14 Q. When you say what went on, now, what all would that --- would that include
15 bumps ---

16 A. Yes.

17 Q. --- that occurred that you pointed out? You basically used the log as a tool to
18 discuss that?

19 A. You could, and we did at times use the log as a way that you had a bounce at
20 1:30 today or whatever. Most of the time it would be Bill saying, there was a bounce
21 underground at --- Blue Colt went on the side of the miner. They had to back --- well,
22 not back the miner up, but the men had to back up, let the air clear and then go back
23 in. Those type issues would be discussed and said, okay, that's all for day. Try to be
24 --- most of the time it had to be Ted Farmer talking to our people because when I
25 would get there I'd normally get tied up. Initially with Al, with Kevin and Mr. Stickler if

1 they were there, what they had went through during the day, then I'd have to catch back
2 up on Bill's briefing later on but Ted got it when we got there. So Ted would be the one
3 talking to our people about anything he got and we passed that same information on
4 myself and Ted at the end of the shift to the new people coming on.

5 Q. So when people come on, they were all instructed to go talk to Ted to get a
6 briefing prior to going underground?

7 A. Ted was instructed, I think, to talk to them, not that they necessarily have to go
8 hunt Ted up. Ted, talk to them what's going on, brief people.

9 Q. How would the inspectors --- when they came on shift, how ---? What did they
10 --- did they get dressed there at the mine and then come over to the command center?
11 Would he ever go directly underground?

12 A. No, not that I'm aware of. They would normally --- the parking lot area is fairly
13 big and, again, it's summertime. They'd normally put their --- come dressed in blue
14 jeans or whatever and put their bigger clothes on at the truck or their vehicle and stuff,
15 then come to the command center. In general that I saw sat around the command
16 center a few minutes. Early in the shift, again, I'm in and out of the command center to
17 start off with, and from what I saw they would come in and out, listen to Ted, Bill talk.
18 What I gathered was Ted telling them some things that he had gotten, Bill would chime
19 in. They would talk. There was discussion there. At the end of the shift when the next
20 shift came on and the new guys came in, it was the same thing. We'd give them the
21 papers, we'd have a little discussion about what has happened during our shift so far,
22 and that was kind of the briefing they got. And then when our people came out I know
23 on dayshift Mr. Stickler, if he was there, pretty much would talk to Donnie Durrant and
24 Pete Saint and ask them a lot of questions, which all of the other people, me, Ted
25 Farmer, Bill Taylor generally sitting around at that time hearing the same debriefing at

1 midnight shifts. When they came out, the guys would come in and sit down and chat
2 about what they had ran into during the evening with Tom Hooker and Don Gibson that
3 would be there that night.

4 Q. So the inspectors knew to get briefed and debriefed when they entered and
5 exited the mine?

6 A. I think so, yes. Was there a written plan for that? No, it was just kind of
7 discussed. To me it's understood if you're in mine rescue, and we have an
8 experienced workforce there, not the trainees as much, but the inspectors that
9 understand that. And I didn't think you put a formal --- my own thoughts were you didn't
10 need to formalize that. They knew what to do and did it.

11 Q. So you just assumed everyone knew to brief --- to get briefed and debriefed as
12 they entered and exited the mine?

13 A. Yes. And what I saw that's what happened.

14 Q. What was normally done with that information that was --- was it logged
15 accordingly when they were debriefed?

16 A. Most of it would probably have already logged in in the logbook during shift as
17 to things. But without reading the notes I know that the guys doing the logbooks was
18 sitting there with it unless they were on the phone. They may have recorded some
19 other stuff, too. I don't know.

20 Q. Was any of the information that was learned through these debriefings used to
21 make improvements in the plan or in how we approached the rescue effort, ---

22 A. Yes.

23 Q. --- the safety of ---? Can you give me for instance?

24 A. I'll give you an example of that and that's where we go back to talking about
25 initially it seemed like they were trying to advance four shields or so --- or four shields.

1 Four jacks or so inby, and then go in and set four jacks up real quick. And our
2 inspectors brought that to our attention, that this is --- that, yes, you may get moved up
3 or I don't know that it's any faster, but that lets them bring a whole load up in a shuttle
4 car jacks. And you have eight people or however many people, you got to all of a
5 sudden jump out there and start putting these up. But the downside of it is, well, they
6 might save a little bit of time. In doing that all at once, you're exposing people being
7 beyond support. Their comments based on that is what got us backed up, trying not to
8 go over to the time.

9 Q. And that was brought about during one of these debriefings ---

10 A. Not.

11 Q. --- not called out or ---?

12 A. No, that was brought out in debriefings.

13 Q. Do you remember who brought that up?

14 A. No. In all honesty, I don't remember. It could have been Donnie Durrant.

15 Q. Do you know if there was a similar briefing and debriefing program for the
16 company people as they went underground and returned back to the surface?

17 A. I don't know.

18 Q. You think there should have been?

19 A. Yes.

20 Q. What about getting our people underground and getting them back out? Was
21 it --- was there an established transportation set up for our people to get in and out?
22 How did they go about getting a ride underground?

23 A. What I can recall and what I actually saw we didn't --- I didn't see that as a
24 problem. We went --- I think Gary Peacock was on our shift from the company, told
25 Gary --- and he knew. He already knew that people --- he'd make arrangement, go to

1 that ride was 15 minutes late or something, a little later than you would hope, then the
2 ones underground I would have to believe, yes, did stay an extra 15 minutes or
3 whatever that time was. But as far as going hours or something, no, I'm not aware of
4 that.

5 MR. PAVLOVICH:

6 Well, we know it could never be more than one hour; don't we?

7 A. Good comment.

8 BY MR. TEASTER:

9 Q. And you're not aware of anybody being chastised by MSHA people about an
10 MSHA person driving one of these trucks to get underground?

11 A. I'm not aware of any MSHA people driving it, and that would really surprise me
12 and shock me in a way because I wouldn't want our people driving one of their trucks
13 underground.

14 Q. Well, we can share with you we got information that they did. What about the
15 telephone communications between the fresh air basin and the command center? Are
16 you aware of any problems they had with that, with communicating underground to the
17 surface?

18 A. Problems meaning ---

19 Q. Meaning they couldn't communicate.

20 A. --- not being able to communicate?

21 Q. Yes.

22 A. No, I'm not aware of it.

23 MR. PAVLOVICH:

24 Are you aware that there was a phone that didn't work for two
25 days over in the command center?

1 A. No. For the command center, what was that?

2 MR. PAVLOVICH:

3 Well, at 120 or whatever.

4 A. No.

5 BY MR. TEASTER:

6 Q. Are you aware of any concerns or accusations that were raised that the
7 company was recording conversations that had taken place between MSHA people
8 underground, just any recording of MSHA's conversations?

9 A. Am I aware of those concerns? I think we had some people who were
10 concerned about it. I don't think it's any different than some mines we have inspectors
11 go to on inspections where they're concerned at any time anything that's said is being
12 tape recorded by the company.

13 Q. No. I mean, actual accusations that it was taking place based on some stuff
14 that they could hear over the phone?

15 A. No. We're talking about the mine phone or ---?

16 Q. The mine phone, yes.

17 A. No. But it wouldn't surprise me if it was. I'm hearing --- I mean, we're being
18 honest with this, I'm hearing right now that a whole lot of stuff was taped by the
19 company that I wasn't aware of that was going on. And it doesn't surprise me because
20 I think if I was the company I'd probably been taping it, too, but I wasn't aware of it at
21 the time. And it surprised me when I --- not surprised me, but it was news to me when I
22 did hear it.

23 Q. When you heard what?

24 A. That the company did tape record things going on over the mine phone.

25 Q. And when did you hear that?

1 A. Last week.

2 Q. From who?

3 A. I don't even remember, if it was Laine Adair, whoever, but I was --- and I can't
4 remember who told me, but that Laine Adair was taping.

5 MR. PAVLOVICH:

6 Someone from the company told you that?

7 A. I don't remember who it was to be honest with you, because I thought, okay.
8 Didn't pay that much attention to it.

9 MR. PAVLOVICH:

10 Well, where were you at last week, in Morgantown?

11 A. Colorado.

12 MR. PAVLOVICH:

13 Oh, you were in Colorado?

14 A. Yes.

15 MR. PAVLOVICH:

16 So someone in the District told you that?

17 A. Could have been. I don't know. I was only in the District one day, and I don't
18 think I --- but I don't know.

19 BY MR. TEASTER:

20 Q. So based on what you now know ---

21 A. That wouldn't surprise me.

22 Q. --- going back to those allegations it was probably some validity that since you
23 know now someone told you they did record?

24 A. I would say it was.

25 Q. Do you know if that information has been used in any way?

1 A. Other than I've been told you all were using it, that's the only thing I know of.

2 Q. That we were using it?

3 A. Yeah, that you all were listening to it and you got it. So I mean, I don't know
4 any other way around it.

5 Q. Bob, did MSHA people ever express any concerns to you as to the safety of ---
6 their safety or the safety of any of the rescue workers underground?

7 A. I think every person there was concerned for safety. I think we all realized that
8 what we were doing wasn't the safest thing to do in the world, but they --- and that it
9 was dangerous. I think everybody there understood that we had a risk we were putting
10 ourself at just like any rescue operation. You do things in a rescue operation you
11 wouldn't do in a recovery operation or you wouldn't do day to day, but if you think you
12 got a chance to save somebody's life, you take a chance that you wouldn't otherwise
13 take. And I think every one of us there felt that way.

14 Q. Yeah, but I was referring --- I mean, I agree with that comment that you do
15 things that you may not normally do on a routine basis when you're in rescue mode.
16 But I'm talking about a specific concern that was raised by the inspector, he came and
17 said that he was concerned, he was afraid to work down there because of this or that or
18 a miner may be raising similar concerns?

19 A. I have heard comments attributed to people, the miners that their concerns go
20 in there and work and some may have actually refused to work. From the MSHA
21 inspection standpoint, I had one inspector tell me he was going to make sure
22 everything stopped until everything was fixed the way he wanted it to be because he
23 wanted it to be as safe as it could. And I can appreciate his concerns to a point, but,
24 again, you go back to you're in a rescue operation at that point in time there's some
25 things that you just don't stop and always do. Like if there's a little coal spillage on the

1 belt you don't all of a sudden shut the --- everything down and send everybody down to
2 shovel that little spillage up. You do it when you can, but you continue with your rescue
3 operation.

4 Q. That was an MSHA person that raised those concerns?

5 A. In a way, yes.

6 Q. And who was it?

7 A. Ex. (b)(6) and Ex. (b)(7)(C) I had to send Ex. (b)(6) and Ex. (b)(7)(C) home.

8 Q. Because he was concerned about his safety or the safety of the miners?

9 A. Some of that was --- it's that Ex. (b)(6) and Ex. (b)(7)(C) comments had been attributed that he was
10 underground and ---. Let me try to figure out how to phrase this and think. That Ex. (b)(6) and Ex. (b)(7)(C)

11 had made comments in front of the company and people that after seeing what he saw

12 underground, that it wasn't any wonder to him why they had had this accident. And

13 then another comment attributed to Ex. (b)(6) and Ex. (b)(7)(C) that --- he had commented that it wasn't any

14 wonder things were going so slow as they were because he was looking at the way the

15 men were working and being managed, and they were --- it was a poor job of being

16 managed, which was taken extremely negatively by the company and by other MSHA

17 inspectors. And that was brought to my attention by one of our inspectors. I talked to

18 Ex. (b)(6) and Ex. (b)(7)(C) a little bit about it and told him, Ex. (b)(6) and Ex. (b)(7)(C), we can't do things like this. You can't go

19 under and make personal comments like this.

20 MR. PAVLOVICH:

21 What did Ex. (b)(6) and Ex. (b)(7)(C) say? Did he say, yes, I said that?

22 A. He said, I didn't really say that. I did make a comment along those lines. I
23 didn't think it was that negative or whatever. I said, okay, we can't do that and I wanted
24 to talk to our inspectors who were supposed to have overheard this. And when they
25 came outside and I talked to them --- I think this would have been Ex. (b)(6) and Ex. (b)(7)(C)

1 Ex. (b)(6) and Ex. (b)(7)(C) That they did not directly hear Ex. (b)(6) and Ex. (b)(7)(C) say this, but that the
 2 miners were so upset they were wanting to whip Ex. (b)(6) and Ex. (b)(7)(C) for his comments. Right, wrong
 3 or indifferent at that point in time, I didn't think we needed distractions there at the
 4 mines that took people's minds off of what we were trying to do and I sent Ex. (b)(6) and Ex. (b)(7)(C) home.

5 MR. PAVLOVICH:

6 Did Al Davis have any involvement in that?

7 A. He knew it was going on.

8 MR. PAVLOVICH:

9 Did he instruct you to send Ex. (b)(6) and Ex. (b)(7)(C) home?

10 A. Didn't instruct me to send Ex. (b)(6) and Ex. (b)(7)(C) home. He (7)(C) thought that's what we should do
 11 and I ---.

12 BY MR. TEASTER:

13 Q. And you discussed it with him. How did it come about to send him home? Did
 14 Al say, you should send him home or did you say, I'm going to send him home and Al
 15 agreed? Do you remember how it became ---?

16 A. Kind of neither way probably.

17 Q. How did it come about if neither way?

18 A. Al talked to me about what Ex. (b)(6) and Ex. (b)(7)(C) had said and that --- that Ex. (b)(6) and Ex. (b)(7)(C) said that, it was
 19 inappropriate. And I said, it really was, but first off I want to talk to our people.

20 Q. How did Al hear about it?

21 A. I don't know if the company talked to Al or some of our people talked to Al, but
 22 he heard that. And I don't know which one. I don't know that. But, again, I wanted to
 23 talk to our people at this point. And so when Ex. (b)(6) and Ex. (b)(7)(C) and Ex. (b)(6) and Ex. (b)(7)(C) came out, both of them
 24 were very upset about it, that Ex. (b)(6) and Ex. (b)(7)(C) was a distraction underground, that the men were
 25 really pissed off. They wanted to whip --- physically whip Ex. (b)(6) and Ex. (b)(7)(C). And I asked them if you

1 would and I said, it'd be discreet but if you tell those guys please come and talk to me
2 and let me know. I'd like to know that, but at that point in time those guys wouldn't
3 --- I wouldn't have been able to talk to them until the next day. But as I sat there and
4 thought about it, I thought we're in such a delicate situation here now that people are
5 stressed enough as it is, the company people are working really long hours. We don't
6 need this distraction going on right now, and I decided to send Ex. (b)(6) and Ex. (b)(7)(C) home.

7 MR. PAVLOVICH:

8 So you made the decision?

9 A. I made the decision.

10 MR. PAVLOVICH:

11 And AI basically supported you in that decision?

12 A. Yes.

13 BY MR. TEASTER:

14 Q. Were you aware, Bob, that he had required them to put some additional rock
15 dust down and to water the roadways?

16 A. Yes.

17 Q. And he also wanted to fix an oil leak on a diesel scoop or something that was
18 ---?

19 A. I don't know about the oil leak, but I know about the water and the rock dust,
20 and I was told it wasn't Ex. (b)(6) and Ex. (b)(7)(C) that did that, that that was Ramey that did that. Larry
21 Ramey told me that. He said, it wasn't Ex. (b)(6) and Ex. (b)(7)(C) that told him to do that, that was me.

22 Q. So then I think that was one day and then the next day he might have raised
23 some concerns about smoke on a piece of equipment, and I think it was this ---.

24 A. I never heard that.

25 Q. Never heard it?

1 A. No.

2 Q. So you don't think that his concern about the conditions underground had any
3 influence at all on him being sent home?

4 A. No. What concerned me was the comments that were made that were
5 personal, should not have been made in front of anybody.

6 MR. PAVLOVICH:

7 Did you ever hear of any inspector, other inspector, having a
8 confrontation with [REDACTED] underground about this is a rescue operation, we can't be doing
9 these type things [REDACTED] you want corrected?

10 A. No, I'm kind of -- [REDACTED]
11 [REDACTED]

12 MR. PAVLOVICH:

13 Nobody told you that?

14 A. --- specifically ---. I would believe those feelings are there in all honesty, but
15 specifically for somebody to tell me that, I don't think I'm aware of that.

16 MR. PAVLOVICH:

17 Okay.

18 BY MR. TEASTER:

19 Q. What about safety concern of the miners? Were you aware of any miners that
20 were not comfortable with working up there?

21 A. Like I said, I kept hearing rumors whether it was through the press or just in
22 and out that some of them didn't feel safe. From what I was told, the ones that didn't
23 want to do it, didn't go.

24 Q. Did you know if anybody from MSHA tried to talk to these folks and find out
25 why they wouldn't --- didn't want to work?

1 A. No, I'm not aware of that.

2 MR. PAVLOVICH:

3 So you don't know if anybody went out and asked these people
4 what's your concerns about the safety?

5 A. I'm not aware of anybody talking to him. Again, all I know is ---.

6 BY MR. TEASTER:

7 Q. Do you think that would be some valuable information?

8 A. It could be if I knew specifically who it was, but all I got was secondhand
9 rumors that someone saw --- not names even. Just that some ---

10 Q. Did you ask who ---

11 A. --- people who ---.

12 Q. --- who are these guys?

13 A. No.

14 Q. Do you know if anybody else asked ---

15 A. I don't know.

16 Q. --- who are these guys and I'd like to talk to them?

17 A. I don't know, but I know even ---

18 Q. You don't know.

19 A. --- again, you got to realize what we were working with and what we were
20 working in. And do I think any of it was safe? It was as safe as we thought we could
21 get. Was it safe? No, but it was as safe as we thought we could get it. I don't think
22 any of us ever anticipated --- I believe we anticipated bounces, but nothing to the
23 magnitude of what that second one did. Was the potential always there? I think, yes,
24 we all understood that that potential was always there. For whatever reason, right or
25 wrong, we felt comfortable in what we were doing, trying to control it, that we thought

1 that would prevent injury and we were wrong.

2 Q. Was you aware of any controversy between Ex. (b)(6) and Ex. (b)(7)(C) ?

3 A. Yes, sir. And I got involved in that one, too. I walked in one day and set down,
4 Ex. (b)(6) and Ex. (b)(7)(C)
and I do not

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

6
7
8
9 Ex. (b)(6) and Ex. (b)(7)(C) That has nothing to do with this, but I am aware directly

10 that when I sat down that day I think Ex. (b)(6) and Ex. (b)(7)(C) was standing here, Ex. (b)(6) and Ex. (b)(7)(C) had
11 came into the command center. There was something that we were going to do

12 underground. Ex. (b)(6) and Ex. (b)(7)(C) shift had ended. He was outside. I'm not saying there

13 wasn't other people underground. I mean, Ex. (b)(6) and Ex. (b)(7)(C) was outside. Ex. (b)(6) and Ex. (b)(7)(C)

14 was getting ready to go underground and there was something we needed to go check,

15 and Ex. (b)(6) and Ex. (b)(7)(C) jumped up, kind of went --- I did not take offense either way at this

16 point myself. I know what situation we're in. Ex. (b)(6) and Ex. (b)(7)(C) said, well, I can do that and

17 since his shift was just ending we were thinking, no, you don't need to. Your time is in.

18 We got another guy here that can go do that.

19 Ex. (b)(6) and Ex. (b)(7)(C) said something minor to me and I don't remember what he said,

20 but you know what, I can do that, it isn't any problem or something along those lines.

21 Ex. (b)(6) and Ex. (b)(7)(C) commented and said, I will do whatever my supervisor tells me to do.

22 And that's it. I didn't think anything of it at that point, and we broke up and we started to

23 leave. Ex. (b)(6) and Ex. (b)(7)(C) went to his truck and as I went out the door, he said, I'm not

24 putting up with that son of a bitch anymore. He's not going to tell me what to do. And

25 I'm thinking, what? He said, him in there telling me that he's going to go do what I

1 should be doing. I said, [REDACTED] I didn't take it that way. I wasn't offended. He said, that
2 offended me. I said, I wasn't offended by what he said. I mean, really he volunteered
3 to do something which you're here, he's leaving, you shouldn't be doing it. So I wasn't
4 offended by him volunteering to do it. I figure that's the end of it.

5 Well, I go back after I talk to [REDACTED] and I start in the door of the command
6 center and Ted Farmer --- there's a discussion going on and it looks like there's some
7 agitated people. And Ted Farmer said, well, right there's Bob, tell him what your
8 concerns are. [REDACTED] tells me, by God, I don't have to put up with this shit from
9 [REDACTED] And I said, stop right there. Let's go. And I took [REDACTED] and I took
10 [REDACTED] but to [REDACTED] truck and I told him, I don't care what you two's past
11 experiences are, we're here on a rescue operation. We have things going on. We are
12 going to be professional and whatever you two have going on in the past that better
13 stop right now or you both can go home right now. Is that understood? [REDACTED] said,
14 yes, sir, I understand and it will be professional. [REDACTED] wanted to argue and I told
15 him, no, you understand what I just told you? You are going to be professional in your
16 attitude here at this mine, and if you can't, you're going to go home. And he said, yes,
17 sir, and that was the end of it.

18 Q. You're not aware of any other incident between those two?

19 A. Not at that mine after that. I am aware that they have a history.

20 MR. PAVLOVICH:

21 Was [REDACTED] subsequently sent home the next day or the
22 next day?

23 A. No. There was not --- you got to realize if he was sent home it wouldn't have
24 been because of that. I don't know the exact days, but there was a day that we were
25 told, okay, we want to cut back on the number of people we got here. So we need to ---

1 and I was trying to think of the most experienced bounce people we had. And we kept
2 the rescue teams, which is another part of it. But the inspectors that were not part of
3 the rescue team we were looking at was Donnie Durrant, Frank Markosek and I'm not
4 sure who we had for midnights. And I think it wound up being ^{Ex. (b)(6) and Ex. (b)(7)(C)} so there
5 actually could have been a day that ^{Ex. (b)(6) and Ex. (b)(7)(C)} wasn't there as we readjusted
6 schedules. And I'm not sure how that worked out, but no, he was not sent home as
7 part of that.

8 MR. PAVLOVICH:

9 When you said we decided we didn't need this many people
10 here, what was that in regard to?

11 A. Like I was talking about way a long time ago when this discussion --- when we
12 first got there everybody ---. We were hoping, I guess, under the impression that
13 maybe we could get to these people fairly quickly. So we probably had more resources
14 there than we needed, but thinking we were going to go fairly quickly we had maybe an
15 overabundance. Then we decided this looks like it's going to be long term. We need to
16 scale back a little bit, so instead of having two inspectors and three rescue team
17 members on each shift, we'll go to one inspector and the three rescue team members
18 with one of them staying outside and the other two underground.

19 MR. PAVLOVICH:

20 Was that in regard to trying to get other inspections made?

21 A. Yeah, that's a part of it.

22 MR. PAVLOVICH:

23 Who's decision was that? Yours, Al's?

24 A. Kevin talked to me about it.

25 MR. PAVLOVICH:

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Kevin did?

A. Yeah, Kevin did. And Al would have had to been involved, and that's, again, where part of my responsibility that I felt at that time having been through some of these in the past I know what Al's going through, and he has got a plate full. That if I could step in and do some of the scheduling and get the people going, that takes a load off of him. So I said, okay, let me figure out what we can come up with and it was basically me the one who made the decision to who stayed and who went.

BY MR. TEASTER:

Q. Bob, could you tell us the times that you're aware of when people went overtop of this rubblized material to explore?

A. I'd like to say there's only two, but potentially there could be three and I just cannot remember. But the only two directly that I can remember was the rescue teams that initially when they went underground trying to get in there. And the second time that I'm aware of was when Peter Saint went up through there, wherever he went looking at it.

BY MR. TEASTER:

Q. Do you know any more about that wherever he went? Do you know where he went, how far he had advanced?

A. Had you asked me this at the time I probably could have told you, but he went inby wherever the rescue team went. He went inby where we were at with the miner loading out because I know the families heard that morning, well, if he can get there, why can't you all get there?

Q. But what entry did he go inby?

A. I think he went in Four. I'm not sure.

Q. Okay. So he went in Four. Do you know of anybody going in One?

1 A. Not right off, although potentially later and that's why I don't know if anybody did
2 or not. It might be in the log or somewhere, but there was a plan that if you got to some
3 point that we could have exploration in front of it, and I don't know if we ever got to that
4 point. I can't remember.

5 MR. PAVLOVICH:

6 You don't remember anybody ever coming out and debriefing
7 you on it?

8 A. Not about going in Number One.

9 MR. PAVLOVICH:

10 How about Number Four? How about Peter's exploration,
11 what was the debriefing on it?

12 A. It happened when I wasn't there, so I ---.

13 MR. PAVLOVICH:

14 You ever hear anything about it?

15 A. Yeah, I heard something about it.

16 MR. PAVLOVICH:

17 You ever hear --- did you ever hear how far he got?

18 A. Yeah.

19 MR. PAVLOVICH:

20 You ever hear what stopped him?

21 A. Huh?

22 MR. PAVLOVICH:

23 Did you ever hear why he stopped when he did?

24 A. I can't remember right off, but I got to assume it got so low he couldn't get
25 through there.

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MR. PAVLOVICH:

Did you ever talk to Peter about it?

A. I probably did at the time, but I don't remember his comments.

MR. PAVLOVICH:

Did he ever say that if I could cut that wire mesh I could get a lot further?

A. I would imagine Pete would say that.

MR. PAVLOVICH:

Did anybody ever consider doing that?

A. I don't know.

MR. PAVLOVICH:

You never talked to Al about it or ---

A. No.

MR. PAVLOVICH:

--- Mr. Stickler or Kevin Stricklin or anybody that we may be able to go further?

A. No.

MR. PAVLOVICH:

Do you know why?

A. No.

MR. PAVLOVICH:

Never heard any more about it?

A. No.

MR. PAVLOVICH:

Possibly advancing over that rubble?

1 A. No.

2 BY MR. TEASTER:

3 Q. Do you know who assigned EFS employees, Fred Sanchez and Kent Norton,
4 to the rescue operation?

5 A. That's a good question. Officially assigned them or who asked for them?

6 Q. Either way.

7 A. Okay. Officially assigned them there it had to have been probably Pat Hurley.
8 I don't know. He could have been directed by somebody else. Who asked for him was
9 more than likely me after --- there's a couple considerations that was taken into that. I
10 think both of them spoke Spanish. I know Fred doesn't. I'm not sure if Kent does or
11 not, but I think Kent does also. A part of what they were going to be there for was a
12 part of the families were Hispanic and they wanted to have someone there who could
13 talk. The other part that I'm aware of that for sure that what we were doing was that we
14 were asked to go back through all the training records and training plans and stuff, and
15 I asked particularly Kent Norton and Gary Jensen to do a review of the training records
16 and training planning.

17 Q. Do you know what duties they would have underground?

18 A. Other than being up there observing and potentially translating, no.

19 Q. Did they have a problem with communicating with some non-English speaking
20 people underground?

21 A. I don't know, but that potential was there. I don't know who --- and I didn't even
22 try to keep up with who was Hispanic and who wasn't, but I know for sure that then
23 after the second event the Consulate of Mexico wanted to know if there was any
24 national Mexicans killed. So I got to believe that there was some working here, and I
25 wouldn't doubt that there wasn't non-English speaking people working at that mine,

1 although I don't know that as a fact.

2 MR. PAVLOVICH:

3 You think there may have been during the rescue effort and
4 that's maybe why they were underground?

5 A. I don't know.

6 MR. PAVLOVICH:

7 Did you assign them underground?

8 A. No.

9 MR. PAVLOVICH:

10 Were you aware that they were going underground? Were
11 you there?

12 A. I know they were going --- I know they had been underground because Kent
13 Norton was one of the two I talked to about the Ex. (b)(6) and Ex. (b)(7)(C) incident. Why they wouldn't
14 have been underground other than, I don't know, to talk to people about crane or
15 anything like that, I really don't know. Again, that was --- from this perspective right
16 there that was very early on into this one and probably in reality we had more people
17 there than we needed.

18 BY MR. TEASTER:

19 Q. To go back to Joe's question there just a little bit earlier, when Peter Saint went
20 up there and advanced as far as he could and was stopped because of this wire that
21 had fallen down and he said he could continue had he had wire cutters then. When he
22 went outside, did he brief the decision makers out there as to what he found and what
23 he would like to do? Was that considered?

24 A. I don't know because he did this on dayshift when I wasn't there. So I don't
25 know what discussions he had when it came out.

1 Q. Would that have been something that you would have learned on a briefing on
2 your arrival the next day? I mean ---?

3 A. It would have been that --- probably that same day, but late that afternoon. And
4 I was made aware that Pete went past where other people had went, but I wasn't
5 involved in any debriefing with Pete.

6 Q. Do you know if Sanchez and Norton were ever debriefed in what they were
7 driven underground?

8 A. Not that I'm aware of. I don't know of it.

9 Q. What did you think of the 18 percent oxygen reading they got there in Number
10 Four entry on August the 6th? Was there a discussion on where these low readings
11 came from?

12 A. I don't recall at this point, and --- no, to be honest I don't know.

13 Q. Were you on duty when that first borehole, number one borehole, went ---
14 penetrated the coal bed?

15 A. Probably.

16 Q. As I recall it penetrated somewhere around ---

17 A. It would have been ---.

18 Q. --- the 10th or 11th.

19 A. Yeah. I was going to say it'd be really close in that area and I'm thinking, yes.

20 Q. Do you recall what the initial reading was at that borehole?

21 A. No. And the reason I say that is I think there was an issue that came up about
22 those readings, and I think I was probably there when the borehole went down. But I
23 didn't get those readings. They came in after I left.

24 Q. The initial reading they got was somewhere around 20 percent, and that as I
25 understand it got to the families rather quickly, but then a couple of hours later they

1 realized, or sometime later, they learned that the true reading was somewhere between
2 seven and eight percent oxygen, which is significantly different than respirable and non-
3 respirable air. And it took 'til nine o'clock the next morning to get that information to the
4 families. Do you know why it would take such a time to get that information down?

5 Was you aware that it had not gotten down there and ---?

6 A. I wasn't aware that it didn't get down there. I don't know what the time was we
7 were being asked to get it down there. From what I can see the reason it didn't get
8 down there is some confusion over what --- and I'm guessing. This is all I can do is
9 guess at this point. Over some confusion of what we're actually doing until Mr. Stickler,
10 Kevin and Al sat there and talked about, and verify what they're going to tell the families
11 it might not have got there until they went up and told them. And if they didn't get there
12 until 6:00 in the morning and had a discussion and the family meeting is at 9:00, I can
13 see how that would happen.

14 Q. Where do you think that low oxygen was coming from?

15 A. Best guess I have a feeling --- and I don't know. I couldn't prove it, but that
16 potentially with the magnitude of this bounce that you may have communication
17 between whatever these are called in the Main West between this --- what is that
18 called?

19 MR. PAVLOVICH:

20 This is called west main, this is south barrier.

21 A. The south barrier and the Main West. I feel there was a communication
22 between those two.

23 BY MR. TEASTER:

24 Q. Did you think that relatively close to the time you first learned that there was
25 low oxygen there?

1 A. Personally once we found that out it seemed to me like at the time that those
2 readings that we were getting from West mains and what we got on that borehole were
3 very similar, which would --- to me would indicate you have that communication
4 between Main West and First North.

5 Q. Would the magnitude of that bounce that you had there in south barrier and the
6 low oxygen reading that you got there at the number one borehole, what did you think
7 the changes of survival for those trapped miners?

8 A. Less than they had been prior to getting that ready that would I rule it out as a
9 100 percent that they were dead? No, not at that point because if it took just a little bit
10 to communicate that low oxygen they had potential to get back up in
11 --- further inby that potentially could have better oxygen.

12 Q. What discussions took place or transpired after this was learned between the
13 decision makers and the people there at the command center about the chances of
14 survival of those miners? Was that discussed, well, they could have got up in here?

15 A. Yes. Like that was one of the reasons. There's a couple of things if you look
16 at it, the options and as far as discussions I wasn't involved in the formal discussions
17 going on. But if you sit and listen and talk, and involved in --- my own thought process
18 if you go inby just where it gets down to three entries you actually fit --- could have
19 barricaded. If they could have got inby here and barricaded this off, potentially they
20 could have had an area back inby that would have been fresher air than what you had
21 outby. That potential was there and that hope was there. I don't know exactly where
22 the water lines ran to, where they --- dead end at this point in time. I mean, I'm sure if
23 we sit down with a map, but I know we've been trying to pump oxygen through the
24 water lines back into that area, which could have been a help to them. But I mean,
25 once you hit the --- I don't know where the boreholes are marked on this thing. That

1 one ---.

2 Q. This is number one.

3 A. That's the first one right here.

4 Q. Yeah.

5 A. By hitting it, yeah, it reduced the potential, but the potential is still there. They
6 could be alive, and I don't think I just --- I think you always hold out hope that they did
7 something that protected themselves. They were lucky enough to survive the initial
8 bounce and not be overcome with low oxygen initially that they could have had time to
9 get back and barricade themselves in and would have had fresh air. So I think that
10 hope was always there.

11 Q. Was there any time prior to the 16th that you thought was probably no hope for
12 those miners based on stuff that you had learned where you had the number two
13 borehole to go through it that showed low oxygen, number three showed 16 and a half
14 to 15 and a half percent oxygen?

15 A. I think from the beginning in my mind the entire time and looking at the shadow
16 zones that we had and you got them on the map, the 2,000 foot cover to where we
17 know bounce damage came out by the 2,000 foot cover down to 120 to --- probably all
18 the way down to 113. If you looked at that shadow zone damage on this side of the
19 2,000 foot line and if you look at that shadow zone of damage back the other way they
20 would have been right at the edge of that to me that shadow zone. And I think in the
21 back of my mind the whole time was I never considered --- I don't say I didn't consider,
22 but I never believed we would have a second bounce the magnitude that killed the guys
23 there. Deep inside I felt we would get through that and at some point we were going to
24 have to shut that miner off and hand dig to find bodies. That was a dark side in me that
25 felt it. Was there always a hope that they had got out of it? Yes, there was a piece of

1 me inside of me that said they didn't make it, they were too close to that shadow zone
2 and they didn't make it.

3 MR. PAVLOVICH:

4 Was that ever discussed in the command center, Bob, or was
5 that just something you kept to yourself?

6 A. Particularly what?

7 MR. PAVLOVICH:

8 About the possibility that those guys may not have survived,
9 about the possibility you might have to get so far and move material by hand, those
10 type of ---?

11 A. Formerly, no, it wasn't sit down and discussed, but like Ted and I ---.

12 MR. PAVLOVICH:

13 Was it discussed among Ted ---?

14 A. Ted and I discussed it.

15 MR. PAVLOVICH:

16 Do you think --- did Ted ever tell you, I don't think those guys
17 could have survived this bump?

18 A. I think there were times we all felt that way. Discussions ---.

19 MR. PAVLOVICH:

20 Did you ever talk to ---?

21 A. Ted and I had a lot of open discussion and we probably did worse case
22 scenario. Ted, I'm thinking --- and the same way Ted tells me, really we hope that they
23 did, but it doesn't look good.

24 MR. PAVLOVICH:

25 You ever been in a bump, Bob?

1 A. No. I've been around them, never been in one anything like that bad.

2 MR. PAVLOVICH:

3 Did you talk to Ron Paletta or anybody that talked about when
4 that bounce down there that night in Number Four --- I think I read the note. You said
5 there was so much dust and you're basically disorientated, can't find the lifeline, can't
6 see anything?

7 A. I know Ron had made those comments. I don't know directly to sit down and
8 talk to him, but being around bounces before I know that happens. I know people have
9 been in them and said they can't see.

10 MR. PAVLOVICH:

11 Can you imagine the dust that would have been ---

12 A. Yes.

13 MR. PAVLOVICH:

14 --- in that area ---

15 A. Yes, I can.

16 MR. PAVLOVICH:

17 --- with no ventilation?

18 A. Yeah.

19 MR. PAVLOVICH:

20 How long would it take that dust to settle out?

21 A. A long time. I don't --- the other part ---. See, I just don't know what they had
22 up there. I don't know how much they knew about where to go, what to do, even
23 reacting under stress had they not been killed in the first one. And you got that dust
24 suspended --- could they have --- probably shouldn't have done it, but did they leave
25 any old water line up there they could follow back up to or was there a curtain back up

1 through there they could ---? I don't know those things, and all you do is hope that
2 there was something.

3 MR. PAVLOVICH:

4 Was that kind of discussion ever discussed among basically
5 the decision makers, AI?

6 A. Not that I'm aware of.

7 MR. PAVLOVICH:

8 Discussed with AI? Did you ever personally discuss it with AI?

9 A. No.

10 MR. PAVLOVICH:

11 Why not?

12 A. I guess in a way you just kind of hope if you don't say it, it's not true. If you
13 bring it out ---.

14 MR. PAVLOVICH:

15 We just don't talk about it?

16 A. Yeah. Because you're really hoping for the best all along, and even though you
17 feel it unless you're real comfortable with who you're sitting and talking about you just
18 do not --- that's something you don't say. Maybe it's a curse, maybe it's a superstition,
19 but it's just something you don't do.

20 MR. PAVLOVICH:

21 Nobody ever said, we're not going to talk about this?

22 A. No. I think what we try to do --- my own feeling is, I have been to several of
23 these is that you go under the assumption that the best case is possible, that they're
24 still alive. We can still rescue them and try to keep focused on doing that until you know
25 otherwise.

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MR. PAVLOVICH:

Bob, when that first drill hole poked through --- or drilled through, were you there? Were you still at the mine?

A. That's what I want to say, I think I was there when it went through, but it went through getting towards the end.

MR. PAVLOVICH:

Do you remember, were all the miners pulled out of the mine?

A. I think so, to be honest with you. I'm not sure.

MR. PAVLOVICH:

Well, I'm looking at a notation here on 8/9/07 at 2054 hours, which would have been ---

A. 8:54.

MR. PAVLOVICH:

--- 8:55? It says, the company issued order to pull men out of mine and there's a two inch drill. There's an 1839. Next notation is 2106, two inch drill is at 1845. Conspec reported all miners out. At 2258 it says miners going inby. Were they pulled out because of that borehole getting ready to break through?

A. In fact, the plan was that when they got to X point on the borehole that they were going to come out.

MR. PAVLOVICH:

Okay. Why would they come out?

A. For concern of when it punched through you don't know what it's going to hit or what impact it's going to have anywhere else.

MR. PAVLOVICH:

What could be the hazard of it punching?

1 A. Well, I think the concern was you don't know --- we don't get any ---. The
2 methane readings really wasn't a concern at this point, but not knowing you don't take
3 that chance.

4 MR. PAVLOVICH:

5 So the concern was if this hole punches through it could blow
6 the mine up?

7 A. Well, that's a potential.

8 MR. PAVLOVICH:

9 Is that safe for the guys --- six guys you're looking for?

10 A. Probably not.

11 MR. PAVLOVICH:

12 I just wondered.

13 A. But since we couldn't get them out of the mines to get them out ---.

14 BY MR. TEASTER:

15 Q. Joe, let's go over that log with him. Did you ever look at the bumps that were
16 occurring underground? Are you aware --- did you or are you aware of anyone else
17 putting them down and try to see what was happening, what was the frequency,
18 severity of these bumps that was occurring underground?

19 A. You asked me a really good question, and it's one I'll probably always have to
20 live with. The day the second one happened I might have been sitting in my mind and
21 going over with what looked to me --- and I didn't have it documented in a graph or
22 anything to show me exactly what I wanted, but my concern was it seemed to me that
23 we were having bumps at roughly ---. And I don't know the times now, but back then
24 they would have been fresh. 10:00, 11:00 in the morning and 6:00 to 8:00 at night, and
25 I was wanting to try that last day. I was wanting to say, okay, do we have a correlation

1 with what's going on here and the second event happened.

2 MR. PAVLOVICH:

3 Was anyone doing that, Bob?

4 A. Not that I'm aware of.

5 BY MR. TEASTER:

6 Q. So to your knowledge --- and I guess looking at this log I see notations here
7 that are blocked off.

8 A. I don't know who did those.

9 Q. Squares. You don't know who did that?

10 A. No, I don't know who did those, who blocked them off.

11 Q. Well, every one of them refers to clean up in the Number One entry or rock
12 props installed. Is there some special meaning to those particular notations? I mean, I
13 don't know.

14 A. That's an easy one to answer, to be honest with you.

15 Q. Okay. What is it?

16 A. Mr. Stickler could walk right here and say, okay, this is where they were at.
17 Because that's what's highlighted is where the locations were at, where they were at,
18 clean up and where the rock props were at.

19 Q. Well, what's confusing to me is there's several notations here about bumps, but
20 they're not highlighted. Would anybody have done that?

21 A. They didn't. You can see that they didn't, so ---.

22 Q. No one did?

23 A. No.

24 Q. No one was analyzing?

25 MR. PAVLOVICH:

1 Ernie, we had already talked about --- what we went through is
2 this logbook and every notation that we found it related to a bump that occurred. Now, I
3 realize there may be some people that call a bump a bump or a bounce and others
4 may not, but do you know if there was ever any instruction given to standardize what to
5 report as far as bumps?

6 A. No.

7 MR. PAVLOVICH:

8 Did you ever try and sit with your crew when you briefed them
9 and said, we want you to report every bounce and if this, this, this happens you report
10 it?

11 A. We ask them to report any events that occurred and especially if they felt ---
12 and I don't ---. You're getting back into the terminology that burst, bounce, bump,
13 people have different ---. I didn't really care at that time. If it happens, let us know.

14 BY MR. TEASTER:

15 Q. Did some of the guys tell you that were your more experienced people in Price
16 that --- I mean, a lot of that stuff was nothing?

17 A. You're going --- yes, and Donnie Durrant's one of the better ones there that
18 Donnie said, it's making noises, not really bounces and stuff but you are hearing noises
19 and things. Those type of things.

20 Q. Okay. Well, so if there's one in here that says that Donnie Durrant says a
21 bounce you're going to say it's probably a bounce; right?

22 A. Definitely.

23 Q. Okay. But anyway I talked to you about some of these first couple, but for
24 example, there's something that we took out of Donnie Durrant's notes where he talks
25 about the roof banging, pillars showing. If he wrote something down he probably felt it

1 was rather significant, would you think?

2 A. Yes.

3 MR. PAVLOVICH:

4 There was a 1.7 seismic event recording by the University of
5 Utah, 15:42. There was a 1.6 at 2:43. You can see every --- these were all taken out
6 of the book, bounce, small bump, small bump, small bump. Here's one, bounce by the
7 power center from Ron Paletta, there's another Paletta heard a bounce. Here's Donnie
8 Durrant two small bumps. Donnie Durrant says, a small bump you and I would
9 probably say it was a massive bump?

10 A. I don't know about massive, but you could say it's a bump.

11 MR. PAVLOVICH:

12 Okay. Here's another one, Donnie Durrant reporting they were
13 minor, decided to pull back, just had a big bounce, everyone is okay. And when he
14 especially took the ones that says, had a bounce, everyone is okay, dusty, whatever,
15 because I'm assuming if it was bad enough that they did a head count then they felt it
16 was pretty serious?

17 A. It was significant. Right.

18 MR. PAVLOVICH:

19 Okay. So you see there's several of these. Here's one that
20 knocked the power on the miner. Here's even Donnie Durrant's, small bump, small
21 bounce, couple small bounces. Here's one it says bounce appears to have centered
22 around 122, return side, it may have originated in Number Three or Four, everyone
23 accounted for and okay at face area and fresh air base, bump north, corner of entry,
24 everyone accounted for, some material on the miner, asked about when miners pulled
25 out. Okay. Approved in command center by Al Davis and Bob Cornett. So this is

1 referring to setting some props or something. Then on the 13th Gauna talks about a
2 bump, even says, wow. I'm not sure what that was, but ---.

3 MR. TEASTER:

4 How about that hole in the rib?

5 A. Yeah. Broken up 10 to 11 feet high.

6 MR. PAVLOVICH:

7 Left a big hole in the bottom?

8 A. Big hole in the floor.

9 MR. PAVLOVICH:

10 And continues on, bumps, bumps. This is something in
11 Gauna's notes, small bump at power center, no damage, bump at 119, bump at 116.
12 Here's a bump that's 1.2 magnitude and it says bounce occurring in the cleaning area,
13 lots of dust everyone accounted for. Barry Grosely writes in his notes, appears rock
14 props have moved out, tops and bottoms, question rock props and ability to support.

15 A. You guys better learn to spell his name. He's going to be pissed.

16 MR. PAVLOVICH:

17 We couldn't read it. That was a long time before. We know
18 now how to spell it, but if he gets pissed at us ---.

19 A. Yeah.

20 MR. TEASTER:

21 It probably would be a good thing for us if he got ticked off;
22 right?

23 MR. PAVLOVICH:

24 Kennedy panels knocked out. Here's Durrant's notes.

25 A. How much bump experience do you guys have?

1 MR. TEASTER:

2 Bump?

3 MR. PAVLOVICH:

4 None.

5 A. Yeah.

6 MR. PAVLOVICH:

7 None.

8 MR. TEASTER:

9 I have less than that.

10 MR. PAVLOVICH:

11 There's some investigations that ---.

12 A. Anybody here have bump experience, bounce experience?

13 MR. PAVLOVICH:

14 No.

15 A. What you're going to find when you get a lot of people you have to watch what
16 you listen to from them because you're going to hear two to three different schools of
17 thought on it. One of them being --- and I'm not ---. I know you're going to go into this,
18 but I just wanted to make this point right now. You have one school of thought from
19 miners that says if you don't hear sounds in a bump-filled mine, you're in big trouble.
20 You need to hear those bumping and bumping before you have a big one, because
21 when it stops you're getting ready to have a big one.

22 BY MR. TEASTER:

23 Q. Well, that's what we're looking at, but with all these you're still having them.

24 A. I know, but ---.

25 Q. So I don't know about that school of thought. I mean, I've heard people tell us

1 that and then I've heard people say --- I ask them, how long does it have to be quiet
2 and they'll say sometimes five minutes. Well, ---

3 A. Yeah.

4 Q. --- five minutes of quiet doesn't seem like much that I'd even recognize.

5 A. Uh-huh (yes).

6 Q. Okay. So when --- I've heard all those things, too, but I don't understand. Five
7 to ten minutes is like way too long they'll tell you.

8 A. Yeah.

9 Q. Now, that don't seem like very too long, but ---.

10 A. All I'm trying to say is, sometimes you have to take it with a grain of salt what
11 some people tell you because they listen to other people, and I really --- Donnie
12 Durrant ---. What you see in Donnie's notes I'll take that he knows what he's talking
13 about. Some of the other people, I don't know. I think that they're in a situation where
14 they're afraid of any noise is a bump, but now when you get down to where you're
15 saying you got dust and you can't see, there's no question.

16 Q. Well, here's one small bump, timbers knocked out.

17 A. Yeah.

18 MR. PAVLOVICH:

19 Okay. Here's a bump at face, here's bigger than the last one.
20 Everyone okay, no damage to ventilation. Here's one that says the stopping was
21 damaged.

22 A. Uh-huh (yes).

23 MR. PAVLOVICH:

24 Okay. Here's a bump that covered the right side of the miner,
25 1.5 magnitude. Here's a bump at miner Number One entry, the right rib covered the

1 body of the miner, they backed the miner out. Here's Peter Saint. It says, bump inby
2 the face, stalled the air flow. See this was a pretty big one at 10:05 in the morning.

3 A. Yeah.

4 MR. PAVLOVICH:

5 And I think you said you heard about that one or something;
6 right?

7 A. Yeah.

8 MR. PAVLOVICH:

9 And then you got still bump, bump, bump, these start
10 happening here, four small --- had four bumps ---

11 A. Right.

12 MR. PAVLOVICH:

13 --- in a row. Here's bump, bump, here's bumps. So a lot of
14 bumps right up 'til the time that the one --- now, we never looked at what you were
15 saying is between a certain time of day. We just put them all in perspective. They're
16 repetitively continuing.

17 A. I was looking. I think my thought was ---.

18 MR. PAVLOVICH:

19 And you may have had a better idea about it than we did.

20 A. Maybe. And I haven't put it all together, but if you look at the more significant
21 ones where we were talking about, not this small bump here, small bump there but
22 bump or it did something, ---

23 MR. PAVLOVICH:

24 Okay.

25 A. --- those are the ones that to me stuck out like they seemed to center around

1 once in the morning and once in the evening.

2 MR. PAVLOVICH:

3 That may very well have been.

4 A. And I did not have the time to try to sit down and put that all together because
5 it'd been on my mind that whole night before this happened, and I get to work.

6 MR. PAVLOVICH :

7 Well, let me ask you. You didn't have the time of the bump but
8 anybody doing it?

9 A. I don't think so.

10 MR. PAVLOVICH:

11 Nobody was plotting the bumps, the severity of bumps, the
12 reporting of these bumps. I mean, as far as --- there was no separate issue or anything
13 like that that you know of?

14 A. I'm not aware of.

15 MR. PAVLOVICH:

16 Okay. So to your knowledge nobody was really analyzing the
17 frequency or the severity of the bumping activity that was occurring while the material
18 was being loaded out of the Number One entry?

19 A. No.

20 BY MR. TEASTER:

21 Q. Was there ever a discussion that you were aware of let's stop this operation,
22 we're having too many bounces, bumps?

23 A. No.

24 Q. Was you aware --- are you aware of any inspector that had considered maybe
25 we should stop this operation and you decided not to do that?

1 A. No.

2 MR. PAVLOVICH:

3 Why do you think that is, Bob?

4 A. Why do I think nobody wants ---?

5 MR. PAVLOVICH:

6 That nobody ever discussed it.

7 A. I don't know. I think everybody was focused on the fact that we're still hoping
8 they're surviving and trying to get to them.

9 MR. PAVLOVICH:

10 Well, I don't think there's any doubt except for the --- you
11 mentioned --- made a statement earlier that if we're involved in a rescue operation, fire
12 or whatever and we're going after live people we're willing to take more risks. Kind of
13 the risks versus value theory. Okay? When I get up in the morning I take the risk;
14 right, because it's safer laying in bed than it is getting up. I could stumble and fall, but
15 the value of getting up and doing something is worth taking that risk. We make those
16 decisions every day in life without thinking about them. When we get into a mine fire or
17 an explosion and you've been involved in several of those, if you're exposing your
18 rescue teams to save a mine you probably won't expose them to as much risk as if
19 you're saving --- you're exposing your rescue teams to save a miner; right?

20 A. I agree with that.

21 MR. PAVLOVICH:

22 I mean, if the mine's shut down we can leave the mine shut
23 down. We're not going to send people in and expose them to undue risks to save a
24 coal mine, but if we know people are alive we're going to take probably a lot of risks to
25 save them. Did anybody weigh that in this case of what our value was versus our risks,

1 that you know of?

2 A. I don't know.

3 MR. PAVLOVICH:

4 Don't know. You never heard any discussion in regard to that?

5 A. No.

6 MR. PAVLOVICH:

7 You know, that's a fair statement.

8 A. I can't answer for anybody above me. I can tell you from being a miner myself
9 having went through Scotia with friends of mine killed in Scotia and having sealed them
10 up for a long time, couldn't get the bodies out as opposed to around here we may never
11 get the bodies out I think --- I don't want to say it's a macho attitude or whatever, but it
12 is there. It's like that old saying, no man left behind. Miners do not want to leave their
13 buddies buried underground, and if we could have got to them I feel like a miner in that
14 respect. That from that respect you really --- if you could get to them you didn't want to
15 leave them. Even if they're dead you don't want to leave the body underground.

16 MR. PAVLOVICH:

17 I understand. And just like you say Scotia, Blacks Field,
18 Wilbur, I mean, the mines were sealed and sometime later reopened and the bodies
19 were recovered. It might have been years, but they still went back in to do that. And I
20 mean, that's all I was wondering. Was that discussion --- was that information ever
21 talked about by anybody in your presence or were you ever a party to any of that kind of
22 discussion as what is our risk here, what is our value, where are we at, what are we
23 doing? And to your knowledge ---?

24 A. Not that I'm aware of.

25 BY MR. TEASTER:

1 Q. You know, Joe's talked about the risks versus value. You can make those
2 determinations a lot easier if you're dealing with data. Like at a fire explosion you can
3 look at the methane level and of course in any rescue operation, I know this --- is the
4 rescue workers ---. That's the --- their safety is our primary concern, so if we look at
5 these readings over here, we figure, hey, we got possibly an explosion, we got to exit
6 the mine. We got some good data. If we look at the roof condition, it's falling or it's
7 cracked, you can see it sagging, you see it's time to leave. Well, what this bounce is it
8 seems to be that there's no way of determining when it's time to go. I mean, all we got
9 to look at is this log and trying to figure out when we can ---.

10 A. I think you got a difference --- I think you have a difference here that is not as
11 easy. It's more gray to distinguish as opposed to a fire or an explosion, or actually in
12 fires and explosions you have absolute ways, that these are what we go to and we quit.
13 In a bounce situation you're going to look at them. If you look at your logs what came
14 from the University of Utah there is no magic number that when we hit a 1.8 ---

15 MR. PAVLOVICH:

16 Oh, no.

17 A. --- we're going to back out and that's the end of it. We're in an area with
18 Crandall Canyon that is unchartered. We have never, that I'm aware of, in MSHA
19 period ever had an event of a bounce the magnitude of what we saw at Crandall
20 Canyon. We were in something brand new. The aftereffects based on my own
21 experience of what happens in a bounce situation was completely different. It did not fit
22 any cookie cutter sheet. You couldn't say that we hit 1.6, we hit 1.8 five times in a row,
23 it's time to stop and go home. Those things weren't there. We were doing the best we
24 could in this situation. Nobody wanted the second event to happen.

25 MR. PAVLOVICH:

1 I understand. And there were bumps of a greater magnitude,

2 Bob, ---

3 A. Happened before this one.

4 MR. PAVLOVICH:

5 --- that happened before this one.

6 A. I know.

7 MR. PAVLOVICH:

8 I mean, you know, it's a matter if these people had been in the
9 wrong place at the wrong time when that happened, we could have had the same thing
10 happen then. They just weren't there. If the rescue team would still be in here instead
11 of outby ---.

12 A. You would have had ---.

13 MR. PAVLOVICH:

14 Probably. If Paletta and those guys had been in Four instead
15 of over there at Two when this filled back up you probably would have had the same
16 thing then.

17 A. Yeah.

18 MR. PAVLOVICH:

19 Bob, when you first looked at this map --- you said you think
20 maybe you got one at the office that morning when you got there. You see this gob
21 extracted here and these gobs extracted here and all this mine in 2,000 foot of cover.
22 What did you think?

23 A. You have to keep it in perspective of this. Had it been somewhere else you
24 might have different opinions. Crandall Canyon was not a mine that I would have
25 thought of like an Aberdeen or some of the others. And I don't know the exact strata

1 here, but when you look at --- strictly looking at that area and that gob to me the normal
2 mining conditions you would hope that the stress has been relieved, the roof is broke,
3 it's not riding. You're still working between two gobs which has potential hazards and
4 dangers. And, again, I don't even know the major strata honestly right in this area
5 where this occurred, but the more sandstone top and bottom you got the greater risk
6 you got of something like this happening, and if you've got sandstone on top it won't
7 break up and relieve that pressure it's going to ride with you. So when I look at that I
8 don't honestly without knowing the rest of that, but I do know that --- my personal
9 feelings are that any pillar mining is more hazardous than most other mining. When
10 you pillar mine between two pillars it's even more hazardous. When you mine barriers
11 while you're pillar mining it's even more hazardous. When you cut bottom coal while
12 you're doing all that it's even more hazardous, so you got a lot of hazardous factors
13 threw into it that are probably not good. But I don't have the background information to
14 make a decision on what the plan was, send it down, what their engineering designs
15 and criteria were of when they did that would make it safe. So I could not answer that.

16 MR. PAVLOVICH:

17 Okay. In this rescue operation, who was responsible if there
18 was going to be a decision made to terminate the underground portion of the rescue
19 efforts? Who would have made that determination?

20 A. From this particular standpoint with Mr. Stickler being the senior official there, I
21 think he would have been involved with --- he would have been the one that came out
22 with it. There would have probably been a lot of discussion from whoever it originated
23 from through him to get there, but he would have been the one, I think, that made the
24 final call. Had he not been here if Kevin Stricklin had been the senior official I think it
25 would have fell to Kevin. If Kevin and Stickler hadn't been there it would have been Al

1 Davis.

2 MR. PAVLOVICH:

3 Did you get a feeling that Kevin was focused more on the
4 bumps that were occurring than Richard was?

5 A. Not really. I think there was distractions for Mr. Stickler that Kevin didn't have,
6 that he may have been able to think more along the lines, but I mean, if I look --- I
7 always look at that if he had felt that strongly about it he could have made his feelings
8 known and got it out. And I think that's part of the responsibility that all of us share. If
9 we felt something we should have passed it on, because, again, going back to the
10 distractions that Mr. Stickler had to deal with, dealing with the families, dealing with Bob
11 Murray and dealing with the press was a handful. He could not focus on everything that
12 was going on here and had to rely on a lot of other people to provide him with
13 information.

14 MR. PAVLOVICH:

15 So do you think then if you show up at a mine and you're the
16 person in charge of a rescue operation like this that you should also be doing family
17 briefings and you should also be doing press briefings, or should you focus on the
18 operation at hand?

19 A. I think you got a little bit of mixture of both. I think you have --- I don't think
20 there's anyway around it, you have to be involved in both.

21 MR. PAVLOVICH:

22 How can you?

23 A. It's tough.

24 MR. PAVLOVICH:

25 Can you? Can you do it?

1 A. You have to delegate authority to other people, and they have to give you the
2 feedback and you still have to judge it, but you're the one that's in charge from a District
3 manager. If you're at an event and, I mean, having been through Tri-Star myself in the
4 past year knowing what you have to go through with the family briefings --- and I did not
5 do every family briefing, but I did multiple ones a day. We did more there than we did
6 at Crandall Canyon, although they weren't as lengthy as Crandall Canyon's.

7 MR. PAVLOVICH:

8 Did that kind of set a precedent for that mine?

9 A. I don't know.

10 MR. PAVLOVICH:

11 Do you ever know of that being done before where the person
12 that was in charge of managing the rescue operation was also in charge of doing family
13 briefings and press briefings?

14 A. I don't know.

15 MR. PAVLOVICH:

16 You never heard of that happening before, did you, or did you?

17 A. We seem to stay out of Sago more so than most, and I think we got criticized
18 to some extent. We had the MINER Act that came out and said, these are things we're
19 going to do, that MSHA will do these things. And I think that was the precedent setting
20 piece of information. That put the onus back on MSHA to do some of these things.

21 MR. PAVLOVICH:

22 Primarily because of the misinformation at Sago ---

23 A. Yeah.

24 MR. PAVLOVICH:

25 --- that caused all this?

1 A. Now, that's the ---.

2 MR. PAVLOVICH:

3 Now, how do you --- how can you read --- family liaisons and
4 the requirements for family liaison and the law and also the primary communicator for
5 dealing with the media ---? Are you assuming that should all be the same person, it
6 should --- that it should be the person running the operation plus the family liaison
7 requires him to also be the chief communicator with the families and the chief
8 communicator with the press? Do you think that's ---

9 A. I don't know that it ---.

10 MR. PAVLOVICH:

11 --- what those laws require?

12 A. I don't think that in a lot of situations it would require that to be the same
13 person.

14 MR. PAVLOVICH:

15 Do you think it would be?

16 A. No, I said I don't think it would require ---

17 MR. PAVLOVICH:

18 Oh, you don't think it would be.

19 A. --- to be the same person, but it's sad ---.

20 MR. PAVLOVICH:

21 Why do you think it would be here?

22 A. Well, that's what I'm trying to get back to. I think the sad part is sometimes we
23 get in there and I can only --- I am ---. You don't know how glad I am that I wasn't the
24 one that had to be doing something of this at Crandall Canyon. After having went
25 through it at Tri-Star, my personal opinion on that is that I think it benefited the family

1 and for me that meant something, that they got value from a chief --- the person
2 running the operation, telling them this is what it is, so that there was credible
3 information passed on to them. The press briefings that would be from my personal
4 experience, while I did not have that negative an experience on the press I think I was
5 lucky at Tri-Star. But I would rather that be somewhere else, and as far as the family
6 briefings, I don't think that the person running the operation, just from personal
7 experience, should have to do that very often, but maybe once a day to specifically talk
8 with the families to comfort them. Knowing that the person who is running the
9 operation trying to save their loved ones they get a face to look at, they can ask the
10 questions. I think that benefited them, and I would support that happening.

11 MR. PAVLOVICH:

12 Do you think it made them feel better?

13 A. I think they felt more credible than opposed to somebody who really didn't
14 know what was going on.

15 MR. PAVLOVICH:

16 Do you think they really knew the difference much between
17 MSHA and ---?

18 A. Yes.

19 MR. PAVLOVICH:

20 You think so?

21 A. Personally I do because the families have discussed with me since then how
22 much they appreciated my time and taken my time to tell them what was going on.

23 MR. PAVLOVICH:

24 No, I mean --- you're talking at Tri-Star?

25 A. At Tri-Star.

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MR. PAVLOVICH:

I'm talking at Crandall.

A. At Crandall I think there was --- it started off completely wrong to start with. I think Mr. Murray set the tone early that alienated the family somewhat, and we had to clean up behind and try to reestablish some credibility with the families at that point.

MR. PAVLOVICH:

You made a statement earlier, Bob, that family briefings and the news briefings started about 8:00 and ended about 2:00?

A. Roughly. And I don't know the hour.

MR. PAVLOVICH:

That's basically six hours? And then they started again at 5:00 in the evening and went how long then? They were it seemed to me shorter in the evenings.

MR. PAVLOVICH:

Okay. So still a couple of hours?

A. Yeah.

MR. PAVLOVICH:

So we're talking eight or nine hours maybe of family briefings and media for the decision making people of this operation?

A. Agreed.

MR. PAVLOVICH:

How many hours a day can they conceivably work? More than nine I would imagine, but how many? I mean, I know there's 20 --- you think there's 25 in a day, but it's what you spent; right? But there's really only 24.

A. No, but I do think you got to steer away from making a statement on their

1 situation that would cover every situation. And I think, again, going back to ---.

2 MR. PAVLOVICH:

3 You have to stay away from what now?

4 A. From making a general statement that what happened here was completely
5 wrong, because I don't think it was.

6 MR. PAVLOVICH:

7 I don't think anybody is saying that. I'm just asking your
8 opinion on that particular matter. Do you think that it --- do you think that as a decision
9 maker on this property that it would be feasible to expect that that person could also
10 spend probably eight or nine hours a day briefing families and media, plus managing
11 what was going on here?

12 A. I think ---.

13 MR. PAVLOVICH:

14 Do you think that's feasible to expect?

15 A. In normal conditions I'd say no, but I think we got stuck in making this condition
16 here with Crandall Canyon that we got off wrong and with Murray making the
17 comments that he made to the families and to the press that it took us a while to get
18 back up and straighten out a relationship with both people to try to get something going.
19 To ask me to further that in general if you had something like this happen again ---
20 there's a little bit of difference here. You had three top people, Stickler, Stricklin and
21 Davis here, which all three didn't have to do those things, that could --- two of --- the
22 other two could have been focused more into the involvement in here, and I think to
23 some extent they were. But if you're asking to put that off on one person doing this, no,
24 there is no way.

25 MR. PAVLOVICH:

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MR. PAVLOVICH:

But you could have --- if Al was in charge you maybe could have talked to Al about it?

A. No, that's not what I meant.

MR. PAVLOVICH:

Well, I'm asking you.

A. Yeah. What I meant by that is if we're sitting in a room and all of you all are my friends and I feel comfortable talking to you about certain things, ---

MR. PAVLOVICH:

Okay.

A. --- there's some things that you got to be really close to me before I'm going to feel comfortable about mentioning it. I have to know you really well.

MR. PAVLOVICH:

So you ---

A. And I don't know that many ---.

MR. PAVLOVICH:

--- feel that you knew Al that well ---

A. No.

MR. PAVLOVICH:

--- that you could mention that to him?

A. No.

MR. PAVLOVICH:

Okay.

A. There are some things that just to me I couldn't --- Ted Farmer and I go back a ways.

1 MR. PAVLOVICH:

2 Okay.

3 A. And I could talk to Ted about some of those things that happened.

4 MR. PAVLOVICH:

5 Okay.

6 BY MR. TEASTER:

7 Q. Bob, there was one --- at least one occasion where an inspector, an MSHA
8 inspector, called out to the command center and made a statement, it was loading up.
9 The person in the command center asked the inspector if he was calling off the rescue
10 operation, and this was putting pressure on the inspector to make this decision to shut
11 it down or not to shut it down. Are you aware of this?

12 A. No. But I would encourage the inspectors and I have in the past. They're
13 underground. They are the eyes, they're the ones that if something is not right stop it,
14 get it fixed. I would encourage them that if they --- by loading up I'm assuming that
15 we're talking about it's loading up enough to bounce again. That they would have the
16 same courage they have in writing an unwarrantable failure order, an imminent danger
17 order, that they would have that same courage to say, no, we've got to stop and see
18 what's going to happen. And not shut it down completely maybe until we reevaluate it,
19 but if it's not safe, stop it right now and let's not get anybody hurt.

20 MR. PAVLOVICH:

21 But you think when you got that information from the command
22 center is that something that should have been passed on up to the decision maker,
23 that this inspector said it's loading up and at least ---?

24 A. I would think so.

25 MR. PAVLOVICH:

1 supports, set on two and two-and-a-half foot centers with chainlink fencing and cables
2 in there was the best options we had at the time to do this try to and keep the
3 ---. I don't want to say it's an entry because it's a huge entry, but the panel or the
4 opening between the loose coal that we're working in to keep that open. And I think
5 that was the best option we had at that time. The coal at that point became support for
6 the ribs itself and the more we took out, it created more potential so that narrow barrier,
7 not getting into the bottom, not getting off, staying with that narrow entry up there, I
8 thought was the best options we had.

9 Q. Okay. Do you know whose decision it was to use these supports, whose
10 decision it was ---?

11 A. I think it was discussed. And, again, this is the best that I can remember, up
12 front to begin with was with the company, what do we have, what can we do. And they
13 had the props and timbers was discussed, although that didn't seem to be the best
14 option, so we went with the props and the chainlink and the cable.

15 Q. Did you have any other ideas at that time for other types of supports that may
16 be used and discounted in favor of the rock props?

17 A. No.

18 Q. Do you know if anybody solicited some suggestions from MSHA people there,
19 inspectors, supervisors about the use of roof supports?

20 A. I don't know. Bill Taylor would have been --- from the field office would have
21 been involved in those discussions early on. And I got to think Bill would have made
22 his feelings known if he disagreed or agreed.

23 Q. And you didn't hear any discussions on an alternate system?

24 A. No.

25 Q. Do you know if Agapito was ever on site?

1 A. No, I don't know.

2 Q. Did you ever hear any discussion or talk about whether or not to bring them on
3 site?

4 A. No, I did not.

5 Q. Do you feel that everyone had the idea that they could make a suggestion at
6 any time and it would be given some consideration as to whether or not it would help?

7 A. Yes, I do. And I base that on the one meeting that I sat in personally for me.
8 And I know Mr. Stickler asked me in particular if I agreed with what was being said and
9 my comments on it and I agreed. The only --- I think the only issue I had was to make
10 sure we --- when we train the people on the plan that we're using, that we keep it in
11 focus that we keep it narrow and we stay out of the bottom. That was the only
12 difference that I had.

13 Q. How familiar are you with the rock props that's being utilized at the Aberdeen
14 mine?

15 A. Not greatly familiar. I mean I know they're used, but to say, I don't ---.

16 Q. Who would you say, from MSHA, would have the most knowledge on how
17 effective those supports have been?

18 A. Billy Owens.

19 Q. Billy Owens?

20 A. I thought --- you were saying from MSHA or District 9?

21 Q. From MSHA.

22 A. From MSHA?

23 Q. Well, District 9.

24 A. District 9, I would think Billy Owens.

25 Q. Who else from MSHA do you think would have more ---

1 A. Tech Support.

2 Q. --- personal knowledge about the effectiveness of those things?

3 A. Tech Support.

4 Q. Do you think our inspectors being there on a regular basis and seeing whether
5 they've been knocked out or if they was being effective ---?

6 A. I think they would have input into it, specific --- probably operation, but overall, I
7 don't know that they would have any more input or knowledge than experts in that area.
8 They would have site-specific knowledge.

9 Q. That's what I'm talking about, site specific. On the effectiveness of them, I
10 mean, I can see where you need some technical expertise to try and determine what
11 might best work, but then when you see it in practical application, our inspectors are in
12 those mines on a frequent basis. Billy Owens has been around --- you know, involved
13 in ---. Do you know if any of those folks have been consulted as to how effective these
14 things have been?

15 A. I don't know exactly who all, but prior to the meeting that I attended on the
16 dayshift, that when some discussions were made early on with what we were
17 considering using in the beginning, I think Donnie Durrant had input into what his
18 thoughts were in on that and ---.

19 Q. Do you think Donnie Durrant had some --- at what stage?

20 A. Early.

21 Q. Early.

22 A. Early, you know we had actually a plan, prior to Zelanko and Gauna getting
23 there ---

24 Q. Right.

25 A. --- and I'm trying to scratch my brain and think back that sitting in the command

1 center that Donnie Durrant ---. I know Mr. Stickler would ask Donnie questions in the
2 afternoon when we came out and I think Donnie Durrant did have or was asked for his
3 input or his thoughts to the effectiveness of the rock props.

4 Q. Are you aware that our inspector or the MSHA inspectors observed these rock
5 props being knocked out by bumps?

6 A. There seemed to be an issue about them not being set straight at times. Being
7 knocked out, I think there was --- there was --- this is really narrow roadway for these
8 cars to go through with those rock props, and I'm trying to think of actually being
9 knocked out. And I don't remember what crosscut it was, the number, but where they
10 crossed over to go over to the belt, it seemed at that point they had knocked some out
11 and we had went back and --- I don't know if it's in one of the plans, you would have it if
12 it is, but they would allow them to go a little bit wider there, so they weren't knocking
13 props out and set the ---. I don't mean more than two-and-a-half feet or whatever
14 distance, but I mean wider than 10 or 12-foot wide that we were doing.

15 Q. Are you referring to a notation in the log, 8/15/07, Bob, 1810, it says 30 feet of
16 props knocked out at 120 crosscut, tight for cars to make the turn, requested to widen
17 and reset on two foot centers, 16 feet okay per Bob Cornett?

18 A. I did.

19 MR. PAVLOVICH:

20 Okay. So there was 30 feet of props knocked out?

21 A. That's what that note says.

22 BY MR. TEASTER:

23 Q. This is rock props?

24 A. I think it was, I don't know if they --- there was some areas where they may
25 have had timbers, but I'm not sure if that was in that area. And, again, that was in a

1 turn, if I remember right, where they made that turn. And that was a little bit ---.

2 Q. But they're saying a car knocked them down.

3 A. Yeah, that it was difficult to make that tight turn.

4 Q. Whether it's hard --- I'm not accusing them of being bad drivers, okay?

5 A. Yeah.

6 Q. I'm saying if you hit a prop with a ram car, how stout is it?

7 A. Well, if you hit it, it's probably going to knock it out.

8 Q. That's what I mean. Is the ram car --- could it exert more force than a bounce?

9 A. No, it depends on the bounce, but I mean you know ---.

10 Q. I mean, you've seen shears broke in half before; right?

11 A. Yeah. So if you take that prospective --- and I think, though, that from what
12 we're looking at, when you talk about a bounce that breaks a shear in half, you don't
13 have a barrier of coal --- loose coal between that shear and that face, you're getting a
14 direct blast that, to me, in my mind ---.

15 Q. So what you're saying is, that they felt like that they weren't cleaning all the way
16 to the rib, they were leaving a barrier of loose coal?

17 A. Yeah.

18 Q. Okay.

19 A. Because the coal at that point is the support for the ribs. Even though it's loose
20 coal, it's still the support for what ribs are left there.

21 Q. It would be before you took the middle out; right?

22 A. Yeah. And when you take the middle out, what's still over there is still a type of
23 support for the ribs, it's not as strong as whatever, I mean, but it still is part of that
24 support.

25 Q. Okay. Are you familiar with the use of cans?

1 A. Somewhat.

2 Q. If they're properly installed, which would you say would be the most difficult to
3 be taken out by the ---?

4 A. The can would be the most difficult to take out, but in this situation I don't think
5 that was a good approach to take. To put the cans in you had to widen those entries
6 wider than what we were doing. And we were trying to keep them as narrow as we
7 could.

8 Q. Are you aware of a bounce knocking out cans?

9 A. Not completely knocking 'em out, no.

10 Q. I think that there's been some evidence that this occurred --- inspectors have
11 seen them. I can't quote you the site, but I think that's ---.

12 A. I would think that some of the bounces that I've been involved with, looking at
13 the magnitude, including probably --- and I didn't see this one, but from that, had you
14 had a can sitting in there it would have probably took it out. I don't think that a can
15 would have stopped it. Now I'm talking about the initial bounce.

16 Q. Right.

17 A. I've seen --- on a tailgate in the longwalls, when you have a good bounce, that
18 normally where the cans are sitting out in the entries they're not exposed to the main
19 force like the shear --- but I've seen them damaged, not completely knocked out but
20 damaged. And I could see that if you had a bounce of a certain magnitude, it would
21 --- if it can break a shear in half, I don't think a can's going to stop it

22 MR. PAVLOVICH:

23 I don't know if anybody has ever tried or could ever measure
24 the magnitude of force that comes off of those things.

25 A. Yeah.

1 BY MR. TEASTER:

2 Q. Are you familiar with the San Juan mine?

3 A. Somewhat.

4 Q. Are you familiar with ---

5 MR. TEASTER:

6 Do you have a picture of that?

7 BY MR. TEASTER:

8 Q. --- this device that they use on installing rock props when their longwall moves?

9 A. No.

10 Q. It provides lateral support ---.

11 A. I've heard of it, but I haven't seen it. I mean, I've heard that ---.

12 MR. PAVLOVICH:

13 Did you hear about it prior to the August 6th accident involved?

14 A. You know, probably. I can't tell you that, but I'm sure I did because since
15 August 6th I really haven't been at --- well, actually since January I haven't been in the
16 district, so I would have had to have heard about it before then.

17 MR. PAVLOVICH:

18 Would they use those with that double prop system, one on an
19 angle for lateral support?

20 A. You could, probably.

21 MR. PAVLOVICH:

22 I mean, is that what San Juan uses them for, do you know?

23 A. Somewhat.

24 MR. PAVLOVICH:

25 Do they have it in their plan?

1 A. Yeah.

2 MR. PAVLOVICH:

3 They do. Was it ever considered to use something like that?

4 A. Not that I'm aware of.

5 MR. PAVLOVICH:

6 Did anybody ever talk to San Juan?

7 A. I don't think so, but I'm not aware of it.

8 MR. PAVLOVICH:

9 Did San Juan ever offer help, that you knew of?

10 A. Not that I'm aware of

11 MR. PAVLOVICH:

12 . Did any of your inspectors ever mention to anybody that this is
13 a possibility it might be better than just an individual rock prop?

14 A. Not that I'm aware of.

15 MR. PAVLOVICH:

16 Okay. But you don't know of any of that?

17 A. No.

18 BY MR. TEASTER:

19 Q. How were the rock props anchored in on the ends of these wire ropes?

20 MR. PAVLOVICH:

21 How were the wire ropes secured on the last prop?

22 A. To be honest with you, I don't know. I would assume that they were clamped,
23 but I don't know.

24 MR. PAVLOVICH:

25 So wrapped around the end and then clamped back ---?

1 A. Yeah.

2 BY MR. TEASTER:

3 Q. Do you know how they were anchored in Aberdeen?

4 A. Not right off, no.

5 Q. Do you know if they were wrapped completely around the block?

6 A. It's been years since I've been to Aberdeen and those situations and I don't
7 recall even seeing 'em at Aberdeen, so I don't know how they would have done it.

8 Q. Do you know if there was any other method considered in anchoring the wire
9 ropes to the end?

10 A. No, I don't.

11 Q. Do you think the decision makers from MSHA was relying on tech support to
12 tell them when it got too dangerous to continue the operation?

13 A. Partially, probably. I mean, definitely if they had came and told us, this is
14 getting too bad, you don't need to be doing this, I think we would have listened.

15 Q. Do you think that's putting a little more pressure on them?

16 A. Well, it doesn't matter who's making that decision, it's putting more pressure
17 on 'em, I guarantee you. Whether it's an inspector or whether it's tech support,
18 whether it's a supervisor, whoever makes that call, yeah, they've got more pressure on
19 them.

20 Q. How do you view tech support for all --- the situation such as you had at
21 Crandall Canyon?

22 A. I think they have to give us advice on what to do, if it's in their expertise.

23 Q. So they give you the advice and what you do with that advice is up to the
24 decision makers?

25 A. Yeah, most of the time. I don't know that I've ever seen when we didn't take

1 their advice.

2 Q. So if tech support normally tells you to do something, you think that the
3 decision makers normally always do them?

4 A. They listen to it. If there's --- I mean, I said a minute ago that, you know, I don't
5 know that we wouldn't take their advice. We would at least consider it. I'm not aware
6 of situations where we didn't do what they asked to do, but I'm aware there could be
7 some things, like if you're at ---. And I'll go back to the mine fire at West Elk and we're
8 sitting and discussing issues and comments are being made about things that rescue
9 team members do. You have five --- working five at the fresh air base underground
10 and five on the surface as backup. And making suggestions like that don't really match
11 the law. While we would consider it, I don't know that we would say, yeah, you got to
12 do that, but it'd be something we would think about.

13 Q. What if tech support came to decision makers there and said, we think that this
14 mountain is too unstable, we need to discontinue underground operations there?

15 A. I think we would have discontinued underground operations.

16 Q. So then it was in effect waiting for them, the decision --- they would have had to
17 make the decision?

18 A. No, they didn't have to make the decision.

19 Q. No, I'm saying, you were relying on them to tell you when it was time to go?

20 A. No, that's not what I'm getting at. I'm saying that I think --- my personal
21 opinion, if an inspector said, it is too dangerous, that my personal opinion is we would
22 have stopped right there and if we'd had to take tech support in and look at it and say,
23 okay, what do you think, give us your opinion. We look at it, evaluate it as a group, and
24 say, okay, yes, it's too dangerous and we're not going to do it, I think an inspector could
25 have done that. I think tech support going in and look at it, had they done it on their

1 own and said you need to quit, it's too dangerous, we would have quit. I think had an
2 inspector done that, we would have quit until we evaluated it further and seen what we
3 thought and then went from there and if it said it's too dangerous, we would have quit.

4 MR. PAVLOVICH:

5 So you think if an inspector had said it, everybody would have
6 taken it into consideration?

7 A. Yes.

8 MR. PAVLOVICH:

9 How about a company man? And you know what my next
10 question is.

11 A. No, I don't really know. And I'm thinking, okay, that you get somebody that
12 does not have ---

13 MR. PAVLOVICH:

14 Well, I mean ---.

15 A. --- the knowledge of what's going on, somebody that's setting outside has
16 never seen it or whatever ---.

17 MR. PAVLOVICH:

18 No, I'm talking, you know, the guys in there.

19 A. Okay.

20 MR. PAVLOVICH:

21 We're talking about the guys in there.

22 A. That guy that's in there works ---.

23 MR. PAVLOVICH:

24 You've got inspectors in there, you've got company people in
25 there, you got miners in there. If anybody had said, I think it's too dangerous ---?

1 A. If they'd have approached an inspector and told him, I think it's too dangerous
2 and explained what they was doing and he agreed, I think we would have pulled off.

3 MR. PAVLOVICH:

4 What about the miners that withdrew? They were experienced
5 miners. They'd probably been through ---.

6 A. Let's go back and throw it into another situation. Again, when you're in a
7 rescue operation there are certain people that want no part of that.

8 MR. PAVLOVICH:

9 That's true.

10 A. And to say that just because one says, I'm not going to do that, that you quit
11 doing your rescue operation, that doesn't happen.

12 MR. PAVLOVICH:

13 What if 12 said ---?

14 A. I don't know.

15 MR. PAVLOVICH:

16 Well, I mean did anybody ask?

17 A. Not that I'm aware of.

18 MR. PAVLOVICH:

19 Okay.

20 A. I wasn't aware that 12 came out adamantly and said, I'm not going to go back
21 in. There may have been people saying, I don't feel comfortable, it seems too
22 dangerous to me and I'm not going to work.

23 MR. PAVLOVICH:

24 I realize that.

25 BRIEF INTERRUPTION

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MR. PAVLOVICH:

Who is that?

A. That's me. I thought I turned that thing off.

MR. PAVLOVICH:

Do you need to answer it?

A. No.

MR. PAVLOVICH:

Are you sure?

A. I'll let it go.

BY MR. TEASTER:

Q. What do you think the role of the family liaison person was at this operation?

A. I think the role of the family liaison, to me, is to be with the families, to be personable, get to be a human being with them to try to make 'em feel at ease, to gather information for them, to talk to them continuously, to be there 24 hours a day, if possible. Especially in this situation here, you've got a group that's in a building --- a school building, that's sitting here, you have a family liaison there available that if any of them want to come and talk, if any of them want ---. They kind of got to be a little bit of a psychologist, to me, to be able to sympathize with 'em, to talk with 'em. I think that's, to me, what their role should be. And also if there's questions that they get from the family liaisons because they develop a better --- closer relationship with the families, that the families feel more comfortable to come and ask them questions than they would somebody that comes down once or twice a day. I think that's their role to do things like that.

MR. TEASTER:

Well, Joe and I came in cold on the MINER Act and we've

1 read that. When we read it --- well, I can speak for myself, but when I read that thing I
2 seen this family liaison as a person that's going to provide the information to the
3 families. That's their primary function is to get them up to date, accurate information
4 and make sure that he coordinates that information with the person that's going to
5 communicate with the press, so that the families are given the information first. That
6 and even the --- there's a piece of paper out that talks about some about the duties that
7 they're not supposed to do, and some of which include what you said there, they're not
8 to be the psychologist. They're there to provide information to provide --- to make sure
9 that the information they get is the correct information, it's up to date and it's on a
10 frequent basis. Now, Joe, is that your way of looking at it?

11 MR. PAVLOVICH:

12 It basically says you're not a counselor.

13 MR. TEASTER:

14 Right.

15 MR. PAVLOVICH:

16 You're here to provide accurate, concise information to the
17 families. I mean, that's currently what MSHA's policy says, as far as their outline of
18 what the family liaison duties are. And they were all given training by the MTSB, to my
19 knowledge, in regard to that.

20 A. Okay.

21 MR. PAVLOVICH:

22 I mean that's what it says.

23 BY MR. TEASTER:

24 Q. But do you see ---?

25 MR. PAVLOVICH:

1 I don't know if any of us would be qualified to be a counselor.

2 A. Yeah.

3 MR. PAVLOVICH:

4 You've got to be a professional.

5 A. I don't mean they counsel, I think they should listen.

6 MR. PAVLOVICH:

7 I think they should certainly provide accurate information and
8 answer questions truthfully and accurately that people have. I mean, that ---.

9 BY MR. TEASTER:

10 Q. But your understanding is that you're talking about two people, when you're
11 talking about somebody to provide this accurate up-to-date information 24 hours a day
12 and you would have somebody else to come in and provide them a briefing twice a
13 day?

14 A. Okay. I've had two different experiences with family liaisons, Tri-Star and
15 Crandall Canyon, and they've known a little bit different. At Tri-Star they went down
16 every hour and met with them and they came up and gathered information at the mines
17 and went back and talked with the families.

18 MR. PAVLOVICH:

19 And who was doing that, Bob?

20 A. I wish I could remember. I know it ---.

21 MR. PAVLOVICH:

22 I mean it was, not you, I mean it was somebody that worked
23 for you there at ---

24 A. Yeah.

25 MR. PAVLOVICH:

1 -- at the district and ---?

2 A. And trained liaisons from other districts that came in.

3 MR. PAVLOVICH:

4 Okay. So they physically came up to the mine, got accurate
5 information, went back and presented it to the families?

6 A. Yeah, they did not meet with the press.

7 MR. PAVLOVICH:

8 And they did not meet with the press, okay.

9 A. They met with the families.

10 MR. PAVLOVICH:

11 Their job was to meet with the families?

12 A. Yes. And I went down ---

13 MR. PAVLOVICH:

14 Okay.

15 A. --- every other trip and gave a little brief update on where we were at to the
16 families and I just felt that was the right thing to do.

17 MR. PAVLOVICH:

18 Okay.

19 BY MR. TEASTER:

20 Q. Did that information ---?

21 A. Crandall Canyon was different.

22 MR. PAVLOVICH:

23 It was different? Okay.

24 BY MR. TEASTER:

25 Q. Did that information differ from what the family liaison had shared with them?

1 A. What I gave them?

2 Q. Yes.

3 A. No. I've got to assume --- I wasn't there when I wasn't there, so I don't know
4 what they told them.

5 Q. Well, assuming that they got the information, ---

6 A. Yeah.

7 Q. --- you said they came up on an hourly basis, got the information and assumed
8 they took it back and shared it, ---

9 A. Yeah.

10 Q. --- that was the same information that you shared with on the briefings, ---

11 A. Yes.

12 Q. --- so just kind of to reinforce what they were doing?

13 A. Other than that the families could ask me some more specific questions about
14 what we were doing, that I could give a better explanation than the family liaison
15 because I was there while it was going on.

16 MR. PAVLOVICH:

17 Okay. Were you ever down with the families here at Crandall,
18 Bob?

19 A. The only times I was with the families there was I had to catch a ride up with
20 Carla Marcum ---

21 MR. PAVLOVICH:

22 Okay.

23 A. --- to catch Ted Farmer, from there on to the mines. And sometimes it may be
24 15 or 20 minutes before Ted would get there and I'd be around. But the family liaisons
25 at Crandall Canyon stayed ---. They didn't come to the mines, they pretty much stayed

1 right there at the facility with the families.

2 MR. PAVLOVICH:

3 So when you were they, did they ever ask you any questions
4 or ---?

5 A. Carla always asked me questions.

6 MR. PAVLOVICH:

7 No, I mean the families.

8 A. Oh, no.

9 MR. PAVLOVICH:

10 Okay.

11 A. Other than I ---.

12 MR. PAVLOVICH:

13 I mean, you just basically had come in for a few minutes?

14 A. They didn't know me from anybody and didn't bother me at all.

15 MR. PAVLOVICH:

16 All right.

17 BY MR. TEASTER:

18 Q. Do you think the role of the family liaison here at Crandall Canyon was
19 influenced in any way by the presence of Stricklin or Stickler?

20 A. I think they were doing the same thing when Al was there, I don't think that that
21 had any impact on it. I mean, they started out that's what they were doing and I don't
22 think it changed anything when Stickler and Stricklin showed up.

23 Q. How was the information from the command center conveyed to the family
24 liaisons?

25 A. They --- I don't know about other shifts, Carla Marcum would call me every

1 hour and ask me for updates and that's --- and if she had any questions that had come
2 up, they would ask Dan and we'd try and get an answer for 'em. I know one of the
3 family members was working on a drill rig and he had asked what kind of drill bit they
4 had and I didn't know, so we asked and got an answer for him and told him what kind
5 of drill bit they had.

6 Q. Were the liaisons allowed to pass on information to the families, any type of
7 information, or just what was provided in the form of briefings?

8 A. I don't know. I don't know what they passed on because they were ---.

9 Q. Well, for example, he was interested in a drill bit ---?

10 A. They passed it on.

11 Q. They passed it on?

12 A. Yeah.

13 Q. How do you feel that the family members and their representatives were
14 treated?

15 A. Overall, I think Mr. Murray set a bad tone, from --- I think he got agitated and if
16 you're going to talk to family members, you've got to be sympathetic and know what
17 they're going through and you can't get aggravated and get mad at them. And I think
18 he did and I think that set the wrong tone. And I think the family members didn't
19 appreciate it and it got us off of track to start with in working with the family members.

20 Q. Are you aware of any confrontations resulting from ---?

21 A. Just hearsay. I was not there to see any of it, so I couldn't explain, but some of
22 the hearsay that I'd heard; one of them had a question about a map and Mr. Murray
23 told him, you wouldn't understand it if I explained it to you anyway, so I'm not even
24 going to bother.

25 Q. Do you know what the families were told about what had happened

1 underground, involving this extent of it and what had transpired?

2 A. No.

3 MR. PAVLOVICH:

4 Do you think when Murray told things like that, Bob, or if he
5 told things that were --- what you felt were incorrect, like an earthquake or no pillar
6 mining going on, that MSHA corrected those things?

7 A. I wasn't involved. I would hope we did, but I wasn't there to see what was
8 said ---

9 MR. PAVLOVICH:

10 Okay.

11 A. --- to the families or anything, so I don't know what ---

12 MR. PAVLOVICH:

13 Okay. So you were ---?

14 A. --- transpired.

15 MR. PAVLOVICH:

16 You weren't there, okay. You were never there when one of
17 those briefings was ---?

18 A. Just one time, and that wasn't --- there wasn't even very many questions asked
19 and I couldn't remember what was.

20 MR. PAVLOVICH:

21 Okay.

22 BY MR. TEASTER:

23 Q. Did you notice whether or not there was a map down there of this area?

24 A. I believe they had one on the wall. And the reason I say that, I think they were
25 marking it up as the --- every time they called every hour, they'd mark it up so the family

1 members would look at it and see if we'd have moved 20 feet, they'd mark it up 20 feet
2 and that's where we were at.

3 Q. So just advanced ---. Did they try to put the extent of the outby areas or ---?

4 A. I don't know if it did or not.

5 Q. Just the advance?

6 A. I think it was the advance, but I don't know, I didn't spend a lot of time there.

7 Q. Do you know if the names of the trapped miners was provided to the family
8 members?

9 A. No, I don't know.

10 Q. Did you ever hear of the fact that there was some of the family members that
11 were not sure whether their loved ones were in there or not?

12 A. No. I'm not aware of it. I don't know.

13 Q. Did you know that there was one woman that was not told for three days that
14 one of the missing miners was her husband?

15 A. No, I'm not aware of that.

16 Q. Do you have any idea how that could have happened?

17 A. No.

18 Q. Did any of the families ask you any questions?

19 A. No.

20 Q. Did you ever get any feel from what the reaction was from the family when they
21 were first told that the oxygen content in that number one borehole was 20 percent?

22 A. No.

23 Q. Did you ever get any feel for what it was when they were given the correct
24 reading ---?

25 A. No. I can only imagine. I don't know.

1 Q. Do you feel the needs of these non-English speaking people's family members
2 were met, they could communicate and was told what was going on?

3 A. I believe they were, but I wasn't down there, so I can't answer that, but I know
4 that there were Spanish-speaking people provided there to talk with 'em.

5 Q. Do you know how long it took to get someone down there that could interpret
6 for them?

7 A. No, I don't.

8 Q. Do you know if the interpreter was available around the clock?

9 A. No, I don't know that either.

10 Q. What do you know about the family members going underground?

11 A. I know they went underground.

12 Q. Do you know who gave approval for them to go underground?

13 A. Not directly. I didn't give them approval. I'm assuming that Mr. Stickler did.

14 Q. Do you know what the purpose of them going underground was?

15 A. Do I --- not firsthand, no. I think it was so that it made the family members ---
16 gave them a little more information and credibility that they felt better about what we
17 were doing, that they understood what we were doing.

18 Q. Do you think that set a precedent? You don't believe we should allowed them
19 to take the family in with us?

20 A. I've got to back up because at Tri-Star we had an incident where unbeknownst
21 to anybody the son of the owner took --- one of the families took three members up
22 there and let them look at the site, and there was an uprising of the other families. So
23 when I found out about it and was told, we got a real problem, I went back down and
24 told the other family member, you pick three members and I'll take you with me, we're
25 not going to go and get you in danger, but you can see what we're doing, we're not

1 treating you any different. That may have been the one that set the precedent. But at
2 this one, I think it set a precedent maybe because underground is different than
3 surface, way different than surface. Good or bad, I can't answer that. But it may have
4 set a precedent.

5 Q. Do you know if a K order was modified to allow these family members
6 underground?

7 A. Specifically, I don't know that it was. I would think that it was, but I don't know
8 that.

9 Q. Do you think it's a violation of 103(k), which talks about people necessary to do
10 the work?

11 A. I think it could be. But, since we were the one that issued the K and we were
12 the one that allowed them to go underground, I don't know what we'd do about it.

13 Q. Did you or anyone else discuss this with Mr. Stickler?

14 A. I don't know. I didn't. The only discussion I had, and it wasn't really a
15 discussion, is when the media showed up, the company came up, I was in the
16 command center and one of the company people came in and said, well, the press is
17 here and ready to go underground. And I said, they're not going to go underground.
18 And he looked at me really funny and said, well, they're been told they can go
19 underground. And I said a K order is not going to allow them to go underground.

20 And it was --- I tried to call --- the phone service was extremely poor and I tried
21 to call Al, Kevin and Mr. Stickler and couldn't get anybody. And I told Ted, don't let
22 them go underground, and I'm going to find out --- because they had to do training
23 anyway and so they were training them while I was gone. And I met Kevin and Mr.
24 Stickler coming up the hill to the mines and I asked them --- told them that the medias
25 up there wanting to go underground and I don't know about this. And they said, it's

1 okay, we've told them they can go underground.

2 Q. Do you think it's a good idea for family members to go underground?

3 A. Personally, no. There's a different situation. These two guys were trained
4 miners, it's not like just somebody off the street going underground, but it's probably ---
5 if the morale, I think for the workers that the mines was not --- I don't think it was
6 beneficial there, not to the workers. It may have been to the families, but not to the
7 workers.

8 Q. Do you know if something would have happened to those family members, and
9 those things are always possible because you work in there, as you said earlier the
10 environments that you're working in is somewhat hostile and you have to minimize the
11 exposure. Do you know if anybody in MSHA voiced any concerns to the decision
12 makers about whether or not this family member should be allowed to go underground?

13 A. I don't know.

14 MR. PAVLOVICH:

15 Ted Farmer ever say anything to you about it?

16 A. To me, he did. But you asked to the decision --- unless you're considering me
17 a decision maker.

18 MR. PAVLOVICH:

19 No, no. I mean did Ted ever say, here's what I said or that I
20 said anything about it?

21 A. To Stickler?

22 MR. PAVLOVICH:

23 Yeah.

24 A. No. He never did mention to me that he had talked to Stickler about it.

25 MR. PAVLOVICH:

1 A. That you have people who have lost their loved ones and they're mad, that they
2 would say that, yes, that sounds reasonable that they would say that.

3 Q. How would you describe Mr. Stickler's role in his dealings with the families?

4 A. I think he gave better credibility to the operation than what Mr. Murray gave,
5 that what we were doing was the best thing we could do. And I think he was more
6 sympathetic to the families and the conditions they were being dealt right there than
7 what Mr. Murray was and I think he was beneficial.

8 Q. You say better, it is much better because there's ---?

9 A. Much better.
10 Ex. (b)(6) and Ex. (b)(7)(C)

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

12 A. Ex. (b)(6) and Ex. (b)(7)(C) but Mr.
13 Stickler was sympathetic to the families. He listened to them; he tried to take the time
14 to talk to them.

15 Q. Are you aware if Mr. Stickler --- or even yourself, did you ever eat with the
16 family members when they was provided food down at the family center?

17 A. I know I got water down there. I don't ever recall eating down there, but I know
18 when I would stop in, I would go in and get some water.

19 Q. Do you know if Mr. Stickler ever ---

20 A. I don't know.

21 Q. --- broke bread with them?

22 A. I don't know.

23 Q. Who would you say had the lead role in briefing the families?

24 A. Mr. Stickler.

25 Q. Initially, or would you say Mr. Murray had it?

A. Initially, I think --- I think Al kind of got blindsided into not knowing what to do or

1 how to handle Mr. Murray and let Mr. Murray take the lead, and I think that was not a
2 good situation. I think when Mr. Stickler came there that Mr. Stickler started taking the
3 lead and I think that was beneficial.

4 Q. Do you ever get the feeling or ever hear anyone say that the family members
5 considered Mr. Murray and Mr. Stickler working together, they came together, they left
6 together and they're ---?

7 A. I never heard any of that. The only observations that I would have actually --- I
8 don't think I had any observations, so I can't even say that. I don't think they rode
9 together, but they may have. The times that I saw them, Mr. Stickler came back up
10 either in his own vehicle or with Kevin or Al.

11 Q. What do you think about when Murray was making statements like we had an
12 earthquake and we didn't say that we didn't have an earthquake? What kind of
13 credibility do you think that the families gave MSHA when they saw us not contradicting
14 some of this false or misinformation?

15 A. I think it hurt our credibility.

16 Q. Once you lose your credibility, even though it changes, it's kind of hard to get it
17 back fully, isn't it?

18 A. Yes.

19 Q. Do you think the families, based on this not contradicting or not correcting
20 some of this misinformation, meant MSHA was concurring with it?

21 A. I think that's a fair statement.

22 Q. Do you know if those types of concerns was ever relayed to the command
23 center or to any of the decision makers?

24 A. No, I don't know. I don't honestly know if I understand the question, but what I
25 understand of it was that anything related to the decision makers that if we don't

1 contradict what Mr. Murray is saying, ---

2 Q. That means we concur?

3 A. --- that means we concur. I don't know that that was ever officially brought
4 forward.

5 Q. Do you feel Bob Murray was the primary communicator with the families?

6 A. Do I feel ---?

7 Q. Do you believe MSHA ---?

8 A. Should be or was?

9 Q. Was.

10 A. In the beginning, I think he was. After Mr. Stickler got there I think he started
11 taking a little bit more of a backseat.

12 Q. Do you think that happened on his first appearance or that took some time
13 for ---?

14 A. No, I don't think it happened the first appearance. I think there was some
15 discussions that I don't know actually happened, but I would believe happened, that
16 MSHA is the primary communicator, you need to take a backseat. And I think what
17 little bit that I could see, and I didn't get to see a lot of it, was that we started having a
18 plan that we got up and made our comments, other people made their comments, but
19 we started taking the lead at that point.

20 Q. What do you think we should do, in the future, if this should happen again
21 when the company's giving out misinformation?

22 A. I think you got a delicate situation there, and I think in all honesty, not a simple
23 answer, but the simplest I can give you is that I believe we should be honest in our
24 comments that we make. and if it's misinformation, we should correct that as politically
25 correct as we can. I don't think we can become confrontational with the operator in

1 front of the media or with the families, but I think we need to correct it amicably, if
2 possible.

3 Q. Do you think --- was any consideration ever given to holding separate briefings
4 with the family?

5 A. I don't know that there was, but I would think there was. I don't know.

6 Q. What makes you think there may have been?

7 A. From the approach Mr. Murray was taking, some of the things he would say, I
8 think that had I have been in those shoes, I would not have wanted to been tied directly
9 into what he was saying. I think my personal self, I would have separated from him and
10 gave my own version.

11 Q. Now, you attended one of the briefings. How do you characterize that briefing
12 that you attended?

13 A. I thought it went smoothly.

14 Q. And it was led by ---?

15 A. Mr. Stickler.

16 Q. And was Mr. Murray there?

17 A. Yes.

18 Q. And how would you describe his interaction?

19 A. More subdued than I had seen on television.

20 Q. Do you know about what point that was in the rescue effort?

21 A. Probably within the first three or four days.

22 Q. Were you around the families when they were told that the rescue operations
23 was going to stop?

24 A. No.

25 Q. Was you around when the family was briefed of the bump that occurred on the

1 16th?

2 A. No. Not with the families, I was at the mine.

3 Q. Not with the families. Were you at the briefing with the families when they were
4 told that there was not any hope of finding the missing miners?

5 A. No.

6 Q. Let's switch over and talk about the press. You attended the one press
7 briefing, I think you said?

8 A. That's all.

9 Q. And what was your role?

10 A. I was just observing what was being said. I'd been --- Kevin had told me that
11 Mr. Stickler felt comfortable, that if he had to be, he trusted me to do briefings with the
12 press if I had to. And at that point I asked to let me get involved at least once to see
13 what you go through before you guys meet --- what you discuss and who's going to do
14 what prior to meeting with the family and prior to going to the press, and all I did was
15 observe what went on.

16 Q. How would you characterize Mr. Murray's role in that briefing?

17 A. Mr. Murray listened to what Mr. Stickler told him and didn't disagree.

18 Q. Mr. Stickler's role was the lead role and ---?

19 A. Yes.

20 Q. What do you think of doing when erroneous information was given by Murray to
21 the press, such as this wasn't retreat mining, earthquake?

22 A. Ask me the first part.

23 Q. What do you think MSHA should do when this erroneous information ---
24 misinformation is given to the press, such as Mr. Murray stating that this was not retreat
25 mining, earthquake, get them out in three days --- seven days, whatever it was he told

1 the families, told the press?

2 A. You're asking me a question that a million times I've been glad I didn't have to
3 be asked at the family briefings or anywhere. I personally --- and I think you're asking
4 me for a personal opinion here --- in my personal opinion, I would have had a very
5 difficult time working with Mr. Murray on any briefings with the family or with the press
6 and under some of the conditions, right and wrong or indifferent, I don't know that I
7 could have stayed there and been a part of that.

8 Q. Any thoughts of what you would have done?

9 A. Left.

10 Q. Just left?

11 A. Yes. And if I had been forced to go back, I don't know what I would have done,
12 other than to say, this is Mr. Murray's opinions, and his opinions only, these are not
13 what MSHA's viewpoint is.

14 Q. So would you consider a separate briefing?

15 A. I think I would have had to. That would not have been a pretty situation, when
16 you're trying to work through the rescue operation. That's why we've got to have
17 cooperation. But that to me would have been --- I'm not everybody, but just me, that
18 would've been what I would've --- think I would have had to have done. I don't know
19 that I could have given the impression that I agreed with what he was saying.

20 Q. To your knowledge, did Mr. Murray give out any misinformation on that briefing
21 that you attended?

22 A. No.

23 Q. Did you ever know of an occasion where Mr. Stickler corrected the
24 misinformation that was given by Mr. Murray ---

25 A. I don't know.

1 Q. --- during the first briefing?

2 A. I don't know.

3 Q. Do you know why the media was permitted to go underground?

4 A. Not fully, no. I don't know the exact reasoning why they were allowed to go
5 underground.

6 Q. What's your understanding?

7 A. I don't know that I have an understanding of that. Other than --- I don't really
8 have an understanding of it, that's the best answer I can give you.

9 Q. Okay. Do you know if the K order was modified or a plan submitted to allow
10 the press to go underground?

11 A. I think so, but without looking at the records, I couldn't guarantee it.

12 Q. Do you think the press going underground was within the requirements of
13 103(k)?

14 A. No.

15 Q. Do you know who gave the permission?

16 A. Mr. Stickler.

17 Q. Do you think we should have let them go?

18 A. My personal opinion is no.

19 Q. Do you see any merit in having them go underground?

20 A. The only merit that I could see is that the families could view in a video what
21 was actually going on underground and could get a better appreciation for the work that
22 the people underground were doing.

23 Q. Did any MSHA personnel voice any concerns to you about taking family
24 members underground?

25 A. Yes.

- 1 Q. And who might that have been?
- 2 A. Ted Farmer.
- 3 Q. And what were those concerns?
- 4 A. They shouldn't be underground.
- 5 Q. Do you know if he shared this information with anybody else in ---?
- 6 A. No, I don't.
- 7 Q. Do you know if anyone else approached Mr. Stickler ---
- 8 A. No, I don't.
- 9 Q. --- and let him that they didn't think he should allow this?
- 10 A. No, I don't.
- 11 Q. Do you think them going underground, them being the press, interfered in any
- 12 way with the underground operations?
- 13 A. I think it's a distraction.
- 14 Q. Did you or anyone else that you were aware of, ask any underground rescue
- 15 workers if they interfered with the operation?
- 16 A. I had some feedback that, I don't know to say to interfere, but was it a
- 17 distraction, yes, it was a distraction.
- 18 Q. Are you aware of an incident where the group that went with the press that light
- 19 was getting in his eyes of the shuttle car operator and causing some problems and Mr.
- 20 Murray calls in the shuttle car operator to be replaced?
- 21 A. That's what I've been told.
- 22 Q. What were you told in regards to that issue?
- 23 A. That the cameramen were shining the bright lights down the entry as the
- 24 shuttle car driver came, he had a hard time seeing and probably wasn't at his --- going
- 25 slower and wasn't as good as he probably was without lights in his eyes, and that Mr.

1 Murray had several negative comments about this person, that they weren't any good,
2 they needed to get a car driver on there that knew how to drive. Also, was told that
3 Gary Jensen, our inspector, was present when that happened and that when --- after it
4 happened Gary Jensen asked the news media or the people that had the lights,
5 whoever it was could he borrow them. And they let him borrow the lights. And he said
6 look at me, and he shined the lights in their eyes. And he said, there's nothing wrong
7 with that car driver, just look at what you're seeing right now and what he had to look at
8 when he was trying to drive down through there.

9 Q. Are you familiar with this protocol memo out, that we have here's that there's a
10 protocol out on the primary communicator?

11 A. You'd have to let me look at it and ---.

12 OFF RECORD DISCUSSION

13 BY MR. TEASTER:

14 Q. That's the one I had referenced earlier, Bob.

15 WITNESS REVIEWS DOCUMENT

16 A. Okay. Go ahead and ask the question.

17 BY MR. TEASTER:

18 Q. Okay. The question is, according to this policy, should the family liaison and
19 the primary communicator with the press be the same person or separate persons?

20 A. It says they'll be separate people, that I see.

21 Q. And was that the case at Crandall Canyon?

22 A. Yes.

23 Q. They were separate people?

24 A. In my opinion, but that isn't --- I know what you and Joe have told me what
25 you've read in this, but I saw just a little bit different in it.

1 Q. Okay. Who were the two people?

2 A. The family liaisons, you had three of them, one on each shift. Those were the
3 people down there at the school.

4 Q. Denning and Carla and ---.

5 A. Yeah. The primary communicator --- after the first couple of days, I think it
6 wound up being Mr. Stickler.

7 Q. So you think the family liaison as described in that protocol is not the one
8 briefing --- providing the briefings --- in case that Mr. Stickler was providing the
9 briefings?

10 A. That I think are two separate, I guess, and I don't know that I understand.

11 Q. Okay. Well, you think that the three family liaisons that was there around the
12 clock was a family liaison as outlined in here, and that Mr. Stickler was the primary
13 communicator for the press?

14 A. Yes.

15 Q. You wouldn't consider his briefing of the families as being a family liaison?

16 A. You could take it that way.

17 Q. No, I want to know which way you take it.

18 A. Would it be required that he do that, no, not by this definition.

19 Q. In compliance with this protocol, according to your understanding, the three
20 would have been the family liaisons and Mr. Stickler would have been the prime
21 communicator with the press ---

22 A. Yes.

23 Q. --- and that would have been separate?

24 A. Yes.

25 Q. Okay.

1 A. The only problem that I see with it is that we kind of started off on the wrong
2 foot with Mr. Murray and I think Mr. Stickler stepped in trying to build that credibility
3 back up with the families, and I think at that point it almost had to be him, I don't think
4 the family liaisons were of a level within MSHA to do that.

5 Q. But prior to his arrival, you'd already established that someone from the
6 command center was going to assume that role of briefing in that --- Al Davis had been
7 doing it, prior to his arrival, but ---

8 A. Yes.

9 Q. --- once he got on site?

10 A. See now I wasn't completely involved in Crandall Canyon as I was at Tri-Star,
11 so I don't know what Al actually did prior to Mr. Stickler getting there, but, again, going
12 back to Tri-Star looking at a situation, the family liaisons did most of the family briefings
13 and I just went down occasionally and talked.

14 Q. Okay.

15 A. So I do see a distinct separation of those two, but I think we had a situation
16 here where initially we lost a lot of credibility, as you brought up, that when we didn't say
17 anything, it was like we were agreeing with what Murray said. And comments that I've
18 heard from people in Denver, where people do not know any mining, is that we look like
19 a puppet for Mr. Murray at that time. And I think we had a lot of backing up to do, I
20 think Mr. Stickler did in trying to correct that perception.

21 Q. Bob, do you agree with a policy that the senior MSHA official on site should
22 serve as the primary communicator?

23 A. Yeah. I think if you --- I think that you could put that into a shared responsibility
24 because it also says and/or media specialist. Sometimes the media specialists don't
25 have the expertise to be able to answer some of those questions, so I think that dumps

1 it back on the senior MSHA official on site.

2 Q. Do you feel you received adequate guidance from headquarters concerning
3 being the primary communicator?

4 A. I don't think I ever got enough training to prepare me for what I went through at
5 Tri-Star. I had to rely on doing what I thought was best and what was right, being
6 honest and upfront providing the information. Formal training, to set down with me
7 prior to Tri-Star I never got --- other than you can read this and that, I don't think I ever
8 got formally trained in this is what your responsibilities are, this is what you should be
9 doing. I think I did the best that I could from what I thought was the right thing to do.

10 Q. Do you have any thoughts or ideas on how MSHA can improve the role of
11 doing --- in how to handle press briefings?

12 A. Yes. I think with each specialty disaster that you have, I think that after it's over
13 with and you've had time to get beyond that initial shock and you've had a chance to
14 rest and get your faculties back, that the person in charge of each of those operations
15 should set down with a clear head and evaluate what happened at that event, that
16 person ---. And I don't know if you can have help --- you probably can, but I think that
17 person needs to evaluate what was good that went on at that event, what was bad that
18 went on at that event and from that learn from it and maybe that can be passed on to
19 the next one --- that an event happens, to make that next one to go a little bit smoother
20 because I think you're going to run into situations, such as Mr. Murray, which
21 completely is out beyond the realm of what you would expect to happen at an event like
22 this that you can't be prepared for. There are things that are going to come up that you
23 just have no idea what are going to happen. But each time we have these, if we
24 evaluate the pluses and the minuses of what went on at that, then I think you can
25 develop a database of at least something that you can go by to pass on to other

1 people, that this is something that has happened, we want to prepare for this.

2 Q. In light of all the ongoing reviews of this incident, do you know whether Coal
3 Mine Health and Safety has done anything as you suggested there?

4 A. Other than what I did at Tri-Star, I'm not at a level where I would know anything
5 that's been done over Crandall Canyon. I don't know.

6 Q. Okay. Did you ever meet Governor Huntsman?

7 A. Yes, sir.

8 Q. And how did that meeting come about?

9 A. It was to review some of the videos that were taken from the camera being
10 dropped down the borehole and it was at his mobile home or whatever he had set up
11 there on --- over at the tennis courts, across from the families.

12 Q. What communications did you have?

13 A. I just sat there and watched.

14 Q. You just sat there and ---?

15 A. I didn't communicate, period.

16 Q. You was communicated to; right?

17 A. Yes.

18 Q. Was he briefed regularly on the situation?

19 A. I don't know, but I got to believe he was.

20 Q. Do you know who would have provided those briefings?

21 A. Probably Mr. Stickler.

22 Q. Do you know whether they were volunteered or whether he requested it?

23 A. I don't know.

24 Q. In the Congressional hearings, Governor Huntsman said MSHA didn't control
25 the situation, talking about the overall rescue effort there at Crandall Canyon, he said

1 that at the Oversight Hearings. What do you think of what he said?

2 A. I don't know where he's coming from. I mean, if you say we didn't control Mr.
3 Murray and his comments, I fully agree. Should we control him, I don't know because
4 even when you read this ---.

5 MR. PAVLOVICH:

6 I don't think he said they didn't control Mr. Murray, what he
7 said was, I got there that it was chaos, but I assumed as soon as MSHA got on site,
8 they would take control of the situation, that it would become a well-organized machine,
9 is was that kind of --- and that didn't happen.

10 A. I don't understand that.

11 MR. PAVLOVICH:

12 Okay.

13 A. I don't know how to answer that question because, unless he'd give me
14 specifics that we didn't take command and we didn't take control. I don't know where
15 he's coming from with that.

16 BY MR. TEASTER:

17 Q. Was he ever in the command center?

18 A. Not that I'm aware of.

19 Q. Are you aware of him being on the mine site?

20 A. I never saw him. Although I don't doubt that he didn't come up. There were
21 other Senators and Congressmen that came to the mine site.

22 Q. Are you aware of how Mr. Huntsman got on to the mine site?

23 A. No.

24 Q. Do you feel that there were any external pressures to continue or discontinue
25 with the underground rescue operation?

1 A. No.

2 Q. None from the families, the press, Mr. Murray?

3 A. Well, I think it's inherent from the families that they don't want to leave their
4 family members underground. I think it's inherent within the mining community that the
5 miners don't want to leave bodies underground. I think that's built in to --- other than
6 that, no, I'm not aware of any. I mean, I'm sure the media would play on whatever they
7 wanted to play on to make it sell papers and air time, but to say that they exerted
8 pressure to make any changes in that, I don't think so.

9 Q. I'm talking about if, you get back into Joe's discussion earlier, about risk versus
10 value, where you're thinking maybe this risk is not worth the value, but you're getting
11 some external pressures that would make you more hesitant to make that call. I
12 understand that the family members don't ever want to stop it because it --- and most
13 people don't want to stop it, that's been my experience.

14 A. My personal opinion on that is no.

15 Q. No, that there was no external pressures?

16 A. Oh, I think the external pressure was there, but did it influence us to a point
17 that we made a decision based on that, no I don't agree with that.

18 Q. What involvement did you have with drilling the boreholes?

19 A. Not very much, except being in the command center when they were drilling.
20 And as far as where the holes were targeted to be, I didn't have input into that.

21 Q. Do you know what they'd hope to accomplish by drilling the boreholes?

22 A. I think we hoped to find some evidence that there was live people in the mine
23 and it was a doable one if we did find live people in the mines, then you could provide
24 fresh air and water and food, but ---.

25 Q. Do you know why they stopped the drilling operations?

1 A. I would best guess, say that after --- I don't remember how many days it was
2 when we finally quit, that we'd given up hope that we were going to find them alive and
3 at that point we --- there was no use to continue drilling.

4 Q. Do you know how it was determined which location to drill the boreholes?

5 A. I wasn't involved with it, but the best I understood and I think we --- the first
6 hole being non-directional, we were probably lucky to hit in an entry anywhere in the
7 mines. It didn't actually hit where we had planned for it to hit, but it hit another crosscut
8 over, but I think the intent of the pattern of where the boreholes were put down was that
9 these may be the most likely places where we could find something, at this time, that in
10 a priority list, here, here, here and here.

11 Q. Do you know when they drilled --- when these boreholes drilled through and
12 into the mine, they tried to determine the amount of void that you had between the top
13 of the coal bed and the top of the materials, do you know what influence that that may
14 have had on continuing the operation, rescue operation?

15 A. No.

16 Q. Do you know what discussions, or if there were any discussions on using the
17 escape capsule, drilling a hole that would accommodate the use of an escape capsule?

18 A. I know it was discussed and the issue appeared to be --- and, again, this is
19 secondhand because I wasn't involved in that greatly, that with the mountain shifting
20 and the conditions gone as the way they were that you almost --- the only way that you
21 could have done anything would have been to encase the hole to prevent any kind of
22 shift and a concern if you didn't that you lower a guy down there, you've condemned
23 him to death if there is any shift. The other part being that even if you did put the
24 casing in, once you lowered him down there, considering the depth of cover you had
25 and the amount of time it would take for them to get down there, they had very little

1 time to explore anywhere.

2 Q. Do you know what the arguments or disagreements, or if there were any,
3 between the company and MSHA concerning the location of the drill hole?

4 A. No.

5 Q. How about the number of them?

6 A. As I kind of mentioned earlier, in the one meeting I sat in on, Mr. Murray said
7 that the boreholes cost a lot of money and at some point he was going to quit drilling
8 them.

9 Q. Was there any discussion about who was going to pay for these drill holes?

10 A. Not that I was involved in.

11 Q. Do you know what was so crucial about reporting the footage from these
12 boreholes every hour?

13 A. The families wanted to know was one thing. That was one of the questions
14 that they had, how far as the borehole got.

15 Q. Did you ever get into a pattern that you could say like they was drilling ten feet
16 an hour?

17 A. Yeah.

18 Q. And that was their capacity unless they encountered some problem ---

19 A. Yes.

20 Q. --- with the drill rig? Do you think every hour was excessive?

21 A. For the families and what they were asking, probably not. I mean, it didn't
22 involve a whole lot ---.

23 Q. So you know that the families is the one that requested this every hour?

24 A. Well, I don't know that, but I do know that from my experience with the family
25 liaison, when they call up, they were very concerned, the families wanted to know

1 where the borehole's at.

2 Q. Do you think if there had been two drills available if it would have made a
3 difference in continuing the underground operation? I know they had that little one from
4 number one, which is the only one that drilled; they drilled a two-and-a-half inch hole.
5 Do you think that if there had been two drills available it could have made a difference
6 in continuing the underground operation?

7 A. I think it would have been beneficial to have had more drills, of the right
8 capacity drill, to have drilled some holes quicker. I don't know what impact that would
9 have had from the underground portion of it, that's something I couldn't answer.

10 Q. Or do you think if they drilled these boreholes and found that these entries over
11 here were full of very little void, or no void, knowing that you had no oxygen, that they
12 may have decided there was no hope?

13 A. I think that you would have always held out hope. Had you drilled --- I don't
14 know how far --- if you're saying if you drilled all the way back, we had --- we don't even
15 know where the men were, but in general, if you keep them in the square that you've
16 got marked on your map and say they would have been in that general area, and you
17 had drilled holes in every intersection in there and found that every one of them was
18 roofed with material, I think that the thought process would have been they didn't
19 survive the initial bounce. I think at that point you would have went from a rescue to a
20 recovery, but that's an opinion at that point.

21 Q. Okay. If a video from a borehole had been taken that indicated that there were
22 bodies down there, do you have any thoughts of what would have been done? Would
23 the families have been shown the video; the press have access to it?

24 A. I don't know.

25 Q. Do you know if they had a plan or a contingency what to do with it if they

1 encountered that?

2 A. I don't know that, I really don't. I can't answer it.

3 Q. Bob, what training have you received regarding mine emergencies from
4 MSHA?

5 A. If you have a mine emergency response plan, you have in your district you try
6 to review that, we go through the mine rescue contest every year and actually have had
7 the --- I never can figure out these, the MERD problems you do occasionally, those
8 type of trainings that I've had. And then the practical experience of having been
9 through them in the west. Generally you have two mines on fire every two years that
10 you have to respond to. We've had Willow Creek out there that we responded to,
11 Bowie Number 1 fatals that we responded to. We've had more practice --- real practice
12 than a person should have to go through. Does it fully prepare you for every time, no. I
13 don't know that you can ever be fully prepared for it.

14 Q. Do you think you were adequately prepared with that training for this event?

15 A. This event, again, other than the other one of magnitude, I don't think anybody
16 was prepared for the events that happened. You have a general feel for an event of
17 this type, but when you get into it the dynamics of it, the Murray involvement in it, I don't
18 know that you can actually prepare for those, it's difficult. I think we were prepared to
19 set a plan in place as to what we've got going on, sometimes I think we could ---. This
20 is one of the comments that I had about Tri-State, that you get involved in an event
21 early on and you really think that this event is not going to take that long to get done
22 and we've got a day or two and we can do it. And one of my comments that was a
23 negative from the Tri-Star event is that we have to plan better, that when we have an
24 event, even if we think it's only going to last a day or two, we have to plan that it's going
25 to last a week or more. And that's what I tried, to take my experience in planning out

1 scheduling for keeping people there and doing those type things and each people
2 having a role as to what they should be doing, and that's what I tried to use in this
3 experience.

4 Q. Do you have any recommendation for how the agency could improve its
5 emergency preparedness, response?

6 A. Yes, I do. I think we're going through a period of transition right now, where we
7 have a lot of people who have a lot of expertise who are returning, who have went
8 through events like we're going through, not all the same, but they've been through
9 events. They have firsthand knowledge of how to deal with some of these things, not in
10 every instance, because there's little differences in every one, but a general feel for it.
11 We have so many new people coming in and changing positions fairly rapidly right now,
12 that I think we could use more training for everyone to learn what their function is in a
13 mine emergency and do it more frequently, to get that engrained without having to go
14 through the experience to learn it. Not learning it on the fly, but learning it before you
15 get on the fly.

16 Q. Now, Bob, I realize every event you go to is different.

17 A. Yeah.

18 Q. Okay. I mean, you need different expertise, but is the command and structure
19 and organization of them not all the same?

20 A. I agree with that, but my point being is that we've got people who, in the past,
21 that have been at the inspector level doing what they do and they don't really
22 understand what the supervisor's role is and yet we're dumping them into supervisors
23 now.

24 Q. So those people need to be trained when they advance in rank and do what
25 their roles should be ---?

1 A. The same thing all the way up the line to the district manager.

2 Q. --- and it could very well be, would you agree that it could be a standardized
3 procedure for organization, structure of an emergency event?

4 A. Yes.

5 Q. Regardless if it's a flooded mine, a caved mine, a mine on fire, an explosion or
6 anything the organization and structure could be the same, but who gets trained in that,
7 other than as you said, hands-on training?

8 A. Yeah. And that's my point. I think that what we have to do is that each person,
9 regardless of how much we want to say we've trained them for the whole structure,
10 each person when they're trained on it, they're looking at what their function is then,
11 they're not looking at what a district manager does. And I think that's where we've got
12 to back up and when we put new people in positions, we have to train them for what
13 position they're in, not what they used to be.

14 Q. Okay. Do you think MERD is beneficial?

15 A. Yes.

16 Q. How often do you think you should have it?

17 A. More frequently than we probably can afford.

18 Q. Once a year?

19 A. I would think twice a year.

20 Q. Twice a year. You know ---?

21 A. There are other dynamics that go into this that we are not prepared for and part
22 of it is how you deal with different State agencies because different State agencies
23 have different policies. And being prepared for that --- I ran into that in Tri-Star where
24 the emergency management agency walked in and said you're going to pay our bills for
25 what we're going to do. And I said, I don't even know what you're going to do, so I'm

1 not paying you a bill for whatever. I don't even know what you can do. And it was like
2 we're going to take over this operation and I had to tell them, no, you're not.

3 Q. What was your feel for the command center, the way it was organized? Do you
4 think that could be improved on?

5 A. The organization of the command center, I think, for this particular event, as far
6 as having people in place who somewhat trained and the procedures we should go
7 through, I thought we were in a decent shape on that. Some of the peripheral things
8 that go on, I could see room for a lot of improvement, some of it we learn as we go.
9 The capability of getting phone systems in and getting them working and having
10 computer systems working, capability to fax and do different things, I think we --- for
11 different areas of the country you run into different problems just on those little small
12 things that you have to have in an event like this that I don't know --- they almost have
13 to be site specific, but a benefit that we had here at Crandall Canyon that I saw, as
14 opposed to some other ones I've been to, we brought the peer people or whoever the
15 IT people in and they stayed on site to make sure --- the phones had problems with
16 them, they had to work through those things, work getting those working. And the
17 same thing with the fax and computer hookups that are little bugs in the system, that
18 can you survive without them, but in the communication age that we're in now and
19 being able to get a communication from a remote location to Arlington in a timely
20 manor, I think it could use some improvement. Our communication techniques and
21 devices that we have could be more user friendly and support people there to take care
22 of them when you have issues with them.

23 MR. PAVLOVICH:

24 Do you think there's any benefit, Bob, in having all the
25 responsible parties at the same location?

1 A. Like if you had a union and a company and the MSHA and the State and all
2 that?

3 MR. PAVLOVICH:

4 Whether it was just MSHA and the company or whatever.

5 A. Yes, to some extent. Yes. I think there has to be --- and I don't know how
6 many entities you want to get involved into that process right there, but I think they each
7 have to have a private place where they can go and sit down and discuss things within
8 their own organization and not within the group, the issues that come up. I think that
9 has to be there, but to have a facility where you've got enough space and enough
10 whatever you need, communications or whatever, that you can have all of them sit
11 down in one area and be able to openly discuss things, yes, I think they need it.

12 BY MR. TEASTER:

13 Q. What about controlling the situation, as far as people going in the mines? Do
14 you think we could improve on that?

15 A. Yes, I do. You've brought up and almost every situation that I've been involved
16 in for a while we've not been 100 percent accurate in being able to track who was
17 where. I think we've gotten close at times, but there's little glitches that seem to fall
18 through the system. And I don't know what to actually say. Maybe some of the
19 technology that's out there now about tracking devices in miners' helmets or whatever
20 that automatically logs them in and out would an improvement. But, yes, I mean we're
21 not at 100 percent guaranteeing who is here and who is there everywhere.

22 Q. What about the MINER Act, do you think you've been adequately trained in the
23 MINER Act?

24 A. Probably not. I mean, I don't know that I could ever be adequately trained fully
25 in the MINER Act.

1 Q. Well, what training have you received?

2 A. Multiple conference calls, multiple discussions, you know, with headquarters
3 within the districts, those type issues. If you get into specifics, maybe I could work on
4 those, but I mean, I think that --- I don't know that anyone can say they 100 percent
5 guarantee they understand everything in the MINER Act. You can do the best you can
6 and still not ---.

7 Q. So when an issue comes up that you don't fully understand how to do, what do
8 you do to resolve it, get some clarification?

9 A. In where I'm at now, I'm going to sit down with our people there in the district
10 first off and ask them, am I missing something about whatever it is and I'm not
11 understanding, help me understand. And if they understand it and explain it to me,
12 that's okay. If there is an issue that we don't understand then we're going to be asking
13 someone in Arlington to explain to us what is their definition or what is their position on
14 this.

15 Q. If we don't understand it, how do the mine operators comply with it?

16 A. Well, that's what I'm saying. I'm going to ask specifics on it.

17 MR. PAVLOVICH:

18 I mean, they have to know it all, too.

19 MR. TEASTER:

20 That's all I have, Joe.

21 MR. PAVLOVICH:

22 I've asked mine as we went so, I'll ask these guys. You got
23 anything else?

24 UNIDENTIFIED SPEAKER:

25 Just on that one issue with the rock props that San Juan used.

1 Were they designed for lateral protection or support, whatever you want to call it, Bob?
2 Do you know why that was put in the roof control plan, or the history of why that was
3 developed ---

4 A. Not right off ---.

5 UNIDENTIFIED SPEAKER:

6 --- at San Juan?

7 A. No, I couldn't answer it honestly right off. I don't know.

8 UNIDENTIFIED SPEAKER:

9 I guess maybe our thoughts that they had some issues with
10 either rock props or some other type of vertical support that wouldn't hold. Maybe
11 someone came up with an idea of having the vertical jack combined with the 45 degree
12 angle depth or whatever angle that would be. And of course in hindsight you can look
13 at everything, but it seems like it was actually suggested by one person at the mine
14 during their rescue but it never went anywhere and that's our question, as to why it
15 never ---?

16 A. I don't know how to answer that because I don't know who suggested it and
17 who they suggested it to.

18 UNIDENTIFIED SPEAKER:

19 Okay.

20 A. And some of it's going to go back to credibility. And, again, not knowing who it
21 is or what has been done, some people would suggest two million things that you could
22 do ---

23 UNIDENTIFIED SPEAKER:

24 Right.

25 A. --- and that one may have got lost in with 1,999,999 other suggestions.

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UNIDENTIFIED SPEAKER:

Okay. That's all I have.

UNIDENTIFIED SPEAKER:

I guess my only one, Bob, is you mentioned --- when a question was posed to you about maybe one person doing everything, you said something like you would think that somebody would --- that person would be --- I'm referring to Mr. Stickler. Do you think he ever did delegate anything or did he try to do it all?

A. Not being exposed to him that much during the days when he worked, I don't know that I can answer that. I can give you factual information that he was not appreciative of me spending 22 hours a day at Tri-Star, that I should have delegated more to other people, during the Tri-Star event, that I know. He talked to me about that.

UNIDENTIFIED SPEAKER:

But if you had to answer, what did he delegate to Kevin, what did he delegate to Al, would you know what those areas were?

A. No.

UNIDENTIFIED SPEAKER:

That's all I have.

UNIDENTIFIED SPEAKER:

Just a couple. You said something about a couple of times that I think the State was there, like a State agency or something; did I misunderstand you?

A. Governor Huntsman was down at the --- at his little trailer that he had set up. Now, I don't know that he came to the site, like the question I was asked, but I do know

1 that there were some Senators or Congressmen or politicians that came to the mine
2 site. They did not go underground, but they did show up at the mine site.

3 UNIDENTIFIED SPEAKER:

4 Okay. So you wasn't talking about anybody up in the
5 command center from a State agency have anything to do with ---?

6 A. No. Utah honestly doesn't have a State agency.

7 UNIDENTIFIED SPEAKER:

8 When you were asked before, I thought you said ---.

9 A. No, they don't have a State agency.

10 UNIDENTIFIED SPEAKER:

11 Okay. And the only other thing, does operators usually call the
12 districts instead of the field office --- like when development happened on the barrier
13 there, do they usually call the district to report that stuff up there instead of calling the
14 field office?

15 A. We've got to back up in time, okay? Now they got to report to the accident ---
16 not to the district, but if you back up in time, at one point in time and I'm going with my
17 best estimate on time frame, it was probably January of 2006, there was an issue of
18 operators reporting to the field office and not the district, but if you go to the regulations
19 it says they're to report it to the district. The coal operators at that point, you have got
20 to report it to the district not the field office.

21 UNIDENTIFIED SPEAKER:

22 Okay.

23 UNIDENTIFIED SPEAKER:

24 I know it's been a long day. I just have three quick questions
25 for you. The first one goes all the back to this morning. Can you remember that far

1 back?

2 UNIDENTIFIED SPEAKER:

3 You mean yesterday?

4 UNIDENTIFIED SPEAKER:

5 Yeah, pretty much. About the switching of the workgroups and
6 the appearance of impropriety, I guess, that would result if you had Ted Farmer
7 overseeing the inspectors who inspected the Murray mines. When you made that
8 switch --- when the district made that switch ---?

9 A. I made it.

10 UNIDENTIFIED SPEAKER:

11 You made it, but --- and I can't remember if you said Al had
12 input, I would assume.

13 A. I told him about it and he agreed.

14 UNIDENTIFIED SPEAKER:

15 Right. Did either one of you canvas the rest of your
16 supervisors to see whether or not they had working-aged sons or daughters who
17 worked at mines for which they were responsible or did you just focus on this one?

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

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UNIDENTIFIED SPEAKER:

I just wanted to make sure that --- or try to understand why, you know, the specific question wasn't asked of the other supervisors because it would seem to be that it's not just an issue for these two workers, I would think it would be an issue for the entire district and that you would ask, just to be certain.

A. It honestly would be more so back east than it is out west, but our field offices are so far apart out west that --- where the people go to, to get to be a supervisor, they are not generally in their area.

UNIDENTIFIED SPEAKER:

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

1 A. MSHA people shared that opinion.

2 UNIDENTIFIED SPEAKER:

3 Okay.

4 A. As far as what the ---

5 UNIDENTIFIED SPEAKER:

6 District 9 people?

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

8 A.

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

10 UNIDENTIFIED SPEAKER:-

11 And one final question. Joe or Ernie asked you if you thought
12 that the environment was such that you could approach, I guess, management and
13 give suggestions or ideas. And you said yes, well, I was in a meeting with Stickler and
14 he asked for my input and I gave it to him. And I'm wondering if ---you were an acting
15 ADM at the time, you were a management person. Do you think the rank-and-file
16 miners also felt that they could approach Stickler and give suggestions or any of the
17 management ---?

18 A. If you want me to be flat-out honest about that ---

19 UNIDENTIFIED SPEAKER:

20 I do.

21 A. --- a rank-and-file inspector, I don't feel --- I did not feel comfortable
22 approaching Mr. Stickler period. I mean this guy is so far above their level that I don't
23 know that they're going to feel 100 percent comfortable approaching him at any time.

24 UNIDENTIFIED SPEAKER:

25 What about the reverse? You said Stickler asked you for your
input, did you ever see him asking them for theirs?

1 A. Asking the inspectors?

2 UNIDENTIFIED SPEAKER:

3 Yes.

4 A. That he --- in particular that I saw, and these are the only ones that I saw, he
5 definitely --- Peter Saint volunteered way more than Stickler ever asked him. But
6 Donnie Durrant --- he asked Donnie a lot of questions, and he probed Donnie's opinion
7 on conditions.

8 UNIDENTIFIED SPEAKER:

9 And you know Kevin very well, he's a pretty approachable guy,
10 you saw him interacting ---?

11 A. Again, unless you know Kevin. Our inspectors don't really know Kevin, and I
12 agree Ex. (b)(6) and Ex. (b)(7)(C) and myself --- and Ex. (b)(6) and Ex. (b)(7)(C) can attest to that, that I'm easy to approach,
13 but when you're at a level like that, people that are underneath you sometimes don't
14 feel very comfortable. And it's not that you're not approachable, it's just that your
15 position in life is one that they just don't feel comfortable approaching.

16 UNIDENTIFIED SPEAKER:

17 That's all I have.

18 UNIDENTIFIED SPEAKER:

19 Hey, Bob, Kravitz had the Air Force fly his truck out and his
20 survey stuff, and they set up all the potential field holes and were ready to put off shots
21 and never used it, so ----?

22 A. What?

23 UNIDENTIFIED SPEAKER:

24 Jeff Kravitz ---.

25 A. Never used it?

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UNIDENTIFIED SPEAKER:

Well, it was used. I guess he shot it on the 18th.

A. I thought we used it once, but ---.

UNIDENTIFIED SPEAKER:

But I'm just wondering why you went through all the troubles of setting that equipment up and then not ---?

A. I don't know the answer to that.

UNIDENTIFIED SPEAKER:

And District 9 you've been in both ADM positions, did they have a tracking system for the 2000 204?

A. That's the inspector recommendation ---?

UNIDENTIFIED SPEAKER:

Are they marked deficiency --- like if one comes in and it's marked deficiency, is there some type of tracking system set up in the office that says who's going to be responsible for that?

A. I don't know. That's been about four or five years, I guess, since I was the ADM over in engineering, and I don't know that there's a formal tracking system where the 2004 comes in and it's logged in and given a number or whatever and the date that it came in and that it went to the vent group on this date and this was the response that they made. I don't know that that's in place. But I can answer from being an ADM over engineering, when one came in, I thought --- I had our groups, you have to respond back to the --- back to the inspector or whatever, your response is. But a formal system, one that's tracking --- I couldn't answer that. There wasn't when I was in there, but I don't know what it is now.

UNIDENTIFIED SPEAKER:

1 It was inferred that people don't get answers back on these
2 and I found several documents where deficiencies were noted and found maybe two
3 hazards. Do we need more information or ---?

4 A. I would go them and ask them ---.

5 UNIDENTIFIED SPEAKER:

6 You know, Part 50 defines what's a reportable bump. Is there
7 any rule of thumb that kind of --- I mean, to me it looks pretty broad, like it says it
8 causes withdrawal of miners or disrupts regular mining for one hour. Are there any
9 guidelines of what --- does everybody understand what that means in District 9?

10 A. To a point.

11 UNIDENTIFIED SPEAKER:

12 Like withdrawal of miners, does that mean, you run out of the
13 place --- you had to leave the section? If it disrupts the mining, does that means that
14 the ribs slough off, but you're still loading it out, you're loading coal? Have there ever
15 been any guidelines, or, I mean, I'm sure it came up sometime, but ---?

16 A. I don't know if I've got a definition of what you just asked, but my honest
17 response would be, I don't know that I've ever seen anything officially documenting that
18 said, if this happens, why, what you do, if there is a clear black and white distinction on
19 those things, I don't know that I've ever seen them, anywhere, not just District 9.

20 UNIDENTIFIED SPEAKER:

21 So what's your definition of any of these items, like withdrawal
22 of miners? What does that mean to you?

23 A. If it's --- you know, I guess withdrawing the miners, I'm looking at that it must
24 have happened around the working face or working section. Maybe if they were taken
25 back, that'd be what it would be, if they were withdrawn back outby that area, then

1 that's what I would say.

2 UNIDENTIFIED SPEAKER:

3 What about if it disrupts mining for an hour?

4 A. Again, if they have a bump that just flat out disrupts the mining, you know, in
5 the longwall, if you have a bump on the face you don't go back in the mine because of
6 the bump in an hour then it's reportable.

7 UNIDENTIFIED SPEAKER:

8 Back on the section ---?

9 A. On a continuous miner section.

10 UNIDENTIFIED SPEAKER:

11 They don't go to another place and work, then ---?

12 A. Well, it's not that simple on the other one --- if it disrupts you can't go in. You
13 can't do some things, then I would think that would still disrupts the mining.

14 UNIDENTIFIED SPEAKER:

15 Okay. I think that's all we got.

16 MR. PAVLOVICH:

17 If we only had three or four more hours, Bob, we could really
18 get our questions in.

19 A. Yeah.

20 MR. TEASTER:

21 That's all the questions, Bob, that we have. Is there anything
22 that you would like to share with us that we haven't asked?

23 A. No. Does he still got his microphone on?

24 MR. TEASTER:

25 Yes. You can tell us after, though, if you'd just as soon wait.

1 A. I was very apprehensive coming here, not knowing what to expect. I could only
2 tell you what I know. Some things I'm not going to remember exactly everything that
3 happened, the dates and times, and that's going to be a blur to me for my life, I think,
4 that went on there. So I can't honestly tell you every detailed piece what day this
5 happened, when this happened. Generally, I'll have an idea, maybe.

6 You asked questions that were thought provoking at times that I never thought
7 about. I think that's going to benefit me in the long run, just some of the questions you
8 all have asked that I had never thought about, never dreamed about, probably. I
9 appreciate that. I guess there were questions I had been concerned you may ask that
10 you didn't ask, and that's fine, but I appreciate you all asking the questions. We're not
11 going to get any better if we don't honestly tell what we know and figure out what's
12 going on.

13 MR. TEASTER:

14 Well, we appreciate your candidness with us in your responses
15 and your answers, and sharing some of your opinions and relating the information back
16 as best you can recall. We understand that those types of things can really have an
17 impact on us. And I think sometimes we want to try to --- a lot of us want to try to place
18 a lot more of the responsibility on things on ourselves, which that shouldn't be the case
19 at all, but I think everybody was doing the best they could, making the best decision
20 based on what they were doing. I mean, I think if we --- everybody wanted to get the
21 miners out. And sometimes we just get so wrapped up with that that we don't maybe
22 look at the overall pictures. And sometimes, you know, that the information is there
23 and sometimes it's not there. But I don't think that you should accept any blame or
24 place any responsibility on anything that happened because of something that you did
25 or didn't do. I think that you were very sincere in what you were doing and approached

1 it as best you could.

2 A. I got to live with losing a friend ---

3 MR. TEASTER:

4 I know that's ---.

5 A. --- on my shift, and regardless of who accepts responsibility or the blame, that's
6 going to stay with me.

7 MR. TEASTER:

8 I know it's hard to --- there was a lot of people that lost friends
9 in that accident.

10 A. Yeah, I lost one.

11 MR. TEASTER:

12 It always makes it harder when it's closer to home and people
13 we know and ---.

14 A. This one impacted me more than any I've been involved in, more so than even
15 Scotia.

16 MR. PAVLOVICH:

17 Well, we're sorry --- we're certainly sorry for your loss, Bob. I
18 know you probably knew Gary a whole lot better. I knew him pretty well when I was out
19 there, and I thought the world of him. And it's certainly a tremendous loss to all of us
20 and we can, I guess, find no comfort in that, other than the fact he was doing what he
21 thought he should have been, too, and was going to give his life for the people that he
22 was working for.

23 A. Yeah.

24 MR. PAVLOVICH:

25 And recover from the fact that he was a family man, a religious

1 man ---

2 A. Yeah.

3 MR. PAVLOVICH:

4 --- and, you know, that's the best we can think about that,
5 other than, you know, we did lose a friend. But we certainly appreciate the effort you
6 put in out here, your dedication in trying to do everything you could do. And trying to
7 manage is very difficult and a very trying situation. We think you did a good job and we
8 appreciate your efforts today to sit and bear with us through 12 hours, 11 hours of
9 questioning. And I think you did a --- you know, you told us your opinions, you told us
10 the truth of the things you knew, so that's all we can ask for. We wish you good luck
11 and good health on your new job. Certainly, congratulations and, you know, I was
12 going to say, you can page ---.

13 A. To Jeff.

14 MR. PAVLOVICH:

15 Yeah ^{Ex. (b)(6) and (b)(7)(C)} for the overtime, and I'll pay ^{Ex. (b)(6) and Ex. (b)(7)(C)} for his, okay?

16 A. And he works for Gates.

17 MR. PAVLOVICH:

18 Oh, he's working for Gates. You don't have to pay anybody
19 then.

20 MR. TEASTER:

21 I'll just say, if there's anything else that you --- later on you'd
22 like to share with us, why feel free to get ahold of us. And if there's anything else that
23 we feel we need to get from you, we'll get back in touch with you. Again, we'd ask you
24 not to share the information until we've completed all of our interviews.

25 A. Yeah.

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MR. TEASTER:

Again, we want to thank you for coming and we're sorry we kept you so long.

A. No problem. Time means nothing, we've got important things to do and it's worth while.

MR. PAVLOVICH:

Well, thank you, Bob.