

STATEMENT UNDER OATH
OF
BODEE ALLRED

Taken pursuant to Notice by Richard
J. Lipuma, CCR, a Court Reporter and
Notary Public in and for the
Commonwealth of Pennsylvania, at
Southeastern Utah Association of
Governments, 375 South Carbon Avenue,
Price, Utah, on Tuesday, October 2,
2007, at 8:00 a.m.

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A P P E A R A N C E S

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22 ALSO PRESENT:

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24

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INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INTRODUCTION	6 - 11
WITNESS: BODEE ALLRED	
QUESTIONS	
By Mr. Watkins	11 - 257
CONCLUDING REMARKS	257 - 259
CERTIFICATE	260

EXHIBIT PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENTIFIED</u>
One	Map from an AutoCAD file from the company	69
Two	Map	181

P R O C E E D I N G S

MR. WATKINS:

My name is Tim Watkins.
I'm an accident investigator
with the Mine Safety & Health
Administration (MSHA), an
agency of the United States
Department of Labor. With me
today is Tim Wilson from the
Solicitor's Office.

ATTORNEY WILLIAMS:

Williams.

MR. WATKINS:

Williams. I'm sorry.

ATTORNEY WILLIAMS:

That's okay.

MR. WATKINS:

And Sherrie Hayashi for
the Utah Labor Commission.
And we'll be doing the
questioning today.

I, together with other
government investigators and
specialists, have been

1 assigned to investigate the
2 conditions, events and
3 circumstances surrounding the
4 fatalities that occurred at
5 the Crandall Canyon Mine in
6 Utah in August of 2007. The
7 investigation is being
8 conducted by MSHA under
9 Section 103(a) of the Federal
10 Mine Safety & Health Act and
11 the Utah Commission of Labor.
12 And we appreciate your
13 assistance in this
14 investigation.

15 After the investigation
16 is complete, MSHA will issue a
17 public report detailing the
18 nature and causes of the
19 fatalities in the hope that
20 greater awareness about the
21 causes of accidents can reduce
22 their occurrence in the
23 future. Information obtained
24 through witness interviews is
25 frequently included in these

1 reports. Your statement may
2 also be used in other
3 proceedings.

4 You may have a personal
5 representative present during
6 the taking of this statement
7 and may consult with your
8 representative at any time.
9 Your statement is completely
10 voluntary. You may refuse to
11 answer any question. You may
12 terminate your interview at
13 any time. And you also may
14 request a break at any time.
15 Since this is not an
16 adversarial proceeding, formal
17 cross-examination will not be
18 permitted; however, your
19 personal representative may
20 ask clarifying questions as
21 appropriate.

22 A court reporter will
23 record your interview, so
24 please speak loudly and
25 clearly. If you do not

1 understand a question, please
2 ask me to repeat it or to
3 rephrase it. Please answer
4 each question as fully as you
5 can, including any information
6 you have learned from someone
7 else.

8 I'd like to thank you
9 in advance for your appearance
10 here today. We appreciate
11 your assistance in this
12 investigation. Your
13 cooperation is critical to the
14 success in making the nation's
15 mines safer.

16 After we have finished
17 asking questions, you will
18 have an opportunity to make a
19 statement and provide us with
20 any additional information
21 that you believe to be
22 important. If at any time
23 after the interview you recall
24 information that you believe
25 may be useful, please contact

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Richard Gates at the telephone
number or e-mail address
provided on this card.

Ms. Kirkwood, could you
please swear in the witness?

MS. KIRKWOOD:

Please raise your right
hand.

BODEE ALLRED, HAVING FIRST BEEN DULY
SWORN, TESTIFIED AS FOLLOWS:

MR. WATKINS:

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

MS. KIRKWOOD:

I am.

MR. WATKINS:

And when does your
commission expire?

MS. KIRKWOOD:

August 15th, 2008.

MR. WATKINS:

And have you sworn in

1 Mr. Allred?

2 MS. KIRKWOOD:

3 I have.

4 BY MR. WATKINS:

5 Q. Do you just go by Bodee
6 or ---?

7 A. Yes, sir.

8 Q. Shouldn't be too hard. You
9 got two Tims sitting up here. Bodee,
10 do you have any questions about the
11 interview process as I've described
12 it or explained it?

13 A. No, sir.

14 Q. Bodee, do you have a personal
15 representative with you today?

16 A. Yes, I do.

17 MR. WATKINS:

18 Would your personal
19 representative identify
20 himself by name and address
21 for the record, please?

22 ATTORNEY WESTBERRY:

23 Sure. Ken Westberry,
24 W-E-S-T-B-E-R-R-Y, 220 West
25 Main Street, 19th Floor,

1 Louisville, Kentucky, 40202.
2 And I'm an attorney for Mr.
3 Allred.

4 OFF RECORD DISCUSSION

5 ATTORNEY WILLIAMS:

6 Bodee, do you recognize
7 that there may be a conflict
8 of interest if your attorney
9 is provided to you and paid by
10 someone such as the company?

11 ATTORNEY WESTBERRY:

12 I disagree with that
13 categorically. It's perfectly
14 --- especially when someone
15 like Mr. Allred did what he
16 did in a work capacity,
17 connected with his work. I
18 can't accept that as his
19 attorney. Bodee, go ahead and
20 answer the question. I think
21 the operative word was may.

22 ATTORNEY WILLIAMS:

23 That's all right.
24 Exactly. Do you understand
25 that there may be ---?

1 A. Say that again, please.

2 ATTORNEY WILLIAMS:

3 Do you understand that
4 there may exist a conflict of
5 interest or the potential for
6 a conflict of interest if your
7 personal representative is
8 being provided to you and paid
9 for by someone else, like the
10 company you work for?

11 A. I understand that there may be
12 a conflict of interest there.

13 ATTORNEY WILLIAMS:

14 Okay. Have you
15 discussed that and do you
16 understand the ramifications
17 of that?

18 ATTORNEY WESTBERRY:

19 We'll discuss it. It's
20 the first time anybody, Tim,
21 has even brought this to my
22 attention. I haven't talked
23 with anybody that's raised
24 this potential conflict. I
25 will tell you, in Kentucky,

1 for example, I believe under
2 our normal business code an
3 employer would be required by
4 law to indemnify or pay for an
5 employee's legal expenses,
6 assuming that whatever the
7 employee did was in connection
8 with his work.

9 I mean, you can't go
10 out and rob a bank while on
11 the job, but in this case I
12 don't think there's any real
13 dispute that the subject
14 matter that all you guys are
15 going to ask him about this
16 morning are connected with his
17 work. I don't know Utah law.
18 I wouldn't even begin to try
19 to guess, but this sort of
20 thing where companies pay for
21 or indemnify an employee for
22 legal expenses connected with
23 his work is so commonly done
24 that I just --- I'm a little
25 surprised at the question

1 right out of the box.

2 ATTORNEY WILLIAMS:

3 I understand your
4 position, Mr. Westberry. I'm
5 sure you understand ours, that
6 we want to ensure that the
7 witness understands that
8 potential does exist, and we
9 want to make sure that they,
10 nonetheless, are willing to
11 have you as their
12 representative, knowing that
13 that conflict ---

14 ATTORNEY WESTBERRY:

15 Let me say ---.

16 ATTORNEY WILLIAMS:

17 --- may exist.

18 ATTORNEY WESTBERRY:

19 Excuse me, Tim. I
20 didn't mean to interrupt you.
21 I've tried to tell Bodee not
22 to talk over people and I've
23 committed my own violation.

24 ATTORNEY WILLIAMS:

25 We do that sometimes.

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ATTORNEY WESTBERRY:

We do. We don't intend to. What I have explained to him, as I've explained to anybody else that I will represent in the future, is that my responsibility rests with him and him alone, regardless of indemnification. And that's, I'm a former federal prosecutor. I have a pretty good understanding of how the drill works. And I've been doing this for about 27 years.

And I think, Bodee, --- I don't want to get too much into the conversations that you and I had, which I would consider privileged, but I do think that you would agree that --- or tell me if you disagree, that I have explained to you what my ethical responsibilities are,

1 who they really run to, not to
2 the company, but to you
3 individually and other
4 individuals.

5 A. That is correct, yes.

6 ATTORNEY WILLIAMS:

7 Knowing, sir, that this
8 potential conflict may exist,
9 do you wish to continue with
10 Mr. Westberry as your personal
11 representative?

12 A. Yes, I do.

13 ATTORNEY WESTBERRY:

14 Object to the term
15 potential conflict.

16 ATTORNEY WILLIAMS:

17 Thank you. Proceed.

18 BY MR. WATKINS:

19 Q. Hi, Bodee. Could you please
20 state your full name and address for
21 the record, please?

22 A. That's a good one. I was just
23 talking about my address. We live
24 out in nowhere land. I don't even
25 know what --- can I give you my P.O.

1 Box. I mean, that's what I run.

2 Q. Sure.

3 MS. KIRKWOOD:

4 He's got a road
5 address.

6 A. Honest to God, I have no idea
7 what it is. I've never even --- I
8 don't got a road sign out there.
9 This is off a telephone pole. You'd
10 people would never find it. I
11 apologize. Bodee Russ Allred, (b) (7)(C)

12 (b) (7)(C)

13 (b) (7)(C)

14 BY MR. WATKINS:

15 Q. Okay. Bodee, are you
16 appearing here today voluntarily?

17 A. Yes, sir.

18 Q. And just some background
19 questions, Bodee. How many years of
20 mining experience do you have?

21 A. Eleven (11).

22 Q. And could you give us a brief
23 description of your past work
24 experience and history, where you
25 worked at, what you did, that sort of

1 thing?

2 A. Yeah. I worked at Crandall
3 Canyon. At the time it was Genwal,
4 '91, '92, '93 and '94, in the
5 summers, when I was going to college,
6 as a summer help student. And after
7 college, I --- in '96 I obtained work
8 with Soldier Creek Coal Company, at
9 the time was under --- I believe it
10 was Arch. They had sold it a couple
11 times while I was there.

12 And then in June of '97, I
13 took full-time employment at Genwal,
14 which is Crandall Canyon now. I was
15 a downshift laborer for probably a
16 year, year and a half, and moved into
17 production, roof bolter, and was
18 later on transferred to West Ridge
19 when we opened the portals at the
20 West Ridge Mine. I was there about
21 six months and took a supervisor job
22 on a downshift as a downshift
23 supervisor foreman. And that went
24 for roughly a year.

25 And then I was transferred

1 back to Crandall and --- as a
2 longwall boss. And I was a longwall
3 boss for about two-and-a-half years.
4 And then I went --- at that time our
5 longwall had left, and I took another
6 downshift job developing some mains
7 towards Main East and
8 Three-and-a-Quarter. And after we
9 developed all that, I took a pillar
10 job there, pulling pillars as a
11 production boss. And we pulled for
12 about a year, I think, year and a
13 half.

14 And then I took a shift
15 foreman job for about two years out
16 of Crandall and running the South
17 Crandall on the Crandall side. And
18 then later was transferred to West
19 Ridge as a shift foreman. And then
20 in July of '06 I took the safety
21 director job out of West Ridge. And
22 I kept that job until about roughly
23 September of '06 and was transferred
24 to Crandall, where I've been the
25 safety director up until now.

1 That's ---

2 Q. That's a pretty good memory.

3 A. --- roughly it.

4 Q. All that time, 11 years, how
5 much of it was at Crandall? Let's
6 take away the West Ridge. How long
7 was that?

8 A. Probably eight of it.

9 Q. Eight of it, okay.

10 A. Yeah. I mean, seven, eight,
11 right around there.

12 Q. Okay.

13 A. I've actually moved back and
14 forth quite a bit between the two
15 mines. That kind of happens,
16 depending on what's going on and
17 where they need certain people
18 and ---. Moving has never been a
19 problem to me. I've --- when someone
20 says you want to go to West Ridge, I
21 don't complain much. You're back and
22 forth. It's ---.

23 Q. What's your current position?

24 A. I don't know. I work at
25 safety at West Ridge. I'm really not

1 the director there. I was once, but
2 another guy is there, and that's all
3 good.

4 Q. What was your position on
5 August the 6th, I guess?

6 A. I was the safety director at
7 Crandall Canyon. In South Crandall,
8 as far as that goes, but that mine is
9 idle.

10 Q. And how long have you been
11 safety director at Crandall?

12 A. I think September of '06 until
13 --- I guess I still am, you know.
14 There really is nothing going on
15 there, but I still have the same
16 responsibility, I guess, for whoever
17 is there. There's only three guys
18 there, as far as I know. I ain't
19 been there for a couple weeks.

20 Q. A little bit over a year then?

21 A. Yeah. Yeah, it was ---.

22 Q. Make sure I got my time frames
23 right. You mentioned you've had
24 several other positions at Crandall.

25 A. Uh-huh (yes).

1 Q. Some of that time was being a
2 section boss?

3 A. Yep.

4 Q. Okay. The management
5 structure at Crandall, ---

6 A. Uh-huh (yes).

7 Q. --- could you kind of go into
8 that a little bit with me about who's
9 over who and that sort of thing,
10 who's under you?

11 A. Like as it was on the 6th?

12 Q. As it was on the 6th, yes.

13 A. Okay. I guess I directly
14 probably reported to Jim Poulson. He
15 would be the safety coordinator of
16 the three operations, being Tower,
17 West Ridge and Crandall. And then as
18 far as at that mine location itself,
19 you know, honestly, I think that I
20 communicated well with Gary Peacock,
21 the mine superintendent, but I don't
22 know as I ever reported to him, per
23 se, or he never reported to me.

24 Q. So you would say Jim is your
25 supervisor then?

1 A. Yeah. I'd, you know, talk to
2 Jim, and he'd come by sometimes at
3 the Crandall operation, but mostly it
4 was all e-mail or by phone.

5 Q. And has Jim been your
6 supervisor since you took the
7 position as safety director?

8 A. That's correct.

9 ATTORNEY WILLIAMS:

10 Who did he report to,
11 do you know?

12 A. Jim Poulson.

13 MR. WATKINS:

14 Jim Poulson.

15 ATTORNEY WILLIAMS:

16 No. Who did Jim report
17 to?

18 A. Jim Poulson; right?

19 ATTORNEY WESTBERRY:

20 Yes. Who did Jim
21 Poulson report to?

22 A. I'd say probably Jerry Taylor.
23 He'd be Murray Energy's corporate
24 safety director.

25 BY MR. WATKINS:

1 Q. Do you have anyone working for
2 you? Were you supervising anyone?

3 A. No.

4 ATTORNEY WESTBERRY:

5 Currently?

6 MR. WATKINS:

7 On the 6th.

8 ATTORNEY WESTBERRY:

9 Excuse me.

10 A. On the 6th?

11 BY MR. WATKINS:

12 Q. On the 6th.

13 A. You know, the only person I
14 ever had is occasionally I would use
15 the help of the weekly examiner. He
16 wasn't necessary assigned to me. He
17 was just --- but as far as that goes,
18 any of the preshifters, really. You
19 know, I could have them do things for
20 me if I needed it. But no one was
21 directly assigned to me, no. I was
22 in that position by myself.

23 Q. Do you have any mine
24 certifications?

25 A. Yes.

1 Q. What are those?

2 A. Fireboss, foreman, electrical
3 underground high voltage, instructor,
4 diesel certified, surface blasting,
5 first aid, CPR and AED. And I think
6 that's it.

7 Q. Might have been easier to ask
8 what you didn't have.

9 A. The only thing I know, I don't
10 got surface foreman, that I'm aware
11 of.

12 Q. Bodee, on August the 6th, what
13 was your work schedule for the week?
14 What time did you come in, how long
15 did you stay, that sort of thing.

16 A. Before August 6th or after?

17 Q. Before.

18 A. Dayshift. I'd start anywhere
19 from 4:00 to 5:00 in the morning.

20 Q. Okay.

21 A. And I would work five and six
22 days, just depending on what was
23 going on.

24 Q. How late would you usually
25 work in the evening or in the

1 afternoon, whatever?

2 A. Anywhere from three to four
3 o'clock.

4 Q. Prior to August the 6th, what
5 were your duties and responsibilities
6 as safety director?

7 A. This will be a lot, so I guess
8 I'll ---. Compliance issues would be
9 one thing. I'd run a weekly safety
10 meeting. That mine ran four 12s and
11 three off, so they had a rotating
12 group. And sometimes it would take
13 six to seven meetings a week in order
14 to get everybody talked to.
15 Sometimes I'd be there 16 hours in
16 order to catch the end group coming
17 and going.

18 I had an in-house inspection
19 that I did of the whole --- basically
20 the section, twice a week on the
21 section. I did every belt flight in
22 the mine once a week. Occasionally
23 I'd pick up a return area or an area
24 that's done on a weekly. Taking care
25 of working on cement and seal

1 protocol plans.

2 ATTORNEY WILLIAMS:

3 I'm sorry, you said

4 seal ---?

5 A. Seal protocol plans.

6 ATTORNEY WILLIAMS:

7 Is that cement and ---?

8 A. Well, seals that seal off
9 abandoned areas. MSHA has a
10 different standpoint on the seals and
11 the way we do them and how we examine
12 them and test them. We submitted a
13 plan for that, which had been
14 rejected. And I was currently,
15 during this time, working on
16 resubmitting that one. Frequency of
17 tests, how you test, what you use to
18 test and what you're hooked into your
19 seal with and what your seals are
20 made of, your areas and ---.

21 Let's see. I had a lot to do
22 with the fire brigade protection in
23 our mine, fire protection and
24 organize our fire brigade crews. I
25 ran a program called the Safety

1 Jackpot Program, which had a lot to
2 do with our meetings and performance
3 of our employees as far as going
4 above and beyond. Donning and
5 transferring, SCSR drills, escapeways
6 and things of that nature.

7 The Miners' Act was a constant
8 thing that we went over and talked
9 about. It's kind of complex and new,
10 and it was something that we spent a
11 lot of time going over. And of
12 course, you know, just your daily
13 reports and stuff that I send to
14 corporate on how we're doing as far
15 as accidents, lost times, just
16 whatever is new coming down the pike.
17 Diesel, a lot on diesel with the regs
18 and logging in and numbers and ---.

19 BY MR. WATKINS:

20 Q. The first one you mentioned
21 was compliance. How was you
22 involved, I guess, with the
23 compliance part of it? What was
24 that?

25 A. Well, when I do like my

1 in-house inspections and stuff, you
2 know. Being in the position I've
3 been for the last seven years, I've
4 spent a lot of time with MSHA, and,
5 you know, there's certain things that
6 I can see that a lot of people might
7 not see. So I would do an
8 in-house inspection, you know,
9 pointing things out and generating
10 lists of things to work on.

11 Q. The in-house inspection --- so
12 you went to the section twice?

13 A. Roughly.

14 Q. Twice a week ---?

15 A. Sometimes more, sometimes
16 less, depending on what was going on.

17 Q. Do you know when the last
18 time, prior to August the 6th, that
19 you conducted one of these in-house
20 inspections?

21 A. I know the last time I was in
22 that section, but it wasn't really on
23 an in-house, it was on a tour. I had
24 some guys that I had trained that
25 day. And part of the training

1 process is that we go into the mine
2 and show them the work areas and the
3 escapeways.

4 But the last in-house, I'm not
5 really sure when that was. I think
6 it was --- it was the week prior to,
7 and I think it was on this Number
8 Seven belt line. But I don't know if
9 it was Monday, Tuesday or Wednesday
10 or Thursday, but it was the week
11 before that.

12 Q. You said you remember the last
13 day that you were on the section.

14 A. I do remember the last day I
15 was on the section.

16 Q. When was that?

17 A. It was Friday, before the 6th.
18 I don't know the date.

19 Q. Okay.

20 A. And I had --- let's see here,
21 three --- I had five guys that I
22 trained on Friday. And around ----
23 probably around noon we suited up and
24 went into the mine. And we ended up
25 right in that pillar section. And

1 they were producing --- or, yeah, we
2 went in and looked around a little
3 bit, and I just showed them where ---
4 these guys were all new to the coal
5 industry. They had never been
6 underground, so basically showing
7 them equipment and whatnot and where
8 their transformer was and what to
9 expect, you know, as far as the
10 kitchen and microwave and what they'd
11 bring for lunch. And we looked at
12 the escapeway routes and ---.

13 Q. We'll probably get back to
14 that Friday just a little bit later.
15 Just a couple more follow-up
16 questions on your responsibilities.
17 The fire brigade, did you do the
18 training for the fire brigade?

19 A. No. That training was done by
20 Jeff Palmer and Bill Moser. But the
21 one thing that I did do on fire
22 brigade is that we had all our
23 equipment and gear. And two times we
24 had to where we had a double-up day.
25 That's where two full shifts meet

1 together. And there was one group
2 that had about three hours of overlap
3 time. They wanted to come down, so
4 we put apparatuses on and we did some
5 training right on the surface.

6 But as far as the training on
7 the --- you know, the original 8-
8 hour, 16-hour training was done by
9 Bill and Jeff. And the only thing
10 that we done at Crandall was
11 basically wear the gear and practice
12 and just get used to wearing it.

13 Q. What type of gear do you ---
14 what type of apparatus was it?

15 A. It's SCBAs that the fire
16 departments use. It has a 30-minute
17 positive pressure air tank on it.

18 Looks just like the fire
19 departments' ---. And full turnout
20 gear, thousand-degree temperature,
21 full face masks and gloves, boots,
22 hats, the whole nine yards.

23 Q. Is that a regular unit?

24 A. Yeah. Yeah, it is.

25 Q. How often would you practice

1 your fire brigade?

2 A. It was like every four months
3 we'd do the eight-hour training.

4 Q. Okay.

5 A. And then there --- we had two
6 other opportunities where we was able
7 to do some practicing.

8 Q. Okay. You mentioned Safety
9 Jackpot. Can you just explain that
10 to me a little bit, how that worked?

11 A. Yeah. It's a program out of
12 --- I think it's out of Kentucky,
13 actually, a company called --- I
14 ain't going to remember it now. But
15 anyway, what it is, is that they have
16 --- well, we purchase scratch
17 tickets. And on the ticket it has
18 points from 25 to a hundred points on
19 there. And then down below there's a
20 letter and you scratch it, and it's
21 --- you're trying to spell the word
22 jackpot or a word that says instant
23 entry. And how we do that, the way
24 we set it up at Crandall was is that
25 every safety meeting that you attend,

1 which is done weekly, you get a game
2 card. Everybody gets a card if they
3 are at that meeting. It doesn't
4 matter how the week went or anything
5 that happens. If they come to the
6 meeting and listen to the topic, then
7 we give them a game card.

8 Anyway, they're trying to
9 build up points. And we have a
10 catalog that has products in it. And
11 after they get X amount of points,
12 they send for the product and they
13 ship the product to them. And it
14 ranges from anything from dishes to,
15 you know, table saws to golf clubs to
16 drums. It's a big thick catalog.

17 The entry part, if they get
18 that, it puts them in a drawing for
19 trips to --- I think it was to Vegas
20 and different things like that that
21 they do bimonthly, which everybody in
22 the U.S. that's part of Safety
23 Jackpot, so companies like Pepsi-Cola
24 and Chrysler-Daimler and, you know,
25 lots of companies are in it.

1 We're the only coal mine in
2 the country that's in it, but it was
3 something I've been trying to do for
4 three or four months. And finally we
5 just purchased it out of our own
6 budget out of Crandall, you know. We
7 felt like it would be a really good
8 deal.

9 The other part of it is if you
10 could spell the word jackpot, you got
11 a thousand voucher points then
12 entered into the drawing as well.
13 So, you know, they was trying to
14 spell the word jackpot. And it was
15 one letter that they obviously left
16 out of it, you know. And eventually
17 there was two guys that spelled
18 jackpot and quite a few guys that got
19 entry. So it was kind of a --- it
20 was a good thing. On safety day,
21 when we'd have the safety talk,
22 people were pretty excited to get
23 that card.

24 The other thing that we do, we
25 have a sheet called an alert sheet.

1 And what it is, is it gives --- the
2 other thing that I put together. And
3 it just gives people an opportunity
4 to not only --- you can put something
5 on there that might have been a close
6 call to you or you can put something
7 on there that you might have seen, or
8 you can put something there that
9 might be a suggestion to do better.
10 You know, there's four or five
11 different scenarios.

12 And up there we have an
13 extremely well open-door policy, and
14 most of them guys were --- well, I
15 shouldn't even say most. Every one
16 of them guys were close friends of
17 mine. But you never know when someone
18 might, you know, not feel comfortable
19 about saying something, so we had
20 that sheet there for them to fill out
21 at any time and put it in a file
22 there where we could get it, which I
23 never did get anything. Everybody
24 just talked to me, so ---.

25 Anyway, it was out there like

1 that. If you was to fill out an
2 alert sheet and it was something that
3 helped the company, then we'd give
4 you an extra card --- or I would.
5 Any time in a safety meeting that
6 someone would speak up and, you know,
7 help talk or bring up a good point,
8 we'd give out an extra card.

9 When I was on the section, if
10 I'd come to the section and
11 everything was clean and the air was
12 up and they was doing a fine job of
13 what they should be doing, then I'd
14 give the whole crew a card.
15 Sometimes at the end of the week if
16 the shift was --- you know, had no
17 problems all week and no issues with
18 me or compliance-wise, I'd give the
19 whole shift a card. The goal was at
20 the end of the month zero citations
21 and zero lost-time injuries, then
22 everybody got a bonus card. That's
23 basically how I ran the program.
24 Real effective, you know.

25 Q. What type of benefits did you

1 or the company receive from this? I
2 mean, could you tell if there was an
3 increase in morale or anything like
4 that or ---?

5 A. Yeah.

6 Q. What?

7 A. Yeah, they loved it. The guys
8 liked it a lot. In fact, if I --- if
9 I was --- I went on vacation once and
10 I heard about it when I got back
11 because they missed that week. They
12 didn't get that card that week. And
13 if I was --- had to go to meetings at
14 West Ridge or anything like that and
15 it was a safety day, you know, they
16 made damn sure I caught 'em back up.
17 They didn't like missing that card.
18 It was real effective.

19 And one of the gentlemen that
20 is trapped in there, I went to his
21 --- talked to his wife, and she said
22 he commented all the time about them
23 cards and really enjoyed that
24 program. And that was, you know, a
25 good --- I liked to hear that. And

1 she said he'd come home, look I got a
2 25. That's all he gives me is a 25.
3 But, you know, yeah, they liked it.
4 And it's a good program. I was
5 pretty happy with it.

6 Q. These weekly safety meetings,
7 were they mandatory for the people to
8 attend?

9 A. No, not necessarily, I guess.
10 I never posted nothing that said you
11 have to be here. You know, I never
12 even thought about that, but they
13 didn't miss them. And if they did,
14 they'd usually catch me and ask me
15 what the hell I talked about.

16 Q. I was just wondering if the
17 Jackpot Program increases the
18 attendance at the safety meetings if
19 it wasn't mandatory before?

20 A. I think it did. I don't know
21 if it was ever --- it all started,
22 when I hear the word mandatory, it's
23 like posted and it says, you know,
24 you'll be here, but before you go
25 underground you don't go nowhere

1 anyway, you know. Everybody is
2 there, you know, before the start
3 time. That's when a safety meeting
4 would generally start, and you
5 usually round everybody up.

6 But I don't know if I've ever
7 seen anything that said mandatory,
8 but --- you know, for instance, there
9 was guys that would start a little
10 earlier that would, you know, haul
11 material and whatnot. And one guy,
12 you know, this mine is pretty small,
13 but he would always make sure he was
14 out and catch that meeting. Or the
15 diesel mechanic down below, he would
16 come up.

17 Q. Okay.

18 ATTORNEY WILLIAMS:

19 Can I ask if the
20 flipside of that program also
21 existed? Were there ever
22 disciplinary actions taken for
23 violations of safety rules and
24 that sort of thing?

25 A. Not for the year I was there.

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ATTORNEY WILLIAMS:

Did you have a policy or program on that or ---?

A. Not that I'm aware of, they didn't have one. You know, I take that back. I don't know if it was a policy or what, but at one point I had roughly --- when you get a citation from MSHA, and I'm usually the one that's getting these, I kind of just took a normal MSHA citation and I just wrote out kind of the same way, negligence, and different things. And I just kind of roughly put me one together that was my own, and I had written two of them out to two different guys over maybe a year that I was there.

And what we did with that was is that I give it to them, explain to them, you know, if this would have been an MSHA agency or --- this is how you would have got this ticket, and this is why you would have got it, and this is what we're doing

1 wrong. Tell me what we need to do to
2 fix this. And he'd basically,
3 roughly, tell me that. And then at
4 the end of that I'd say, now, you
5 need to take this to Gary and explain
6 to him what you're doing, and he'll,
7 you know, comment on that.

8 ATTORNEY WILLIAMS:

9 So you'd sort of use
10 that as a training tool?

11 A. Yeah. So you know, that was
12 twice that happened. And, you know,
13 really, I never really found anybody
14 doing anything that --- you know,
15 that I had to have a come-apart over.
16 I mean, you know, these guys did a
17 good job most all the time. And then
18 when I'd, you know, talk about these
19 compliance and stuff, I mean, these
20 are very vague things. You know,
21 it's a pretty good little place they
22 run.

23 MS. HAYASHI:

24 Can I interject a quick
25 question? You mentioned that

1 divide them tickets, what was left
2 over, and just put them in the mail
3 to them guys.

4 And I said, if there's anybody
5 out there that ain't doing the
6 program or don't want the ticket, let
7 me know, that way I can divvy the
8 rest to the other guys. And ain't
9 nobody said nothing about it, so I'm
10 assuming that they want them tickets.

11 BY MR. WATKINS:

12 Q. What type of topics would you
13 discuss during these safety meetings?

14 A. I used another company called
15 Safety Services that would send me
16 five topics a month --- or four
17 topics a month. And I prepicked out
18 these topics for a whole year. And
19 they were everything I could grab on
20 first aid. And that would be whether
21 it's first aid for bleeding,
22 first aid for bone breaks, first aid
23 for sprains, back injuries. I had
24 about everything there is for
25 first aid. And I would kind of ---

1 one week would be something about,
2 you know, stopping severe bleeding,
3 and then the next week it would maybe
4 be something about trips, slips or
5 hazards. Sometimes I'd pull right
6 off the MSHA web page, you know,
7 different topics off there. Or if
8 there was something going on in the
9 mine that directly affected us during
10 the week, and then it would be my own
11 topic that I'd put together.

12 But I mean, anything from, you
13 know, first aid to the Miners' Act,
14 the new Taylor lines SCSR second
15 units, escapeways, donning and
16 transferring. You know, it ---
17 sometimes we would even pull
18 fatalities off the web page. We had
19 a fatality at that mine in --- I
20 believe it was like '97, '98, and we
21 spent a good hour going over that
22 fatality, which there might have been
23 three guys that were still at the
24 mine that could remember that, being
25 there. You know, there's --- it's

1 been a while ago, but we spent a big
2 day on that one.

3 As you know, a lot of times
4 after a fatality, investigations,
5 just like this, was going. This
6 particular one in '97, '98, at the
7 end of it there was certain --- maybe
8 you could help me out with the word.
9 After it's all said and done, there
10 was a certain guideline set for
11 pulling. What do you call them,
12 criteria that MSHA puts down there,
13 like you will danger this off or you
14 will ---?

15 Q. Protocols or guidelines?

16 A. Yeah. Okay. So after that
17 fatality in '97, there was a certain
18 amount of --- six or seven steps that
19 was now protocol or guidelines. And
20 a question that arised to these men
21 --- and these guys didn't know about
22 this, and so I said, what would you
23 do different. And as it turns out,
24 they pretty much hit every one of
25 them. And so the question was

1 threwed out, you know, why would it
2 take us that long, and why did we
3 need someone to tell us what you guys
4 just told me on your own. And so
5 that was something I used to always
6 say, that is there something out
7 there today that we can do better
8 right now or do we need someone to
9 show us how to do it. I don't think
10 that's true. I think that you guys
11 are smart enough that --- you're in
12 there every day, day in and day out,
13 if there's something that you need to
14 do better, then we need to make that
15 a policy.

16 So that was something that was
17 always kind of ---. And I think that
18 meeting was about the time I arrived
19 at the mine. It was probably two
20 weeks into that we had that one.
21 Every now and again I'd throw that
22 out there, is there something that we
23 can do that --- or do we need someone
24 to show us the way, or can we lead
25 ourselves.

1 Q. How long did these meetings
2 last or take?

3 A. Well, some of them were only
4 five minutes and some were an hour
5 and 15. It just kind of depends. A
6 lot of times when you do a meeting,
7 you know, you want to get your
8 information out, but you really want
9 them to get involved. And sometimes
10 they'd get real involved and
11 sometimes they wouldn't. And so if
12 they didn't want nothing --- have
13 nothing to say, you know, that would
14 be --- you know, the information is
15 out there and a couple points, and
16 then that's that.

17 But there was certain groups
18 that guys were real communicative
19 back and forth and we'd be in there a
20 while. And there was no time frame
21 on it. I didn't have to shoot for
22 anything, and I didn't have to cut it
23 off at any time.

24 Q. Were these held outside, in
25 the office or underground?

1 A. They were in our underground
2 bathhouse.

3 Q. Okay. Was there any topic
4 that sort of got the guys going more
5 than others, you know, got them
6 energized or ---?

7 A. Man, I'm trying to think. I
8 remember we did go long on a couple.
9 You know, I don't know. That one ---
10 that very first one, we went really
11 long about the fatality, because they
12 had really started thinking a lot
13 about that and trying to figure out,
14 you know, because I wasn't --- I
15 didn't tell them what exactly
16 happened, you know. The
17 investigation was over. But I --- it
18 was kind of like they were
19 investigating that themselves, and
20 they got into that one. They liked
21 it.

22 And it seems like any time
23 that we talked about the self-
24 rescuers, the donning and the
25 transferring, where the caches are

1 located and scenarios, you know ---.
2 I kind of throw out about the worst
3 scenario possible, and it really gets
4 them thinking about it. Those
5 usually generate some talk, you know.

6 Q. You mentioned also you had a
7 program with alert sheets.

8 A. Yeah. It was just a --- it
9 was a sheet that said alert sheet,
10 and it was on blue paper. It had a
11 place for their name, which was
12 optional. It had the information
13 about how long they've been a coal
14 miner, what they do, various things.
15 And then it talked about if there was
16 equipment damage, what the equipment
17 was, or if there was, you know ---.

18 There's a little space there
19 to kind of describe what the incident
20 may be or, you know, if it was ---
21 like with a lot of those checkpoints,
22 like, oh, close call or near misses.
23 And then it was suggestion needed ---
24 or just a suggestion, improvement
25 needed, you know, things like that.

1 And they could write down whatever
2 they want, you know, as far as, oh,
3 you know, it kind of looks like it's
4 getting a little black in this area,
5 you know, maybe we ought to do
6 something about it or ---.

7 I don't remember even seeing
8 really any of that, but a lot of
9 times it was, you know, things like,
10 you know, backing a miner out, the
11 operator got a little close to the
12 red zone and, you know ---. Then,
13 you know, it would be blank.

14 And on the back side of it
15 there was a spot for Gary and there
16 was a spot for me, and then there was
17 a spot for an optional opinion. And
18 Gary would write down what he felt
19 about that, what was wrong with that,
20 you know, what was good about that,
21 potential dangers with that and
22 suggestions. And then I would do the
23 same thing. And then we'd post it on
24 the board and guys would read it
25 and ---.

1 And then the optional opinion
2 would be if it was --- that was meant
3 forever if it was like, say --- maybe
4 if it was a fire protection issue, we
5 would consult, you know, Jeff Palmer
6 or Moser. If it was a mechanical,
7 maybe we'd ask our master mechanic to
8 voice his opinion on that.

9 On the front of it also, too,
10 there was a random employee --- a
11 spot for a random employee to put in
12 there. And I never did get to that
13 point, but what we had in hopes there
14 was --- is that, you know, just
15 randomly I would draw a name and then
16 hand it to a guy and have him take
17 that home with him and read about
18 whatever this issue was and then
19 voice his opinion on there. Now, he
20 never --- I had that set up for a
21 random shift foreman, a random
22 section boss and a random employee,
23 but they was never required to sign
24 that or put their names on it. But I
25 always felt like that I should voice

1 my opinion as a safety director, and
2 Gary should do the same as a mine
3 manager, by signing our names and
4 saying how we feel about whatever it
5 was.

6 And the alert sheets were
7 never meant for any sort of a
8 disciplinary or anything like that.
9 It was meant to get people talking
10 and to see if there's anything that
11 we needed to address. Sometimes like
12 in the position that I have, you know
13 --- before, when I was a shift
14 foreman or section boss, I basically
15 lived under that place. And doing
16 the job I got now, I don't get the
17 opportunity as much to be under
18 there. So them eyes are important.
19 And if they're not on the same page
20 as I and communicate with me, then I
21 miss out on a lot of what's going on
22 in the mines. It was just all
23 avenues for ways for guys to
24 communicate.

25 Q. Do you feel that that program

1 worked?

2 A. I think it worked when it
3 first started, and then I think it
4 lost its push. And I don't know why
5 it did. I don't know if --- I don't
6 know if it was something they just
7 wanted to give a shot to. You know,
8 I think when I first introduced it, I
9 asked them, you know, point blank, I
10 said, you know, I feel like I've put
11 a lot of time in here, trying to get
12 things really --- you know, as best
13 as we can. And I'd really appreciate
14 if you guys would take these sheets
15 and spend some time and put something
16 down there for us to look at.

17 And I believe by me saying
18 that directly to them --- because,
19 you know, you got to remember, these
20 are friends of mine. And if I ask,
21 you know, I'd appreciate you men to
22 do this for me, they all did it. And
23 I think that they tried pretty hard
24 there for a while. But then again,
25 you know, it's --- it is paperwork

1 and you got to put some thinking to
2 it, and sometimes it's not the
3 funnest thing to do when you're
4 working. So maybe they started off
5 with a good call just because I asked
6 them. I don't know.

7 Q. Those sheets, are they
8 maintained at the mine?

9 A. Yes.

10 Q. If we could get a copy of
11 those sheets.

12 A. Sure. I'm surprised you ain't
13 already got them.

14 ATTORNEY WESTBERRY:

15 Probably ought to just
16 direct it to the mine or
17 whoever their Counsel ---.
18 I'm sure you can. I can't
19 imagine they wouldn't want you
20 to get those.

21 BY MR. WATKINS:

22 Q. You say you looked at them and
23 Gary looked at them, then you'd get
24 back to the person if you knew who it
25 was, I guess, that was ---?

1 A. I wouldn't even do that. I'd
2 post it right on the bulletin board.

3 Q. For everybody?

4 A. Uh-huh (yes).

5 Q. What type of feedback would
6 you get back from Gary on some of
7 these issues?

8 A. I'd have to look at them
9 again. I mean, I would --- I've
10 never actually talked to Gary about
11 any of the issues. He would just
12 voice his opinion on there and post
13 it.

14 Q. Were there any safety programs
15 or incentives based on safety or
16 performance at the mine?

17 A. The only one we had at the
18 mine was the Safety Jackpot Program.

19 Q. That was the only one you had?

20 A. That's it.

21 Q. Okay. Was there any incentive
22 based on production?

23 A. For supervisors there is.

24 Q. Supervisors? What was that?

25 Do you know what that program was?

1 A. Gee, I'm going to ---. I
2 think there's --- 50 percent of it
3 was on production and --- oh, man,
4 12.5 percent on safety, 12.5 percent
5 on violations. And then the
6 remainder of that I think was on ---
7 what the heck is it called out here,
8 cash flow. And the cash flow --- I
9 think this is correct, it was the ---
10 no, that ain't correct. Yeah, the
11 cash flow was the remainder of what
12 that was. But the production was the
13 --- that allowed you to get anything.
14 If you didn't have the production,
15 they didn't get nothing.

16 Q. Was that on part time, per
17 shift, per week or ---?

18 A. Month.

19 Q. Per month?

20 A. Uh-huh (yes).

21 Q. Do you remember what that
22 number was?

23 A. Man, I'm --- this would be a
24 pure guess, but I think it was 2,200
25 seems to ring a bell for a --- I

1 don't even think that's right. A day
2 maybe. I don't know. I don't know
3 what it is.

4 ATTORNEY WILLIAMS:

5 But there was no
6 program like that for
7 hourlies?

8 A. No. You know, on that ---
9 they were --- there was a safety
10 incentive program that they were just
11 bringing into --- and it may have
12 been in effect. I don't know if it
13 was or wasn't, that they was just
14 starting it. And it had something to
15 do with every day you went without
16 lost time was a buck for 30 days.
17 And then after that, it went to \$2 a
18 day for 30 days. And after that, it
19 was \$3 a day for 30 days.

20 But I think I seen the rough
21 copy of that before --- and I don't
22 know if it was ever presented. I
23 think it was coming on. I know that
24 West Ridge is currently running it,
25 but I don't know if it ever got

1 actually started before this
2 happened. I think it was roughly in
3 the works, and that's what they were
4 working on.

5 ATTORNEY WILLIAMS:

6 Was that coming from
7 corporate or ---?

8 A. Uh-huh (yes). Yeah, it wasn't
9 from me, and that's why I wasn't
10 really aware of it. I read a rough
11 draft on it, but I never --- I think
12 the rough draft that I read was out
13 for opinion, was sent out for comment
14 or opinion.

15 ATTORNEY WILLIAMS:

16 That was something they
17 were coming up with for all
18 the mines?

19 A. Uh-huh (yes). And West Ridge
20 currently does run it.

21 BY MR. WATKINS:

22 Q. I guess with --- when you was
23 talking about the alert sheets, you
24 said oftentimes people or workers
25 would come to you if they had an

1 issue or something at the mine. Do
2 you remember what some of those
3 issues or some of the people in the
4 mine who came to you, who they were
5 and what their issues were?

6 A. You know, a lot of times the
7 issues were about cross-shifting one
8 another, you know. I don't know why,
9 I guess because I'm --- I guess it's
10 easier to talk to me than most. I
11 don't know. But as far as, you know,
12 --- most of the things I got as far
13 as safety went was a lot from the
14 preshifters on how you view a hazard
15 or just a violation. And, you know,
16 a lot of times they wondered if they
17 were putting enough in the books or,
18 you know, basically my opinion on how
19 I would see something.

20 They'd explain to me that, you
21 know, coal finds were building up
22 maybe towards the tail piece, and you
23 know, I write that down. Should I
24 write that down? And, you know, the
25 answer to that is always, you know

1 --- not being there with my own eyes,
2 but you'd always want to, you know,
3 err towards the caution of safety.
4 And, you know, when in doubt, put it
5 in the books. It ain't hurting
6 nothing to put it in the books and
7 take care of that. I'd get a lot of
8 that from, you know, the examiners.

9 Q. I guess was there anything
10 that you would tell them didn't need
11 to go in the books?

12 A. No. I never would tell them
13 that. You could never, you know ---
14 the problem with that is, you know,
15 it doesn't matter how they explain
16 it, I could never say with any good
17 faith that, oh, gosh, don't put that
18 in the books. How would I even know
19 that, you know. No, it was --- you
20 know, they load them up. It don't
21 --- that's always better if they do,
22 you know.

23 Q. What about anyone coming to
24 you with any roof or rib concerns?

25 A. I don't remember anybody

1 coming to me with any of them
2 concerns. And I'd see, you know, a
3 time or two where we needed to add
4 extra timbers on the sloughage of the
5 ribs.

6 Q. Do you remember Manual Sanchez
7 ever coming to you and voicing his
8 concerns?

9 A. No. I talked to Manny quite a
10 bit, every day.

11 Q. Do you ever remember any
12 conversations where he expressed
13 concerns over conditions?

14 A. No.

15 Q. Did he ever come to you with
16 concerns from other miners, where he
17 was kind of the spokesman for them?

18 A. No.

19 Q. Okay.

20 A. But I had sometimes used Manny
21 to talk to different guys.

22 Q. About?

23 A. I think --- it seems like, I
24 don't know, six or so months ago
25 Carlos, he had (b) (7)(C) .

1 And when I was talking to Carlos
2 about that, I asked Manny to stand in
3 just to make sure we were right on
4 the same page there. And Carlos did
5 pretty good as far as English went,
6 but, you know --- and most of the
7 time I --- but I wanted to make real
8 clear about, you know, what his (b)(7)(C)
9 was doing and how he felt about it
10 and whatnot.

11 I think that's probably when I
12 would mainly want Manny to be there
13 with me, especially when we was
14 talking about, you know, different
15 things about gas checks and stuff
16 like that, just to make sure that we
17 was on the same page. And Manny
18 would generally not say a whole lot.
19 It would pretty much be clear. But I
20 always wanted to make real sure.

21 Most of the guys that when I
22 would, you know, talk to them, they'd
23 feel pretty comfortable with me and
24 then they would talk a lot. But
25 sometimes when other --- in a group

1 setting, they would never say
2 nothing. And I don't know if that's
3 because of they felt like maybe their
4 English wasn't the best and they
5 didn't want to say a whole lot with
6 people around, you know. But one on
7 one, you know, they was usually
8 pretty talkative.

9 ATTORNEY WESTBERRY:

10 I'm just curious.

11 You're talking Hispanic
12 workers. Was Manny sort of
13 the one that spoke the best
14 English?

15 A. Yeah. He was --- he had been
16 in America a long time. He spoke
17 really, really good English,
18 excellent English and Spanish as
19 well. I mean, he --- I believe he
20 was --- I don't know for sure, but I
21 think he was pretty young when he
22 come over here. And I don't even
23 know that for sure. I'm not even
24 positive. I just know that he spoke
25 excellent English and really good ---

1 obviously, that's his --- I think it
2 was native language, so ---. But
3 anyway, yeah, it was just a ---
4 mostly for clarification, to make
5 sure that that's exactly what, you
6 know, I was getting communicated to
7 them.

8 BY MR. WATKINS:

9 Q. But nothing as far as hazards
10 or conditions?

11 A. No. No.

12 Q. I want to bring out a map,
13 Bodee. I want to go back to the 3rd
14 now, the last day that you was
15 underground. I want to get this map
16 so we can talk off of it a little
17 bit.

18 MR. WATKINS:

19 Let's go off the
20 record, please.

21 SHORT BREAK TAKEN

22 BY MR. WATKINS:

23 Q. Before we move on with the
24 map, I just got one question. When
25 you mentioned the in-house

1 inspections, did you keep a record of
2 those as well?

3 A. Yeah. I think there is a
4 record of it.

5 MR. WATKINS:

6 Okay. Again, we'd
7 probably have to get a copy of
8 those, and we'd make a request
9 to.

10 ATTORNEY WESTBERRY:

11 You probably ought to
12 go to the company lawyers or
13 something. I mean, I really
14 don't have any problem with
15 you having it, but I represent
16 Bodee. I don't represent the
17 company.

18 MR. WATKINS:

19 I understand that.

20 ATTORNEY WESTBERRY:

21 But technically they're
22 company records, so I'm
23 sure they'll give them ---.

24 MR. WATKINS:

25 We'll put a request in

1 for those. I just wanted to
2 make sure you had them before
3 we asked for something you
4 didn't have.

5 A. I think I do. I mean, as far
6 as --- and I don't know who went
7 through that. I mean, I've been out
8 of that office a while, but I assumed
9 you had everything anyway. But I
10 didn't take anything from there or
11 touch anything, but they should have
12 been there.

13 BY MR. WATKINS:

14 Q. There's always a few little
15 things that come up that we wasn't
16 aware existed.

17 ATTORNEY WILLIAMS:

18 You kept those in a
19 file in your office at the
20 mine?

21 A. Not really a file, basically.
22 They were actually on my --- on the
23 corner of the desk there, by the
24 phone. The alert sheets are in a
25 file. Yeah, they're in a file. I

1 believe it says Alert Sheets.

2 (Bodee Allred Exhibit
3 One marked for
4 identification.)

5 BY MR. WATKINS:

6 Q. Bodee, I put a map in front of
7 you. And just for clarification,
8 that map was made from an AutoCAD
9 file that we got from the company,
10 okay, and we, of course, printed it
11 off. It's also marked --- we got
12 Bodee Allred Exhibit One.

13 A. Uh-huh (yes).

14 Q. Look familiar to you?

15 A. Oh, yeah.

16 Q. Okay.

17 A. Yep.

18 Q. You stated that your last day
19 was Friday. I believe it was ---
20 would have been August 3rd, I
21 believe. Do you remember where you
22 went to and --- just walk me through
23 that day, where you went to
24 underground and what you did.

25 A. Yeah. We started at the

1 bathhouse.

2 Q. Now, I don't mean to interrupt
3 you, but when you say we, who was
4 with you?

5 A. Well, I'm going to try to tell
6 you their names, but that was the
7 first day I had met 'em and ---.

8 Q. Okay.

9 A. I don't know if I can even
10 come close now. I don't know.

11 Q. Okay.

12 A. They were contractors, and
13 they never did come to work. That
14 was the first day underground, and
15 then I'm sure they heard what
16 happened at this mine, and I think
17 they never returned ever.

18 Q. Okay. But ---.

19 ATTORNEY WILLIAMS:

20 They were red hats?

21 A. Orange hats, which is the same
22 thing as what you're implying, but
23 it's orange for us.

24 MR. WATKINS:

25 I'm sorry to interrupt.

1 A. Anyway, yeah, it was myself
2 and --- gosh, I wish I could think of
3 that. It's going to drive me nuts.
4 Anyway, five guys.

5 ATTORNEY WILLIAMS:

6 What company provided
7 them?

8 A. It would be --- I think it's
9 Rocky Mountain Mine Survey. The only
10 company that we have that produces
11 underground contractors, whatever
12 that is.

13 BY MR. WATKINS:

14 Q. What were their jobs going to
15 be had they showed back up, I guess?

16 A. We was going to do some work
17 in the bleeder entry. In our south
18 bleeder we was going to do some
19 timber work.

20 Q. Okay.

21 A. Yeah, if they would have
22 showed back. We wasn't going to do
23 it anyway, this happening.

24 Q. Yeah. But prior --- I guess
25 prior to the accident, you had

1 intended for them to do some work in
2 the bleeder entry?

3 A. Uh-huh (yes).

4 Q. And that would be timbering,
5 you said?

6 A. Yes.

7 Q. What were the reasons for
8 needing the additional timbering?

9 A. What we was hoping to do at
10 some point was get that set up to
11 where we could retreat pumps and
12 things. And we had some bagging
13 screen in different parts on the rib
14 that were starting to --- you know,
15 shale rock fall around the bolts.
16 The bolts were still holding tight to
17 the roof, but we was having areas
18 that were starting to crack and fall.
19 And we wanted to put some beams and
20 supports and timbers down that line
21 to better secure it.

22 We had a can line that went
23 down to --- I believe it was ---
24 let's see, really testing my memory
25 here, First West. And it had --- it

1 was meshed out and canned all the
2 way, and it had sagging areas and
3 stuff that we wanted to tighten up.
4 We was going to have them go in there
5 and do some of that work.

6 Q. When you say south, you mean
7 south mains?

8 A. Yeah, clear over here in
9 this ---.

10 Q. Okay.

11 A. I can show you. Do you
12 understand what I'm talking ---?

13 Q. I understand.

14 A. Okay. Yeah, nothing --- not
15 even ---.

16 Q. Just for the record, can you
17 show us where you're talking
18 about ---

19 A. Sure.

20 Q. --- so everybody will know
21 where we're ---.

22 ATTORNEY WESTBERRY:

23 You're looking at
24 another chart here?

25 MR. WATKINS:

1 Yeah. This is the big
2 map.

3 A. In this area right through
4 here. See, this is a wraparound
5 bleeder that the air come in and drop
6 through this old pillar works and
7 come out and then exited out here.
8 And we had a high spot or low, I
9 guess you'd say, that water had
10 potential of building up. So we had
11 a pump system that stayed in here and
12 ran all the time. Kept that pump
13 down. In fact, if we wouldn't have
14 pumped it, that water would have
15 tapped us out right there and would
16 have stopped all the airflow, causing
17 a major air change.

18 So we didn't --- you know, we
19 wanted to keep this running all the
20 time. These are all permissible
21 pumps that need to be walked on a
22 weekly examination. And we had some
23 areas just inside the door that were
24 starting to sag and bag and we had
25 some areas down through here that,

1 like I said, was kind of falling
2 around the bolts. The bolts were
3 still in contact. We wanted to
4 bridge out and then timber up a
5 little better.

6 Down here, this was all canned
7 in and meshed, and we had some
8 bagging and sagging going on here and
9 some rib off the block side. And we
10 wanted to tighten that up, so we
11 asked for contractors, and that's
12 what we got.

13 And I trained them on Friday.
14 We started, like I said, in the
15 bathhouse, going over where they'd be
16 lockered and tag-in policies, things
17 of that nature, where the pre-op
18 cards go, just your basic mine ---
19 things that we would have to have
20 them do for us.

21 Then we went through the
22 zones, and we just basically went
23 into the section. We did stop right
24 here, where I had showed him the
25 material trailer and what we did. We

1 stepped inside these doors. And I
2 just kind of showed them the rough
3 area, where they would be going to.

4 Came back out, and then we
5 continued on into the mine. We
6 stopped at the cache areas, showed
7 them where the caches were, looked at
8 lifelines and different things.

9 ATTORNEY WILLIAMS:

10 And all the areas you
11 talk about so far in section
12 two on that map, which is near
13 panels 20, 21, just for
14 clarification of the record?

15 A. Yes.

16 ATTORNEY WILLIAMS:

17 Okay.

18 A. Near 21 --- yeah, 21, 22, and
19 that would be the --- considered the
20 south --- First South bleeder.

21 Then we went in from Zone One,
22 to Two, to Three, to Four, and into
23 the section. As we got into the
24 section, we parked outby, maybe at
25 roughly eight, nine breaks, walked

1 the section in and went up to where
2 they were --- I can go back to this
3 map.

4 Q. Yeah. Let's go back to this
5 map here. There's some --- for your
6 use, there's another pen as opposed
7 to using ---.

8 ATTORNEY WILLIAMS:

9 You can use one of them
10 markers. It will show up
11 better on Exhibit One.

12 BY MR. WATKINS:

13 Q. Yeah, it shows up pretty good.
14 So you came into the section, was
15 traveling in the number what entry?

16 A. One entry.

17 Q. Number One entry, okay. And
18 how far did you travel?

19 A. And this is all going to be a
20 guess. It does seem like we walked a
21 bit farther than normal. You just
22 want me to ---?

23 Q. Yeah. Just give your best
24 guess. We understand it may not be
25 exactly right.

1 A. Maybe right here, we might
2 have parked here.

3 Q. Okay. And you were at?

4 A. 134, ---

5 Q. 134, okay.

6 A. --- possibly, yeah.

7 ATTORNEY WILLIAMS:

8 Is that between entry
9 one and two?

10 MR. WATKINS:

11 One and two, yes.

12 A. Yeah, it would be in your
13 intake.

14 BY MR. WATKINS:

15 Q. Okay. So ---?

16 A. And then we started walking in
17 with the guys. I can remember
18 running into a couple of workers.

19 Q. Okay.

20 A. And I introduced them guys at
21 the time. It was a long time ago,
22 but ---.

23 Q. Okay.

24 A. And just exchanged chitchat
25 there for a minute, then we continued

1 on. Walked into the section where I
2 think they were setting up for a
3 lift. And as far as that goes, I'm
4 not --- it seems like we were up
5 here, in between the Number One and
6 Two entry.

7 ATTORNEY WILLIAMS:

8 At what crosscut?

9 MR. WATKINS:

10 Just go ahead and mark
11 that in blue. I know ---.

12 A. I'm thinking that when I seen
13 them last, they were right in this
14 area.

15 BY MR. WATKINS:

16 Q. Between 143 and 144?

17 A. Probably right on this corner
18 of this 143. And I think they were
19 pulling floor with ---. Well, I
20 know. They were broke down. That's
21 what it was. That MRS --- well, I
22 ain't even going to guess a number,
23 but the inby --- inside MRS on the
24 move was currently down. And that's
25 exactly --- that's where they were

1 at.

2 There was two mechanics --- I
3 don't know if this is their exact
4 location. It seems like it was, but
5 two mechanics working on it. Isreal
6 Peterson was one of the mechanics
7 working on it.

8 Q. Do you know why it was down?

9 A. Electrical.

10 Q. Electrical?

11 A. That's all I know. Something
12 electrical. Dale Black was the
13 supervisor. And then we just
14 chitchatted a bit with Dale, and he
15 teased the hell out of them new guys.
16 And then we walked back up the ---.

17 No. I put that wrong. We're
18 in between the One and Two, and that
19 would be right there. This is on the
20 --- that's on the barrier side.

21 ATTORNEY WILLIAMS:

22 So the X you placed
23 is ---?

24 A. Yeah, this one is wrong.

25 That's not where that --- that miner

1 was near that entry.

2 BY MR. WATKINS:

3 Q. The miner was in the Number
4 Two entry?

5 A. Yes.

6 Q. Okay.

7 A. I just initialed that. That's
8 the wrong spot.

9 Q. Okay.

10 A. And I don't remember looking
11 at any crosscut number-wise either.
12 I mean, that's kind of where I
13 thought we was. I don't --- I'm not
14 100 percent sure. But I know that
15 them MRSs were broke down right
16 there, well, the one was. One MRS
17 was.

18 And you can't mine if an MRS
19 is down on the Christmas tree. You
20 have to be mining --- left and right
21 mining. So that's what they were
22 doing, is working on it. That miner
23 was backed out to here and ---.

24 ATTORNEY WILLIAMS:

25 It was backed out outby

1 from where you placed that X?

2 A. Yeah. They was backed out
3 like they normally would.

4 BY MR. WATKINS:

5 Q. Was there a miner between 142
6 and 143 in the Number Two entry?

7 A. Yeah. It's more like on this
8 --- the inside right here on 143 to
9 144, is what I think. I mean, I ---.

10 Q. The miner? Can you ---?

11 A. Oh, the miner was back, yeah,
12 backed out between 142 and 143. Do
13 you want me to ---?

14 A. Yeah, if you don't care. Just
15 go ahead and write CM or continuous
16 miner or something.

17 WITNESS COMPLIES

18 MR. WATKINS:

19 Okay.

20 A. Now, like I said, you know, we
21 just basically showed them guys what
22 the MRSS looked like. They never
23 even seen a miner before. You know,
24 that just made --- it was right here.
25 That miner was right there. Head's

1 out.

2 BY MR. WATKINS:

3 Q. Okay.

4 A. I'm going to really turn this
5 one ---.

6 Q. So you got a crosscut at ---
7 so you were at intersection 142?

8 A. Yeah.

9 Q. Roughly Number Two entry?

10 A. And its head was out and down.
11 And I remember we walked right up to
12 it, and I got to show him what the
13 cutting drum looked like and the
14 gathering arms and things. The one
15 guy was from New York, oddly enough,
16 and he was quite amazed at the whole
17 thing. He had moved out here to get
18 into the industry. I thought it was
19 strange. I just thought it was weird
20 that he'd move out from New York City
21 to be a coal miner.

22 Q. Yeah. There's a few mines
23 between here and New York, I think.

24 A. Yeah. Anyway, he had really
25 long hair. And I can remember Dale

1 Black telling him, maybe you ought to
2 --- he asked me if I had a knife.
3 And I says, yeah. And I thought he
4 was serious. And he says, maybe you
5 ought to cut the rest of that kid's
6 hair off for him. Anyway, it was
7 kind of funny. All the guys laughed,
8 but that's just kind of the way Dale
9 was.

10 So it was there. I'm thinking
11 I'm pretty correct on that. I know
12 that miner as --- I'm thinking this
13 is the right crosscut, too, but ---.

14 Anyway, we just walked up the
15 belt line. We stopped and looked at
16 a feeder. And I think I had a
17 shuttle car right here. I had one
18 right here. And I had a scoop right
19 there.

20 Q. You mean all this stuff was in
21 Crosscut 140, ---

22 A. I'm thinking it is.

23 Q. --- between Number One and
24 Number Two?

25 Q. Okay.

1 A. And I think that power center
2 was right there. And that would have
3 been where the kitchen is at.

4 And --- yeah, I think --- we
5 walked up here and we looked at these
6 two cars, kind of talked about them a
7 little bit. Went by the scoop,
8 talked about it. Talked about wheel
9 blocks and different things, you
10 know, talked about passing equipment
11 on ribs and to look that over before
12 you cross.

13 We went up into here, showed
14 them roughly what a kitchen would
15 look like, a heat lamp and a
16 microwave. But I also mentioned that
17 where they were going, that they may
18 or they may not be coming into a
19 kitchen, they probably ought to eat
20 sandwiches.

21 Q. So you traveled up to Number
22 One to the section that morning;
23 correct?

24 A. No, this is in the --- this is
25 about one o'clock in the afternoon.

1 See, I trained first in the
2 classroom.

3 Q. Okay.

4 A. Then we went on a tour. So
5 this is pushing towards 1:00, 1:30,
6 two o'clock, somewhere around there.

7 Q. Okay.

8 A. So we walked up --- okay. We
9 walked right up through here, talked
10 to them guys. We stopped at the
11 breaker row. I'm thinking it was
12 right in this area. And we looked
13 into the breaker row, showed them
14 what the cave line looked like.

15 Walked back out and around,
16 went back up to where that --- MRSS
17 were broke down --- or the one was.
18 The one mechanic that I know of, and
19 I know there was two, although I
20 don't remember who they were. I
21 talked to Dale Black, a couple of his
22 crews, and joked around a little bit
23 about that kid, and walked outby and
24 looked at that continuous miner. The
25 head was facing us. Just talked

1 about how it works and how it cuts,
2 come up through there, explained to
3 him how the shuttle car operates.

4 And I know I looked at all
5 these because I always do. I always
6 look at the equipment in the blocks,
7 making sure, you know, things were
8 the way they should be. Talked about
9 passing the equipment. Went up past
10 the scoop. Went up into the kitchen.
11 Went over, you know, basically what
12 our lunch would be like and what to
13 expect.

14 These guys --- you know, it's
15 very uncommon. I don't know the last
16 time that I had a guy underground for
17 his first day, so it was kind of a
18 lot of talking going on. Generally
19 you get guys that's been around a
20 little bit, so that was kind of
21 unique to me, but ---.

22 ATTORNEY WILLIAMS:

23 Did you say the kitchen
24 was at the power center?

25 A. Yes, sir.

1 ATTORNEY WILLIAMS:

2 Could you put a K there
3 for that?

4 A. Sure.

5 WITNESS COMPLIES

6 ATTORNEY WILLIAMS:

7 And you've marked power
8 center with PC; right?

9 A. Correct.

10 ATTORNEY WILLIAMS:

11 And shuttle car with
12 SC?

13 A. Yes, sir.

14 BY MR. WATKINS:

15 Q. And that's 138 and 139 in the
16 Number Three entry?

17 A. That's how I think it is,
18 yeah.

19 ATTORNEY WILLIAMS:

20 So basically just so
21 the record is clear, you went
22 up the Number One entry to
23 Crosscut 143, then went north
24 to the Number Two entry and
25 outby it?

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MR. WATKINS:

Use that orange one or something, some other color, and just mark your route of travel that day, the best you can remember, Bodee.

WITNESS COMPLIES

BY MR. WATKINS:

Q. So you went up the Number One entry with the orange highlighter.

A. I'm thinking I went roughly right into there. and we backed out, went up, come up into here. And we stopped there and looked at that CM. Come across this shuttle car, stepped into here, went there, went up the inside of this car, turned the corner to the kitchen area, then we came right back out to that end, straight up and in and then out the mine.

Q. Did you happen to see the feeder? Do you know where the feeder was at?

A. I think it was right here. I penned it.

1 Q. Okay.

2 A. That's where I think it was
3 at.

4 Q. Okay. You marked the feeder
5 in the Number Two entry, between 139
6 and 140, ---

7 A. Yeah.

8 Q. --- towards 140? Okay.

9 A. And 144 inby.

10 Q. Okay.

11 A. Yeah, I think that's how I
12 remembered that.

13 Q. As you traveled in the Number
14 One entry, what did the conditions
15 look like as you traveled in, as far
16 as roof and rib conditions go?

17 A. The roof looked really good.
18 Rib had looked the same as it has for
19 a while. It was sloughed a bit. And
20 as I mentioned before, there was
21 places where we had to add extra
22 timbers on some of the corners. And
23 on the block side there was a couple
24 areas that we had added some timbers
25 to.

1 But good dust. I thought the
2 dust was --- we had been really
3 putting a lot of emphasis on putting
4 a lot of dust in there, and I felt
5 pretty good about that. It just
6 looked typical, like it had been
7 looking. Nothing major had changed.

8 Q. You don't recall where you put
9 the timbers --- where the timbers
10 were set at, do you?

11 A. I don't.

12 Q. Okay. Was it somewhere in
13 this area where you traveled on the
14 3rd? Was it somewhere in that area,
15 if you recall?

16 A. You know, I think it was more
17 like in this area, like the one ---
18 hell, 21, 22 area.

19 Q. 121, 122?

20 A. It seemed like it was. But
21 there was some down around here, too.
22 I think in the belt line --- I mean,
23 this is all --- yeah, I don't ---.

24 Q. Okay. How about water? Was
25 there any water over in the Number

1 One entry, any water holes or
2 anything that you knew that you had
3 to go through?

4 A. Yeah, it seemed like we did
5 have some --- like 141 it seemed like
6 it was --- it was either water or
7 kind of a muddy mess right there, I
8 remember. Yeah, it was kind of a ---
9 kind of hard to walk through there,
10 because I remember talking to them
11 guys. They were kind of surprised
12 that it would be sloshy and muddy
13 like that, and they were kind of
14 picking their feet up and ---.

15 Q. Okay.

16 A. Right around 140 to 141 area,
17 kind of a sloppy little mess there on
18 that bottom corner.

19 Q. Okay. Just write in mud or
20 water or something, if you don't
21 care.

22 A. Want to change colors?

23 Q. You can. Mark that green
24 between 140 and 141.

25 A. Muddy. And I know we had a

1 dip somewhere here, too, but ---. It
2 had a pump in it and we kept it
3 pumped down. There was a citation
4 issued on that probably a month ago
5 or three weeks before this had
6 happened over deep water in an
7 escapeway.

8 Q. Okay.

9 A. Wherever that crosscut is at.
10 It might have been in farther even,
11 it seemed like. I couldn't even
12 guess on that.

13 Q. Do you remember who wrote that
14 citation?

15 A. Yeah, Barry Grosley.

16 Q. Okay. I'll check with that
17 then.

18 A. Yeah. And like I said, you'd
19 be able to find that one pretty easy.
20 It has a crosscut location on it. We
21 pumped it out in about an hour and a
22 half and abated it --- or terminated
23 it and since kept the pump in it. So
24 there really wasn't much of a water
25 issue there, but there was at one

1 point a place that built up some
2 water there.

3 Q. Okay. So you took your crew
4 and you walked up the Number One and
5 you went to look at the breaker row?

6 A. Uh-huh (yes).

7 Q. Do you remember where the
8 breaker row was set, like somewhere
9 around 143?

10 A. You know, I'm thinking it
11 would --- it would have to be like
12 right in that area. I'll just X it
13 out, if that's all right.

14 Q. That's fine. Just outby 143,
15 Crosscut 143. Okay. So you looked
16 back through the breaker row?

17 A. Yeah.

18 Q. What did it look like?

19 A. Kind of looked like --- well,
20 let's see. If I was looking at the
21 --- let's call it the Number One
22 pillar. It was not caved in on yet.
23 It had a normal cut up on the inside
24 of it and it had a fairly good stump
25 on this bottom outby fender.

1 Barrier-wise, it wasn't caved. The
2 cave was back probably 50 feet. And
3 50 feet back it was probably eight
4 feet of a cave as far as gob rock and
5 then maybe another 20 feet it was a
6 good solid cave. So, you know, the
7 cave was just lagging a little bit.
8 It was behind a bit.

9 And then up on this side up
10 here, once we walked up, they still
11 had one lift to the left. They had a
12 lift to the --- they just had a lift
13 to the left and then set up for their
14 final, which I'm not sure they were
15 going to take it or not. I think at
16 the time I can remember him saying
17 that he didn't --- with that MRS, if
18 he couldn't get it working and
19 working right, then he was going to
20 leave that lift.

21 Q. Okay.

22 ATTORNEY WILLIAMS:

23 When you say the lift,
24 you mean south, toward the
25 south barrier?

1 A. Yes. It would be towards not
2 the south barrier, to the south
3 pillar. So it would be --- they're
4 in the Number Two, where they had
5 been mining.

6 ATTORNEY WILLIAMS:

7 When you say back,
8 you're talking inby; right?
9 You're talking back?

10 A. Yeah. I said the cave was
11 lagging back, so it's more inby. So
12 it wasn't up tight to them.

13 ATTORNEY WILLIAMS:

14 Okay.

15 BY MR. WATKINS:

16 Q. Normally, the pillar sequence
17 --- the cut sequence, what is a
18 normal cut sequence as far as ---?

19 A. Well, if you start right off,
20 you would start to your --- cut to
21 your barrier, cut to your pillar, cut
22 to the barrier, cut to the pillar.
23 And then you'd turn the corner, and
24 then you'd take a straight cut.

25 Q. Okay.

1 A. And then you'd pull into your
2 Number One pillar, take your cut to
3 the right. And sometimes they would
4 --- depending on how they fendered
5 that, they'd almost get two cuts, but
6 a lot of times it would just be one.
7 It depends on how close they come to
8 that inby corner, if that makes
9 sense. Sometimes it was a two cut.

10 And then they'd stop at that
11 point and they'd go up in between the
12 One and Two. And that's where you'd
13 have the Christmas tree cuts, to the
14 right, to the left, to the right, to
15 the left. They'd bring theirselves out
16 towards the final. And then they
17 would set their MRSSs up in sort of a
18 circle-the-wagon effect, per se,
19 depending on which way the cable came
20 out of your miner. So if your cable
21 exited towards the three and then you
22 would have your MRSSs set to where
23 they would exit as well to the three
24 or if it went up the middle,
25 depending on how their cable was run.

1 Q. You mentioned a cut, okay.
2 Just for clarification, is that miner
3 wide or is it 20-foot wide, 18-foot
4 wide?

5 A. Miner.

6 Q. Miner wide?

7 A. Yeah.

8 Q. Okay.

9 A. Now, I say that as from when I
10 was cutting it. That's what a cut is
11 to me. Miner head, that's roughly a
12 cut.

13 Q. Okay. When you explained it
14 --- when you were going over the roof
15 control plan, is that how you
16 explained it during your ---?

17 A. I don't think I ever said
18 anything about a cut as far as it
19 being a miner head or more.

20 Q. Okay.

21 A. Take a lift to the right.
22 Now, somebody might think that a lift
23 to the right, you know, is --- maybe
24 it's 17 feet to them as, you know ---
25 but to me, it's just you take a

1 fender ---. And sometimes we go what
2 I call a corner cut. And what that
3 is, is that you take the corner of
4 the head. And reasons for doing
5 that, you know, if it's bouncing or
6 working a little bit, you could take
7 a corner cut and that lessens the
8 chance of --- you know, it lets any
9 bounces kind of settle down versus a
10 whole head cut.

11 Q. Okay. The cuts taken in the
12 barrier, do you know how deep those
13 were taken, what the plan called for?

14 A. I don't know if that plan says
15 anything other than --- I know that
16 when I talked about it, it was a
17 40-foot cut we were talking about.

18 Q. Okay.

19 A. I don't even remember if that
20 said, per se.

21 Q. And those were taken at an
22 angle or straight and ---?

23 A. Yes. These were --- say if
24 you was coming into this barrier
25 here, they were taken on an angle of

1 about ---. I don't know, what's
2 that, about --- what is that, 60
3 something? I don't know. I'm not
4 much of angle guy, but ---.

5 Q. Okay.

6 A. Anyway, yeah, they'd take it
7 on an angle cut. And they would do
8 that ---. The only time they'd ever
9 come on a straight cut is when they
10 turned the corner and they was
11 heading out here, then they would hit
12 that one straight on.

13 Q. The 40 feet, is that measured
14 perpendicular to the Number One entry
15 or is that measured the way the miner
16 would travel? You know what I'm
17 saying? If ---?

18 A. Perpendicular, are you saying
19 this way (indicating) ---

20 Q. Exactly.

21 A. --- or that way?

22 Q. Exactly. So they were mined
23 at an angle and it was --- the cut
24 was 40 feet. Was it 40 feet ---?

25 A. When they would come in, they

1 would take that cut on this angle
2 cut, ---

3 Q. Okay.

4 A. --- and they would stop that
5 production when that off operator cab
6 come to that bolt, okay, to the last
7 support there. This would --- at
8 that angle it would come out to about
9 40 feet this way.

10 Q. Okay.

11 A. So the measurement was about
12 40 going this direction, but the
13 actual miner was in deeper than 40 on
14 that angle cut, if that's what
15 you're ---.

16 Q. That's what I was asking, yes.

17 A. Okay. Now, this straight-on
18 hit here, that was meant to be a
19 40-foot plateau, so that's when
20 it ---.

21 Q. And you say that it's measured
22 from the last bolt?

23 A. Yeah. In the plan you'd go
24 --- the operator stops when he hits
25 that --- or not the operator, the

1 shuttle car --- yeah, the shuttle car
2 operator cab could come to the last
3 support.

4 Q. The last support, okay.

5 A. Yeah.

6 Q. When they mined the barrier,
7 would they leave --- I think you
8 referred to it as a fender before of
9 coal between the cuts, or did
10 they ---?

11 A. Sometimes I did see coal
12 between the cuts and sometimes not.
13 Sometimes it would --- if they were
14 or weren't, it would just dissipate.

15 Q. Dissipate, you mean push
16 out ---?

17 A. Yeah, just slough and crush
18 off of --- you know, bounce, pop.

19 Q. Okay. What about when they
20 took the cuts out of the blocks, did
21 they also leave any coal between the
22 cuts or did they ---?

23 A. Typically, you would have this
24 top corner left, this bottom right
25 pretty good off this final. A lot of

1 guys wouldn't mess that one up or
2 touch it too much. They would leave
3 a big --- on the backside, and they'd
4 take the front end of it off. This
5 over here, they would leave that ---
6 this back right inby corner. But
7 anything in between generally never
8 was there. Whether it was cut and
9 skipped or just left, I don't know.
10 But I never really seen much on the
11 insides, maybe right here.

12 This area here that they're
13 working off, that final. That
14 sometimes would be pretty good sized.

15 Q. Okay. When you say pretty
16 good sized, what --- I guess you said
17 there was blocks left in each of the
18 four corners?

19 A. Yeah.

20 Q. There was coal left in each of
21 the four corners?

22 A. Yeah.

23 Q. About how much coal was left
24 in those corners?

25 A. Everybody does this a little

1 different. Personally when I do it,
2 there wasn't much left at all. I
3 would try to pull a lot of it. I
4 would like to see the cave come and
5 kept staying tight. That stops the
6 overburden so much, ---

7 Q. Okay.

8 A. --- if you keep the cave-in
9 with you. If you leave too much, it
10 causes an extreme override. So to me
11 --- I mean, I don't know. Everybody
12 does that a little bit different. I
13 couldn't even guess on how they'd
14 like to do it.

15 But I think sometimes they
16 would misjudge that a little bit, on
17 how much coal was actually there,
18 because coal will hold up a lot more
19 than you would think. A ten-by-ten
20 is going to hold a lot of weight, you
21 know. And I'd say that they was
22 close to probably around that a lot
23 of times.

24 I mean, any given pillar is
25 different. That's the deal about it.

1 If you pull pillars long enough,
2 every time that you step in on a
3 pillar and you're doing this work,
4 every time it's going to be
5 different. I mean, there's no set
6 thing there.

7 Q. You mentioned bumping and
8 bouncing. When you was on the
9 section on the 3rd, was it --- I
10 think you mentioned bouncing and
11 working, actually. Was there any
12 bouncing or was the roof working at
13 the time you were up there? Did you
14 hear any of that?

15 A. I can only assume that it
16 probably was, but I don't remember
17 any --- it bounces. I mean, when you
18 pillar, it works. I can't imagine it
19 not doing anything when I was there,
20 but I don't really recall it.

21 Q. I just wondered what the new
22 guys thought about that. You know,
23 it's their first time underground and
24 you're up on a section and ---.

25 A. I asked them about it, and I

1 think they thought it was pretty
2 exciting, really. I mean, I asked
3 them about that because it was kind
4 of different for them, and they was
5 pretty excited coming to work Monday.
6 No, they weren't jittery or nothing.
7 They seemed like they were all right
8 with it. I don't really recall it
9 ever thumping or hitting, but you
10 know, it kind of --- it does.

11 Sometimes it's --- it goes on
12 like that. You know, it just seems
13 normal. Well, it is to me. That's
14 the way it is when you're pulling
15 pillars on the longwall and then
16 mining.

17 Q. So you worked at Number One,
18 you crossed over and you went up to
19 the belt line of Number Two ---

20 A. Yes.

21 Q. --- Number Two entry? What
22 was the conditions like inby the
23 pillar in the Number Two?

24 A. It seemed like this Number Two
25 pillar had bounced pretty good. It

1 was --- ribs sloughed on this right
2 side. And up here where they had
3 mined before it pounded and sloughed
4 out pretty good. You know, now that
5 --- now that you --- I can remember
6 that now. It actually wasn't doing a
7 whole hell of a lot of nothing.

8 I remember looking at that.
9 And I asked him, had it been carrying
10 on. He says, yeah, a couple hours
11 ago it tore it up pretty good, you
12 know, bounced pretty hard a couple
13 times.

14 ATTORNEY WILLIAMS:

15 Are you talking about
16 outby Crosscut 144?

17 A. Inby.

18 ATTORNEY WILLIAMS:

19 Inby?

20 A. Well, I guess outby 144, inby
21 143, the Number Two pillar in between
22 the Number Two and Three entry.

23 BY MR. WATKINS:

24 Q. Number Two and Three entry,
25 okay.

1 A. Yeah.

2 Q. Now, again, what are the
3 conditions like? You say it was
4 sloughing and ---.

5 A. Yeah. The ribs sloughed to
6 around maybe three and a half, four
7 feet from the bolt, you know. So it
8 looked like it had been hit, shook
9 it, you know, bounced it a bit. And
10 now that you was asking about that
11 --- and it wasn't really doing a
12 whole lot.

13 And I had asked Bird
14 (phonetic) if it had been hit, and he
15 said, yeah, about an hour or so ago
16 it really got after it. And it
17 looked like it had gone on it pretty
18 good.

19 In fact, I think that he was
20 --- after that cut there, I think he
21 had a little bit more. He could have
22 got there. And I asked him why he
23 didn't get it, and he said it got
24 pretty western, I think is the word
25 he used.

1 And he asked me about that,
2 and I --- he says, what do you think,
3 and I said, well, I don't know. I
4 wasn't here an hour and a half ago.
5 But looking at it now, I probably
6 would have took a little more of
7 that. And he says, well, you know
8 --- but usually on that deal, any
9 time a guy is in a section, this
10 section is different than the country
11 in this world, versus this one.

12 So if he's in there all day
13 and he's running and he's doing that,
14 he knows. Nobody is going to come in
15 there and say, hey, why ain't you
16 doing this, because he was there and
17 I wasn't.

18 But anyway, that's --- I can
19 remember that conversation, him
20 asking about that, what I thought
21 about that cut, you know. And I
22 said, well, what was it doing, and he
23 says, it got pretty western there and
24 pounded pretty good, so I pulled out
25 of it.

1 And I said, well, that's good.
2 But yeah, it wasn't doing much when I
3 was in there.

4 Q. Okay.

5 A. But it had been, you know.
6 You could see that it got pretty
7 heavy on that corner there.

8 Q. Do you recall seeing any place
9 where the pillar may have actually
10 separated from the roof, actually a
11 gap between the pillar --- top of the
12 pillar and the roof where it actually
13 separated?

14 A. You know, on this one right
15 here, there was a gap on that one,
16 you know. For, you know, roughly
17 three or four feet you could see, you
18 know, a shot in there, which was kind
19 of --- you know, to me it was a
20 little bit different. It looked like
21 it was on that slick rock, that
22 blackjack.

23 Q. When you say three or four
24 feet, was it down three or four feet
25 or ---

1 A. No.

2 Q. --- in three or four feet?

3 A. You could see into it like
4 three or four feet there.

5 Q. Okay. How large was the gap
6 between the top of the pillar and the
7 rib?

8 A. You know, maybe like an inch,
9 inch and a half, something roughly
10 around there.

11 Q. Okay.

12 A. And I'd seen that, too. This
13 is where I kind of get --- earlier,
14 after this had started, ---

15 Q. Uh-huh (yes).

16 A. --- you could see that in
17 places.

18 Q. You seen it in other places?

19 A. After this had all happened,
20 after --- you know, when we was
21 trying to, you know, get --- I don't
22 know if you can remember, but on that
23 block in there, on the --- you know,
24 it just had that funny-looking line
25 on it. I mean, this is just barely

1 --- you could just --- it just looked
2 like the appearance of it --- it did
3 something like that. That's how I
4 thought it --- it just looked strange
5 to me.

6 Q. This separation between the
7 roof and the top of the pillar, maybe
8 --- you said maybe an inch gap three
9 or four-feet deep, how long would ---
10 the whole pillar or ---?

11 A. It went up --- see, them MRSS
12 being parked there, yeah, you could
13 stand there and just see it right up
14 the line, all the way around this
15 corner. You could see up here where
16 they had mined it was, you know,
17 gapped.

18 Q. You're talking about standing
19 in the cross --- in the
20 intersection ---

21 A. Yeah, we stand right here.

22 Q. --- of 143 in Number Two
23 entry?

24 A. Yeah. The MRSS are here.
25 We're standing right there. And

1 roughly Crosscut 143, between the
2 Number One and Number Two entry,
3 looking into this cut activity they
4 had here, looking up this rib line,
5 so that would be looking on pillar
6 number two, between Number Two and
7 Three entries, looking up that line.
8 You know, like I said, it was --- it
9 had bounced. That rib had sloughed
10 down into the walkway. You could see
11 probably three to four feet into the
12 top of that pillar --- from the roof
13 to the pillar, and it looked like
14 about a gap of an inch and a half,
15 maybe two inches.

16 Q. When you're talking about
17 sloughing into the roadway or to the
18 walkway, how far over did the
19 sloughage come out into the walkway,
20 do you remember?

21 A. Let's see. If we was --- like
22 six feet into the walkway. And no
23 major chunks, just, you know, pretty
24 loose, you know.

25 Q. Did it slope back up to the

1 rib line, to the roof rib line or
2 halfway?

3 A. Yeah, probably --- I bet it
4 sloped up around --- within three
5 feet of the roof, I guess, is all.

6 Q. And six feet out and up to
7 about three feet of the roof?

8 A. Yeah.

9 Q. Okay. Talking about the
10 pillars just outby that one. Was it
11 showing any signs or ---?

12 A. No, it looked all right.
13 Yeah, that pillar looked okay, and
14 this one was pretty good. I mean,
15 they looked typical. It seems like
16 we had --- I'm trying to think.
17 There was something in here on the
18 roof, like a --- I think when we was
19 developing that, we either cut it
20 high or it fell out when we was
21 developing it and we pinned it up.
22 But it seemed like there was a big,
23 kind of an extra two-foot horizon
24 right there.

25 Q. And where is that at?

1 A. I'm --- this is another
2 guesstimate here, but around 142 and
3 141. It seemed like we had an area
4 that kind of went up, like a two-foot
5 riser.

6 Q. Was that in an intersection or
7 in the entry itself or ---?

8 A. I think it was at the
9 beginning of an intersection or
10 towards the end of one. It wasn't in
11 one. It was in the beginning or the
12 --- out of one.

13 Q. Okay.

14 A. And if I --- it seemed like
15 what had happened there, if I can
16 remember right, on the production
17 mode we had --- we was turning a
18 crosscut. And it seemed like the
19 face of the Number Two entry was in
20 about 15 feet and was bolted up. And
21 we turned a crosscut, and that bit of
22 that had fell right there, like ---
23 it was like a two-foot --- or a
24 foot-and-a-half slab of crap had fell
25 out, and they remeshed and rebolted

1 that. So it was kind of a high-riser
2 right there.

3 And what was going on, I
4 think, is that they was trying to
5 keep that height at around
6 seven and a half to eight feet. And
7 I think they opened up a little wider
8 right there, the A operator, for
9 about a 40-foot cut on that
10 intersection. And somehow he either
11 hit the roof and took that out
12 himself or it fell. I don't remember
13 the circumstances. But anyway, they
14 had rebolted and remeshed that up
15 somewhere right in that area. And
16 this is like, you know, on
17 production, when we was advancing up.

18 Q. In development?

19 A. Yeah, on development. As far
20 as that goes, that roof all looked
21 good. And at this pillar one and two
22 also looked good.

23 Q. Did you observe any floor
24 heave or anything in the area?

25 A. No, but it seems like there

1 was some --- now, this is going back
2 like a week before that. I thought
3 we had some floor heave on that belt
4 line, around 136, 37, you know, where
5 just a heave had come and cracked up
6 a little bit.

7 No, that particular day I
8 didn't notice anything. But I wasn't
9 never, you know --- well, just the
10 route that I traveled there.

11 Q. Which entry was that in? You
12 said the belt line?

13 A. Yeah. This is like a week
14 before that even. I ---.

15 Q. Did it get up into the rollers
16 or anything that would have affected
17 the operation of the ---?

18 A. Gosh, it was a while back.
19 Barry Grosley had walked that belt
20 with us and he had wrote a citation
21 on that belt line. And I think it
22 was --- it was a combined citation of
23 --- there was a couple rollers that
24 were bad. And I don't know if they
25 were half dropped and running. The

1 belt wasn't running that time, but
2 they could have been running in
3 accumulations of ---. Dust was an
4 issue on that belt line and some
5 tripping hazards, I believe.

6 It was an S&S citation. And
7 one of them areas in there where that
8 roller was was on a heave. And what
9 we did there was we just lifted that
10 belt up a bit, fixed them rollers,
11 dusted the belt line and removed the
12 tripping hazards. But yeah, that had
13 heaved up into that area.

14 It's on that citation, too,
15 where that crosscut is at, the areas
16 that he wrote. And I don't know if
17 the heave was actually in the
18 citation or not, but the rollers
19 were, and that's what they were, was
20 touching on a heave.

21 Q. On development, do we leave
22 top coal or bottom coal or ---?

23 A. Bottom coal.

24 Q. Bottom coal. And during
25 retreat, was that --- was the bottom

1 coal taken, mined on retreat?

2 A. As far as I know, it was. Any
3 time that I was in there they was
4 taking bottom coal.

5 Q. Where would they take the
6 bottom coal from, which ---?

7 A. The bottom. That's not what
8 you mean, though, is it?

9 Q. No. I mean like when you
10 retreat --- when you're retreating,
11 you probably couldn't take out in
12 front of the MRSSs because then it
13 wouldn't go down, but ---.

14 A. A lot of times they would ---
15 just on their way into their fender,
16 into their cut, they'd start touching
17 their bottom and get their bottom and
18 take it in. And then by the time
19 they was towards the end of their
20 cut, they'd be down.

21 Some guys were a little
22 quicker at doing that. Some run the
23 miner a little better. And sometimes
24 they could take that in front of the
25 MRSSs. I mean, like you're saying,

1 you can't go into your MRS and drop
2 four feet of floor coal and expect
3 your MRS to come out of it, but you
4 can slope it down and work your way
5 toward --- you know, if you was
6 towards the end of your pillar, you
7 would be lower than you
8 began, ---

9 Q. Okay.

10 A. --- if that makes any sense.
11 It depends on who's running that
12 miner, though. There's guys that are
13 quicker and ---.

14 Q. But there was an occasion
15 where you actually took it out of the
16 entries and crosscuts themselves?

17 A. They would start it. When I
18 was there, I'd see them start that.
19 Sometimes it would be six inches of
20 floor. They'd gradually work their
21 way in. Some guys could do it a
22 little better, and maybe they was
23 taking, you know, a foot starting in,
24 and then they'd dive down in. By the
25 time they got toward the end, they

1 had it.

2 Q. Okay. When you say towards
3 the end, are you ---?

4 A. Of the end of their cut.

5 Q. Okay. Is that --- that cut,
6 is it into the barrier, into the
7 block or ---?

8 A. Wherever you're cutting. I
9 mean, if you're cutting into your
10 barrier, you're cutting into your
11 block or whichever cut. I mean, what
12 I'm saying is they don't just ---

13 Q. Okay.

14 A. --- hit the stab jack and tip
15 the miner upside down. You know what
16 I'm saying? It's a gradual deal,
17 then pretty soon they get in.

18 Q. About how deep would they end
19 up? How much bottom coal would they
20 end up taking out at the deepest
21 point? I know it's a gradual
22 progression.

23 A. Well, it's --- you know, I
24 don't know what the --- that seam
25 moves back and forth. I mean, it

1 depends on how much floor coal was
2 there to begin with. See, when they
3 developed that they was supposed to
4 be around seven and a half, eight
5 feet. But not every operator could
6 do that. You know, sometimes they'd
7 open up, you know, inadvertently.
8 Running the miner, all of a sudden
9 they'd be a lot, you know, higher
10 than they should have been. You got
11 to say, hey, we need to bring the
12 height down, so they'd start bringing
13 it down. Some operators were real
14 consistent at staying at about eight
15 feet.

16 So you know, places through
17 here, you know, a lot of times you
18 take six inches and you have it, and
19 that's all there was. And then
20 sometimes if you was running at
21 seven-and-a-half feet and it just
22 happened to be that seam opened up at
23 12 feet, then you had a lot more coal
24 to grab. You know, just --- I can't
25 even speculate on how that went, you

1 know. I mean, I don't know what
2 they're leaving. We never --- drill
3 floor, you know, some ---. We used
4 to anchor tail piece with a jack leg,
5 and you would know what coal floor
6 you had every time you moved belt.
7 But we quit using them, so it was a
8 different anchoring system.

9 Q. I know you left the bleeder
10 and went around to the back side in
11 the Number Four entry. Did you ever
12 have occasion to go in that bleeder
13 entry back to the top end?

14 A. Yes.

15 Q. What was the conditions like
16 in the Number Four entry, towards the
17 back?

18 A. It was good. It looked good
19 in there.

20 Q. Rib sloughage or ---?

21 A. Nope. It just, you know,
22 typical little bit. I mean, it
23 actually looked really good. That
24 was a good-looking bleeder.

25 Q. What about the --- any water?

1 A. I don't remember any water
2 being there.

3 Q. What about the air quality,
4 what was it like, methane, oxygen
5 levels?

6 A. Zero CH₄, zero CO and 20.8,
7 20.9, right around there on O₂.

8 Q. It obviously dropped off at
9 the Number Four entry there, I guess,
10 between ---.

11 A. 140 and 141.

12 Q. Yeah. Do you know why it
13 would have dropped?

14 A. Yeah, because of this sump
15 right here.

16 Q. Okay.

17 A. And I'm not sure that they
18 were 100 percent confident how deep
19 this went, so they dropped it off so
20 they wouldn't hit it.

21 Q. Okay. Do you know what the
22 plan was as far as --- this map here
23 shows mining out to 142. Do you know
24 whether they were planning on leaving
25 any blocks ---

1 A. Yeah.

2 Q. --- around that sump area?

3 A. Yeah, they was going to
4 leave ---.

5 Q. Do you know which?

6 A. You know, looking at that, I
7 thought they were leaving these in
8 four sets, but it must have been
9 these four, I guess. Looking at that
10 now that surprises me, but I thought
11 they were staying on these.

12 Q. You thought they was going to
13 leave the ones between 142 and 143?

14 A. Yeah. I'm thinking about that
15 in my head. It seems like that's the
16 way it was, but --- I know they was,
17 you know, leaving all --- protecting
18 this bleeder here, leaving all that
19 area.

20 Q. Okay. Do you recall any
21 discussion about leaving those areas
22 with Gary or anybody?

23 A. I don't. I know that when we
24 first started we had a --- we had a
25 meeting about pulling pillars, and we

1 talked about, you know, the plan
2 itself. I read the plan, and the
3 back of that plan had a number map,
4 which, you know, it was a ways ---
5 this looks so close here, but --- you
6 know, on the big screen, but it was a
7 ways down the road. So we never
8 really talked much about that right
9 there.

10 I think if anything was ever
11 said about it as far as my concern
12 was is that that sump was there and
13 that's why we jobbed around it. And
14 that we needed to protect that entry
15 in order to hit your MP point.
16 Anyway, but most of that talk was
17 about positioning, about pulling the
18 pillar itself, the MRS, how they
19 work, the warning lights, the
20 indicators, the cut sequence, the
21 plan and --- it was about an hour, an
22 hour meeting. It was a pretty good
23 one to start, the original --- you
24 know, going from production to
25 pulling pillars.

1 A lot of talk about the, you
2 know, roof fatalities in the nation
3 that we've had this year. And the
4 one fatality that we had was during
5 MRS activity, the two gentlemen from
6 West Virginia that was caved on. So
7 we went over that, and I had the
8 schematic off of the MSHA web page
9 and it was laminated, and I handed it
10 out and had people look at it. But
11 that was something they was well
12 aware. It had been posted at that
13 mine for quite some time because we
14 are a pillar mine, so, you know ---.

15 But as far as this particular
16 area, there wasn't a whole lot talked
17 about on that original first day,
18 that first initial meeting. But
19 there was a packet that I did hand
20 out, and there was probably six or
21 seven copies available to anybody.
22 All the section bosses got one and
23 the shift foreman.

24 Q. Packet for?

25 A. It just went over the pillar

1 plan, our sequence cuts. It had the
2 MRS schematics on there, servicing,
3 the way you run them and different
4 things. And then on the back it had
5 --- there was a map, but it was a
6 condensed map. It took --- it was on
7 a page about this big, and it had,
8 you know, the whole pillar sequence
9 all the way out. It would be 1-2,
10 1-B, 3-4.

11 Q. That was passed out initially
12 before the pillaring initially
13 started?

14 A. Yeah.

15 Q. Oh, okay.

16 A. Yeah. This is right on from
17 --- it was about almost --- I tried
18 to guess when we was going to start
19 pillaring, so that meeting came about
20 --- about a week and a half before we
21 actually started pillaring. I was
22 going on vacation, so I wanted to get
23 that out of the way before they ---
24 you know, in case they started when I
25 was on vacation, but ---.

1 Q. You never passed anything out
2 or said anything about the change of
3 plan, about skipping any blocks or
4 anything?

5 A. No. Well, I never handed
6 anything out, but I do know up in the
7 foreman's room there was updated maps
8 that had them on there, had them X'd
9 out. I didn't handle that. That
10 usually come from engineering.

11 Q. Okay.

12 A. Well, that always comes from
13 engineering. I don't have AutoCAD.

14 Q. You're not sure which ones
15 were to be left?

16 A. I thought I was. But looking
17 at it, it looks just different to me.

18 Q. Nobody says the map is right.
19 I mean, it may be --- we may be off
20 there, too, so ---.

21 A. I mean, I just --- it just
22 seemed like it was these, 143 to 139.
23 I don't know why. It just looked
24 that way.

25 Q. You're thinking it should be

1 11 blocks left, counting the ones
2 between Three and Four entry?

3 A. Yeah.

4 Q. Okay. How about the barrier,
5 was it to be mined?

6 A. No.

7 Q. Okay. Again, you know this by
8 just seeing the map in the foreman's
9 office, or how do you know that they
10 were supposed to skip some blocks and
11 not mine the barrier?

12 A. Well, that original map had
13 the skip block on it. And I know
14 that we were definitely not going to
15 get around this pillar at all,
16 protect that area. Yeah. Yeah.
17 Mainly because of that job. It's
18 obvious as hell we can't be messing
19 there, you know. We got to maintain
20 that.

21 Q. Okay.

22 A. But the X out is where I'm
23 looking at that. It's just --- for
24 some reason I see it that way,
25 but ---.

1 Q. So I guess when you was up
2 there on the 3rd and you see the
3 miner between 143 and 144 and that's
4 where the pillar line is at, you're
5 thinking that they're going to be
6 moving the section pretty soon then?

7 A. Yeah. Yeah, I figured they'd
8 be moving pretty soon.

9 Q. Okay. Do you know when the
10 section move actually began or
11 anything?

12 A. I don't.

13 Q. Okay. So getting back to the
14 3rd, I guess, after you made your
15 round and went back to the truck,
16 what did you do then, just go outside
17 with the crew?

18 A. Yeah, we just made our way
19 back out. The only thing different
20 there --- well, nothing, really, but
21 you see all the reflectors on your
22 way out and just made the point to
23 point that out to them. They're one
24 directional. So that was about the
25 only thing ever mentioned as far as

1 that mine tour went.

2 Hit the zones again. You got
3 to the bathhouse and basically they
4 --- after that I said, you know, you
5 can shower if you want or whatever
6 you want to do. And that pretty much
7 ends the training day.

8 Q. Did you come back underground
9 any time that day?

10 A. No. But I did have a safety
11 meeting later that night.

12 Q. Okay.

13 A. But I didn't go back
14 underground.

15 Q. A safety meeting with the crew
16 that was underground?

17 A. No, the one coming on.

18 Q. The one coming on?

19 A. Yeah.

20 Q. Okay.

21 A. They just started at six
22 o'clock, so, yeah, I had a meeting
23 that afternoon or that night.

24 Q. Do you remember what was
25 discussed?

1 A. Yeah. It was donning and
2 transferring drills. It was the
3 escapeway, talk about escapeway,
4 lifelines. We went over, you know,
5 the fact that we was --- we was
6 actually going to do an emergency
7 escapeway drill on that following
8 Monday. And so we talked about some
9 of the CSC100s that I had that I was
10 going to use for training, some ones
11 that I've pulled out of service. And
12 we talked about a new realistic
13 trainer that I had received, an SRT,
14 it's called, and some different
15 drills that we was going to try to do
16 on Monday morning. So went over
17 that, donning and transferring,
18 lifeline, tag lines, you know, just
19 basically emergency response stuff.
20 That went about an hour and some.

21 Q. That was on the 3rd. Did you
22 work Saturday, Sunday?

23 A. Uh-uh (no).

24 Q. Was you off Saturday, Sunday?

25 A. Yeah, I was.

1 Q. When did you learn about the
2 accident on August the 6th?

3 A. It was about 2:40, I think, in
4 the morning. Maybe it was 3:40.
5 2:40, 3:40. Gary Peacock called me.

6 Q. Gary Peacock?

7 A. Uh-huh (yes).

8 Q. And what did Gary tell you
9 when he called?

10 A. He said that Conspect had
11 called him, and I believe he was
12 still on the phone with them and
13 talking to me. And he said that they
14 had reported some sort of a --- maybe
15 a bounce or a cave-in, a lot of dust.
16 They was having a hard time seeing.
17 And they ain't got no contact with
18 that section. And he says, I hope
19 I'm jumping the gun here, he says,
20 but we better start making some phone
21 calls.

22 I says, well, let me call and
23 get our mine rescue team notified,
24 which I called Jeff Palmer first and
25 then Hubert Wilson and told him that

1 he needs to start making the phone
2 calls and that I'd call him back.
3 And then I hung up that phone and I
4 called the MSHA 1-800 number and
5 talked to the gentleman there. This
6 is probably about --- this is five or
7 four minutes after Gary had talked to
8 me. And I don't --- I think I still
9 had Gary on the phone. I was using
10 my cell phone when I talked to MSHA
11 or my land line and he was calling on
12 the cell phone, one or the other.

13 And then he was doing almost
14 the same thing. He was still --- I
15 think he was still in contact with
16 the mine and talking on the cell
17 phone at the same time. And talked
18 with the MSHA 1-800 number. It was
19 roughly maybe five or six, maybe
20 seven minutes with them.

21 And then I finally had told
22 them that I need to leave. I got to
23 go. And I believe I hung up on them.
24 And I think I called Hubert back and
25 told him that he needed to contact

1 all them teams and send them that
2 way, that I wasn't sure exactly what
3 was going on yet, but we needed to
4 probably move towards that direction.

5 And then as I left my house,
6 it wasn't maybe three minutes, and I
7 had a phone call from somebody from
8 Denver in the MSHA office, and I
9 don't remember his name, but I
10 basically told him that what I know
11 at this time is that we've either had
12 some sort of a cave-in or a bounce
13 and we had lost some visibility and
14 we can't contact a section in there,
15 that I was on my way to the mine.

16 Q. I think you answered it, but I
17 missed it. From the time Gary called
18 to the time you called MSHA was about
19 how long?

20 A. I got this wrote down, too,
21 but it's like --- it just seemed like
22 maybe three minutes, just three, four
23 minutes. I don't know. I know that
24 I did call my mine rescue team first.
25 I'm pretty sure I did that first.

1 Then I called the 1-800 MSHA number.

2 Q. When you say you got this
3 wrote down, do you have some personal
4 notes or something that you've taken
5 the day of the accident or ---?

6 A. I have like about --- like a
7 page worth of --- when Gary had made
8 that phone call. I was sitting
9 there, wrote down when he had called
10 me and then when I called them --- I
11 think I called my mine rescue team
12 first, and then I called the MSHA.
13 I'm pretty sure that's the way it
14 went. So yeah, just roughly, yeah,
15 about a page worth.

16 Q. Would you mind providing us
17 with a copy of that?

18 ATTORNEY WESTBERRY:

19 Sure. What you might
20 do is --- I'll forget. If
21 somebody would remember just
22 to e-mail me, call me, write
23 me, whatever, then I'll remind
24 you. That's fine.

25 MR. WATKINS:

1 think he went into the return first
2 and was checking the air quality
3 there. He come back out. Laine
4 Adair was there, and I don't know if
5 he was dressed or not. I think Bill
6 Taylor called me at the mine site and
7 told me that Barry Grosley was on his
8 way up there and asked for any
9 information I had. And still I had
10 none yet, other than we couldn't get
11 into that section and that we
12 couldn't communicate with that
13 section. I don't even know if we ---
14 I knew that yet, if we could get in
15 there.

16 Anyway, he said that Barry was
17 on his way. And Gary said that he
18 was going to start heading that way
19 with guys, and he would periodically
20 be calling back out, and I was
21 waiting for Barry Grosley to show up.

22 It seemed like Gary had called
23 and said it was around 119 that they
24 were --- debris was roofed out, and
25 they was trying to work their way in

1 any scenario they could. I can't
2 remember the route that he was moving
3 in or how many times he called back
4 out. At that time, we was trying to
5 determine exactly who it was that was
6 in there. We was looking at the ---
7 you know, the PEDs. We was seeing
8 who was not inby that outburst, who
9 was actually outby and okay that was
10 still trying to look for these guys.

11 After we figured out who we
12 thought was in there, then I started
13 getting personal numbers for them,
14 making a list. I started working on
15 a place to take the families, have
16 them be located. I started working
17 on getting transportation brought to
18 us. Started working on the equipment
19 being brought there.

20 And then from then it was, I
21 don't know, one meeting after another
22 with either ourselves or MSHA on how
23 we was going to approach this. I
24 know that one time we got the muckers
25 coming. We had equipment being

1 brought over. We was doing lots and
2 lots of training. We brought, you
3 know, 80-some guys from West Ridge,
4 which I trained virtually every one
5 of them, tag in, tag out, all that
6 stuff. I don't remember sleeping for
7 probably the first two days of it.
8 And like I said, I don't really
9 remember if it --- I don't remember
10 one day from the next, but --- and I
11 never did go home for probably nine,
12 ten days.

13 And I don't know, I was just
14 in there as much as possible we could
15 be in there, training many times ---
16 training everybody that come there.
17 I don't know where else to go.

18 Q. Do you remember what time you
19 got to the mine that morning on the
20 6th?

21 A. I don't. It couldn't have
22 been much after that phone call. I
23 can remember ---.

24 ATTORNEY WESTBERRY:

25 3:40 a.m. was the call,

1 he thinks. How long does it
2 take you to drive form your
3 house?

4 A. Oh, I don't know. It's like
5 27 minutes. But I wasn't driving the
6 speed limit, so it was probably a lot
7 sooner than that that I got there. I
8 don't know. If you know when Gary
9 got there, I was about five, ten
10 minutes behind him at best.

11 BY MR. WATKINS:

12 Q. A little bit of a confusion
13 point, do you know if it was 2:40 or
14 3:40?

15 A. I think it was 3:40.

16 ATTORNEY WESTBERRY:

17 He and I have talked
18 about this.

19 A. 3:40 is what --- yeah.

20 BY MR. WATKINS:

21 Q. It was 3:40 when you got the
22 call from Gary?

23 A. Yeah.

24 ATTORNEY WESTBERRY:

25 And I really don't

1 know. I don't have any
2 independent knowledge of what
3 time ---. I'm just relying on
4 Bodee.

5 A. Yeah, it was 3:40.

6 BY MR. WATKINS:

7 Q. So you arrived at the mine
8 shortly after the call from Gary.
9 Did you go underground on the 6th?

10 A. No, I didn't.

11 Q. Do you remember the first time
12 that you did go underground following
13 the accident on the 6th, what day
14 that was or anything?

15 A. I don't remember the date, but
16 I remember who I went with.

17 Q. Okay.

18 A. I went with --- maybe I don't
19 remember who I went with. I know I
20 went with Ken Norton (phonetic) from
21 MSHA and I think it was Steve Randall
22 (phonetic).

23 But anyway, at that particular
24 time, Donnie Durrant was an inspector
25 in there, and he was set up at ---

1 roughly at the Six tailpiece. And I
2 don't know if he was or wasn't
3 allowing anybody to travel inby then.
4 I think that was after that --- it
5 started getting a little --- bouncing
6 and stuff, and it started, you know,
7 wanting to heave them entries again.
8 And we had pulled the guys out and we
9 was refixing that ventilation. We
10 were starting to put them solid
11 Kennedies back and doing a better job
12 of fixing that vent.

13 And that's the time I had got
14 in there. And me and Ken, and I
15 believe it was Steve Randall, walked
16 up that Number Two entry to about
17 Crosscut 115, 116. And then we seen
18 Donnie behind us, and he flagged us,
19 and we walked back to talk to him.
20 After talking to him, and then ---
21 you know, he didn't really say a
22 whole lot about that, but he said
23 that he had been over by that seal
24 area. And he said, well, I'm going
25 to go look at it again if you guys

1 would like to come.

2 And so I was able to walk up
3 to the 118 seal --- or Crosscut 118,
4 Number One seal. We looked it over a
5 little bit and backed out of there.
6 We stopped and went at 118, maybe,
7 and a half in the Number Four entry,
8 and at that he said, you know, that's
9 far enough, we need to come back.

10 And we went back from there
11 into the Three, looked it over a
12 little bit, went back in the belt
13 line and looked it over, walked back
14 out. And that was the end of that
15 until we started setting the square
16 sets and the rock props in the Number
17 One entry.

18 Q. And your initial --- well,
19 your first visit underground after
20 the accident, what day was that
21 again, do you know? Do you remember?

22 A. I don't.

23 Q. Do you remember if there was
24 any cleanup activity going on at the
25 time when you was underground?

1 A. There was not.

2 Q. There was not?

3 A. There was no activity. That's
4 --- we were backed out. We were
5 redoing that ventilation again.

6 Q. Okay. Were you doing the
7 ventilation from the initial accident
8 or ---?

9 A. No. The initial one knocked
10 it out to like 95, Crosscut 95.

11 Q. Okay.

12 A. And then they put it back in
13 with temporary brattice line, pogo
14 sticks, foam packs. And they brought
15 it up to where they had established
16 vent back to --- it was like 119, I
17 believe. Then they were starting to
18 mucking that Number Four entry.

19 Q. Okay.

20 A. Okay. And they were --- I
21 believe Ron Paletta was an inspector
22 in there. And they pulled that
23 equipment out to start cleaning the
24 feeder, and it bounced again, and it
25 filled that four entry and it knocked

1 the stoppings and stuff back out, the
2 temporary stoppings.

3 Q. Okay.

4 A. And at that time there them
5 guys evac'd back to right around 95,
6 and then we brought in Kennedy walls
7 and redid all the questionable
8 stoppings. Everything that was
9 temporary we put in with Kennedies.

10 And then that's when I had
11 come in and they were close to ---.
12 They were near Six belt with their
13 progress of the stoppings. And,
14 yeah, I made it in there and walked
15 up that Number Two entry to around
16 115, I believe.

17 And at that time, Donnie had
18 come around the corner and we'd seen
19 him and went back and talked with
20 him. He asked us what we were doing
21 for sure. And I said, well, we was
22 just up here looking, you know. Ken
23 was with us. He says, well, we're
24 just looking for you, actually.

25 And then we walked over into

1 the Number Four entry, up to that
2 Number One seal, up into here, come
3 back around to about right here, at
4 118, backed off, and looked this
5 Three over, and went back into Number
6 Two. And I believe we went about to
7 117 and then back out. And that's
8 the closest I was able to get to it
9 at that time.

10 Q. Okay. When was your next
11 visit back underground, can you
12 remember?

13 A. And then again, on the day, I
14 don't --- I don't know. But it was
15 when we started square setting and
16 rock propping.

17 Q. Where did that take place at,
18 do you remember?

19 A. We started at 118, and then
20 eventually we worked in both
21 directions. Started at 118. Went
22 from 118 to 119. The power center
23 was at 119. The feeder was at 120.

24 Q. Okay. Were you underground
25 the day of the August 16th accident?

1 A. Yeah, I was.

2 Q. Was you underground at the
3 time of the accident?

4 A. No.

5 Q. So between the 6th and the
6 16th, how many times would you
7 roughly say you were underground
8 during that time?

9 A. Let's see here. Sixth (6th)
10 to the 16th. Seven times.

11 Q. Okay. I'm not going to ask
12 you each time what you were doing,
13 but do you remember the reason ---
14 what you were doing underground when
15 you went any of those times, between
16 the 6th and the 16th?

17 A. Yeah. You know, the one time
18 it was to --- well, we took that
19 camera crew in there. That was one
20 time.

21 Q. Okay.

22 A. At least three of the other
23 times was taking the family members
24 in there. And it might have even
25 been four. And any other time than

1 that, it was purely to look at the
2 rock props and see how we was doing.
3 Every time was --- besides having
4 them guys with me, that's what I was
5 doing, is looking at the supports and
6 how we were putting them in. And I'm
7 guessing --- I'm thinking that, you
8 know, that it was around Tuesday,
9 late, or Wednesday that I made my
10 first initial visit in there. And
11 then I believe I was in there every
12 day since then or however many days
13 that was until that initial day of
14 the 16th.

15 Q. Did you spend a lot of time in
16 the face area?

17 A. In between the cut or when he
18 was loading out I wasn't, but when
19 they would set the props and that,
20 yeah, I would. And then I'd spend a
21 lot of time in between here and
22 there, looking at the props and, you
23 know, seeing if I could see any other
24 movement on it. And spent some time
25 around that feeder area and that belt

1 line.

2 And I went one day with an
3 inspector, Peter Saint, into the
4 Number Four entry, where we got a
5 bottle sample. We traveled up that
6 four entry quite a distance and took
7 a bottle air sample.

8 Q. Were you on dayshift at this
9 time, any shift or all shifts?

10 A. I was there all the time. I
11 was in there at 1:00 in the morning
12 at times. I was in there at ---
13 mostly at night. I mean, it was
14 mostly in the later --- Gary was in
15 there a lot in the morning time. And
16 to me, you know, it just depends on
17 if Gary was in there, then I would do
18 something different. I didn't need
19 to be in there if Gary was there.
20 But when he wasn't, then I wanted to
21 be in there, not that we don't like
22 each other, but ---.

23 Q. The time that you spent in the
24 Number One entry, what were the
25 conditions like, roof, rib, floor?

1 A. You know, they looked good to
2 me. I mean, the way we was propping
3 and meshing, it all looked really
4 good. You know, the only time that
5 --- just up there, when the guys
6 would put the props in, was the only
7 times that I was, you know, a little
8 bit nervous and I wanted them to be
9 real careful about putting their
10 props in and getting that done and
11 back out of the way.

12 Q. Okay. Would you just kind of
13 walk me through the process of how
14 you would install the props? Would
15 you mine up, you know, miner back out
16 or whatever, install the props? Can
17 you walk me through the process of
18 putting all the support in?

19 A. You know, each time that ---
20 it would just be just a hair
21 different. They'd load out. You
22 know, everybody would back out to the
23 --- well, the fresh air base, I guess
24 they were calling it, around one ---
25 hell, I don't even know where it's at

1 now. And they had a couple of areas
2 that were doglegged in. I can't
3 remember where those were at,
4 what ---.

5 I remember sitting there with
6 a inspector a couple different times,
7 though, but I can't even guess on
8 what crosscuts those were. But they
9 would load out X amount, you know,
10 sometimes 10 feet, sometimes 20, back
11 that miner back up and out of there,
12 bring in the scoop. And sometimes
13 they'd have to do some switching out,
14 you know, and take a little bit.
15 They'd bring the scoop up, throw out
16 the props.

17 The one time they had that
18 scoop hooked into the pressure for
19 the rock prop. So dig down to the
20 solid with the shovel, throw the prop
21 in and the cap would come --- or the
22 helmet (phonetic) would go on top of
23 that to cap up. They'd holler for
24 the pressure. They'd juice it up with
25 the water and then the scoop would

1 finish setting the pressure on it.
2 They'd pound it down and gradually
3 move theirselves in, mesh behind it
4 and bring the cable up, then they'd
5 clear it out and go back to loading.

6
7 Sometimes when the pinner
8 would come in, then it would change
9 everything. If they had bolts and
10 stuff exposed and --- which that
11 would make the miner back a long ways
12 out where the pinner could switch
13 out. Then the pinner would come up,
14 sometimes spot bolts, sometimes
15 they'd put the I beam all the way
16 across. They, at one point, went to
17 a longer pin, to an eight-foot pin.

18 It's just kind of a different
19 scenario most of the time that I was
20 seeing. Mostly on that, kind of like
21 staying back away from it a little
22 bit and letting them, you know, do
23 what --- a lot of times if you get
24 right in the middle of them, you
25 don't help none. You make it worse

1 for them. Anyway ---.

2 Q. You say the miner would go 10
3 feet or 20 feet. What was the
4 limiting --- what stopped them at ten
5 feet or what --- what was the
6 limiting factor?

7 A. I don't know what it was for
8 'em.

9 Q. Okay. How about the wire
10 mesh, when was it put up? When was
11 it installed during the process?

12 A. When I'd see them do it ---
13 and I think that did change. A
14 couple different guys was finding it
15 to be a little easier. I can't ---
16 the time that I had seen it, they
17 went about --- it seems like eight
18 sets, I think, and then they pulled
19 that mesh straight out and hook it on
20 the end, then bring the cables in
21 behind. They went their jacks first
22 and then your mesh behind.

23 Q. Okay. But they would set the
24 jacks first and then straighten the
25 chain link?

1 A. Yeah. There was --- no, there
2 was another --- they'd have that
3 stretched out there prior to and had
4 it hung on hooks.

5 Q. Okay.

6 A. So there was, you know, a
7 couple different ways I seen them
8 doing it. And I seen them ---
9 generally they'd --- in the
10 beginning, any time they're doing
11 that, there's several ways. You
12 know, you're going to try the most
13 proficient.

14 Q. And the reason you had a
15 concern with setting the props, that
16 was your area of most concern or ---?

17 A. Well, yeah, because once the
18 --- to me, once them props are set
19 and that cable was in, I felt real
20 comfortable about it. But before
21 they're set, you know, that
22 protection not being in there yet, I
23 was --- yeah, I was concerned about
24 that. I was concerned that --- you
25 know, everybody was really eager to,

1 you know, get in there.

2 And I just wanted to --- I
3 tried to emphasize as much as I could
4 that, you know, we will get there,
5 but we need to take our time and make
6 sure it's done right to get there.
7 And, you know, it wasn't easy, you
8 know, thinking about somebody trying
9 to, you know, go above and beyond
10 what we was asking, too, so ---.
11 Yeah, I was concerned at times about
12 it. I never got to, you know, seeing
13 anybody doing anything, but it's
14 always --- it was in my mind. I
15 was ---.

16 Q. Did anybody express any
17 concerns to you about what was going
18 on, the conditions underground or
19 anything?

20 A. No. There was some people
21 that had said they felt uneasy being
22 in the face area. They didn't like
23 being up there, felt nervous about
24 it.

25 Q. Okay. What did you do to

1 resolve that issue, to make them feel
2 comfortable?

3 A. We would send them to the
4 outby ends or on to the surface.
5 There was a couple that worked out on
6 the surface. Some went on a belt
7 assignment. But, you know, any one
8 of them guys --- there wasn't one
9 that wanted to leave property, that
10 talked to me. In fact, they really
11 wanted to do something else, you
12 know, anything. And I said, well,
13 there's plenty to do.

14 And they just, you know,
15 actually about half apologetic about
16 it and just says, you know, I feel
17 uncomfortable up there. And I said,
18 there's nothing wrong with that, you
19 know, absolutely nothing wrong with
20 feeling uncomfortable up there, you
21 know.

22 Q. Who was in charge underground
23 when you was under there?

24 A. Which time?

25 Q. I mean, was there a shift

1 foreman ---

2 A. Yeah.

3 Q. --- underground in charge?

4 A. Yeah. You had a shift foreman
5 and you had a section boss on the
6 section, so you had two of them in
7 there.

8 Q. Okay. What about the number
9 of people that was underground
10 working, how many people did you have
11 in the Number One entry, say from the
12 feeder inby?

13 A. Around 14, I'd guess it.

14 Q. Do you recall what those
15 people would be doing?

16 A. Well, when they was loading
17 out the outburst, you had a miner
18 operator, a helper. And you had ---
19 it seemed like they was at one time
20 running three cars, but I think
21 mostly running the two-car and
22 everybody else is back when the
23 loading out had ceased. And then you
24 had, you know, guys, just like I
25 said, unloading --- you know, brought

1 up the material, throwing out the
2 rock props, guys digging the hole,
3 put the rock prop in, caps, wedges
4 --- or the header and then the ---
5 tightening it up and meshing.

6 Q. You made a statement earlier
7 that sometimes you get up there and
8 you're actually in the way and
9 hindering things more than you're
10 helping, you get too many people.

11 A. Not so much too many people,
12 but me.

13 Q. Just you? Okay. Did you ever
14 feel like there was too many people?

15 A. No. But I --- at one time
16 someone had said to me that they'd
17 --- I don't know, that they felt like
18 there was a lot of people up there.
19 And I don't know if they pulled that
20 number back from when I had seen it,
21 but when I had seen it, it was about
22 right. You know, they weren't
23 tripping over one another.

24 Q. Okay. I want to make sure I
25 didn't leave anything to chance,

1 but ---. Was it bumping while ---
2 bouncing or anything going on while
3 they were cleaning up the Number One?

4 A. Yeah, you know ---.

5 Q. Any significant bounces where
6 the machinery got damaged or ---

7 A. No.

8 Q. --- blocked or anything?

9 A. Not in that --- no. No, not
10 that I know of.

11 Q. Do you ever remember an
12 occasion when they may have had a
13 down time from the recovery operation
14 due to having to clean up for the
15 bounce or ---

16 A. No.

17 Q. --- when the bounces threw
18 stuff in there? Prior to the 16th
19 accident, do you recall the last time
20 that you were underground prior to
21 the 16th?

22 A. It would have been that day,
23 sometime in the morning, I think, of
24 that day.

25 Q. Of the 16th?

1 A. Yeah. It would have had to
2 have been around --- before noon. I
3 can --- I'm pretty sure I can
4 remember talking to Lester Day, who
5 was in there.

6 Q. Were you in the face area at
7 that time?

8 A. Yeah, that morning I had been
9 in the face area.

10 Q. Okay. Anything unusual about
11 the conditions or anything different
12 that day than the prior days that you
13 were underground?

14 A. No.

15 Q. The bouncing and the thumping
16 was about the same? Rib conditions
17 about the same?

18 A. Uh-huh (yes).

19 Q. Okay.

20 A. Yeah, it was about the same.

21 Q. Okay. What time did you come
22 out from back underground that day,
23 that time?

24 A. Once again, I'm going to ---
25 before noon.

1 Q. Before noon?

2 A. Yeah.

3 Q. Okay. So when did you learn
4 of the 16th accident?

5 A. The time on that, too --- and
6 this is just a guess, but I heard the
7 Conspect saying something about send
8 everything you got to the face. Then
9 that phone was right by my desk, and
10 I picked it up and I asked them, what
11 did you say? What are you talking
12 about? And I'm guessing around 6:00,
13 something like that.

14 Q. Okay.

15 A. And they said, we got some
16 guys trapped. And I said, what do
17 you mean trapped? And they said,
18 well, I'm not sure. I'm not sure.
19 And that's all I needed to hear, and
20 I left. I went to the face. Me and
21 Jeff Palmer left that office on a
22 dead run and jumped in an Isuzu Rodeo
23 and headed towards that face.

24 I don't know what was
25 communicated in between then, no

1 idea. He stopped on the One Zone
2 phone and I --- he made one phone
3 call, and I told him, don't stop no
4 more, go. We skipped every zone all
5 the way to that Crosscut 110.

6 Q. What did you see when you got
7 to 110?

8 A. I seen a few people kind of
9 walking around a little bit in half
10 of a daze. And then from 110 to
11 about 120, I sprinted the whole way.
12 I don't --- I passed people. I was
13 --- Jeff was with me, but he didn't
14 stay with me long. I lost him a long
15 ways ---.

16 Q. Before we get into the
17 section, what stops you at 110?

18 A. Jeff. He was driving that
19 Rodeo. And I don't --- I don't know
20 why he stopped at 110 other than he
21 didn't want to put that Rodeo in the
22 haulage to block anything that was
23 going on would be my guess.

24 Q. Okay.

25 A. There was a truck that we was

1 following, and they stopped clear on
2 Six belt. And I don't know what the
3 hell they stopped there for, but we
4 turned down and turned on the section
5 and stopped on 110, parked on the
6 rib.

7 Q. Just take me from 110 on in,
8 into the section, into the face.

9 A. Well, I had a --- my brother
10 is a section boss in there, and he
11 was coming on shift. And I was
12 confident that he was in there,
13 trapped. The switch-out should have
14 been made by then. And so when I was
15 running up the face, I was hollering
16 out his name, and nobody would answer
17 me. And I just took that by meaning
18 that they didn't want to tell me
19 where he was at.

20 So as I ran up through there I
21 was hollering at several guys. I
22 don't know who they were or what they
23 were even doing. I was asking them
24 what was going on, what --- you know,
25 have you seen my brother? Where's he

1 at. And no one would really talk to
2 me, so I took that for the fact that
3 he was probably up there.

4 When I got to --- I think it
5 was 120, there was a shuttle car in
6 the road, and they had --- they had a
7 guy --- at the time I thought they
8 was packing him over the top of a car
9 that was stuck somehow, but they had
10 loaded him in that car on a stretcher
11 and drove to that area. And for
12 whatever reason they either turned
13 and kind of got stuck themselves,
14 but they had stopped at that point.
15 And over the top of that car it was
16 (b) (7)(C) . And he didn't look
17 good at all.

18 And I had asked if anybody
19 knew CPR, and nobody would say
20 whether they did or didn't. Nobody
21 really wanted to touch him. And I
22 wanted to go forward. I didn't want
23 to stay there. I still, at that
24 time, thought my brother was up in
25 there.

1 So anyway, I --- it was about
2 a four-second think there, and then I
3 took him and put him in the back of a
4 truck and asked someone to drive us
5 out, and then I performed CPR from
6 that location to the surface. I
7 talked to him as much as I could on
8 the way out and did whatever I could
9 do. As you know, it gets low in that
10 mine. There was times where I
11 couldn't stand up, and so I had to be
12 bent down.

13 And by the time we got out I
14 was physically done. I couldn't
15 hardly hold my hands up. And after
16 that, I didn't go back in or see
17 anything more than that, but I did
18 --- I was --- everybody that come
19 out, I got ahold of and, you know,
20 grabbed them by the hand and talked
21 to all them guys, except for the last
22 one, who was covered when he come
23 out.

24 Q. When did you finally find out
25 that your brother wasn't in there?

1 A. No. I just remember talking
2 to Bird about it, and he was asking
3 what I thought about it.

4 Q. Had Bird noticed that before
5 --- I think you said he --- about an
6 hour or so before you guys got to the
7 section that there was a pretty heavy
8 bounce?

9 A. He had said it'd been working.

10 Q. Been working? Okay.

11 A. Yeah, he said it got pretty
12 --- I think his words were it got
13 pretty western.

14 Q. Pretty western?

15 A. Which would --- you know, and
16 it looked like it had been pounding
17 pretty good right there.

18 Q. Do you recall any discussion
19 about that maybe being --- being the
20 effects of that being --- bounced and
21 would cause that separation? Was
22 there any discussion along those
23 lines?

24 A. No, but that's what it would
25 have been. I mean, that bounce would

1 have done that.

2 Q. I think you mentioned
3 traveling with Peter Saint to take a
4 bottle sample?

5 A. Yes.

6 Q. And that would be --- do you
7 remember what entry that was in?

8 A. The Number Four entry.

9 Q. The Number Four entry. Do you
10 remember how far --- or what crosscut
11 he made it to to take that bottle
12 sample, do you remember?

13 A. Yeah. There was a little bit
14 of discussion with Peter and I. I
15 believe that we went to 127, roughly.
16 And I believe he thinks we went to
17 126 and a half.

18 Q. Okay. You're thinking you
19 went to 127?

20 A. I think we did. I think we
21 went deeper than that.

22 Q. Okay. What were the
23 conditions like at 126 and a half or
24 127, wherever you made it to? Could
25 you describe those conditions for me

1 a little bit?

2 A. Yeah, I can. Where we finally
3 stopped moving, it was due to the
4 fact that he basically bellied right
5 out. He could not go any farther.
6 And I don't know if I could have went
7 any farther, but I wasn't going to go
8 any farther than that. I was
9 probably ten feet behind him. And he
10 had stopped there. And at which
11 point, I had backed up to about 50
12 feet to where I felt a little better.
13 And I told him to take his bottle
14 sample and we need to go.

15 Q. Okay.

16 A. And he said, okay, I will.
17 And we did that and come back out.
18 But prior to going in there, it was
19 --- it was crawling. We crawled. It
20 was --- at one point, we were --- I
21 was basically doing a duck walk and
22 he was crawling and eventually I
23 crawled. A lot of mesh was kind of
24 tore.

25 And it was tore from a --- of

1 a side action percussion, not from
2 the roof itself coming down, but from
3 the rib itself coming across the
4 entry and in such a force that ---.
5 I do a lot of blasting. I spend a
6 lot of time doing shots and things,
7 and it looked just like as if I would
8 have shot a rib and blowed it across
9 the entry.

10 And to me, it was very strange
11 because it went --- in a certain
12 place, it would be --- it looked like
13 you had drilled the rib on the south
14 side and shot it to the north. And
15 you'd travel another 20, 30 feet and
16 it'd look like you drilled the holes
17 on the north side and shot it to the
18 south. It was going in several
19 different directions. I noticed that
20 some of the inside bolts had been
21 forced to the inside of the walkways.
22 It had been hit by that rib in such a
23 fashion to where it looked like it
24 had been tore to the inside.

25 Q. And this is at 127, 126?

1 A. 125, 126, as we was traveling
2 in there.

3 Q. Okay. So the bolts on the ---
4 you're traveling Number Four?

5 A. Number Four entry.

6 Q. The bolts on the left ---
7 left-hand side were bent towards
8 the ---?

9 A. Towards the center of the
10 entry.

11 Q. Towards the center of the
12 entry.

13 A. I would say walkway, but there
14 was no walkway. It was ---.

15 Q. Crawlway?

16 A. It was a crawlway. And that
17 crawlway, sometimes we'd be in the
18 --- on the south side of the entry
19 and sometimes we'd veer to the north
20 side of the entry.

21 Q. Okay.

22 A. And then when you would get
23 into an intersection, it would ---
24 the amount of outburst onto the
25 walkways was less to where you could

1 just about stand up. And then as you
2 got into the straights, it was tight,
3 real tight. A couple times we
4 stopped and looked it over and then
5 we traveled in a little more. At one
6 point, though, he come to a complete
7 stop. And I can --- I didn't go no
8 farther than to where he had crawled
9 in and he'd said if he had some bolt
10 cutters maybe he could continue on.

11 Q. Outby 125, where you said the
12 bolts were bent over, do you notice
13 them --- you said you noticed them
14 going the other way?

15 A. Yes. Like I said --- I mean,
16 I don't know. It might 124, 25, 26.
17 It's right around there. But it was
18 very strange because at some points
19 it looked like that the force went
20 from south to north. And then as you
21 moved a little farther, it looked
22 like it went from north to south. It
23 changed. It was very, very different
24 looking. It was nothing I've ever
25 seen in my life.

1 Q. Could you tell the amount of
2 material that was in the walkway,
3 crawlway, whatever you want to say
4 but in the entry? Was it worse when
5 it came from the south or from the
6 north, or it didn't matter?

7 A. I wouldn't even think it
8 mattered other than I think it piled
9 up tighter on the north side. The
10 other thing about it was it was very
11 powdery. I don't know if that makes
12 any sense. But as we was crawling in
13 there and he was in front of me, we
14 had a lot of wind coming our way. We
15 was running 20.7, I believe, was the
16 lowest we went on our oxygen. But
17 dusted me out real bad. He was out
18 in front of me, and it was just --- I
19 was covered in it when I came out.

20 So a lot of float dust had
21 occurred there, and it was of a ---
22 kind of a red amber looking stuff.
23 And to me, it was very --- I thought
24 it was very strange.

25 Q. You've never seen that any

1 time before in any other locations?

2 A. The only time I can ever think
3 of such of a thing would be after
4 like --- after shooting --- shooting
5 off of maybe an opener hole off in
6 coal and turning it into mince. I
7 mean hitting it hard. And it was
8 such an amount of it that, you know,
9 I can only imagine where it all come
10 from, from that initial hit.

11 Q. We're still staying in the
12 south mains for now. Do you ever
13 recall an instance where the ribs had
14 sloughed such a degree that there's
15 only one --- maybe one row away in
16 the entry where you couldn't --- two
17 pickups couldn't pass, but the ribs
18 were sloughed down and there's only
19 one --- enough room for getting one
20 vehicle down the middle?

21 A. No, not on that --- on that
22 haulage way. There was a crosscut or
23 two. I can't remember which ones,
24 but that had heaved in. And if you
25 tried to pass with two trucks on a

1 crosscut area, it wouldn't have. It
2 was a single truck aisleway.

3 There was a place, I believe,
4 where a pipe trailer was parked. And
5 it was --- there's a spider. It was
6 piled up up on to the sides of that
7 trailer. But out on the haulage, I
8 don't remember any place where a guy
9 couldn't --- couldn't pass if he
10 wanted to, each other.

11 Q. Okay. You said you've worked
12 there for about 11 years. Was you
13 working when the south main area was
14 developed and pillared?

15 A. Yes.

16 Q. You were working in that area?

17 A. I pulled it.

18 Q. You pulled it. Okay. We got
19 a map of that area, so we can kind of
20 talk about it a little bit.

21 A. Are you talking this area?

22 Q. This area here.

23 A. See, I pulled from here to
24 there and then I believe right here
25 on Six East I had become a shift

1 foreman and my brother had become the
2 boss of that crew. He was my miner
3 operator through all this. And then
4 I had become a shift boss and he had
5 become my boss. And then he had
6 pulled from here and we stopped it
7 and he pulled up. And some point
8 right in here I moved to West Ridge.

9 MR. WATKINS:

10 We'll get a map of this
11 area ---.

12 ATTORNEY WILLIAMS:

13 You were just talking
14 about the south mains area and
15 all the areas basically outby
16 that?

17 A. Pardon me?

18 ATTORNEY WILLIAMS:

19 You were just talking
20 about the south mains; right,
21 and all the areas basically
22 outby the south mains?

23 A. Well, yeah. This would have
24 actually been inby for us at the
25 time. We developed down here and

1 then we'd moved across, jumped up.
2 Moved over and developed this area
3 because of these longwall panels.
4 After we had finished this and pulled
5 these panels, we then submitted for a
6 pillar plan which we pulled back in
7 here. At One --- Six East, we
8 stopped here and went down and did
9 some developing on the out ---
10 starting pulling backwards.

11 ATTORNEY WILLIAMS:

12 May I ask one question
13 going back before we do this?

14 MR. WATKINS:

15 Sure.

16 ATTORNEY WILLIAMS:

17 And it's about the ---
18 the pretty big bump you were
19 talking about earlier when you
20 went into the section in the
21 south. And the operator told
22 you that bump had beat up that
23 pillar pretty good?

24 A. This was in the --- this was
25 on the South Block. Okay.

1 ATTORNEY WILLIAMS:

2 Okay. Did you talk to
3 Gary Peacock at any point
4 about that, that particular
5 bump?

6 A. No.

7 ATTORNEY WILLIAMS:

8 Okay.

9 A. In fact, that would have been
10 --- I wouldn't have seen Gary until
11 Sunday --- or Monday morning when we
12 come there for that. And I have
13 never --- I haven't really thought
14 too much about the ---.

15 ATTORNEY WILLIAMS:

16 Did you talk to --- do
17 you remember talking to any of
18 the other miners about that
19 bump in comparison to any
20 other bumps in the mine?

21 A. No.

22 BY MR. WATKINS:

23 Q. A follow-up question. You
24 mentioned some debris on a pipe
25 trailer?

1 A. Yeah.

2 Q. Do you remember where that was
3 located at?

4 A. I don't, but I think we
5 recovered it on our way. It seems
6 like we --- on our way as we was
7 developing these crosscuts, it seemed
8 like it was in our road and we cut
9 the tongue of it off, I think.

10 Q. Okay. Okay.

11 A. Or we hooked onto it and maybe
12 pulled it out. Something like that.
13 It was a trailer there.

14 OFF RECORD DISCUSSION

15 (Bodee Allred Exhibit
16 Two marked for
17 identification.)

18 BY MR. WATKINS:

19 Q. Bodee, this map in front of
20 you is kind of the south mains.
21 We've marked it Bodee Allred Exhibit
22 Two.

23 A. Okay.

24 Q. Basically, that map there just
25 kind of shows the entries that were

1 driven in the south mains. You can
2 turn it around if you need to, ---

3 A. Yeah.

4 Q. --- if you need to rotate it
5 in some way, whichever way is
6 convenient for you.

7 A. Okay.

8 Q. Okay. And what was your job
9 title while this was being developed
10 or pillared?

11 A. I was a shift foreman.

12 Q. Shift foreman.

13 A. Well, when it was being
14 developed, different.

15 Q. Okay. What were you when it
16 was being developed?

17 A. I was a downshift laborer.

18 And let's see here. This panel --- I
19 moved to West Ridge on that panel.

20 Q. Okay. That would be ---?

21 A. When they was developing it,
22 not when they was pulling it.

23 Q. Okay.

24 A. When they was developing this
25 panel --- we was moving the longwall

1 into here when I went to West Ridge.
2 And I don't know if it was the second
3 time I went to West Ridge or the
4 first. I can't remember. That would
5 have been probably the first time,
6 January 2000.

7 Q. That would be panel 13?

8 A. Yeah. When they were ---
9 they'd just started the gate on this
10 one, and they was bringing the
11 longwall into that one. I think I
12 left about mid move. Okay. Although
13 this was --- this here was developed
14 --- was being developed or worked on.
15 I was a roof bolter in that section
16 before that longwall move started.

17 And I can't remember how far
18 we were in. And, yeah, it was about
19 --- we was developing this for a 72-
20 inch belt, and we had submitted a bit
21 on a LB11 (phonetic) down here, which
22 we had lost. And then at that time,
23 we had pulled that 72-inch structure
24 and all that out and went back with
25 48 inch.

1 And I think I was on the
2 bottom corner when this move started
3 and then I left to West Ridge. And
4 when I come back from West Ridge, we
5 were starting this panel. I was the
6 longwall boss on this panel and that
7 panel. It would be panel 19 --- no.
8 Yeah, 19. I pulled them three and
9 then they moved the wall out.

10 Q. When you came back, you was on
11 panel 17?

12 A. Yes.

13 Q. Okay. When the south mains
14 were retreated, what was your title
15 at that time?

16 A. Shift foreman.

17 Q. Shift foreman. Okay.

18 A. And I had this section and
19 three sections in South Crandall. I
20 had a longwall and a gate entry and a
21 mains section.

22 Q. When the south mains were
23 developed, were they developed with
24 five entries?

25 A. Yeah, they were originally

1 one, two, three, four and five. Yep.

2 Q. Okay. And when you retreated
3 the south mains, I see there's some
4 stuff driven to the left and right.

5 A. Uh-huh (yes).

6 Q. Can you describe the sequence
7 for me there a little better, how
8 those were developed and retreated?

9 A. You know, I don't remember
10 exactly where we started on the pull
11 down here, but ---. And I'm just
12 thinking --- let's see. Did we go
13 left or right? I think we started on
14 the left side. So we'd set up as far
15 as development goes. And just
16 looking at this now, that would have
17 been typically a face one, two and
18 three. So they'd cut across and make
19 the last open. And then I bet you,
20 you know, at how that --- how far
21 that one is, that probably went ---.
22 They probably set that to where they
23 was cutting one, two and three again
24 until towards the end here. And they
25 probably broke this one through for

1 their air and then drove this one and
2 made the long haul back in order to
3 hook that together.

4 Once they developed that,
5 they'd move to the right side and do
6 the same thing. And I'm thinking
7 that we used to go --- that we went
8 three on that one, one, two and three
9 faces and drove them all the way to
10 the end.

11 Q. Okay.

12 A. Come back across and then
13 picked up the other three, developed
14 them. And come back over and ---.
15 Now, I don't remember where they
16 started to pull pillars. But just
17 seeing this right there, I'll bet
18 that pillar started right here and
19 went left to right.

20 Q. Okay.

21 A. We had a --- we had two
22 returns. We had this pull through
23 bleeder that went through the Six
24 East area, and then you also had a
25 south mains return that we could ---

1 we could switch that around to where
2 we had enough air to pull pillars
3 going out the south. And then we
4 also had --- maintained enough air
5 for that bleeder system going through
6 here for our pumps and that.

7 And I think that's what it
8 was. I think we went left to right
9 up and then to a certain point which
10 we would --- we would stop and then
11 back up and then develop again. And
12 on this one here, the four entries,
13 I'll bet we took all four of them and
14 worked them across, developed. And
15 that would have been the only ones
16 that came back over and went left to
17 right again. As we backed out,
18 stopped once more.

19 I should also say that we
20 sealed that. And we did seal that
21 and we were sealing that one.

22 Same thing, just to the right
23 of us, developed them entries. At
24 one point, I believe we sent ---
25 after we passed this Six East area,

1 we sent the majority of our air that
2 way instead of through the south. We
3 would switch it over when we
4 developed to the right so the air
5 would come a normal route instead of
6 backwards to the south side. And
7 yeah, basically I'm pretty sure I can
8 remember going left to right with the
9 development and the retrieval. I
10 don't remember ever switching that or
11 going back the other way. But they
12 may have. I can't remember doing
13 that.

14 And then somewhere right up
15 here, I think I went back to --- I
16 went to West Ridge. But the thing
17 about this one was was that South
18 Crandall was developing with that
19 longwall --- they was pulling with
20 that longwall and developed two
21 sections. And it's a lower seam, and
22 I had the majority of my men over
23 there and --- virtually just about
24 everybody except for this pretty
25 small group of guys. I spent most of

1 my time in South Crandall.

2 A couple reasons for that, the
3 guy that ran my crew, you know, I
4 have all the faith in the world in
5 him and he don't need mirrors to
6 watch the other end of the world, so
7 --- but yeah, that's pretty much how
8 I think what that was.

9 Q. Condition-wise, what was the
10 roof and rib conditions?

11 A. You know, that was kind of ---
12 it wasn't really developed in mines
13 of pulling pillars. It was meant to
14 be a mains. Six East was meant to be
15 a mains. It was places where they
16 had left top coal, which turns out it
17 ain't worth eight eggs. When you're
18 pulling pillars, you get a lot of
19 coal breaking on top of you. There
20 was places where we had rebolted it
21 with eight-foot pins. And we would
22 set roadway timbers. There was a lot
23 of really wide intersections in there
24 that they --- they didn't do so good
25 on development-wise. So we'd crib

1 block the corners of them all except
2 for the final --- the final pull on a
3 pillar. The final lift wouldn't get
4 the crib. But up the protection for
5 the miner up both sides a lot of
6 times would get the square sets.

7 There was plenty of overcasts
8 through here which were cut extremely
9 high. So then you'd come under some
10 pretty good brows, which sometimes we
11 would just flat leave them and just
12 not work around them. Sometimes the
13 MRSs would be to where they couldn't
14 quite reach, so we'd have to skip
15 through. We had helmets put on the
16 MRSs for extra height.

17 And when we developed this
18 other end of it, though, we did like
19 we wanted to, you know, about eight
20 feet, and took it to the top and had
21 the floor coal. And when you're
22 pulling them areas, it pulled really
23 good except for that MRS with the
24 helmet on it didn't fit so hot. So
25 we eventually removed the helmets and

1 then we just passed the areas that
2 were too high. We made a decision
3 that we'd rather get the helmets off
4 and then any place that was cut
5 extremely high during development,
6 that we'd just --- we'd just skip
7 through them.

8 But this pulled really, really
9 nice. And this --- you know, the
10 thoughts on this was that it would be
11 difficult at times because the way it
12 was developed. This area over here
13 developed a lot nicer. I mean, they
14 done a better job on this and the
15 seam got a little lower at times. So
16 they were rock to rock. This one
17 pulled with some pretty good force.
18 I mean, we had some pretty good
19 bounces in here.

20 Q. You're talking about
21 panel ---?

22 A. You go up there to the
23 east ---.

24 Q. Let's go ahead and you can
25 show us on the big map.

1 A. They started right here on
2 this part, Main East, ---

3 Q. Uh-huh (yes).

4 A. --- pulling these pillars.
5 This is --- I don't know if you know
6 this, but this is a river --- or the
7 spring above you. Okay?

8 Q. Uh-huh (yes).

9 A. This was all X'd out to where
10 you couldn't mine none of that. That
11 panel had pulled out and this
12 longwall had left. And we come in
13 and finished the development, hooking
14 this together for these longwall
15 panels. Once they were done, we come
16 in and we just started pulling
17 backwards.

18 Q. You're talking about the area
19 between what would be panel 3 and
20 panel 19? I'm just trying to get
21 some kind of reference to the map.

22 A. Yeah, there you go 19 and 3.

23 Q. Okay.

24 A. Up through here was pretty
25 good pulling. I mean --- but we had

1 some good bouncing going on at times.
2 Coming back across here, we had some
3 real good bouncing, you know,
4 sometimes where you really had to pay
5 attention and back away from it a
6 while and let it settle. And it was
7 a pretty tough little section right
8 through there. Four and a half, it
9 was pretty okay, done a good job.

10 Six, it had gotten a little
11 bit tough right in this area, if I
12 remember right. And, you know ---
13 but this --- we was always kind of
14 thinking this might be a little
15 tougher. But this ended up pulling
16 twice as easy as these over here.

17 ATTORNEY WILLIAMS:

18 The south mains were a
19 lot easier?

20 A. Yeah, it went --- it went
21 good. I mean, like I said, we had
22 --- we did some different things
23 there. We put a lot of roadway
24 timbers and crib blocked the corners
25 and things like that and did a lot of

1 extra cable bolting --- or not cable
2 bolting, but eight-foot bolting
3 behind us, you know, in anticipation
4 of --- because of the top coal that
5 they had left. And we had some areas
6 that we just flat skipped because
7 they were wide intersections and high
8 overcast areas. But development
9 sides and that, it pulled well.

10 Yeah, I was the section boss
11 on this here, so I was there the
12 whole time. It was a --- sometimes
13 when --- you know, it got pretty
14 tough going in there.

15 But over here, it just --- it
16 went really nice. And in between
17 here, you got longwall panels on
18 either side of you. It was kind of
19 --- I wasn't really sure what to
20 expect. It was --- it was a good
21 little section.

22 BY MR. WATKINS:

23 Q. You mentioned in the south
24 putting eight-foot bolts up. Was
25 that in the crosscuts or ---?

1 A. No. I believe they was mostly
2 --- I think they were in some
3 crosscuts and some straights. It was
4 just kind of around everywhere.

5 Q. Just as needed or ---?

6 A. Yeah, pretty much as needed.

7 Q. The section you was talking
8 about first referred to as --- I
9 guess it was bouncing pretty heavy
10 between the number 3 panel and number
11 19 panel, ---

12 A. Uh-huh (yes).

13 Q. --- do you remember what those
14 centers were, what size centers were
15 they driven on or anything?

16 A. I don't.

17 Q. Okay. If you ---?

18 A. There was some different ---
19 different ones there. You know, an
20 entry's going to be --- it wasn't
21 that much different then than it is
22 now. You know, they were always
23 shooting for --- preaching 17 and
24 hoping they'll stick under 18. And,
25 you know, that would have been

1 --- at the time we was developing
2 that, Garth would have been in charge
3 of the three mines and he was real
4 particular about that.

5 Q. Okay. You were talking about
6 the bouncing. Was there a lot of ---
7 a lot of sloughage?

8 A. No.

9 Q. A lot of coal being thrown, or
10 just sound or what ---?

11 A. The cave was good.

12 Q. The cave was good?

13 A. Yeah. The cave was good. The
14 cave good and tidy. Come down and
15 bring a lot of air when it'd do it.

16 Q. Okay. As far as the pillars
17 themselves go, the way they're
18 mining, did it show a lot of weight,
19 signs of taking weight or anything?

20 A. Not so much. And that's funny
21 you should --- I mean, I'm just
22 thinking about that right now. It
23 wasn't like that. The pillars were
24 actually --- they'd hold --- they'd
25 take some weight a bit. And then

1 when they'd quit, it wasn't long
2 behind it that top would come and it
3 cave up in there. That's, you know
4 --- and it'd get pretty tough in
5 there. It would cave high and tight
6 and right up to your breaker rolls,
7 right up to your MRSs. It was always
8 right with you. And it stayed right
9 on top of us. It was good high
10 caves.

11 Q. As far as the amount of coal
12 that was moved from the pillars,
13 about like the rest of them? You
14 took all you could get, I'm sure,
15 but ---.

16 A. Yeah, it was a --- except for
17 the places where --- where we were
18 X'd out because of the river. I
19 mean, we never --- you know, wasn't
20 touching any of that. And at times,
21 you know, that -- that might have
22 been why it was a little difficult,
23 too. You'd get a good cave carrying
24 and then you'd have to skip a lot of
25 stuff and you'd hold a lot of weight.

1 And then it would hold back just a
2 bit and here she'd come. But it was
3 always top. It wasn't --- we never
4 had much trouble with them ribs. It
5 was different. That's a different
6 place than up there.

7 I don't know if that coal held
8 solider or it was a better quality,
9 but it was ---. You know, when you
10 did have the rib sloughage, it would
11 be more of in the chunk size, a
12 little big bigger than what you had
13 in that other one.

14 Q. Was there any water in that
15 section?

16 A. Yeah. Yeah, there was water.
17 Nothing more than --- than anywhere
18 else, but there is water in there.
19 That's why we have all the pumps in
20 there.

21 Q. That's why I --- you mentioned
22 the pumps earlier. That's the reason
23 I mentioned the water.

24 A. Yeah. Yeah, there's water
25 down in there. There's some --- I

1 think there's water that seeps out of
2 that --- either that or the floor
3 from panel three or somewhere around
4 there. But we'd make some water here
5 and there. Nothing significantly
6 coming out of the roof, though. It
7 was either out of the ribs or out of
8 the floor. Yeah, if you don't pump,
9 it ain't long before you ain't ---
10 you're going to be air tight.

11 Q. What size pump was sitting
12 there? Do you remember?

13 A. I believe we have a couple of
14 inline 32 high output pumping when
15 they do --- they're on floats. When
16 they come on, they're kicking about
17 900 gallons a minute, going through a
18 ten inch off line.

19 Q. When it kicked on, about how
20 long would it pump? How long would
21 it take to pump it back down before
22 they ---?

23 A. Before the float dropped? It
24 was like 20 minutes, but they come on
25 pretty --- yeah.

1 Q. Pretty often?

2 A. You had all your pumps in that
3 wraparound bleeder pumping to that
4 area as well because that's where the
5 big pumps were at. Not only did you
6 have water that come to it on its
7 own, but everything come back around
8 and pumped to it. There was a dam-
9 type deal there, and we'd pump behind
10 the dam.

11 So it just depends on what
12 pumps were coming on and, you
13 know ---. And when the guy would do
14 his --- the weekly man would walk his
15 rounds, he would turn pumps that were
16 on floats on as he went in. It would
17 help him on his way back out. He'd
18 clear the path. And a lot of times
19 it'd be done on a Monday, so it would
20 pump more water than normal. And
21 then the pump would run quite a bit.
22 And it pumped all the way around to
23 Crosscut 46 behind --- it would be
24 behind the panel three.

25 Q. So coming out of the south now

1 on retreat, you said it pillared
2 pretty well?

3 A. Yeah. You know, I mean, we
4 didn't --- I don't know what the
5 percentage of extraction was, but
6 yeah, it was pretty good. There
7 wasn't nothing that was out of the
8 ordinary. And I think our numbers
9 were actually better when we
10 developed as far as tonnage as it was
11 when we pillared because of the ---
12 you know, we was skipping and
13 different things and setting a lot of
14 road timbers and crib blocks. So as
15 far as production goes, I don't know
16 if it was ordinarily great or
17 anything. But I just know that the
18 quality --- I mean, how we was doing
19 it and the success we were having was
20 really, really good.

21 Q. You talked about skipping.
22 What was the reason for skipping the
23 blocks?

24 A. Sometimes, like I said, you
25 know, if it was cut out really high

1 and we pulled them helmets off at one
2 point where MRSS wouldn't touch top
3 or around the overcast areas where
4 you'd have a lip, you know, if you
5 can think of an overcast where it's
6 cut out high where it had actually
7 shot out. And then after this, all
8 that stuff's removed. So you just
9 got the high area. And then if
10 you're trying to mine that, you're
11 --- obviously your MRSS would never
12 touch the roof there. But if you'd
13 try to come from either side of it,
14 then you're forced to stand under
15 brows and lips and things, so we
16 would just pass them, skip them.

17 Q. As far as a bad roof or
18 adverse roof, you never skipped any
19 blocks due to ---

20 A. No.

21 Q. --- taking weight or anything
22 like that, skip and start over?

23 A. No. Not down --- not in the
24 south.

25 Q. When you say not in the south,

1 did it happen somewhere else?

2 A. Up in the North Block we
3 skipped a row or two. I think it was
4 two.

5 Q. Since you mentioned that,
6 that's what we're going to do next.
7 I guess we didn't make any marks on
8 that map. So nothing --- nothing out
9 of the ordinary as far as anything
10 that sticks out in your mind as being
11 a cause for concern or anything while
12 you were mining the South Block, the
13 south mains?

14 A. No.

15 Q. Okay. We'll move this one out
16 of the way now. You didn't mark that
17 one. We'll give it to someone else.

18 You may remember something and
19 maybe we'll have to go back to it,
20 you never know. You mentioned the
21 north barrier block, and that's kind
22 of where we're going to now. What
23 was your title or what was your
24 position at the time when the north
25 barrier was developed and retreated?

1 A. Safety director.

2 Q. You were safety director at
3 that time?

4 A. Yeah.

5 Q. Okay. I'm sure you were on
6 --- you were on the section while it
7 was being developed I guess down
8 towards the end of development. What
9 were the conditions like in that
10 panel as far as on development?

11 A. Pretty good. It was --- you
12 know, you had some rib sloughage.
13 They were kind of a little bit
14 crooked in there. They was off sides
15 a time or two. It was kind of ---
16 you know, it wasn't a real straight
17 section. It was --- it seemed like
18 around 123, 124, maybe, they kind of
19 veered off a little bit and had to
20 get straightened back out, had to
21 make some adjustments. As far as
22 like a good straight section, I
23 really wasn't too pleased with being
24 on sights so much.

25 But anyway, down around ---

1 and I'd, you know, be guessing here
2 again. Around 100 and maybe 50, 51,
3 52 area we started getting some water
4 coming out of the roof. The top
5 started kind of getting a little bit
6 crappier. At one point, we kind of
7 come under and left some coal top to
8 help hold that up, which started
9 helping. I think at the same time we
10 were trying to get our pillar plan
11 approved, and we was down to some
12 pretty short cuts there for a while
13 it seems like because of shell rock
14 and things falling out, mostly, you
15 know, really causing hell with our
16 ash, as far as the coal goes.

17 I think once we got our
18 approval for the --- to pull, we
19 stopped and started pulling instead
20 of continuing on. And I think as
21 soon as that plan come up, we
22 immediately went to pulling them
23 pillars and backing out.

24 Q. You mentioned the first thing
25 you noticed about the section that it

1 wasn't real straight, that it might
2 have been off center a little bit or
3 off line?

4 A. Yeah, mainly in that belt line
5 and Number Two entry.

6 Q. Did that --- did that cause
7 you to have to mine the Number Two
8 entry a little lighter in order to
9 get your belt line --- to maintain
10 the belt line straight?

11 A. Let me think here. Where was
12 that? That would be the Number
13 Three.

14 Q. Number Three, I'm sorry. The
15 Number Three entry.

16 A. Yeah. The Number Three entry.
17 In that ---. Yeah, there was a place
18 in there somewhere that had --- we
19 had set --- they were wide and we set
20 extra timbers on that --- on that
21 south side. I can't remember where,
22 though.

23 Q. Okay. Was it maybe --- was it
24 up in the middle of the panel or ---?

25 A. I'm going to say right around

1 144, 143 area.

2 Q. Okay.

3 A. And it was --- it was about
4 two feet off to where they had moved
5 to the south. And as far as
6 straightening it out, though, I'm not
7 sure they had to do much other than
8 they were wide to the --- in that
9 area and they set the timbers on the
10 south side. But as far as anything
11 going on the right-hand rib, I think
12 it was pretty much pushed with a
13 scoop to get that two feet, you know,
14 for your walkway on that side. And
15 then the hangers were off through
16 there, too, and they had to readjust
17 them hangers.

18 Q. How long a distance was it
19 off? You said it was off ---.

20 A. 120 feet.

21 Q. 120 feet.

22 A. About a break's worth. I
23 think they fixed about a break and a
24 half there.

25 Q. Okay. I also noticed in the

1 north it was pretty obvious there
2 that the --- you stopped mining
3 before you got to the ---

4 A. Yeah.

5 Q. --- bleeder entries in
6 the ---. What was the decision as
7 far as why you stopped?

8 A. Like I said, I think we was
9 gaining some water back. And it was
10 almost done when we was --- had
11 stopped mining and ---. But back
12 here you still had water coming out
13 of the roofs through the cracks, and
14 a pretty good amount of water where
15 we was pumping. Pumping --- I think
16 they were five-horse pumps we were
17 running.

18 We had an area somewhere like
19 149 that was down-dipped and which we
20 had like a 15 or an 18-horsepower
21 pump in it pumping into off ---
22 sending it out. And these pumps were
23 pumping into that.

24 I think the actual top was
25 getting better for us. The amounts

1 and what we'd been going through
2 right through here once we had got
3 that pillar plan just made the
4 decision here. I don't really know
5 why they made that decision, but to
6 start pulling backwards at that
7 point.

8 So that roughly cut them
9 about, I don't know, 300 feet shy,
10 400 feet from where they was
11 originally planning on going. And I
12 don't know if that was that big of a
13 concern to 'em.

14 Q. Other than the pumps that were
15 sent in to dewater that area, was
16 there any other method used to
17 dewater? I mean, was there a bore
18 hole or anything drilled from ---

19 A. Yeah.

20 Q. --- one side to the other?

21 A. Uh-huh (yes). They drilled a
22 bore hole, and I --- I'm not exactly
23 sure where they drilled that one in,
24 51, 50, somewhere around there, 150,
25 151, maybe. It might even have been

1 closer to the end of that.

2 Q. Where was it drilled --- it
3 was drilled over into the ---

4 A. It was drilled into the ---.

5 Q. --- old Main West?

6 A. Yeah. It was drilled from the
7 south side of the South Block, so
8 from here into there. It was
9 wherever that dip was at. I can
10 remember --- I remember looking at
11 the setup, how they had it set, how
12 they had it timbered in and the drill
13 actually set up. And I think I did
14 the pre-op on that drill or went
15 through it and made a list of what
16 they needed to --- tool-wise or
17 whatever.

18 Q. Did it work?

19 A. Yeah, they drilled. Rodger
20 Ewell drilled that hole.

21 Q. Did it work as far as helping
22 to dewater that area?

23 A. I don't think it did. I don't
24 think it went anywhere with it, but
25 they did drill a hole.

1 Q. So on development, roof and
2 rib conditions, nothing sticks out as
3 far as being bad or adverse?

4 A. No. It was a lot similar to
5 this one.

6 Q. This one being the south
7 barrier?

8 A. Yeah. And you had some
9 sloughage in places. And any time
10 that they would --- any time they
11 would get higher, you know, take the
12 seam, you know, the ribs got worse.
13 They would slough worse.

14 If they would keep around
15 seven and a half, eight feet, it
16 would have done a lot better. But
17 this here --- this is pretty vague,
18 but I'm 47, 53, right around there,
19 the top was getting a little bit
20 different. We had to shorten up our
21 cuts along this area somewhere.

22 Q. And that's the area where you
23 left top coal?

24 A. Yeah. We started --- we did
25 leave some top coal, and it was about

1 four breaks' worth I think they come
2 underneath and tried to hold out.
3 You know, it might have been a little
4 bit farther back even, but ---.

5 Q. Okay. What about during ---
6 during the retreat of that panel?
7 Was there any --- what was the roof
8 and rib conditions like during
9 retreat?

10 A. You know, they was pretty good
11 when we first started out. We come
12 across here and we had a good cave.
13 And it was --- it was pretty good for
14 us. It seemed like the farther we
15 would come this way the cave started
16 getting farther behind us and not
17 caving as high, taking the one and
18 two pillar and no barrier. The span
19 to me wasn't wide enough and we
20 wasn't getting that good-type cave.
21 And the farther we went this way, the
22 more that overburden was coming out
23 on us.

24 And so up in the face area
25 wasn't so bad, but back here a break

1 or so from you, it wasn't all that
2 good. It was kind of, you know, a
3 little heavier back here, which you
4 don't like. And as they moved, it
5 would just kind of follow them. But
6 instead of following them following
7 them, it was more on the lead
8 'em ---.

9 But the rib-wise --- were
10 breaking small, you know, the
11 hourglass-looking affect. No slabs.
12 I think we --- I might have seen one
13 one slab off, you know, maybe a four
14 by fiver come maybe four feet into
15 the walkway. Other than that,
16 corners kind of rounding off a bit
17 and we'd set some timbers along the
18 haulage on one and two, some timbers
19 in the corners on the --- on the belt
20 line.

21 Q. A lot of bumping, a lot of
22 bouncing?

23 A. Pretty typical. Just normal.
24 Nothing --- nothing out of the
25 ordinary. I think --- we talked

1 about that other, what I was just
2 saying. It bounced quite a bit more
3 over there.

4 Q. Compared to the south, was the
5 bumping and the bouncing --- was
6 there a difference? Could you tell a
7 difference between the two panels?

8 A. I couldn't. No, it was --- to
9 me it was --- yeah, it was about the
10 same.

11 Q. I notice at the end of March
12 of '07 around 137 you skipped some
13 blocks. What do you know about that?

14 A. This had got --- and this
15 might have been where they was
16 leaving some of that top coal. But
17 anyway, like I was saying, that kept
18 getting farther on the outby end of
19 them to where it was working back,
20 back behind them a bit. And so the
21 decision then was made --- and I
22 don't know who made the decision, but
23 to skip X amount of pillars which
24 ended up being four, to timber this
25 all off. Actually, it was cribbed

1 all off and to move backward and then
2 reestablish that cave line and try to
3 get out in front of that weight.

4 Which the way I understand it,
5 it was working fairly good and they
6 pulled one and two pillar and was
7 looking nice. And they come around
8 on this pillar here, and I --- I
9 understand they got about a quarter
10 of it, maybe, and then it --- it hit
11 real hard on this area right around
12 here.

13 And at that point there, Gary
14 had made the decision to pull that
15 mining section out of there. And
16 this would have been on a Sunday.

17 Q. Do you know how many cuts was
18 taken out of that block between 133
19 and 134 between the Number One and
20 Number Two entries before it ---?

21 A. I don't know for a fact, but I
22 was --- I had heard there was one
23 left. That's what I heard. It might
24 have been let's say a quarter.

25 Q. Did you go underground and

1 observe the conditions at that time
2 or any time after that?

3 A. No.

4 Q. Okay. Did you hear any ---
5 was there any discussion about the
6 amount of damage --- amount of
7 sloughage or what damage was done due
8 to the bounce?

9 A. The only thing that I'd ---
10 damage-wise was the --- equipment-
11 wise everything was fine and running.
12 The coal out in the walkways, I
13 understand was, you know, around a
14 couple feet kicked out into the
15 walkways. I don't know how far that
16 went. They had some holes in some
17 stoppings. No stopping that I knew
18 of was knocked clean to the ground.
19 They had some holes out towards the
20 outby that I believe went into the
21 weekly book. I think the --- on the
22 cave line itself there was one
23 stopping that was cranked --- like
24 half kind of cranked open that they
25 were fixing. And as far as I'm aware

1 of, they just cleaned up what had
2 kicked out into the walkways and
3 pulled MRSs and equipment in.

4 It was really quick. They was
5 --- by the time Monday rolled around,
6 I believe that section was setting
7 right here in this mains. Right up
8 here somewhere. Pretty much
9 everything, you know, equipment-wise.

10 Q. Do you know if that bounce was
11 called into MSHA? Was MSHA notified
12 that that bounce occurred?

13 A. It was not.

14 Q. Do you know why it wasn't?

15 A. Yeah. Well, I know ---.

16 ATTORNEY WESTBERRY:

17 Which bounce, again,
18 are we talking about, just for
19 my clarification?

20 MR. WATKINS:

21 We're talking about the
22 one in the north barrier
23 around block 130 ---.

24 ATTORNEY WESTBERRY:

25 March?

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MR. WATKINS:

March.

ATTORNEY WESTBERRY:

Thank you.

A. Yeah. It was around seven o'clock on Sunday --- Sunday night Jim Poulson had called me and asked me if I had called in a bounce out at Crandall. I said no. And he said, what's going on at Crandall. And I said I have no idea. I was in a town meeting.

And he says, well, I understand that there was a bounce of some sort. I said I don't know what you're talking about, but I'll call and find out. And I called Gary and asked him, and he said that --- he said, it was --- it bounced there and I decided to pull that section out. I don't feel very comfortable up in there. And I says, did you call MSHA. And he says, no, I looked through the criteria and I don't feel it meets the criteria to call them.

1 And I says, okay.

2 And he says, I probably should
3 have gave you a call and had you come
4 up, but I didn't think it was that
5 big of a deal. And he says, you
6 know, should have done --- I should
7 have gave you a call and had you come
8 up and look it over. And I says,
9 well, if you feel that good about it,
10 I mean, you don't need my advice.
11 And I said, where is the section.
12 And he says, well, it's moved. We're
13 moving it out. You know, thought we
14 could skip some pillars and make that
15 work and it ain't working. That's
16 enough.

17 And I said, sounds good to me.
18 That was that. And I didn't think a
19 whole lot of it after that.

20 The following day, we had
21 supervisor training for five guys
22 that I did. And then I had an MSHA
23 inspector every day for the following
24 five days and then one day off and
25 then again on Sunday. And by the

1 time that we had got back up here,
2 those were --- those were sealed. It
3 was a pretty quick little sealing.

4 And I believe Gary endangered
5 that off at some point. And I think
6 it might say that in the weekly book,
7 what crosscut he endangered off. And
8 then also, too, at the same time on
9 --- I think it was either Monday or
10 Tuesday we was on --- on a conference
11 call with MSHA trying to get an MP
12 point move backwards, so ---. Moved
13 out of this area up to there.

14 BY MR. WATKINS:

15 Q. Do you recall what mining was
16 taking place the last time that you
17 were in the north barrier?

18 A. It's going to be right in here
19 somewhere, around 137, 138 before
20 they moved. You know, I was --- I
21 was in there when they moved. I was
22 in there when they was setting these
23 cribs across.

24 Q. Okay.

25 A. So that's not very far away

1 from that when that happened.

2 Q. What were the conditions like
3 at that time? I mean, what did
4 the ---?

5 A. I thought they looked, you
6 know, good in that area, but I wasn't
7 --- you know, well, then again, you
8 know, it's done. They ain't doing
9 anything. There's nothing going on.
10 That kind of doesn't really help when
11 you show up after they quit mining
12 and nothing's happening. You know,
13 it's just sitting there doing
14 nothing, so, yeah, it looked all good
15 to me, but ---.

16 Q. Did you have any discussions
17 about what was taking place while
18 they were mining with the section
19 boss or anybody?

20 A. Yeah. I think I talked to
21 most of them guys. And I think if
22 anything that it was the override
23 that bothered everybody. It was
24 climbing on the outby end of
25 'em. And, you know, they would talk

1 about that, and I'd always ask how
2 much coal is being left on them
3 pillars. And then somebody would
4 say, well, I don't know why but they
5 left a lot of coal on a pillar, this
6 pillar here, they left a lot of coal.

7 Q. Uh-huh (yes).

8 A. And it --- asked what --- you
9 know, leaving a lot of coal there?
10 Well, yeah, it was getting rough.
11 Well, sometimes it does get rough and
12 then they do leave some coal.

13 But sometimes they don't and
14 they leave coal because it's quicker
15 to get to a place where there's more
16 coal. I don't know if that was going
17 on a while, but any discussion about
18 it was mainly due to someone saying,
19 you know what, they're sure leaving a
20 lot of coal, they're moving off the
21 block too soon, or this guy ain't
22 moving what he's supposed to be, the
23 typical cross-shift complaints. And
24 then the outby end of it, getting
25 heavy on the outby.

1 Q. You say getting heavy on the
2 outby. What signs were the pillars
3 showing that they were getting heavy?

4 A. It wasn't so much the pillars.
5 It was the top.

6 Q. The top?

7 A. Uh-huh (yes).

8 Q. What signs was it showing?

9 A. Just the pound on the bolt,
10 you know. And your bolts generally
11 after a while have a bit of a rust
12 color on them. Sometimes you'd knock
13 the rust off of 'em. You'd rock dust
14 on the roof. It'd knocked it loose a
15 little bit, which is different from
16 the rib. And you'd get a lot of rib
17 pounding, which we had some good
18 pounding going into the section as we
19 developed on the rib.

20 We was coming back --- and not
21 to sidetrack or nothing. You had
22 --- you know, you got two things that
23 happen in a pillar. Either your
24 rib's going to work it or your roof's
25 going to do it. Generally, it ain't

1 the same time. One giving out and
2 then the other takes over, in my
3 opinion.

4 This here, this override is
5 the top. You know, we had some
6 bagging, too, there, that screen.
7 And I think that's where that was
8 leaving that coal top. The coal top
9 breaks apart and it starts bagging
10 screen and bolts tightening up a bit,
11 things like that.

12 But I don't really remember
13 them ribs being a major issue. I
14 mean, yes, they did slough out and
15 they wore. But they weren't --- they
16 to me wasn't --- like, I didn't walk
17 in there and look at the rib like I
18 was going to get side-wiped by that
19 rib. I looked at the top a lot,
20 though. And I think that I --- I
21 made that walk down here on this
22 bleeder.

23 This bleeder wasn't as good as
24 this one. This one had more
25 sloughage in it. And it had --- it

1 had some --- I'm pretty sure that's
2 where we left that coal now that I'm
3 thinking about it. But it had some
4 places in there where it was starting
5 to sag a bit on that coal top and
6 some of them screens tightening up on
7 some bolts. You know, some typical
8 stuff. I mean, you know, bolts
9 tighten. That's what they're meant
10 to do. And there was no lateral
11 movement I seen anywhere. Any test
12 holes that I'd tested weren't broken
13 on the inside run of the tape. The
14 cracks across there, I don't really
15 remember seeing any of them cracks.
16 I do on this block down here, though.

17 Q. What type of cracks are we
18 talking about?

19 A. Like over here in this ---
20 head of this section. You had your
21 vertical or horizontal cracks in the
22 roof.

23 Q. Okay.

24 ATTORNEY WILLIAMS:

25 Around 111, 112?

1 A. Yeah, roughly around there.
2 They had painted them and whatnot and
3 put some caps in --- or wedges in
4 'em.

5 ATTORNEY WILLIAMS:

6 You said the north
7 bleeder was not as good as the
8 south bleeder?

9 A. Yeah, the south had a better
10 bleeder. And this wasn't bad by no
11 means, but this --- this one here was
12 doing better.

13 BY MR. WATKINS:

14 Q. Let just clarify for a minute.
15 The painting cracks and the wedges,
16 that was done after ---

17 A. After the ---.

18 Q. --- the August 6th accident?

19 A. Yes.

20 Q. Okay. Had you noticed some
21 vertical cracks prior to the
22 accident?

23 A. Yeah, I think I did notice a
24 few of them. In fact, I think when
25 we was walking with Billy Owens and

1 Gary Jensen, we looked at them
2 cracks.

3 Q. In that same area or some
4 other area?

5 A. Yeah, roughly around and in
6 through there.

7 Q. Okay.

8 A. And there is --- there
9 probably was some up here. I don't
10 remember seeing them, but they run
11 through the mine at various places.

12 Q. Skipping back up to this ---
13 to the North Block now, you mentioned
14 that the North Block maybe was a
15 little worse than the south. You
16 mentioned sloughage in the bleeder
17 entry. Was that sloughage --- was it
18 from the pillars to the south or to
19 some rib line to the north Number
20 Four entry?

21 A. Mainly from that south pillar
22 towards the north.

23 Q. Okay. From the pillars. So
24 it was a pillar that was sloughing
25 versus the ---?

1 A. More so.

2 Q. Than the barrier?

3 A. Yeah.

4 Q. Air quantity, air quality, ---

5 A. Uh-huh (yes).

6 Q. --- any methane, low oxygen,
7 anything in the North Block?

8 A. No. 20.8s and zeros.

9 Q. How much involvement did you
10 have with the development or
11 submittal of the roof control plan?

12 A. None.

13 Q. Did you have any involvement
14 with any consultants or anybody who
15 was doing the roof control
16 evaluations or modeling for Crandall
17 Mine?

18 A. The only one I know of is
19 Agapito, and I believe I trained
20 'em. But I didn't go in there in the
21 mine that day. But I did travel with
22 Billy Owens and his assistant, Pete
23 Del Duca, I think his name is. And
24 we traveled this North Block. And I
25 did see the drafts of --- of the roof

1 control plans prior to submittal but
2 no comment from me at that time on
3 any of it, really. I just read the
4 predraft of it, which was e-mailed to
5 me. But, no, I didn't --- I didn't
6 travel with Agapito at any time.

7 ATTORNEY WILLIAMS:

8 Were those sent to you
9 for your comment?

10 A. Yeah. They're roughly sent to
11 basically everybody, you know,
12 general mine manager, safety
13 directors.

14 ATTORNEY WILLIAMS:

15 Can I ask a question
16 back about your conversation
17 with Gary Peacock about
18 pulling out of the north
19 section and about that bump?

20 A. Uh-huh (yes).

21 ATTORNEY WILLIAMS:

22 Can you remember more
23 about what he said about that
24 bump and the severity of it
25 and ---?

1 and that did not work. I wouldn't
2 --- I don't know if he's --- if that
3 was such a significant bump or was
4 the fact that this ain't --- this
5 ain't going to work. So we need to
6 go.

7 ATTORNEY WILLIAMS:

8 Was it --- why wasn't
9 it going to work? Or did he
10 tell you about that?

11 A. Well, I have my own opinion
12 why it ain't going to work, but he
13 didn't me nothing about why it didn't
14 work.

15 ATTORNEY WILLIAMS:

16 That's what I was
17 trying to understand.

18 A. It ain't going to work because
19 you ain't got enough span there. You
20 got to reinitiate a cave line. It's
21 like a domino, and it's not coming.
22 They tried to pick it back up, but it
23 ain't happening. And he's never ---
24 they're never going to get it.

25 ATTORNEY WILLIAMS:

1 Was developing still
2 occurring outby behind them?

3 A. Yep.

4 ATTORNEY WILLIAMS:

5 Would you say that?

6 A. They hit --- you know, they'd
7 hit and miss this area around here.
8 I wish I could have been up there and
9 seen it. I wish that that ---.

10 BY MR. WATKINS:

11 Q. When you traveled with Billy
12 Owens, did he express any concerns or
13 anything to you?

14 A. I don't recall anything that
15 he had said about any concerns.

16 Q. I got a little confused. You
17 did or did not travel with Agapito?

18 A. I did not travel with Agapito.
19 I trained them.

20 Q. Trained them.

21 A. And that's --- that's the
22 thing I can remember about Agapito.

23 Q. Okay. Do you remember
24 traveling with anybody from BLM or
25 anybody underground as they pulled

1 off this section to evaluate the
2 conditions?

3 A. I couldn't even begin to say a
4 date, but I know that I --- I know I
5 had 'em at one time in here, and I
6 had 'em one time in here.

7 Q. Okay.

8 ATTORNEY WILLIAMS:

9 Both in the north and
10 the south?

11 A. Yes. That south side, I don't
12 remember 100 percent whether we was
13 pulling or advancing. But I had
14 'em in both sides.

15 BY MR. WATKINS:

16 Q. Do you remember the reason for
17 his visit?

18 A. Just checking locations, I
19 guess, is what they do to see if
20 we're --- where we're cutting our
21 coal in the releases.

22 Q. Do you remember who was it was
23 with ---?

24 A. No. But I --- it's the same
25 guy that always comes. It's the only

1 one I've ever seen. I don't remember
2 his name, but it wouldn't be hard to
3 figure that out.

4 Q. As far as you remember, he
5 wasn't there to evaluate the
6 conditions of the bump or the
7 conditions of ---

8 A. No.

9 Q. --- you pulling out or
10 anything like that?

11 A. No. I mean, usually that's
12 --- he would take a spad number off
13 the roof to correlate to keep track
14 on his map that apparently they keep
15 on where we're cutting and how much
16 we're cutting type deal.

17 Q. Okay.

18 A. It wasn't nothing to do with
19 looking at no conditions.

20 Q. The old Main West area which
21 is between the north and the south
22 barrier block on this map, were you
23 involved in the mining in that area?

24 A. No.

25 Q. Do you recall visiting that

1 area before it was ---?

2 A. Yes.

3 Q. Do you remember where you went
4 to or ---?

5 A. Yeah. Let me think here a
6 bit. Okay. One time --- well, we
7 had to drill a hole, come across
8 here. So there was a pump there.
9 There'd have been a preshift up
10 there. So I would have preshifted
11 that area as a preshifter at one
12 time.

13 Also, this used to wrap all
14 the way around the --- these longwall
15 panels as a bleeder, and that used to
16 be on an intake air course where you
17 could drive down and check pumps and
18 I'd have preshifted it at that time
19 as well. And then that right there
20 had a pump in, so there was a book on
21 it. And you was able to drive all
22 the way out of the mine.

23 Q. Okay. What were the
24 conditions like in the Main West as
25 far as the rib conditions, roof

1 conditions?

2 A. I don't --- I know that we had
3 some places that was timbered off. I
4 don't really remember where, and no
5 cave-in type deal but a lot of
6 sloughage on the bolts. Around the
7 bolt, you know, starting to kind of
8 expose it. And I think what they
9 were doing was just breaker rolling
10 off intersections and endangering them
11 out instead of, you know, maybe
12 rehabilitating them.

13 This haulage area, one and
14 two, if I can remember right was
15 always accessible. Some of the stuff
16 between three and four --- there was
17 places that was dangered off and
18 timbered out.

19 It seemed like this condition
20 was --- I know why they sealed this
21 here. They sealed it because they
22 didn't want to take the time to
23 rehabilitate anything in order to
24 pull on the pillars.

25 ATTORNEY WILLIAMS:

1 In the mains?

2 A. And --- huh?

3 ATTORNEY WILLIAMS:

4 In the mains?

5 A. Yes.

6 BY MR. WATKINS:

7 Q. Main West?

8 A. Yeah. And I can remember
9 thinking to myself that I thought
10 they could have went farther up to
11 seal it. I thought that that was ---
12 this from here out wasn't so much ---
13 wasn't that big of a deal. Up here,
14 there was some places that would have
15 took some time and a lot of stuff up
16 here like --- there was some --- it
17 seemed like they had some Omega
18 Block, gob, and different things and
19 some old structure, you know, things
20 that they'd been storing up through
21 there. But I don't know if they was
22 wanting to take the time to get
23 everything or what the heck they were
24 doing, but it just seemed like this
25 area up here would have took a while

1 to --- and reestablish the belt line
2 and whatnot. But I thought they kind
3 of shortened that up. This seemed
4 pretty good in this area.

5 Q. What would they have gained on
6 moving the seals inby?

7 A. Well, this is a --- in '04,
8 when they sealed that, I was always
9 just thinking about areas of coal.
10 And to me, you know, if they was
11 going to pull pillars --- but this
12 was before this was even projected.
13 But I just figured, you know, there's
14 another 30 breaks or 20 breaks.

15 Q. You were just thinking about
16 more coal ---

17 A. Coal.

18 Q. --- to pillar?

19 A. Yeah. And as far as, you
20 know ---.

21 Q. Okay. In the center of the
22 Main West area, there's several I
23 guess crosscuts, if you will, that
24 got some kind of symbol on them?

25 A. Yeah.

1 Q. Do you know what that is?

2 A. Well, it says rock.

3 Q. It says rock.

4 A. I don't remember that being
5 much rock in there, though. I don't
6 --- I really don't ---. I remember
7 Laine saying something about the
8 layers, you know, that they ---. I
9 don't understand how that works, how
10 the AutoCAD is. But apparently you
11 got layers over layers or something.
12 But he was --- I don't know if it was
13 you he was talking to, you guys, or
14 what, but I don't remember being that
15 much rock in there. I don't where
16 the heck it would have come from,
17 but ---.

18 Q. That was my next question.
19 Where would it have come from?

20 A. That's what I mean. It would
21 be --- it seems very weird it would
22 be up there. I don't know why they
23 would haul it up there or why it says
24 rock, but ---.

25 Q. How long after your last visit

1 into the Main West was it sealed off?

2 A. It was sealed in '04, and I
3 don't have any idea.

4 Q. Okay.

5 A. '04 I'd --- let's see where
6 I'd even be then. In 2000 --- I was
7 probably --- it was probably close to
8 2000 that I was in there or before.
9 '99 maybe, because I had become a ---
10 I went to West Ridge for that time,
11 and when I come back, I was a boss,
12 so I wouldn't be preshifting anymore.

13 Q. Okay.

14 A. It would be just in the
15 section. I wouldn't be --- I'd
16 preshift sections, but I wouldn't be
17 doing the haulage or any of the
18 bleeders anymore.

19 Q. So in 2000, how would you
20 describe the roof and rib conditions
21 in 2000 when you was in there?

22 A. You know, other than the
23 places that they had timbered off,
24 nothing out of the ordinary. You
25 know, the --- but there was places

1 that it was blocked off, though,
2 access points. But this was all ---
3 you know, this was developed later,
4 too. And this back here --- I don't
5 remember when that was, but this area
6 into the drill ---.

7 Q. You're talking about the back
8 bleeder towards the ---?

9 A. Towards these panels, yeah.
10 This would be --- I can remember them
11 guys building that seal.

12 Q. Just a second here. Okay.
13 I'm going to let that map out for
14 some reason, Bodee.

15 A. Okay.

16 Q. If you could, pick your
17 favorite color there and just mark on
18 the ---.

19 ATTORNEY WILLIAMS:

20 Why don't you use a
21 color that's not on that map,
22 maybe orange.

23 MR. WATKINS:

24 That would be a good
25 idea.

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ATTORNEY WILLIAMS:

And we're talking about
Exhibit Two?

MR. WATKINS:

Yes.

BY MR. WATKINS:

Q. Could you mark on the map ---
can you outline the region where you
were the shift foreman that was
pillared? Can you remember how far
out you came?

A. I'd have got that area.

Q. Okay.

A. I'm not sure where we started
on that pillar.

Q. Okay.

A. We'd have come past them
seals. I'm thinking it goes up ---
up on to that area.

Q. Okay.

A. Somewhere ---.

Q. Somewhere in that area ---?

A. I'd have to --- I wish they
had the dates on there of when we was
developing or pulling.

1 ATTORNEY WILLIAMS:

2 So you were the shift
3 foreman?

4 BY MR. WATKINS:

5 Q. Up to that point or at that
6 point you became shift foreman?

7 A. No, I was the shift foreman.

8 Q. You was shift foreman?

9 A. Yeah. This whole thing I was
10 shift foreman.

11 Q. Okay. The whole ---?

12 A. Yeah, the whole block. It
13 might be cut here a little bit.

14 ATTORNEY WILLIAMS:

15 That's the approximate
16 area?

17 A. I can remember --- you know,
18 yeah, I can remember being ---. I
19 don't know if it was the director of
20 that or not. I wish I had some dates
21 on there.

22 BY MR. WATKINS:

23 Q. Do you remember the roof
24 control plan that was developed ---
25 or do you know who designed that plan

1 as far as who designed the pillar
2 cuts or sequence? Was that done in-
3 house or ---? You mentioned Agapito
4 before. Did they have any
5 involvement in design of that pillar
6 sequence?

7 A. I don't know.

8 Q. Okay.

9 A. I would think they would. I
10 think that's probably why they hire
11 'em. I'm sure they got something to
12 say. I have no idea.

13 Q. Okay. I'm really going to
14 change gears on you now. I'm going
15 to take you all the way back to the
16 August 6th accident and the time that
17 you spent outside on the surface.
18 You probably heard the term command
19 center used several times during the
20 rescue and recovery operations. Were
21 you involved in the command center
22 operations at any time?

23 A. You're referring to MSHA? The
24 MSHA command center?

25 Q. How was that set up? Was

1 there one command center? Was there
2 two command centers? How was --- how
3 was it structured on the surface?

4 A. The MSHA command center, the
5 blue goose is all I remember where
6 everybody --- most of the guys from
7 MSHA were at.

8 Q. Okay. Where were the guys
9 from the company at?

10 A. They was in my office ---
11 people were in my office, including
12 me. There was a conference room just
13 outside of my office where
14 occasionally we would meet.
15 Sometimes Bruce Hill was there a lot
16 of times. Across the --- the catwalk
17 you into the engineer room, the
18 engineers were over there, and
19 sometimes Bruce was over there and
20 sometimes Laine. A lot of times
21 Laine was in the conference room
22 right next to me. Gary's office is
23 up in the upper bathhouse, and we had
24 meetings up there.

25 Q. How was the communication

1 between MSHA and the company?

2 A. I think it was really good. I
3 --- yeah, I --- I was pretty pleased
4 with that, the communication.

5 Q. Okay. I guess during the
6 course of --- of the rescue and
7 recovery operations there were plans
8 that were being developed along the
9 way. Who was developing those plans?

10 A. Well, I think that was a
11 combination of different people. I
12 worked on some plans. I think I did
13 one full plan pertaining to the
14 sensor locations on the seals of ---
15 it would be one through nine, how we
16 was putting 'em in, locations, where
17 we was running the hose, different
18 things like that. Talking with the
19 mine rescue team from MSHA and
20 different things and put that plan
21 together, which I don't believe I
22 ever got it approved. I think
23 someone else took it from me to
24 finally get it approved. But it was
25 a lot of mine ---. And sometimes

1 them plans would take a while.

2 Q. Okay. As these plans were
3 being developed, was there input from
4 MSHA as it had been developed, or
5 would the plans be developed and then
6 say given to MSHA to agree with?

7 A. There was, I believe, a
8 meeting in the mornings that MSHA
9 would go over things. And it wasn't
10 so much of a plan submitted, it was
11 more of a goal that our company was
12 wanting to do. And I sat in on a lot
13 of these meetings. And then MSHA
14 would say, well, yeah, that's good or
15 that's --- you know, why don't we try
16 this and put input. And then shortly
17 after there a plan would be
18 submitted.

19 And then off that plan we
20 would go down into the blue goose and
21 present the plan. And then there
22 would be, you know, two or three
23 things maybe or one thing or, you
24 know, the way it was worded would
25 have to be changed. And we would go

1 up and change that and come back
2 down.

3 The one time that I remember
4 it was --- the wording on the square
5 sets that we were putting towards the
6 outby, they were eight-by-eights
7 except for we had delivered to us
8 eight-by-six pressure treated, which
9 it turns out is a --- is a more
10 sturdier support. But it did not say
11 that in the plan. Therefore, we
12 couldn't use that. And so we did a
13 little bit of running back and forth
14 to hurry and make them changes so we
15 could keep putting them in. You
16 know, it was maybe a ten-minute deal
17 of running back to a computer and
18 back down again.

19 And then sometimes, you know,
20 that would happen over some wordage,
21 but it's understandable. And, you
22 know, besides the lack of sleep and
23 frustration, you know, it wasn't
24 nothing that anybody every generated.
25 It was a tough deal for everybody in

1 any position they were doing, anybody
2 that spent any time there.

3 Q. How were the miners who were
4 working underground notified or made
5 aware of any changes in the plan or
6 any new plans that may be developed?

7 A. Meetings every morning or
8 every night right up in the
9 bathhouse.

10 Q. They were all briefed?

11 A. Yes. Yeah. Mine rescue teams
12 were briefed down below. And
13 sometimes they were briefed down
14 below, too, the men. It just
15 depends. We had, you know, some food
16 set up down there and sometimes we'd
17 catch them in there or up above.

18 Q. Did any of the men express
19 concerns during those briefings about
20 the plan, contents of any of the
21 plans or anything?

22 A. Not really. The only people
23 that expressed anything was the ones
24 that expressed to me up in there not
25 feeling comfortable being there.

1 They'd rather be doing something
2 else.

3 Q. And along the same lines.
4 During the course of everyday mining
5 activity, there is a person who's
6 designated as the responsible person?

7 A. Yes.

8 Q. Do you know who that was
9 usually?

10 A. It's the shift foreman.

11 Q. It's the shift foreman?

12 A. Yes.

13 Q. How are the men notified or
14 made aware who the responsible person
15 is?

16 A. We have a tag board there that
17 says who's responsible on the
18 dayshift and who had been responsible
19 on the graveyard, and he puts his
20 name on it.

21 Q. Do you know or are you aware
22 of the duties or responsibilities of
23 that person?

24 A. Of the shift foreman --- or
25 the responsible person?

1 Q. The responsible person.

2 A. He's responsible for any
3 evacuation processes, taking control
4 and organizes that. It's always the
5 shift foreman because he knows where
6 he puts the people. And he's in
7 charge of an evacuation emergency-
8 type scenario. And it doesn't matter
9 what it is. Contacting people, he's
10 the first one that's contacted.

11 Q. If the --- if the shift
12 foreman leaves mine property or has
13 to leave the mine for some reason,
14 who becomes the responsible person at
15 that point?

16 A. To me, it would be the section
17 boss, but that shift foreman would
18 appoint somebody as he was leaving, I
19 would assume.

20 Q. And how would the men be
21 notified that there was a change in
22 the responsible person? I know you
23 got the guys on the section, but do
24 you also have other guys --- workers
25 in the mine?

1 A. This would be an assumption.

2 Q. Yes.

3 A. But I would assume that he
4 would tell them of that, that he was
5 leaving and who would be the RP. And
6 also, he would notify Conspect of
7 that --- of that move.

8 Q. I know you provide a lot of
9 the training for the workers at the
10 mine. Did you ever give any guidance
11 or training on who the responsible
12 person would be and how they would be
13 notified if there was a change?

14 A. No.

15 Q. Okay. Was there a reason why
16 you didn't do that? Why you didn't
17 train them in knowing who the
18 responsible person was?

19 A. Well, they do know who the
20 responsible person is, but you asked
21 if he was to leave if I give him any
22 training.

23 Q. Okay.

24 A. And I didn't give any training
25 on if he was to leave, but, yes, they

1 all know who the RP is. And that is
2 brought up and talked about. But an
3 actual responsible person leaving the
4 property, I've never instructed the
5 RP on any guidelines as in how to
6 make sure everybody knows that.

7 Q. Okay.

8 A. I would just assume, you know,
9 what I would have done if I was a
10 shift foreman.

11 Q. Which would be?

12 A. Well, I've never left as a
13 shift boss. But if I had to leave as
14 a shift foreman, I would appoint my
15 next in --- in line would have
16 probably been my section boss, and
17 I'd have pulled him from that duty
18 and replaced him with someone else.
19 And he'd have been an RP at that
20 mine. And they would have all been
21 notified of that, all my outby
22 personnel.

23 When I was a shift boss, I was
24 running four and five sections, so he
25 most definitely wouldn't have been in

1 the section. I would have pulled him
2 from that operation.

3 Q. Okay.

4 A. That's what I have done. But
5 no, I've never spoke to any of the
6 RPs at the property to --- in order
7 if they was to leave on how to handle
8 that. I never even thought of it.

9 MR. WATKINS:

10 Okay. Can we go off
11 the record just for a minute?

12 Just take a quick little
13 break here to see if these
14 guys have any more questions.

15 SHORT BREAK TAKEN

16 BY MR. WATKINS:

17 Q. Just a couple clarifying
18 questions here, follow-up questions.
19 You talked about the meeting that was
20 held outside in the command centers
21 or on the surface, if you will.

22 A. Uh-huh (yes).

23 Q. And do you remember anyone
24 from MSHA who was participating in
25 those meetings or discussions? Would

1 it be a group of people from MSHA or
2 would it be ---?

3 A. Oh, you know, it was --- I can
4 remember Bill Taylor being there,
5 Kevin --- I do this every time,
6 Strickler --- or Stricklin.

7 Q. Kevin Stricklin?

8 A. Stricklin. He was there.
9 Richard was there a time or two. I
10 think Mike was in some of them, and
11 Joe. I don't know, different people.

12 Q. These kind of meetings, where
13 were they taking place at?

14 A. Most of the ones that I've
15 been in, if it wasn't in the command
16 center itself it was --- I'm talking
17 about the Blue Goose, it was up by my
18 office in that little coffee room
19 conference room.

20 Q. Okay.

21 A. A lot of these were like right
22 around --- they were either 6:00 or
23 7:00, but it was the same time when I
24 was getting people coming across from
25 West Ridge that I was doing training

1 at these times. So I missed quite a
2 few of them meetings.

3 Q. Okay. Were you involved in
4 any of the activities at the bore
5 holes, at the surface bore holes?

6 A. No. No, I never did get
7 there.

8 Q. Bodee, have you given a
9 written statement or interview to
10 anyone before this interview
11 regarding the accident?

12 A. No.

13 ATTORNEY WESTBERRY:

14 Other than me. Other
15 than me, you know.

16 ATTORNEY WILLIAMS:

17 Did you say written or
18 verbal?

19 A. I didn't give a written or
20 verbal.

21 MR. WATKINS:

22 I did say interview, so
23 it would be verbal.

24 BY MR. WATKINS:

25 Q. Has anyone offered you

1 anything or made you any promise ---
2 or made any promise to you in
3 exchange for your appearing today or
4 not to appear today?

5 A. No.

6 MR. WATKINS:

7 On behalf of MSHA, I
8 want to thank you for
9 appearing and answering
10 questions today. Your
11 cooperation is very important
12 to the investigation as we
13 work to determine the cause of
14 the accident.

15 We ask that you do not
16 discuss your testimony with
17 any person who may have
18 already been interviewed or
19 may be interviewed in the
20 future. This will ensure that
21 we obtain everyone's
22 independent recollection of
23 events surrounding the
24 accident.

25 After questioning other

1 witnesses, we may call you if
2 we have any follow-up
3 questions that we feel needs
4 to be asked. If at any time
5 you have additional
6 information regarding the
7 accident that you would like
8 to provide to us, please
9 contact Richard Gates. And
10 his information is on the card
11 that I gave to you earlier.

12 The Mine Act provides
13 certain protections to miners
14 who provide information to
15 MSHA and as a result are
16 treated adversely. If at any
17 time you believe you have been
18 treated unfairly because of
19 your cooperation in this
20 investigation, please contact
21 us immediately.

22 If you wish, you may
23 now go back over any answer
24 that you have given during the
25 interview and you may also

1 make any statement that you
2 would like to make at this
3 time. Anything you'd like to
4 add or clarify?

5 A. No.

6 MR. WATKINS:

7 Bodee, again, I want to
8 thank you for your cooperation
9 in appearing here today.

10 A. Thank you.

11 * * * * *

12 SWORN STATEMENT

13 CONCLUDED AT 12:24 P.M.

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