

STATEMENT UNDER OATH  
OF  
JEREMY BEHLING

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Tuesday, November 27, 2007 beginning at 8:05 p.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

## A P P E A R A N C E S

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

JOSEPH O'DONNELL, JR.

Mine Safety &amp; Health Administration

Suite 2231

1100 Wilson Boulevard

Arlington, VA 22209

DEREK BAXTER

U.S. Department of Labor

Office of Solicitor

Suite 2231

1100 Wilson Boulevard

Arlington, VA 22209

MARCO M. RAJKOVICH, JR., ESQUIRE

Rajkovich, Williams, Kilpatrick &amp;

True, PLLC

2333 Alumni Park Plaza

Suite 310

Lexington, KY 40517

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

2

3       RICHARD A. GATES

4       U.S. Department of Labor

5       District Manager, District 11

6       135 Gemini Circle

7       Suite 213

8       Birmingham, AL 35209

9

10       MICHAEL GAUNA

11       Mine Safety and Health Administration

12       Industrial Park Drive

13       Triadelphia, WV 26059

14

15       TIM WATKINS

16       Mine Safety & Health Administration

17       100 Fae Ramsey Lane

18       Pikeville, KY 41501

19

20       ALSO PRESENT:

21       Kelly C. Kirkwood, Notary Public

22

23

24

25

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 - 10
<u>WITNESS:</u> JEREMY BEHLING	
QUESTIONS	
By Mr. O'Donnell	10 - 80
CONCLUDING REMARKS	80 - 82
CERTIFICATE	83

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>
Behling		
1	Map	27

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

P R O C E E D I N G S

-----

MR. O'DONNELL:

My name is Joe O'Donnell. I'm an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the United States Department of Labor. With me is Derek Baxter, from the Solicitor's Office. We'll be conducting the questioning today. I, together with other government investigators and specialists, have been assigned to investigate the conditions, events and circumstances surrounding the fatalities that occurred at the Crandall Canyon Mine in Utah in August of 2007. The investigation is being conducted by MSHA under Section 103(a) of the Federal Mine Safety & Health Act and

1 the Utah Commission of Labor.  
2 We appreciate your assistance  
3 in this investigation.

4 After the investigation  
5 is complete, MSHA will issue a  
6 public report detailing the  
7 nature and causes of the  
8 fatalities in the hope that  
9 greater awareness about the  
10 causes of accidents can reduce  
11 their occurrence in the  
12 future. Information obtained  
13 through witness interviews is  
14 frequently included in these  
15 reports. Your statement may  
16 also be used in other  
17 proceedings. You may have a  
18 personal representative  
19 present during the taking of  
20 this statement and may consult  
21 with your representative at  
22 any time. Your statement is  
23 completely voluntary. You may  
24 refuse to answer any question  
25 and you may terminate the

1 interview at any time. And if  
2 you need a break, just let us  
3 know and we'll take one.

4 Since this is not an  
5 adversarial proceeding, formal  
6 Cross Examination will not be  
7 permitted. However, your  
8 personal representative may  
9 ask clarifying questions as  
10 appropriate. A court reporter  
11 will record your interview, so  
12 please speak loudly and  
13 clearly. If you don't  
14 understand a question, just  
15 let me know and I'll rephrase  
16 it. Please answer each  
17 question as fully as you can,  
18 including any information that  
19 you've learned from someone  
20 else. And I'd like to thank  
21 you in advance for your  
22 appearance here today. We  
23 appreciate your assistance in  
24 this investigation. Your  
25 cooperation is critical in

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

making the nation's mines  
safer.

After we have finished  
asking questions, you'll have  
an opportunity to make a  
statement and provide us with  
any other information that you  
believe to be important. If  
at any time after the  
interview you recall any  
additional information that  
you believe might be useful,  
please contact Mr. Richard  
Gates at the telephone number  
and e-mail address that I just  
gave you earlier.

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

MS. KIRKWOOD:

Please raise your right  
hand.

-----  
JEREMY BEHLING, HAVING FIRST BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:  
-----

1                   MR. O'DONNELL:

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

5                   MS. KIRKWOOD:

6                   I am.

7                   MR. O'DONNELL:

8                   And when does your  
9                   commission expire?

10                  MS. KIRKWOOD:

11                  August 15th, 2008.

12                  MR. O'DONNELL:

13                  Have you sworn in Mr.  
14                  Behling?

15                  MS. KIRKWOOD:

16                  I have.

17                  BY MR. O'DONNELL:

18                  Q.            Would you please state your  
19                  full name and address for the record?

20                  A.            Jeremy Andrew Behling.

21                  Address is <sup>(b) (7)(C)</sup>

22                  (b) (7)(C)

23                  Q.            Okay. Do you have any  
24                  questions about the interview process  
25                  as I've described it?

1 A. No.

2 Q. And Mr. Behling, do you have a  
3 personal representative with you  
4 today?

5 A. Yeah.

6 MR. O'DONNELL:

7 And would your personal  
8 representative please identify  
9 himself by name and address  
10 for the record?

11 ATTORNEY RAJKOVICH:

12 Marco Rajkovich, 2333  
13 Alumni Park Plaza, Lexington,  
14 Kentucky. And Mr. Behling has  
15 asked me to be here with him  
16 today.

17 MR. O'DONNELL:

18 Okay.

19 BY ATTORNEY O'DONNELL:

20 Q. Mr. Behling, are you aware  
21 that your representative may have a  
22 conflict of interest in representing  
23 you while being provided by someone  
24 else, such as the company?

25 A. Yeah.

1                   MR. O'DONNELL:

2                   Mr. Rajkovich, would  
3                   you state for the record  
4                   whether you represent the mine  
5                   operator in these matters?

6                   ATTORNEY RAJKOVICH:

7                   I do.

8                   BY MR. O'DONNELL:

9                   Q.           With this understanding, do  
10                  you still want this person as your  
11                  representative?

12                 A.           Yeah.

13                 Q.           Okay.  Jeremy, are you  
14                  appearing here today voluntarily?

15                 A.           Yeah.

16                 Q.           And how many years of mining  
17                  experience do you have?

18                 A.           Two.

19                 Q.           Two years.  And give us a  
20                  brief description of your employment  
21                  history, where you worked and how  
22                  long you worked there as far as  
23                  mining.

24                 A.           As far as mining, I started at  
25                  Horizon Mine.  It seems like it was

1 August or so of 2005. And I worked  
2 there for a year and quit there and  
3 went to Genwall. Then I sat there  
4 for about a month-and-a-half. And  
5 Bob came in and bought the company  
6 and he shipped the longwall over from  
7 Genwall to Westridge, and I went with  
8 them.

9 Q. Okay. So how much time have  
10 you actually spent at Crandall  
11 Canyon?

12 A. About a month-and-a-half to  
13 maybe two months.

14 Q. Okay. And what did you do  
15 while you were there?

16 A. The first time I was there I  
17 was a general mine mechanic.

18 Q. Okay.

19 A. And so I went everywhere  
20 between South Crandall and Crandall.

21 Q. Do you have any mining  
22 certificates?

23 A. Just a methane card.

24 Q. Okay. So when the accident  
25 happened, you weren't working at

1 Crandall Canyon?

2 A. No.

3 Q. And how were you notified of  
4 the accident?

5 A. At first I seen it on TV. And  
6 I was scheduled to go in swing shift  
7 at West Ridge that day, on the 6th,  
8 and I showed up and they basically  
9 says, what are you doing. I says,  
10 I'm here to go to work. Well, you're  
11 supposed to be at Genwall, they said.  
12 And I told them, well, nobody told  
13 me. And I says, well, I guess if I'm  
14 supposed to be at Genwall, then I  
15 guess I better get going. And I left  
16 there about ten to 3:00, and I was at  
17 Genwall at like quarter after 4:00  
18 that first day, on the 6th.

19 Q. That was on the 6th, ---

20 A. Yeah.

21 Q. --- after ---

22 A. That afternoon.

23 Q. --- that afternoon. Okay. If  
24 you would, just walk me through that  
25 day, what you did when you got there,

1       who you talked to, what your  
2       assignments were and what you did  
3       until the time you left the mine.

4       A.       I wasn't sure who the boss was  
5       going to be, and so I went in and I  
6       talked to Bodee, and he told me he  
7       was glad to see me because I've  
8       worked with Bodee before. And I  
9       asked him who the boss was going to  
10      be, what we was going to be doing,  
11      and he says, well, the boss is going  
12      to be Darren Awell, and the shift  
13      foreman is going to be Dale Anderson.  
14      And he says, we're just going to see  
15      what we can do about ripping a  
16      roadway in there. And I said, all  
17      right, let's do it.

18               We got some safety  
19      orientation. We got updated on the  
20      situation, how it was looking and  
21      what everything was looking like and  
22      how it was acting. And Darren come  
23      and asked me, he says, you know how  
24      to run a three-and-a-half, and I said  
25      yeah. He says, well, here's the

1 plan. He says, me and you are going  
2 to start cleaning the roadway,  
3 shoveling, and whatever open break we  
4 can get and see how much roadway we  
5 can get cleared. And I told him, I  
6 said, all right, let's go. We got  
7 all loaded up, all geared up, and we  
8 headed in. And I got to the, I guess  
9 you'd say the work face, where we  
10 were starting, and I was completely  
11 dumbfounded by it. I mean, I have  
12 never seen nothing that looked like  
13 that.

14 And we got a handful of things  
15 squared away to where we had running  
16 water for the scrubbers and other  
17 things for everybody else to be  
18 taking care of while me and Darren  
19 were running the three-and-a-halves.  
20 And Ron Paletta was the inspector  
21 there. I've known Ron for quite a  
22 while, and I stopped and talked to  
23 him. And he told me, he says, well,  
24 he says, this don't look good, don't  
25 look good. And I talked to him a

1 little bit, and he told me, he says,  
2 you'll be all right. You'll be all  
3 right. And so I was nervous because  
4 I had never seen nothing that looked  
5 that bad.

6 I've seen roof falls before  
7 and a floor heave, but I have never  
8 seen the pillars explode like it  
9 looked like they did. And me and  
10 Darren, we got the machines started  
11 up and started ripping a roadway.  
12 And we had about two, two-and-a-half  
13 breaks clean of a bucket width's  
14 roadway. And I told Darren, I says,  
15 hey, I says, I got to go back and  
16 fill the scrubber up, and I'm just  
17 about out of safety pressure. And he  
18 told me, he said, all right. He  
19 says, I'll stay out of your way for a  
20 minute. And I backed up and got to  
21 where the water hose was to fill the  
22 tank and I heard snap, crackle, pop,  
23 and so I just stopped and started  
24 looking around, watching the roof  
25 bolts, I mean, everything that you're

1       supposed to do, and watched the  
2       corners of the ribs, what was left of  
3       them and the pillars and everything  
4       else.

5               Well, all right. So I put it  
6       in neutral and set the brake and went  
7       to go get out. I reached out and  
8       grabbed the handle to open the door  
9       and it went kaboom and ripped again.  
10      And I pulled the handle back and  
11      said, holy shit, and just instant  
12      dark and I panicked. I sat there for  
13      a minute and I was like, well, why is  
14      it so dark? I couldn't find my hard  
15      hat. It wasn't on my head, and  
16      so --- the concussion of it bouncing  
17      that second time on that first night  
18      knocked my hard hat off. And I  
19      pulled on the light cord and pulled  
20      it up, and it knocked out even the  
21      sides of the cab of the mesh for the  
22      winch protection, I guess you would  
23      say. And I got it back through and I  
24      pulled it up, and I'm like, shit,  
25      it's still dark. And I put my hand

1 in front of it, and I couldn't see  
2 it, couldn't see it. And I'm like,  
3 damn, broke my light. So I pulled it  
4 off and looked at it. And I got it  
5 like three, four inches away from my  
6 face before I could finally start  
7 seeing light. I'm like, holy shit.  
8 This is bad. This is really bad.

9 And I sat there for a minute  
10 and told myself, all right, don't  
11 freak out. Relax. We'll see what  
12 the hell is going on. And I said,  
13 forget this, I'm getting the hell out  
14 of here. I'm going outby. Because I  
15 couldn't really feel any air running  
16 around, and so I was thinking, worst  
17 case scenario, oh, shit, it caved  
18 behind me. Now I'm trapped. Oh,  
19 shit. So I grabbed reverse and tried  
20 to go in the machine, and I couldn't  
21 get the machine to go. And when I  
22 couldn't get it to go, I decided,  
23 well, I'm going to kill this, I'm  
24 going to get the hell out. I know  
25 the motor is pointing outby. That's

1 the way I'm going. And I reached  
2 down to grab the lever on the door  
3 and tried to open the door and I  
4 couldn't. And so I kind of halfway  
5 squirmed around to where I could put  
6 my legs onto it and try and push it  
7 up with my legs, and I couldn't quite  
8 get it open that way. So I reached  
9 out and I could feel the machine was  
10 buried, and there was coal up in  
11 front of the door.

12 And I don't really know how  
13 long it really took for me to figure  
14 out what the heck I was doing and  
15 where I was going, but I mean, it  
16 seemed like it was almost instant.  
17 And I dug the coal away from the door  
18 to where I could get the door open  
19 and I was getting out of that machine  
20 and getting out by just as quick as I  
21 could. I couldn't really see  
22 nothing, so my first natural response  
23 was to reach up to the roof and see  
24 if I could feel roof bolts and screen  
25 and if it was still supported or

1       where I was at, try and get my  
2       bearings in the dark. And I found  
3       supported roof, and I was GI Joeing  
4       it, crawling to get out. And it  
5       seemed like a few minutes, and then  
6       all of a sudden I hear, hey, Jeremy,  
7       hey, Jeremy. And I yelled, Darren,  
8       is that you? He says, yeah. I says,  
9       where are you at? He says, I'm over  
10      here in this break. He says, it's  
11      open this way. I said, well, keep  
12      talking because I can't see you. I  
13      says, I don't know where the hell  
14      you're at. He says, all right, I'll  
15      keep talking. And he asked me if I  
16      was all right and if I seen anything,  
17      what happened, how it happened. And  
18      I told him, I said, I didn't see  
19      shit. I was backing up to top the  
20      scrubber off and snap, crackle, pop,  
21      kaboom. I says, are you all right.  
22      He says, yeah, I'm all right.

23               And I finally got down to  
24      where he was, and I probably got  
25      three or four, maybe five feet away

1 from him, before I could finally  
2 start seeing his light. And once I  
3 got to where I could see him, it was  
4 a little better mobility. I was at  
5 least up and walking. And we jumped  
6 down in the Number One entry and away  
7 we went. We took off. We went  
8 outby, oh, I would say back to about  
9 113 or so, and so it was about five  
10 breaks, and we was having a head  
11 count. Gale was there and Paletta  
12 was there. And they said, all right,  
13 let's do a head count, and they did a  
14 head count. And when Gale got to me,  
15 he says, Jeremy, what did you see? I  
16 said, I didn't see shit. He says, so  
17 you don't know what happened, you  
18 don't know what we got? I says, no.

19 And we sat there and talked  
20 for a few minutes and decided we was  
21 going to let it settle down and  
22 relax. And it had blown all the  
23 temporary ventilation that we had up,  
24 the rags and the foam. And Paletta  
25 says, well, let's get ventilation re-

1 established and get it to where we  
2 got airflow running back through  
3 there and we can get everything  
4 squared away, and we'll get back in  
5 there and see what happened. And I  
6 went over and talked to my buddy,  
7 Chris Armstrong. I asked him, I  
8 said, are you all right? He says,  
9 yeah. He says, I wouldn't have been,  
10 though, if I would have kept going  
11 where I was going. He says, I was  
12 headed up there to go start working  
13 with the miner.

14 And what we had done is we  
15 cleared out the break outby from the  
16 feeder and out in front of the  
17 feeder, and the miner was right there  
18 and --- one break inby from there.  
19 And I don't know where Darren was or  
20 how he didn't get caught up and  
21 buried real bad, but he told me, he  
22 says, he says, well, I'm glad you  
23 didn't tell me that you was done with  
24 that crosscut in front of the feeder,  
25 he says, because I would have went

1 inby if you would have told you was  
2 done with that crosscut inby the  
3 feeder. And that would have buried  
4 him, I mean, almost certainly clear  
5 to the top of that three-and-a-half.  
6 And to my knowledge, I don't remember  
7 going back to the three-and-a-halves  
8 that night. We got ventilation re-  
9 established and got a handful of  
10 other things squared away and then  
11 they says, well, let's just --- let's  
12 work on this and we'll work on this  
13 and we'll make sure we got  
14 ventilation a lot better to where  
15 it's a little more stable and then  
16 just a rag.

17 And I told them, I said, all  
18 right. So we worked on that for the  
19 rest of the night. And I went home  
20 and --- well, I didn't go home. I  
21 went to my mom and dad's house. And  
22 my dad worked at Cottonwood for 32  
23 years, and so he was at the Wilberg  
24 disaster. And I kind of halfway  
25 expected him to say, well, what

1       happened, what did it look like, and  
2       he didn't say nothing. I went in and  
3       sat on the couch and sat there and  
4       watched TV with him for a little bit,  
5       and I told him, I said, well, I'm  
6       going to sleep. And he said, all  
7       right. And I got up and he asked me,  
8       he says, well, I'll tell you like  
9       this. I know what you're  
10      experiencing. He said, I seen it.  
11      He says, I've been in disasters, too.  
12      He says, if you want to talk, I'll  
13      listen, he says, but I ain't going to  
14      bug you about it. And that was about  
15      it for the first day.

16      Q.        Pretty rough first day.

17      A.        Yeah, it was pretty  
18      nerve-racking.

19      Q.        I have a map of the section.  
20      Now, maybe we can go back over and  
21      try to mark down what entry you were  
22      cleaning in and how far you got and  
23      where your equipment was when it  
24      bounced sometimes. Let me just start  
25      off by saying you worked the

1       afternoon shift.   And what was your  
2       scheduled shift hours?   Did you have  
3       a number of hours --- were you  
4       working a 12?   Were you working an  
5       eight?

6       A.           It seemed like they told me it  
7       was going to be 12s.

8       Q.           Okay.

9       A.           And I didn't have a problem  
10      with that.   We was working eights  
11      over at Westridge, and I mean, I got  
12      over there and time seemed to fly so  
13      fast because I was thinking, well,  
14      this is a son-of-a-bitch and hurry-up  
15      operation here.   I mean, there's guys  
16      lives at stake.   I mean, there's guys  
17      in there wanting to get out.   And  
18      that was my mindset for that first  
19      two or three days.   And so time  
20      really didn't have a bearing on it in  
21      my head.

22      Q.           Do you have a feel of when you  
23      finished up for that day?   You said  
24      you got to the mine about 3:00, 3:30?

25      A.           About 3:00, 3:30, yeah.   I got

1 back to mom and dad's house in the  
2 morning of the 7th, at probably  
3 around 9:30. And I was pretty wore  
4 out by the time I got back there.

5 Q. Okay. Do you need a break  
6 before we start into the map?

7 A. No, I'm all right.

8 Q. Okay. Let me get that map.  
9 Here's some pencils. Do you  
10 recognize the map?

11 A. Yeah.

12 Q. This map was reproduced from  
13 an AutoCAD file that was provided to  
14 us by UtahAmerican.

15 MR. O'DONNELL:

16 And let's mark this  
17 Behling Exhibit One.

18 (Behling Exhibit One  
19 marked for  
20 identification.)

21 BY MR. O'DONNELL:

22 Q. And if you would, Jeremy, you  
23 went in that day with the  
24 three-and-a-half --- now, the  
25 equipment, was it already set up?

1 A. Yeah, the equipment was  
2 already in there.

3 Q. And do you know where that  
4 equipment came from?

5 A. I'm not exactly sure. There  
6 have been a lot of equipment brought  
7 in from all over. I know when I was  
8 at Westridge I was a faceman, so I  
9 was running the battery scoop. And  
10 the battery scoop that I was running  
11 the day before was shipped over there  
12 that morning.

13 Q. Okay.

14 A. So there was a lot of  
15 equipment brought in from a lot of  
16 places that I'm not sure exactly  
17 where it was from at the time.

18 Q. So if you would, could you  
19 mark on the map what crosscut that  
20 you believe you started in?

21 A. Well, it seemed like ---.

22 Q. Now, when we refer to the map  
23 here, we're going to have to go by  
24 the four entries ---

25 A. The four entries and the

1 crosscut.

2 Q. --- and the crosscut.

3 A. Okay. It seemed like when we  
4 started --- both the three-and-a-  
5 halves were in the second entry.

6 Q. Which crosscut?

7 A. They were --- I would say they  
8 were right in here, between 118 and  
9 117.

10 Q. Okay. That's where they were  
11 at. Was there a feeder set up also?

12 A. The feeder was --- well, at  
13 the time on the first night, the  
14 feeder was not set up.

15 Q. Okay.

16 A. That's right. The feeder was  
17 not set up. And they was going to  
18 set it up in the belt line, but they  
19 needed the belt line cleaned out.

20 Q. Right.

21 A. And so the belt line would  
22 have been Number Two, right, ---

23 Q. Right.

24 A. --- with the main intake being  
25 Number One entry? And we had ---

1 they were both sitting back to back.  
2 There was no ---.

3 Q. You're marking the equipment  
4 location with the orange marker; is  
5 that right?

6 A. Yes.

7 Q. Okay.

8 A. And there was one here and  
9 then the other one was up in here.

10 Q. That would be Number ---?

11 A. The Number Three entry.

12 Q. Between Crosscut 118 and 119?

13 A. Well, it was either right  
14 there, in between 118 and 119 or 118  
15 and 117.

16 Q. Okay.

17 A. And they were both already in  
18 there and we had to get them started.  
19 The mechanics came in with the  
20 bottles and we had to drag them up  
21 and over, up and over gob in order to  
22 get them started. Once we got them  
23 started, there was one roadway, and I  
24 can't remember exactly where it was,  
25 that was relatively open. So some of

1 the other ---.

2 Q. Let me ask you this. None of  
3 the mucking operation had started  
4 before you got there?

5 A. No.

6 Q. You were starting it?

7 A. Yeah.

8 Q. You were doing the  
9 initial ---?

10 A. Mucking.

11 Q. Yes. Okay. Go ahead.

12 A. And we got water coming in it  
13 seemed like to 117 for the scrubbers.  
14 We started mucking. Darren come  
15 down. He was in this top entry, this  
16 Number Three entry.

17 Q. Okay.

18 A. And he come down, and we were  
19 pulling in the crosscuts, let each  
20 other take a turn on the scoop. So  
21 it was one scoop after another.

22 Q. So you were switching out  
23 somewhere around 118?

24 A. Yeah.

25 Q. And where were you putting the

1 material?

2 A. In the crosscuts, wherever we  
3 could, in between 117, 116.

4 Q. And that would be outby?

5 A. Outby.

6 Q. Between Number Two and Number  
7 Three?

8 A. Yeah.

9 Q. Okay.

10 A. And I would say that we  
11 probably got ---.

12 Q. If you're going to mark the  
13 amount of coal that you did, let's  
14 use a different ---.

15 A. Color.

16 Q. Yes. There you go. If you  
17 could, just mark how far you cleaned  
18 up.

19 A. I know we got two breaks, but  
20 I can't remember exactly. It seemed  
21 like it was 118 was where we started.

22 Q. But it was all in Number Three  
23 entry; is that right?

24 A. No. We was cleaning the belt  
25 line --- we were mucking the belt

1 line so that we could get the belt  
2 line back up.

3 Q. Okay. All right.

4 A. Because the belt line was so  
5 hammered.

6 Q. So you got about two  
7 crosscuts?

8 A. Two --- I would say maybe two  
9 and a quarter.

10 Q. Okay.

11 A. And the miner --- it seemed  
12 like the miner was either at 119 or  
13 120. I think it was at 119.

14 Q. Okay.

15 A. And the feeder was supposed to  
16 be set --- or was set at a later  
17 time. It was set right in there  
18 somewhere.

19 Q. And that's between 118 and  
20 119?

21 A. 118 and 119.

22 Q. Just outby the ---

23 A. Just outby.

24 Q. --- inner section of Number  
25 Two and 119?

1 A. Yeah.

2 Q. And we were cleaning and  
3 mucking out and we were sticking gob  
4 wherever we could and in between  
5 breaks.

6 Q. So we're marking the --- using  
7 the green pen to mark ---

8 A. Muck pile.

9 Q. --- muck piles and the pink  
10 marker to mark the cleanup progress  
11 in Number Two entry?

12 A. Yeah.

13 Q. And where the feeder was there  
14 was this --- this intersection was  
15 pretty bad, and so we cleaned out  
16 from in front of the miner.

17 Q. Which would be in 119, between  
18 One and Two?

19 A. Between One and Two. And we  
20 did that so that the miner --- the  
21 head of the miner wasn't buried as  
22 bad and so they could --- if they had  
23 to turn bits on without going through  
24 a dry start and possibly breaking the  
25 torque shaft. And so Darren ---

1       Darren was up in this area.    And  
2       we've had this cleaned out.

3       Q.       That's in ---?

4       A.       In between 119 and 120.

5       Q.       Number Two?

6       A.       Number Two.    And that was when  
7       I last seen him.    He was up in there.

8       Q.       Okay.

9       A.       And he was getting ready to  
10      back in and take a scoop out of here.  
11      But I felt that I had already  
12      finished this up in 119, between One  
13      and Two, in front of the miner, good  
14      enough that we could be able to  
15      operate the miner and get everything  
16      squared away that way.    And that was  
17      when I told Darren that I was going  
18      to back up and go fill up the  
19      walkway.

20      Q.       So you didn't really touch  
21      hardly anything in Three?

22      A.       No, I didn't, not really.    I  
23      was mostly working in ---

24      Q.       You were trying to clear that  
25      belt.

1 A. --- Number Two.

2 Q. So show me, if you would, just  
3 circle it with the ink pen there,  
4 where you put your --- where you  
5 pulled down to when that bounce  
6 happened, where you were located.

7 A. I would say I was probably  
8 right in here, in that area.

9 Q. If you would, just mark that  
10 three-and-a-half there.

11 WITNESS COMPLIES

12 BY MR. O'DONNELL:

13 Q. Okay. And that's where you  
14 were sitting when it happened?

15 A. Yeah.

16 Q. Darren was up here?

17 A. Yeah, Darren was up this way  
18 somewhere.

19 Q. Which would be inby Number Two  
20 entry. Okay. And you mentioned Gale  
21 Anderson and Ron Paletta. Where were  
22 they at the last time you saw them?

23 A. The last time I seen them,  
24 they were standing by the feeder.

25 Q. Okay.

1 A. And the feeder was ---.

2 Q. It wasn't in position yet;  
3 right?

4 A. It wasn't in position yet, but  
5 I asked them, I says, how does that  
6 look, because I had dropped the  
7 bucket and did a back drag on it to  
8 try and get some more of it out. And  
9 at that time, Darren was still inby  
10 in Number Two entry, in front of me.

11 Q. And was anyone else in the  
12 section at the time other than you,  
13 Darren, Ron and Gale Anderson?

14 A. Yeah. Almost our whole crew  
15 was in there that first night, right  
16 in that area.

17 Q. That area is where?

18 A. From 116 --- well, let's say,  
19 115 inby through 118, maybe 119.

20 Q. What were they doing?

21 A. A couple of them were welling  
22 the water line. They were trying to  
23 keep everything running just as  
24 smooth as possible. Those two were  
25 Jesus Salazar and Brandy Fillingham.

1 And let's see. Brian Allen was  
2 there, and he was by Paletta by the  
3 feeder. And Chris Anderson was ---  
4 he was standing by the miner. And it  
5 seems like them are the only guys  
6 that I remember where they were at.

7 Q. Okay. So you pulled out. Did  
8 your buddy switch out and go inby  
9 when you pulled out?

10 A. Yeah. Darren --- I pulled out  
11 from in front of the miner and told  
12 him I was heading back. The safety  
13 pressure was dropping. I was going  
14 to go top the scrubber off. And  
15 Darren was inby of 119. And when I  
16 pulled out with the last little bit  
17 that I had picked up, I went and  
18 dumped it, and he pulled in there as  
19 far as I knew.

20 Q. Do you remember what time it  
21 was?

22 A. It seemed like it was --- it  
23 was around 1:00, maybe 12:30. It was  
24 early in the morning. That made me  
25 pretty nervous. It took a little bit

1 of coaxing to, all right, let's go  
2 back and let's get this shit  
3 straightened out, see what we're  
4 going to do.

5 Q. I'll bet. So when you pulled  
6 back and you made the turn --- or  
7 were you in the straight?

8 A. It was on the straight.

9 Q. So you're on the straight.  
10 You just got there. You shut your  
11 machine off and you didn't get out  
12 right away.

13 A. No. I put it in neutral and  
14 set the park brake. And I was  
15 getting ready to get out because I  
16 couldn't see Jesus and Brandy because  
17 they were supposed to be there  
18 running the water hose to top it off.  
19 So I was getting ready to get out and  
20 do it, and then a little snap,  
21 crackle, pop, and so I just decided,  
22 well, I'm safe right here in the cab  
23 if something happens. This is a  
24 one-inch steel cab. I'll be all  
25 right for a minute. Let's see what

1 the heck is going on.

2 Q. So how long did you sit there  
3 before you decided --- before it  
4 bounced?

5 A. It seemed like just a couple  
6 minutes.

7 Q. Okay.

8 A. And it might have been four or  
9 five. But it didn't really seem like  
10 very long. Long enough to coax  
11 myself into, all right, well, yeah,  
12 it was just a little snap, crackle,  
13 pop. Looking at the roof bolts.  
14 Looking at the ribs, at the corners  
15 of the pillars. All right. Let's  
16 go. And then it went kaboom and  
17 ripped again. And that was when I  
18 said, oh, shit.

19 Q. No visibility? Your light  
20 really was on,---

21 A. Yeah.

22 Q. --- it was just that you  
23 couldn't ---?

24 A. It was on, but there was zero  
25 visibility. I mean, nothing at all.

1 Q. Did you happen to have a  
2 detector on you?

3 A. Yeah. I did have a sniffer.

4 Q. And?

5 A. And I looked at it, but I  
6 couldn't see nothing. It wasn't  
7 screaming at me, and so I figured,  
8 you know, I'm all right still.  
9 Still, let's get the hell out of  
10 here.

11 Q. What kind of detector did you  
12 have?

13 A. I'm not sure of the model  
14 number, but it was one that  
15 registered oxygen percent and  
16 methane. And it was one that had  
17 come over from Westridge, so it had  
18 the H<sub>2</sub>S sensor in it and the CO. And  
19 so it wasn't screaming, so I really  
20 wasn't really super panicking to put  
21 on my rescuer.

22 Q. Okay. Did that thought ever  
23 cross your mind?

24 A. It did at first, but I  
25 figured, well, it's just dusty. I

1 can pull up my shirt, and I had two  
2 pairs of thermals on because Genwall  
3 is really cold all the time anyways.  
4 And so I pulled my shirt up over my  
5 nose and tucked it in underneath my  
6 glasses, and I figured that was good  
7 enough dust protection for a minute.

8 Q. And because you had the  
9 detector with you and it wasn't ---

10 A. Screaming and going off.

11 Q. --- low O2 or any methane, you  
12 thought you were ---?

13 A. All right.

14 Q. Okay.

15 A. Just a little dirty.

16 Q. So how long did it take you  
17 before you actually got out of the  
18 cab?

19 A. Well, it seemed like it was  
20 pretty quick. But after talking with  
21 Darren, he had enough time to get out  
22 of his cab and at least go down at  
23 least another break to a  
24 break-and-a-half to where everybody  
25 else was at and they was doing a head

1 count. And then I'm assuming that  
2 when they did an initial head count  
3 right off the bat and there wasn't no  
4 Jeremy, he come back and went looking  
5 where I was at.

6 Q. So he was really --- he was  
7 already outby you?

8 A. He was --- according to what  
9 I'm thinking, he stopped right in  
10 front of the head of the miner.

11 Q. And that would be at what  
12 crosscut?

13 A. At 119.

14 Q. Okay. So he never did get ---  
15 was his --- I know later on you  
16 probably were able to get back in  
17 after you re-established some  
18 ventilation. Where was his  
19 three-and-a-half parked?

20 A. Right there. It was ---.

21 Q. If you would, put a circle  
22 around that and mark that  
23 three-and-a-half.

24 A. Just barely inby the crosscut  
25 of 119, right in front of the miner.

1 Q. Is that where he was at when  
2 it bounced?

3 A. Yeah. That's where I'm  
4 assuming he was at.

5 Q. Okay.

6 A. And I'm not sure if he had  
7 gotten out and come over to say,  
8 well, --- because Chris Armstrong was  
9 there and Paletta was there and Gale  
10 Anderson was there. They were all  
11 right there in that area somewhere,  
12 and so I'm assuming that he got out  
13 and went to talk to them because that  
14 area in front of the miner was  
15 cleared out and they were looking to  
16 get the miner started.

17 Q. Was his three-and-a-half  
18 buried?

19 A. It was buried a little bit. I  
20 mean, it wasn't as bad as I had  
21 expected it to be.

22 Q. What about compared to yours?

23 A. There was parts of it that was  
24 buried about as bad compared to mine.  
25 We had a walkway around the miner

1 that was fairly decent. I mean, it  
2 might have been six inches at the  
3 base of the miner. And then when we  
4 went back in, it was flush with the  
5 top of the miner. And there was  
6 chunks of coal that was in the throat  
7 and on top, and so I knew even right  
8 there that it had thrown a whole lot  
9 of material.

10 Q. Have you ever experienced  
11 anything as hard as that bounce?

12 A. Uh-uh (no). That was ---.

13 Q. What's your definition of a  
14 bounce? We talk about bounce, bumps.  
15 What do you call a bounce?

16 A. Well, there's a --- a bump is  
17 something that's like --- like what  
18 Carey Wood and them guys seen on TV.  
19 That was just a bump. I mean, that  
20 wasn't nothing. That wasn't nothing  
21 serious. And when it bounces pretty  
22 hard, it will start popping and  
23 cracking, and then it will kaboom,  
24 and you'll feel it in your chest a  
25 little bit and it will pop your ears

1 when it changes the air pressure and  
2 shit.

3 The way I look at it, when it  
4 gets serious like that, that's a rip.  
5 It's not a bump or a bounce. I mean,  
6 it rips. And that is --- it's where  
7 it's spitting coal out at you and  
8 chunks of rock and shit come down and  
9 ---.

10 Q. So you have experienced other  
11 bounces?

12 A. Yeah. When I first started at  
13 Horizon, I started in a pillar  
14 section and we were pulling pillars.  
15 And so I got thrown right to the wolf  
16 right off the bat as a learning  
17 experience. And so I knew the  
18 difference between a snap, crackle  
19 and a pop, which was still okay, just  
20 the mountain settling and the top  
21 settling, and then when it really cut  
22 loose. And when it rips, it will  
23 usually blow your hard hat off or  
24 change direction --- change air  
25 direction. And that was by far the

1       worst rip that I had ever seen or  
2       ever felt.

3               Before I went to Genwall, I  
4       spent a little bit of time on the  
5       longwall at Westridge, and so I was  
6       around a few more severe bounces, and  
7       with just basically the longwall  
8       doing what it's supposed to do with  
9       caving behind the shields and shit,  
10      and so I was accustomed to a little  
11     more of a kaboom than just a snap,  
12     crackle, pop at the time. It really  
13     wasn't nothing that I had ever seen  
14     or heard before.

15     Q.       So when you got out with the  
16     rest of the guys, what was the --- I  
17     mean, who was in charge there? Was  
18     it Gale Anderson? Was he ---?

19     A.       Gale was --- he was there, and  
20     I would say that at that time we were  
21     probably right in here when we had  
22     the head count, in between 113 and  
23     112 in the Number One.

24     Q.       Okay. So about how many  
25     people were back there then?

1 A. Let's see. There was Gale and  
2 Ron and me and Darren and Chris and  
3 Brian and Brandy and Jesus.

4 Q. Do you know what their last  
5 names are, if you can remember?

6 A. There was Gale Anderson, Ron  
7 Paletta, Darren Awell, Chris  
8 Armstrong, Brandy Fillingham, me,  
9 Jesus Salazar. I know Brian Allen  
10 was there. Carl Gressmen was there  
11 somewhere, but I didn't know where he  
12 was. It seemed like he was driving a  
13 975 or something. So he was outby.  
14 And it seems like there was a few  
15 more guys, but I can't remember right  
16 off the top of my head.

17 Q. Did anybody get hurt?

18 A. No.

19 Q. Okay. Did anyone say, let's  
20 get the hell out of here or did  
21 anybody leave the crew?

22 A. No.

23 Q. Everybody stayed there?

24 A. Everybody stayed together.  
25 And we waited for a little bit and

1 got everything --- waited for the  
2 mountain to settle down a little bit.

3 Q. How long did you sit there and  
4 just look, listen?

5 A. I would say probably 15, 20  
6 minutes.

7 Q. And you said that it tore out  
8 some ventilation controls. Do you  
9 remember where those were that you  
10 replaced or repaired or ---?

11 A. It seemed like --- because  
12 when we come out --- when we come  
13 outby for the head count, we went to  
14 the last open that was accurately  
15 ventilated or that was still stably  
16 ventilated.

17 Q. Where do you remember that to  
18 be?

19 A. It seems like it was --- we  
20 was in between 113 and 112. And so I  
21 would say the last bit of ventilation  
22 that was still up was 113 --- in  
23 between 113 and 114.

24 Q. Between One and Two?

25 A. Between One and Two.

1 Q. Okay. So go ahead. What did  
2 you repair?

3 A. And what we had had was we had  
4 just had rag hanging and it was  
5 ragged up and foamed. And so we  
6 worked on getting everything  
7 re-ragged and re-foamed. And ---.

8 Q. Would that be the controls  
9 between One and Two?

10 A. Yeah.

11 Q. Okay. So you just advanced?

12 A. We advanced ventilation back  
13 as far as we were.

14 Q. And so at any time did you  
15 ever detect any low oxygen?

16 A. No.

17 Q. Did anybody?

18 A. Not that I remember.

19 Q. Okay.

20 A. We were all --- it seems like  
21 this was the main intake --- Number  
22 One was the main intake, and so we  
23 had good air, really screaming air,  
24 the whole time as long as we didn't  
25 really got too far ahead of ourself

1 and everybody just stayed right there  
2 and made sure that we got one done  
3 before we'd move on to the next one.

4 Q. So you got the ventilation up.  
5 Visibility improved as you ---?

6 A. As we got --- yeah.

7 Q. Did you ever get a chance to  
8 take a look at the areas that you had  
9 previously mucked out?

10 A. Yeah. We got back up --- once  
11 we got all the ventilation  
12 re-established to where we were, once  
13 we got to where we felt we were, I  
14 guess you could say, we got back in  
15 the Number Two entry, and it looked  
16 like we hadn't done a damn thing. I  
17 felt like we had a roadway good  
18 enough that you could have rode a  
19 skateboard on it. And when we got  
20 back in there enough to where we  
21 could look at it, it was damn near  
22 right back to the roof. I mean,  
23 there was --- in the center it was  
24 probably a foot-and-a-half off the  
25 roof. And so it did --- it made me

1 feel like we ain't got shit done.

2 And that was a real disheartening.

3 Q. How many hours of actual  
4 cleanup did you do before you came  
5 back and had the bounce?

6 A. To be honest, I'm not sure.  
7 Like I said, everything seemed to fly  
8 by pretty quick.

9 Q. Do you think it was more than  
10 a couple of hours, more than one  
11 hour?

12 A. I would say it was probably a  
13 couple hours, maybe two-and-a-half.

14 Q. So that's pretty much the end  
15 of your shift then?

16 A. Yeah. Yeah. We were pretty  
17 much done then. And the next day  
18 ---.

19 Q. Well, before you left, did  
20 someone replace you?

21 A. Oh, yeah. Yeah.

22 Q. Who replaced you?

23 A. Dale Black's crew.

24 Q. Okay.

25 A. They come in and said that

1 they was going to swap out and start  
2 having a crew inby doing the work and  
3 then a set-up crew outby. And Dale  
4 Black's crew was the set-up crew  
5 outby. And they says, well, Darren's  
6 crew --- whoever is on Darren's crew  
7 is going to be on the outby set-up  
8 crew.

9 Q. Do you know who took your  
10 place on the three-and-a-half?

11 A. I do not.

12 Q. Okay.

13 A. After that first initial  
14 bounce, that was the last time that I  
15 was on that machine that night. And  
16 actually, that was the last time that  
17 I was on that machine the whole time  
18 we were over there at the rescue.

19 Q. Do you know if any of he plans  
20 --- did the plans stay the same that  
21 you knew when you left? I mean, was  
22 the plan still to clean up --- finish  
23 cleaning the belt line up or start  
24 the belt line again and go to Three  
25 or ---?

1       A.       To my knowledge, the way that  
2       I remember it was they was going to  
3       work in Number One and clean up the  
4       belt line enough in Number Two to  
5       where we can advance the feeder to  
6       where it was set to where we wouldn't  
7       have to move a lot of structure. And  
8       then the way that I heard it, it felt  
9       like it was just going to be  
10      advancing Number One. And that's the  
11      way it seemed like it turned out the  
12      whole way. It seemed like it was  
13      just being dug in Number One, dug in  
14      Number One.

15      Q.       So you went outside. When you  
16      got outside, did anybody talk to you  
17      about what had happened?

18      A.       No, not really. I talked with  
19      Darren a little bit. His locker was  
20      a couple down from mine. And I just  
21      --- I talked with him and ---.

22      Q.       Was there any MSHA people that  
23      talked to you when you came out?

24      A.       No, not that first night when  
25      I got home.

1 Q. Who was outside when you got  
2 there? Do you remember?

3 A. I remember seeing Bodee and I  
4 talked to Bodee and Gary Peacock.  
5 And they were running around pretty  
6 frantic, and so I didn't really spend  
7 too much time talking to Peacock. I  
8 talked to Bodee for a little bit, and  
9 he just talked to me as a buddy  
10 because we've been fairly decent to  
11 each other for quite a while. And we  
12 got dressed, got showered up and we  
13 took off.

14 MR. O'DONNELL:

15 Let's take a short  
16 break and pick it up from  
17 there.

18 SHORT BREAK TAKEN

19 BY MR. O'DONNELL:

20 Q. Jeremy, just a couple  
21 follow-up questions. When you got to  
22 the section your first day, did you  
23 have to fill the scrubbers up with  
24 water?

25 A. No. They were already filled

1 and ready to go.

2 Q. They were already full and  
3 ready to go. And do you know who did  
4 that, who ---?

5 A. I don't. I'm assuming that it  
6 was probably the mechanics. The  
7 mechanics were there when we showed  
8 up.

9 Q. Okay. Just to clarify  
10 something, too, you said you were  
11 cleaning up in Number Two entry, the  
12 belt entry.

13 A. Yes.

14 Q. Where was the belt structure  
15 when you were cleaning it up?

16 A. I don't know. I didn't see it  
17 anywhere.

18 Q. I'm just saying, are you sure  
19 you were in the belt entry or do you  
20 think maybe you were over an entry?

21 A. It's possible that I was over  
22 an entry, ---

23 Q. Okay.

24 A. --- but it does, it really  
25 seems like it was in the Number One

1        --- or Number Two entry.

2        Q.            Because there would have been  
3        --- all the belt structure would have  
4        been in there. Do you remember  
5        mucking out any belt structure?

6        A.            It seems like I might have  
7        seen a couple rollers, but I don't  
8        really remember. I don't remember  
9        seeing any belt or chains from the  
10       roof or anything. And so it is  
11       possible that we might have been in  
12       the Number Three, but it does --- it  
13       seems like --- in my head it seems  
14       like we were only one break over.

15       Q.            Do you remember ever being  
16       over in the Number Four entry?

17       A.            Uh-uh (no).

18       Q.            Because you would have had  
19       solid coal on your right shoulder.

20       A.            Yeah. I didn't never go over  
21       in Number Four that I recall.

22       Q.            Okay. See, because that's  
23       where I'm having --- scratching my  
24       head on this. If Three was the belt  
25       --- if you were in Number Two entry

1 and you did clean some --- you went  
2 outby here, you had to travel that  
3 Number Two entry to throw your gob  
4 against the walls, right, ---

5 A. Yeah.

6 Q. --- there would have been belt  
7 structure there?

8 A. Yeah.

9 Q. You don't remember any belt  
10 structure?

11 A. I do not remember any belt  
12 structure.

13 Q. So it's possible you could  
14 have been over another entry?

15 A. Yeah, it is possible.

16 Q. Okay. It would seem that it  
17 would be more likely you would be at  
18 Number Three then?

19 A. Yeah, considering that I don't  
20 recall seeing belt structure. So  
21 yeah, it is very possible.

22 Q. So if we just --- everything  
23 that we had talked about we just  
24 shift over to the Number Three entry,  
25 that would probably be more in line?

1 A. Yeah, I would say that it  
2 would be pretty close.

3 Q. Okay. Is there any way  
4 possible that they could have ---  
5 like you got there on the afternoon  
6 shift, that the day shift had started  
7 already doing some mucking?

8 A. It's possible, but I'm not  
9 sure.

10 Q. Okay.

11 A. They might have --- I mean,  
12 there's lots of things that they  
13 could have been doing.

14 Q. Yes.

15 A. I mean, I guess they could  
16 have been in there pulling the belt  
17 structure that was already damaged  
18 and destroyed, and that would explain  
19 why the three-and-a-halves were there  
20 and ready to go. That's a  
21 possibility.

22 Q. You said something about your  
23 crew. Was it your crew from  
24 Westridge that came over that you  
25 were working with?

1 A. It wasn't my whole crew. I  
2 was the only guy off my crew from  
3 Westridge that went over that first  
4 day.

5 Q. Okay.

6 A. And there was just a bunch of  
7 random guys that had been sent that  
8 they said, well, this is your crew,  
9 this is where you're at. Only one of  
10 the guys that they put on that crew  
11 over there was a guy that I had  
12 worked with before.

13 Q. Okay.

14 A. And I didn't really work with  
15 him. He was a belt mechanic, and so  
16 I seen him every time we did a belt  
17 move in a section at Westridge.

18 Q. So the best that you can  
19 remember is that you stayed ---  
20 whatever entry it was, whether it was  
21 Two or Three, that's the entry you  
22 stayed in? You cleaned in one entry?

23 A. Yeah. That was strictly my  
24 area, was that one straight-away  
25 entry.

1 Q. Okay.

2 A. And I was told to stuff the  
3 gob wherever you can find a spot that  
4 it will go.

5 Q. Okay. So the next day when  
6 you reported to work, what did you do  
7 from the --- after that second day or  
8 the first day that you worked up to  
9 and through August 16th accident?  
10 What was your job?

11 A. The first week --- after that  
12 first day, we come in and they says,  
13 well, we're going to have two  
14 separate crews. We're going to have  
15 a face crew and an outby crew. And  
16 the face crew was going to be the  
17 crew doing the mucking and the  
18 removal of debris. And the outby  
19 crew, they says, well, we're going to  
20 start setting square sets at 118 with  
21 a chain link and we're going to do  
22 them every two-and-a-half feet and  
23 start doing rock props and  
24 everything. And so they says,  
25 Darren's crew is going to be the

1 outby crew for supplies. And the  
2 face crew that next night, when we  
3 showed up, was Brandon Kimber. He  
4 was the one running that crew. And  
5 so whenever they needed supplies, the  
6 outby crew, which was ours and we  
7 were the outby setup was the --- it  
8 seems like it was right here.

9 Q. And where would that be  
10 located?

11 A. I would say it would be in  
12 between Three and Four entry, at 109  
13 roadway. And that was where we had  
14 --- we had rock props set in between  
15 the Number Two entry. There was a  
16 genset in the bottom of Number One.  
17 And we had timbers across ---.

18 Q. So that whole area was a  
19 staging area?

20 A. A staging area.

21 Q. Okay. And your job --- what  
22 piece of equipment did you run?

23 A. It depended. I ran a gale. I  
24 ran battery scoop. Just whatever we  
25 needed and whatever we could use to

1 grab the supplies and get everything  
2 loaded in the battery scoop and run  
3 it into the face.

4 Q. So you did go into the face  
5 area?

6 A. Well, actually, we went to  
7 118. And then from 118, somebody in  
8 the face crew come back and met us  
9 and they took the scoop and whatever  
10 we were running and they took it inby  
11 and we went outby. So after that  
12 first day, I very rarely seen any of  
13 the face.

14 Q. Didn't set rock props or ---?

15 A. No. I --- the closest I got  
16 up there to setting rock props was  
17 delivering them when nobody would  
18 come back and get them.

19 Q. Okay.

20 A. And I'd just run them up and  
21 ran them out with the battery scoop  
22 and another battery scoop or a  
23 mini-tractor or whatever and take the  
24 scoop back outby, and we'd get loaded  
25 up with whatever they called for, if

1 they wanted five-foot rock props or  
2 they needed chain link or whatever  
3 they needed.

4 Q. So did you stay on the evening  
5 shift the whole time?

6 A. For the first week, yeah. The  
7 first week I was strictly with  
8 Darren's crew, and it was the night  
9 shift the whole time.

10 Q. Were you working the night of  
11 August 16th?

12 A. On that day I was on dayshift,  
13 on the --- I don't remember the  
14 number date, but it seems like  
15 Sunday, Sunday night they came out  
16 with a crew re-alignment-type  
17 schedule to work. They could reroute  
18 everybody and put people where they  
19 could be best utilized. And they  
20 switched me to dayshift, and so I was  
21 just coming out of the mine and they  
22 says, well, here's this new schedule.  
23 And I got to looking at it, and I  
24 told them --- I says to them, what  
25 the hell. I says, you guys going to

1       make me double back or something?  
2       Because that was one thing that stood  
3       out.    Because that was the day that I  
4       went --- was supposed to go dayshift.  
5       And Peacock told me, he says, no, he  
6       says, take the day off.   He says, I  
7       ain't going to make you double.   He  
8       says, I ain't even going to ask you  
9       to.    He says, just come back tomorrow  
10      morning.

11               And so I come back that next  
12      morning.   And when I come back the  
13      next morning, I was on Brent Gibson's  
14      crew.    And at that time and point, I  
15      was not even as an outby staging  
16      crew.    They had us cleaning up the  
17      belt line, whatever we could,  
18      wherever it was a mess.   If there was  
19      sloughage on the belt line anywhere,  
20      we would take care of it and do some  
21      dusting.   We had everything to par  
22      wherever it wasn't.   And on the day  
23      of the 16th, we were in for south  
24      mains.   And we were in there cleaning  
25      up some pretty ugly sloughage.   We

1        were in there and we put a handful of  
2        new screen up and rock props and a  
3        bunch of mucking in there. And that  
4        was a pretty ugly area.

5        Q.        What area are you talking  
6        about now?

7        A.        It was in the first south  
8        mains.

9        Q.        First south mains. Let's get  
10       the big map.

11       A.        I would say we were right in  
12       here. There's a set of double doors  
13       right here and we come in this way,  
14       go on the other side of this second  
15       double door. We started cleaning up,  
16       mucking out and setting rock props in  
17       there because it was sloughing pretty  
18       hard. And the screen was old enough  
19       and ripping out. It wasn't looking  
20       ---.

21       Q.        Do you know why you were  
22       getting that area ready?

23       A.        I do not, but I never heard  
24       the reason of why. The only thing  
25       that I was thinking was it was ugly.

1 It was something that needed to get  
2 done. That's what we was doing being  
3 we had extra guys. To my knowledge,  
4 I mean, we worked on it all day and  
5 we didn't really make this first  
6 break. I was setting rock props and  
7 screen and some extra timbers here.

8 Q. About how many guys did you  
9 have down there?

10 A. It seems like that day we had  
11 close to five of us.

12 Q. So that was on August 16th?

13 A. August 16th.

14 Q. And what time did you come out  
15 of the mine that day?

16 A. We left around 4:30, I would  
17 say. And we did leave a little bit  
18 early. We felt like we used up all  
19 the short rock props that we had, so  
20 we didn't have any more supplies  
21 right there. And the boss, Brent  
22 Gibson, he just says, well, do we  
23 want to stay or do we want to go?  
24 And he talked with a couple of guys  
25 that were on his crew at Westridge,

1 and so he worked with them on a  
2 regular basis.

3 Q. Did you have any involvement  
4 with the August 16th accident?

5 A. No. I --- when we left, we  
6 all decided, well, we're going to  
7 take the 25 outside because we had a  
8 25 in there and we was using that to  
9 do the mucking. And took the 25  
10 outside and decided, well, let's get  
11 out of here and go home for the  
12 night. Went to the bathhouse, got  
13 showered up and changed, and we took  
14 off.

15 I got to the house --- well, I  
16 got to mom and dad's house and I  
17 walked in and it was probably 6:30 or  
18 so. And I walked in the back door  
19 and my mom come running up and  
20 grabbed me and gave me a big old hug  
21 and she says, are you all right, are  
22 you all right. I said, yeah, I'm  
23 fine. What the hell? She says, oh,  
24 there's been a whole assload of  
25 ambulances running up the road. It's

1 all on the TV. She says, what  
2 happened? I said, what are you  
3 talking about? And so I didn't even  
4 know about that other bounce that had  
5 caused the accident for the 16th.  
6 And at first I was not sure of what  
7 happened. I'm like, well, --- I sat  
8 down and watched TV and watched TV.  
9 And my wife wasn't there. She wasn't  
10 at my mom and dad's house.

11 (b) (7)(C)  
12  
13  
14  
15  
16  
17  
18

19 on him. And so she was at the  
20 hospital and she just started leaving  
21 when she seen the ambulances pulled  
22 up. And so she --- being an EMT, she  
23 stopped and says, well, I do got my  
24 sister-in-law with me, so you can  
25 watch my boy, and she run over and

1 asked is there anything I can do to  
2 help. And they says, nope, nope,  
3 nope, get out of here. And so she  
4 started panicking when she seen that  
5 it was somebody coming out in mine  
6 clothes. And so she was calling and  
7 wanting to know what the hell is  
8 going on, what the hell is going on.  
9 Are you all right? Yeah, I'm fine.  
10 I'm here at mom and dad's. I'm fine.  
11 And she says, well, what happened? I  
12 told her, I said, I don't know. I  
13 said, it happened after I left. And  
14 that was the last night I was there.

15 After that, they told me, they  
16 says --- the next week I was supposed  
17 to go on vacation, and so I called  
18 Westridge and I asked Jack and  
19 Darryl, I says, what do you guys want  
20 me to do? Do you want me to take my  
21 vacation or ---? And they said,  
22 yeah, go ahead, take your vacation.  
23 They said, see you next Sunday. And  
24 that was the last that I tried to  
25 have anything to do with it.

1 Q. So you never went back in that  
2 mine again?

3 A. No.

4 MR. O'DONNELL:

5 Let's take a short  
6 break, see what follow-up  
7 questions we have.

8 SHORT BREAK TAKEN

9 BY MR. O'DONNELL:

10 Q. Okay. Just some follow-up  
11 questions. While you were working  
12 your entire time during that recovery  
13 operation, rescue operation, did you  
14 or anyone that you know of ever ask  
15 to be removed from the area because  
16 of safety concerns?

17 A. I never told them that I  
18 wanted to be removed. And I never  
19 really heard anybody else say that  
20 they wanted to be removed. At the  
21 start of every shift after they had  
22 the separate crews, the face crew and  
23 the outby crew, they would go around  
24 and ask guys that knew how to run the  
25 miner or knew how to run the roof

1 bolter or whatever they knew how to  
2 run, they asked them if they felt  
3 comfortable going to the face.

4 And so they were given the  
5 option right there if they wanted to  
6 go to the face and run the miner or  
7 if they wanted to go run the roof  
8 bolter or if they wanted to be in  
9 that situation or if they didn't want  
10 to be there. And I know a couple  
11 guys that said that, no, I don't want  
12 to run that. I want to do something  
13 else, but I will go in there and  
14 work, but I don't want to run the  
15 miner or I don't want to run the roof  
16 bolter.

17 BRIEF INTERRUPTION

18 A. And so I knew people that said  
19 that, no, I don't want to run this.  
20 But I never heard anybody say, no, I  
21 don't want to go in. I want to be  
22 put in a different place. I don't  
23 want to be there. I mean, everybody  
24 seemed like they wanted to be there  
25 and wanted to help, but there was

1 just certain jobs that they didn't  
2 want to do.

3 BY MR. O'DONNELL:

4 Q. Do you know who those people  
5 --- do you recall who they were?

6 A. I heard Chris Davis one day.  
7 He said that he didn't want to run  
8 the miner. And they said, all right,  
9 no problem, and they found somebody  
10 else that would run it. And he was  
11 the only one that I heard say that he  
12 didn't want to run the miner.

13 Q. And when did --- you said that  
14 people --- they would come out and  
15 ask. Was that right from the get-go?  
16 Was that the second day, third day or  
17 was --- when do you recall that  
18 happening?

19 A. I would say that was probably  
20 the third day that they started  
21 asking people if they felt  
22 comfortable running the equipment.

23 BRIEF INTERRUPTION

24 BY MR. O'DONNELL:

25 Q. Who was asking the questions?

1 Who asked the question outside? Who  
2 posed that question?

3 A. Most of the time that I seen  
4 it, it was usually Gary Peacock.

5 Q. Okay. Do you know if there  
6 was a different pay structure for  
7 people that worked in the face and  
8 people who worked outby?

9 A. No. I was told that everybody  
10 that was there was going to get top  
11 rate no matter what they were doing.

12 Q. There, where?

13 A. At Genwall.

14 Q. In the whole mine?

15 A. Yeah.

16 Q. So that's what you got paid  
17 the whole time you were there?

18 A. Yeah.

19 Q. No matter if you were inby or  
20 outby or wherever?

21 A. Yeah.

22 Q. What was top rate?

23 A. \$28.

24 Q. \$28 an hour. Do you know if  
25 anybody got paid any more than that?

1 A. Not that I ever heard.

2 Q. Okay. When you came out of  
3 the mine each day or before you went  
4 into the mine, were you debriefed or  
5 briefed ---

6 A. Yeah.

7 Q. --- of what you were going to  
8 be doing?

9 A. When we went in the mine every  
10 day, we were told what we were going  
11 to be doing by --- the bosses had a  
12 meeting beforehand. They were  
13 supposed to be there like an hour  
14 early. And so Peacock, the --- or  
15 Bodee would give them the --- the  
16 bosses the lowdown on what was going  
17 on and where they were at and what  
18 the status was. And then when we  
19 were all dressed and ready to go, the  
20 bosses would sit down with us or out  
21 at the tuck, wherever we were at ---  
22 when we were getting ready to go, the  
23 bosses would line us up and say, this  
24 is where we're at, this is what's  
25 going on, this is what they're doing.

1 Q. Okay. The whole shift  
2 together?

3 A. Some days. And some days it  
4 was just individual crews.

5 Q. Okay. Do you remember how ---  
6 I know we talked about ventilation in  
7 the section, but do you know the  
8 basic --- how the section was  
9 ventilated, which entry the intake  
10 entry came up --- the intake air came  
11 up and how it was returned?

12 A. The intake come up the Number  
13 One entry. And I remember at one  
14 point in time we took a bunch of  
15 Kennedy panels up to the face crew  
16 and they had built stoppings in  
17 between other breaks so that they  
18 could ventilate it through the Number  
19 One entry, yeah, and try and get it  
20 out Number Four.

21 Q. Out Number Four. So let's go  
22 back to whenever you were working,  
23 when you were mucking in the outby  
24 area. How was the air kicked over?  
25 It was coming up one, and how did

1       they kick it over to where you were  
2       at?

3       A.       It had come up One and it  
4       seemed like it was just like a check  
5       curtain every now and then that would  
6       force some of it over to where we  
7       were at.

8       Q.       So they put a check curtain in  
9       One?

10      A.       Yeah, occasionally. It  
11      was ---.

12      Q.       And kicked it over and  
13      then ---?

14      A.       To where the direction over  
15      towards where we were at.

16      Q.       Any other straights have  
17      curtain in them?

18      A.       Not that I can recall. We did  
19      go back after --- it was like the  
20      second or the third day and we  
21      replaced all of the rags that we hung  
22      up with actual Kennedy panels clear  
23      back to 93.

24      Q.       Okay.

25      A.       But that was mostly --- we

1 spent most of that time in the Number  
2 One entry and back up this way ---

3 Q. Okay.

4 A. --- along the belt line.

5 Q. So let's just go back to when  
6 you worked there. Do you remember  
7 what --- when did you work at  
8 Crandall Canyon, what month it was?

9 A. It seemed like it was August  
10 or September. It would have been  
11 '06.

12 Q. Of '06?

13 A. Yeah.

14 Q. So two months. And what did  
15 you do when you were there?

16 A. A general mine mechanic.

17 Q. And did you ever go to the  
18 face area?

19 A. A few times.

20 Q. And where were they working at  
21 that time?

22 A. At the time, it seems like  
23 they were just barely --- they were  
24 developing, and it seemed like they  
25 were right in here just developing.

1 Q. Right in here being the mouth  
2 of the south ---

3 A. The mouth of the ---

4 Q. --- barrier?

5 A. --- south barrier. They might  
6 have been down at 113 or so.

7 Q. Anything that you can recall  
8 that was significant?

9 A. Well, not really. I mean, it  
10 --- the pillars looked good. I mean,  
11 they didn't look like they were  
12 crushing out and sloughing off. I  
13 mean, they looked fairly decent. I  
14 mean, everything looked all right as  
15 far as development goes.

16 Q. So that's the area that you  
17 worked?

18 A. Yeah. And that was just an  
19 occasion. I mean, I didn't really go  
20 into that face a whole lot. I spent  
21 a lot of the time that I was there in  
22 South Crandall. We had a miner over  
23 there that wasn't real dandy and ---.

24 Q. It kept you busy?

25 A. It kept us busy over there.

1 And so we went over to Crandall once  
2 in a while.

3 Q. Have you given a written  
4 statement or an interview to anybody  
5 before this interview regarding the  
6 accident?

7 A. No.

8 ATTORNEY RAJKOVICH:

9 Other than talking to  
10 me.

11 A. Oh, yeah, other than talking  
12 to him.

13 BY MR. O'DONNELL:

14 Q. And has anyone offered you  
15 anything or made a promise to you in  
16 exchange for you appearing or not  
17 appearing here today?

18 A. No.

19 Q. Do you have anything you'd  
20 like to add that may be relevant to  
21 the investigation?

22 A. Not that I can think of.

23 MR. O'DONNELL:

24 On behalf of MSHA, I  
25 want to thank you for

1 appearing and answering  
2 questions today. Your  
3 cooperation is very important  
4 to the investigation as we  
5 work to determine the cause of  
6 the accident.

7 We ask that you not  
8 discuss your testimony with  
9 any person who may have  
10 already been interviewed or  
11 who may be interviewed in the  
12 future. This will ensure that  
13 we obtain everyone's  
14 independent recollection of  
15 the events surrounding the  
16 accident.

17 After questioning other  
18 witnesses, we may call you if  
19 we have any other follow-up  
20 questions that we may need to  
21 ask you. And if at any time  
22 you have additional  
23 information regarding the  
24 accident that you'd like to  
25 provide to us, just contact

1 Mr. Gates on that contact card  
2 we gave you.

3 The Mine Act provides  
4 certain protections to miners  
5 who provide information to  
6 MSHA and, as a result, are  
7 treated adversely. If at any  
8 time you believe that you've  
9 been treated unfairly because  
10 of your cooperation in this  
11 investigation, you should  
12 immediately notify MSHA. If  
13 you wish, you can go back over  
14 any of your answers that you  
15 gave us during the interview,  
16 and if you'd like to make a  
17 statement now, feel free.

18 A. No. I think we pretty much  
19 got everything.

20 MR. O'DONNELL:

21 Okay. Jeremy, thanks.

22 We appreciate you coming.

23 A. No problem.

24 \* \* \* \* \*

25 STATEMENT CONCLUDED AT 9:52 P.M.