

STATEMENT UNDER OATH

OF

JOSH FIELDER

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 Wednesday, October 3, 2007, at 10:00 a.m.

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A P P E A R A N C E S

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ALSO PRESENT:

Kelly C. Kirkwood, Notary Public

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P R O C E E D I N G S

MR. WATKINS:

Is it okay if I call
you Josh?

MR. FIELDER:

Yeah.

MR. WATKINS:

Okay. Josh, my name is
Tim Watkins. I am an accident
investigator with the Mine
Safety & Health Administration
(MSHA), which is an agency of
the United States Department
of Labor. With me is Sherrie
Hayashi from the Utah
Commission of Labor. And
probably stepping in a little
bit later will be Tim
Williams, and Tim will be with
the Solicitor's Office. He's
tied up right now, but I
expect him to be here a little
bit later. And we will be
doing the interviewing or

1 questioning today.

2 I, together with other
3 government investigators and
4 specialists, have been
5 assigned to investigate the
6 conditions, events and
7 circumstances surrounding the
8 fatalities that occurred at
9 the Crandall Canyon Mine in
10 Utah in August of 2007. The
11 investigation is being
12 conducted by MSHA under
13 Section 103(a) of the Federal
14 Mine Safety & Health Act and
15 the Utah Commission of Labor.
16 We appreciate your assistance
17 in this investigation.

18 After the investigation
19 is complete, MSHA will issue a
20 public report detailing the
21 nature and cause of the
22 fatalities in the hope that
23 greater awareness about the
24 causes of the accidents can
25 reduce their occurrence in the

1 future. Information obtained
2 through witness interviews is
3 frequently included in these
4 reports. Your statement may
5 also be used in other
6 proceedings.

7 You may have a personal
8 representative present during
9 this statement and during the
10 questioning. You may consult
11 with your representative at
12 any time. Your statement is
13 completely voluntary and you
14 can refuse to answer any
15 question at any time. You
16 also may request a break at
17 any time. If you need to take
18 a break just say, you know, I
19 want to take a break.

20 MR. FIELDER:

21 Okay.

22 BRIEF INTERRUPTION

23 MR. WATKINS:

24 This is Tim Williams
25 from the Solicitor's Office.

1 Since this is not an
2 adversarial proceeding, formal
3 cross-examination will not be
4 permitted; however, your
5 representative may ask
6 clarifying questions as
7 appropriate.

8 A court reporter will
9 record your interview, so
10 please speak loudly and
11 clearly. If you do not
12 understand a question, please
13 ask me to rephrase it or to
14 repeat it. Please answer each
15 question as fully as you can,
16 including any information that
17 you have learned from someone
18 else.

19 I would like to thank
20 you in advance for your
21 appearance here. We
22 appreciate your assistance in
23 this investigation. Your
24 cooperation is critical in
25 making the nation's mines

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safer.

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

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

MS. KIRKWOOD:

Please raise your right hand.

JOSH FIELDER, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

MR. WATKINS:

Ms. Kirkwood, are you

1 empowered as a notary in the
2 State of Utah?

3 MS. KIRKWOOD:

4 I am.

5 MR. WATKINS:

6 And when does your
7 commission expire?

8 MS. KIRKWOOD:

9 August 15th, 2008.

10 MR. WATKINS:

11 Okay. And have you
12 sworn in Mr. Fielder?

13 MS. KIRKWOOD:

14 I have.

15 BY MR. WATKINS:

16 Q. Josh, could you please state
17 your full name and address for the
18 record, please?

19 A. Joshua Joseph Fielder, (b) (7)(C)
20 (b) (7)(C) .

21 Q. Josh, do you have any
22 questions about the interview process
23 as I've described it or explained it?

24 A. No. It's kind of new to me,
25 but, no, I don't have any questions.

1 Q. Okay. Josh, do you have a
2 personal representative with you
3 today?

4 A. Yeah.

5 MR. WATKINS:

6 Would your personal
7 representative please identify
8 himself by name and address
9 for the record, please?

10 ATTORNEY RICKETTS:

11 Yes, Tim. I'm Charles
12 E. Ricketts, Jr. I am an
13 attorney, licensed and
14 registered in Kentucky. My
15 office is 4055 Shelbyville
16 Road, Louisville, Kentucky,
17 40207. Telephone number,
18 (502) 896-2303.

19 And for the record, I
20 also represent, as you know,
21 Mr. Gary Peacock, whose
22 statement was taken on Monday;
23 Mr. David Hibbs, whose
24 statement was taken on Monday;
25 and Mr. Jim Hanna, whose

1 statement was taken this
2 morning.

3 MR. WATKINS:

4 Okay.

5 BY MR. WATKINS:

6 Q. Josh, are you aware that your
7 representative may have a conflict of
8 interest in representing you while
9 being provided by someone else, such
10 as the company?

11 A. Uh-huh (yes).

12 ATTORNEY WILLIAMS:

13 Can you make sure when
14 you answer questions you say
15 yes or no, because if you
16 say uh-huh, ---

17 A. Sure.

18 ATTORNEY WILLIAMS:

19 --- it may not show up
20 good on the record?

21 A. Sure.

22 ATTORNEY WILLIAMS:

23 Okay. Thanks.

24 A. You might have to remind me a
25 few more times, but ---.

1 ATTORNEY WILLIAMS:

2 Okay. That's all
3 right. So that one was a yes;
4 right?

5 A. Yeah, that was.

6 ATTORNEY WILLIAMS:

7 Okay.

8 MR. WATKINS:

9 Mr. Ricketts, would you
10 please state for the record
11 whether you also represent the
12 mine operator in these
13 matters?

14 ATTORNEY RICKETTS:

15 I do not.

16 BY MR. WATKINS:

17 Q. Josh, with these
18 understandings, do you still want
19 this person as your representative?

20 A. Yes.

21 Q. Josh, are you appearing here
22 voluntarily today?

23 A. Yes.

24 Q. How many years of mining
25 experience do you have?

1 A. Approximately 13. I'll be
2 going on 14.

3 Q. Can you give me a brief
4 description of your work history,
5 employment history?

6 A. Yeah. I started at Crandall
7 Canyon in June --- underground, June
8 24th, 1993. And I've been there
9 pretty much the whole time. I took
10 two years off to finish a college
11 degree at Southern Utah University.
12 But other than that, I've pretty much
13 been there the whole time. A year
14 ago --- a year and three months ago I
15 went to West Ridge as shift foreman
16 for one year and come back to
17 Crandall Canyon after I was there
18 briefly for that year.

19 Q. Josh, what's your current ---
20 on August 6th, what was your mining
21 position? What was your position
22 then?

23 A. Right now?

24 Q. Yeah. Right now.

25 A. I'm a longwall foreman right

1 now at West Ridge.

2 Q. Longwall at West Ridge. What
3 position did you hold at Crandall on
4 August the 6th?

5 A. I was a section foreman in the
6 west section.

7 Q. And how long have you held
8 that position? How long have you
9 been section foreman?

10 A. For that time period, three
11 months. I had been a pillar boss
12 before, but when I come --- before I
13 went to West Ridge. But for that
14 time that I went back it was about
15 three months.

16 Q. Okay. What other positions
17 have you held at Crandall?

18 A. I've been a section worker,
19 miner operator, roof bolter. Pretty
20 much done everything. I've been on
21 the longwall there for approximately
22 six years. Kind of been around the
23 block with everything.

24 Q. Do you have any mine
25 certificates, certifications?

1 A. Yes. I have my Utah fireboss,
2 Utah foreman and Colorado mine
3 foreman.

4 Q. When was the last day you
5 worked prior to the accident of
6 August the 6th?

7 A. It was Thursday, that Thursday
8 before the accident. I'm not sure
9 what date it was, but it was the
10 Thursday before the accident was my
11 last shift.

12 Q. The accident happened on
13 Monday.

14 A. Uh-huh (yes).

15 Q. What type of schedule was you
16 on?

17 A. It was four on/three off. I
18 was kind of still getting used to it
19 because I hadn't been there too long.
20 But it was a four on/three off
21 schedule. We --- I believe we worked
22 two months of a dayshift and rotated
23 two months on afternoons. So I had
24 only worked one month afternoons and
25 then I was on the dayshift when this

1 accident happened.

2 Q. So when was your first day
3 back after --- you said Thursday was
4 your last day?

5 A. Uh-huh (yes).

6 Q. What would have been your
7 first day back?

8 A. Monday morning.

9 Q. Monday morning at 6:00?

10 A. Yeah, it starts at 6:00, the
11 shift does. That morning I was
12 actually scheduled for a management
13 training course, so I would not have
14 been to work that morning had I not
15 gotten the call at 3:00 a.m. that
16 there was a cave-in.

17 Q. Let's get these dates and
18 stuff in line as far as ---.

19 A. Yeah. I'm trying to get them
20 all right, too.

21 Q. What type of responsibilities
22 and stuff do you have as section
23 foreman?

24 A. The safety of my crew and
25 production, hazard recognition and

1 just making sure we're abiding by all
2 the laws set forth.

3 Q. Okay. As part of your duties,
4 do you have any records or anything
5 that you fill out as a foreman?

6 A. I keep a notebook with me and
7 write down whatever, you know, I feel
8 I need to write down. Other than
9 that, it all goes from my notebook
10 to, you know, whatever book it needs
11 to go in, preshift book or, you
12 know ---.

13 Q. Do you still have that
14 notebook?

15 A. I don't. I go through a lot
16 of 'em, so I just, you know ---.

17 Q. If you happen to run across
18 that, we'd appreciate getting a copy
19 of that one.

20 A. All right.

21 Q. You say you fill out
22 production reports?

23 A. Uh-huh (yes).

24 MR. WATKINS:

25 I'm just trying to

1 clarify the time frame when
2 you actually --- the last day
3 that you actually worked.
4 Just a moment here. This is a
5 copy for you to look at here,
6 Josh. Make it Fielder Exhibit
7 One, Josh Fielder Exhibit One,
8 please.

9 (Josh Fielder Exhibit
10 One marked for
11 identification.)

12 BY MR. WATKINS:

13 Q. This is taken out of the
14 production reports that we got, Josh.
15 Does that look familiar to you? We
16 kind of enlarged it a little bit so
17 it would make it easier to read.

18 A. Yeah, that's my handwriting.

19 Q. Okay. And the date on that
20 would be the 3rd?

21 A. Yeah.

22 Q. Okay. That accident happened
23 on Monday, which was the 6th. So
24 that would make the 3rd being on a
25 Friday.

1 A. Okay.

2 Q. Okay.

3 A. That would have been the last
4 one.

5 Q. Could that be the last day you
6 was in there?

7 A. Yeah. That would have been
8 it.

9 Q. I just wanted to ---

10 A. Yeah.

11 Q. --- get that cleared up a
12 little bit before we get started.

13 A. Yep, that's it.

14 Q. Do you remember where you was
15 mining at on the 3rd, Josh, on that
16 Friday?

17 A. I don't remember the specific
18 crosscut, but all I know is I believe
19 we was the last row across that we
20 could --- that we was allowed to
21 take. It could have been the second
22 to the last, but I can't really
23 recollect for sure.

24 Q. I have a mine map that may
25 help you ---

1 A. Okay.

2 Q. --- remember. I'll bring it
3 to you.

4 A. Okay.

5 Q. Does that look familiar to
6 you, Josh?

7 A. Yeah. That helps out.

8 Q. Okay.

9 A. I believe it was --- it was
10 one of these two here. It was either
11 142 or 143, but I can't say for sure,
12 to tell you the truth.

13 Q. Okay. So what time did you
14 start your shift on that day?

15 A. I have to think what shifts we
16 were on. I've worked so many in the
17 last year or two. I was on dayshift.

18 Q. You were on dayshift during
19 that time?

20 A. Yeah. Yeah, I was on
21 dayshift.

22 MR. WATKINS:

23 Okay. Can we make that
24 Fielder Exhibit Two, please,
25 the big map?

1 (Josh Fielder Exhibit
2 Two marked for
3 identification.)

4 BY MR. WATKINS:

5 Q. Is six o'clock the time you
6 started underground or the time you
7 leave from the portal?

8 A. That's the time we usually
9 leave from the portal to go
10 underground.

11 Q. About how long does it take to
12 get you underground?

13 A. It's about a half hour, 25
14 minutes to a half hour.

15 Q. Okay. So we get on --- you're
16 on the section 6:25, 6:30, somewhere
17 around that time frame?

18 A. Uh-huh (yes).

19 Q. Kind of walk me through your
20 whole day, what you normally do.

21 A. I usually, you know, walk all
22 our work areas and check for any
23 hazards, gases, check the return
24 entry for any hazards, gases and, you
25 know, setup, line my guys out, you

1 know, if I --- if it's safe to work
2 and travel. I walk to the
3 transformer, I check it out. I walk
4 to the tail piece, I check it out.
5 But I first go over to the faces,
6 where we're going to be pillaring
7 first. And then I can line guys out
8 up there as I go back and do the
9 other areas, transformer, belt entry.

10 Q. Do you record those findings
11 anywhere?

12 A. Yeah. We have notebooks we
13 record them in, DTIs ---

14 Q. Okay.

15 A. --- along the pillar line.

16 Q. Okay. Do you call those
17 readings out or anything?

18 A. I'm not --- I can't recollect
19 the preshift times, but I do on my
20 preshift times. But when I get
21 there, when I do my on-shift ---

22 Q. Okay.

23 A. --- is when I send my DTIs
24 across the pillar line ---

25 Q. Okay.

1 A. --- return to ---.

2 Q. Okay. For now, let's just
3 concentrate on the big map and try to
4 get the best you can remember of
5 where you were at on Friday. I used
6 a production report there, too. I
7 thought --- which is --- Exhibit Two,
8 I thought that might refresh your
9 memory a little bit about where you
10 were at, okay.

11 A. I remember we was --- I want
12 to say this was our last row, 142,
13 because it seemed like once we
14 finished this last --- Number Three
15 pillar, I guess you'd call it or
16 number --- in Number Two entry, they
17 had to move belt back past this
18 dogleg job area.

19 Q. Okay.

20 A. And from there, I don't know,
21 you know, where they was going to
22 start again. But I want to say that
23 we was up --- right up here and took
24 one cut off this right pillar.

25 Q. Okay. You're talking about

1 the --- you're pointing to a pillar
2 between ---?

3 A. Between --- in Number Two
4 entry.

5 Q. Between 142 and 143?

6 A. Yes.

7 Q. Okay.

8 A. And I want to say we took one
9 cut off that and then it was the end
10 of our shift.

11 Q. Okay. We got some colored
12 markers there. If you don't care,
13 just pick one of those and indicate
14 where you're --- take the pink one
15 and just indicate where that last ---

16 A. Cut was?

17 Q. --- cut was.

18 WITNESS COMPLIES

19 BY MR. WATKINS:

20 Q. Okay. Do you remember where
21 you began? That was your last cut?

22 A. Yeah.

23 Q. Do you remember which cut you
24 began on?

25 A. I'd say somewhere down ---.

1 ATTORNEY WILLIAMS:

2 Why don't you use a
3 different colored pen to show
4 the first cut.

5 BY MR. WATKINS:

6 Q. Maybe the green one to show
7 the first one.

8 A. I'm thinking somewhere down
9 this area right here.

10 Q. Okay. Again, you're between
11 142 and 143, ---

12 A. Yeah.

13 Q. --- that you made a cut into
14 the barrier?

15 A. Yeah.

16 ATTORNEY WILLIAMS:

17 And could you label
18 those with a pen? Maybe write
19 first cut and then write last
20 cut.

21 A. Sure.

22 WITNESS COMPLIES

23 BY MR. WATKINS:

24 Q. Actually, just keep that pen
25 because I'm going to try to walk you

1 through it.

2 A. Okay.

3 Q. Do you remember how many cuts
4 you took that day?

5 ATTORNEY WILLIAMS:

6 Could you write last
7 cut on there?

8 WITNESS COMPLIES

9 A. How many cuts we took that
10 day?

11 BY MR. WATKINS:

12 Q. Yeah.

13 A. You want me to just write them
14 down?

15 Q. You can mark on there with
16 that green and just label them two,
17 three ---.

18 A. Okay. I'm trying to remember
19 correctly.

20 Q. That's okay. Just take your
21 time.

22 A. There would have been
23 approximately six cuts total.

24 Q. Six cuts total, okay. Just
25 for clarification, could you go ahead

1 and just label those two, three,
2 four, five, six, however many we got
3 there?

4 WITNESS COMPLIES

5 BY MR. WATKINS:

6 Q. And the last one would have
7 been the sixth one?

8 A. Yeah.

9 Q. Okay.

10 A. And they're not, you know,
11 exactly dimensional.

12 Q. Yeah. I'm going to ask you to
13 just walk me through a cut, okay?
14 How wide is --- are you classifying a
15 cut? Is it miner wide? Is it 18-
16 feet wide?

17 A. Yeah, approximately 18-feet
18 wide.

19 Q. About 18-feet wide?

20 A. Uh-huh (yes).

21 Q. Okay.

22 A. The same as the entryways,
23 pretty much.

24 Q. And how deep were those cuts?

25 A. If I remember right, we was

1 losing cap rock on this side.

2 Q. This side being ---?

3 A. The barrier side.

4 Q. Okay.

5 A. So I don't believe we was
6 getting 40-foot cuts. I think they
7 was more like 20.

8 Q. Okay.

9 A. I think maybe this one here,
10 after leaving a pretty good stump
11 there, I think maybe this one, maybe,
12 was 40, but I don't think we was
13 getting very much above this one.

14 Q. And on the first cut you're
15 talking about maybe you only went 20
16 feet?

17 A. Yeah. Yeah. I remember this
18 barrier from here was losing, you
19 know, some cap rock, which was
20 contaminating the coal, so we wasn't
21 taking a lot of it ---

22 Q. Okay.

23 A. --- because of that.
24 Sometimes you could, sometimes no.

25 Q. I noticed on your drawing

1 there for the cuts, the first two
2 cuts you got marked are in the
3 barrier?

4 A. Uh-huh (yes).

5 Q. You cut twice out of the
6 barrier or you cut ---?

7 A. We'd tree off. I'm trying to
8 remember our cut sequence. It's
9 here, here, here, here. It's this
10 --- this one probably would have been
11 cut before this one, actually. This
12 probably would have been our first
13 cut. And this one would have been
14 down a little farther, but just in a
15 nutshell.

16 Q. Okay.

17 A. I'm not a very good artist.

18 Q. That's all right. You're
19 doing fine. The two cuts in the
20 barrier, I noticed that you left a
21 pretty good barrier or fender ---

22 A. Stump right here?

23 Q. --- or a stump in between,
24 yeah.

25 A. Yeah. We was doing that, like

1 I said, to try to hold the top rock,
2 you know, put a little distance
3 between that, and sometimes it will
4 stay up longer.

5 Q. Is that normally the way you
6 cut the barrier?

7 A. Yeah. Depending on the
8 conditions, you know. Sometimes we
9 can get a little more. It just
10 depends.

11 Q. Okay.

12 A. You got to play the
13 conditions, really, so ---.

14 Q. And those are --- you said
15 they're normally taken 40 feet, but
16 --- under normal conditions, but ---.

17 A. Yeah. That was the maximum.
18 The maximum was 40 feet.

19 Q. Okay. What about the cuts
20 into the pillar block, are they 40-
21 feet deep or ---?

22 A. These were 30 --- 25, 30 at
23 the most.

24 Q. What about bottom coal? Do
25 you mine any bottom coal?

1 A. Yeah, we was taking bottom
2 coal.

3 Q. At what locations would you
4 take the bottom coal?

5 A. Everywhere, you know, we
6 could, really. As long as conditions
7 allowed we'd take bottom coal.

8 Q. How much bottom coal would you
9 take?

10 A. It varied from place to place.
11 Two feet to up to four feet sometimes
12 probably.

13 Q. Just kind of walk me through
14 the process that you guys would use
15 for taking the bottom coal with the
16 miner.

17 A. Okay. We'd usually ---
18 usually just with our cut, you know,
19 we'd load a car, back up, sump on the
20 floor, clear the face and back to the
21 top, back down. Just continuously,
22 you know, down, back, back and forth.

23 Q. Okay. You would take it out
24 --- as you advanced the cut into the
25 pillar, ---

1 A. Yeah.

2 Q. --- you would sump it down and
3 walk it in there?

4 A. Yeah.

5 Q. Do you recall taking any
6 bottom coal out of the entries or the
7 crosscuts themselves?

8 A. No. We couldn't because our
9 MRSs would have a hard time, you
10 know, through the ditch. Just out
11 into the cuts we would.

12 Q. Okay. Is that pretty much
13 every cut into the pillar in the rib
14 you would take bottom coal?

15 A. If conditions permitted, yeah.

16 Q. Okay. How would you know when
17 you've reached the 40-foot mark when
18 you were mining?

19 A. It's like two feet past the
20 tailbone of the miner. We've
21 measured it before. I believe the
22 miner is 38-feet long, ---

23 Q. Okay.

24 A. --- so you usually go a foot
25 or two, you know, past the tailbone.

1 Q. Where is that distance
2 measured from?

3 A. From the head, the farthest
4 bit inby.

5 Q. Back to where?

6 A. Straightened --- everything
7 straightens out, and it's 38 feet
8 from the farthest point on the head
9 to the farthest point on the tail.

10 Q. Now, you're going to start
11 mining in this --- in the block ---
12 or in the barrier.

13 A. Uh-huh (yes).

14 Q. Now, go on. You stated you go
15 in 40 feet.

16 A. Uh-huh (yes).

17 Q. Where did you start measuring
18 from, I guess, might be the point,
19 two feet past --- you said it was two
20 feet past the tail?

21 A. Uh-huh (yes).

22 Q. Okay. What was that reference
23 point for the tail?

24 A. Usually the tail --- when it's
25 even with the bolts, would be pretty

1 close.

2 Q. The last row of bolts or ---?

3 A. Yeah, the last row of bolts.

4 Q. Okay. I didn't know if even
5 with the bolts or off the rib line
6 that was measured. The cuts that was
7 taken --- that you took into the
8 barrier, ---

9 A. Uh-huh (yes).

10 Q. --- were those straight on or
11 they're angled a little bit or ---?

12 A. Sometimes they're straight on
13 and sometimes they're angled.
14 Usually if we cut straight on, you
15 know, if we get --- if we was getting
16 40 feet, you know, we'd stop where I
17 told you.

18 Q. Uh-huh (yes).

19 A. And if you could reach this
20 way, angled a little bit, you know,
21 you'd usually go a little deeper
22 because the angle --- you know, it's
23 not straight across, it's on an
24 angle. So you could, you know, go a
25 little bit farther.

1 Q. So the 40 feet was measured
2 straight with the rib line or
3 perpendicular to the rib line?

4 A. Yeah.

5 Q. Okay.

6 A. So you got 40 feet straight
7 across here. If you cut on an angle,
8 it was flush up the furthest part,
9 you know, of the left side of the
10 head, so it would stay flush.

11 Q. About how far would that cut
12 be if --- at an angle?

13 A. At an angle?

14 Q. How far would you have to come
15 in?

16 A. It could go 45, maybe a little
17 over that, not much.

18 Q. Okay. What were the
19 conditions like that day when you
20 were in there?

21 A. It was heavy. I mean, nothing
22 that we hadn't dealt with in the past
23 down the old south mains, you know.
24 You could tell it was heavy, but I
25 mean, we had dealt with that before.

1 We set extra supports along the rib
2 lines, you know, narrow up our
3 entries and take whatever precaution
4 we can to, you know, help it.

5 Q. You mentioned you could tell
6 it was heavy. How could you tell? I
7 mean, what were the indicators?

8 A. We was getting some --- little
9 bit of bumps, you know. Nothing too
10 bad, but there was a lot of rib
11 sloughage from the bump. And it
12 wasn't like a lot of big ones, but it
13 was a lot of little ones, you know,
14 and a lot of sloughage. We'd have to
15 back up and clean more often because
16 the ribs would slough so much.

17 Q. You used the term bump. Can
18 you just give me your definition of
19 that term?

20 A. Bounce is what I call it.

21 Q. So bump and bounce is the
22 same ---

23 A. Yeah.

24 Q. --- thing to you?

25 A. Yeah.

1 Q. What would happen when it
2 bumped or bounced?

3 A. Ribs would slough off, dust
4 would come down off the roof. That's
5 about it, really.

6 Q. Whenever it bumped or bounced,
7 was there always coal displaced
8 or ---?

9 A. Yeah, some more times than
10 others, depending on, you know, I
11 guess how big it was.

12 Q. I'm just trying to get a
13 clarification of your term. Did you
14 ever --- could you have a bump or a
15 bounce without any coal being
16 displaced, just ---?

17 A. Yeah. That's --- yeah.

18 Q. Okay.

19 A. We have really loose ribs in
20 this mine. We always have. So I
21 mean, even little bumps that you, you
22 know, hardly notice, it will just,
23 you know, maybe slough a little bit,
24 but ---.

25 Q. Okay. So the conditions

1 towards the barrier, what were they
2 like?

3 A. Like I said, we was losing
4 some cap rock, but --- which
5 permitted us from going, you know,
6 our full cuts. Quality reasons, but
7 --- I mean, they weren't bad. It
8 seems like the barrier was the best
9 part of it. When we'd start cutting
10 on a pillar is when we'd start
11 getting a few more bounces.

12 Q. How many bounces would you say
13 you normally had during a shift?

14 A. It kind of depends, but on an
15 average day, probably --- it kind of
16 depends on how big, you know. It
17 cracks all the time in the pillars,
18 but maybe 20. I don't know. It's
19 kind of hard to measure that.

20 Q. Yeah. Do you remember any ---
21 I think you used the term large,
22 large bounces that day?

23 A. Yeah. On our last cut there
24 we had a pretty good bounce. It kind
25 of filled the entries up with coal.

1 We was kind of anticipating it, so we
2 set extra timbers along the rib lines
3 and extra breaker rows. We normally
4 --- after we cut down this row, we'll
5 come over to this side and finish
6 this side of the pillar. I had it
7 set up to where we wouldn't have to
8 go up there because I didn't feel it
9 would be safe to go up there just for
10 this, you know, ---.

11 Q. By that you're referring to
12 the Number Three entry side of
13 the ---

14 A. Yeah.

15 Q. --- of that block?

16 A. Yeah.

17 Q. Okay.

18 A. Up here on the last row it was
19 really filling full of coal. And
20 time-wise and safety-wise, I opted to
21 pillar --- breaker row around going
22 up there and not go up there.

23 Q. Go ahead and just draw your
24 breaker row in for me, please, if you
25 would.

1 A. We had one up here.

2 Q. Okay. You're drawing in the
3 Number Three entry on the 143
4 Crosscut side?

5 A. Yeah.

6 Q. Okay.

7 A. So right here and right here.

8 Q. And I'm going to just try to
9 reference where you put those at.
10 You put that on the --- okay. You
11 got them in the Number Three entry.

12 A. Uh-huh (yes).

13 Q. Okay. You got them at 142 ---

14 A. Yeah.

15 Q. --- Crosscut, just outby
16 Crosscut 142 in Number Three entry?

17 A. Uh-huh (yes).

18 Q. And you got them in just outby
19 Crosscut 143?

20 A. Yeah. These were all breaker
21 rows up top here.

22 Q. Okay.

23 A. These ones were knocked out by
24 the MRSs, so ---.

25 Q. And you also set some in

1 Crosscut 142?

2 A. Yeah.

3 Q. Okay. Just to the right of
4 the Number Two entry?

5 A. Uh-huh (yes).

6 Q. Okay.

7 A. And we also had a row of
8 timber coming up this rib line.

9 Q. Okay. You mentioned you kind
10 of anticipated some problems with
11 that block. What led you to that
12 belief?

13 A. I don't know. You just kind
14 of know, I guess, when you've been
15 doing it for so long the way it acts,
16 the way it bounces, like I said, the
17 sloughage you get, kind of constantly
18 backing up and cleaning to --- you
19 know, so our shuttle cars wouldn't
20 get stuck. So we kind of anticipated
21 it. And I didn't want to put my men
22 up on that side when --- the way it
23 was on this other --- the row before.

24 Q. And how bad was the sloughage
25 around that block?

1 A. We had one good bounce toward
2 the end of the shift. We backed up
3 and probably loaded, I'd say, four or
4 five buggies. And it knocked out a
5 lot of our rib supports that we had
6 set in place.

7 Q. How far out into the entry ---
8 into the Number --- what is that,
9 Number Two entry?

10 A. Uh-huh (yes).

11 Q. How far out in the Number Two
12 entry did that --- did the sloughage
13 come?

14 A. Maybe a little bit of it
15 reached midway.

16 Q. Okay.

17 A. We didn't get --- it bounced
18 on that pillar only. It didn't do
19 nothing on this side.

20 Q. Nothing on the Number
21 Two's ---?

22 A. In between One and Two.

23 Q. In between One and Two, on
24 that block?

25 A. No.

1 Q. So all the --- everything was
2 on that block between Two and Three
3 entry?

4 A. Yeah.

5 Q. And it come --- you say it
6 came out halfway out into the entry?

7 A. Yeah.

8 Q. Did it just slope back up to
9 the rib line or ---?

10 A. Uh-huh (yes).

11 Q. How far up to the pillar did
12 it go, path-wise?

13 A. It probably --- we was still
14 within five feet of our last row of
15 bolts, our rib bolts, so I'd say
16 maybe three and a half, four feet,
17 you know, past them. Is that kind of
18 what you're asking?

19 Q. Okay. I'll go with the
20 numbers that you gave me. The
21 three and a half to four feet from
22 the bolt, is that how far over that
23 the new rib line came, that sloughed
24 off?

25 A. Yeah. It was probably a

1 couple feet before that.

2 Q. Okay. And when the material
3 from the bounce come over into the
4 Number Two entry and then came ---
5 angled back up, ---

6 A. Uh-huh (yes).

7 Q. --- how high up on the rib
8 line did that go? Did it go all the
9 way to the roof line, halfway ---

10 A. Yeah.

11 Q. --- up the block, all the way
12 up to the roof?

13 A. All the way to the roof.

14 Q. Okay. And that occurred the
15 whole length of that block?

16 A. Yeah, the whole length and all
17 the way around it.

18 Q. Even down on the Number Three
19 entry side?

20 A. Uh-huh (yes).

21 Q. You mentioned you had some
22 supports that was --- that you placed
23 in there prior to that.

24 A. Uh-huh (yes).

25 Q. What type support was that?

1 A. Timbers, caps, wedges.

2 Q. Do you know about how many you
3 had in there or anything?

4 A. Possibly eight to ten, I'd
5 say.

6 Q. The whole length had eight to
7 ten?

8 A. Yeah.

9 Q. Okay. So you had them roughly
10 on 10 or 12-foot centers then?

11 A. It was on fives. We could
12 have started up higher, you know. I
13 can't remember.

14 Q. Okay.

15 A. But I do know you don't put
16 them where you start your cut, you
17 know what I mean, because they'll
18 just eat them up. So you leave them
19 ones out.

20 Q. Okay. So you put these in
21 prior to starting your last cut?

22 A. Yeah.

23 Q. Do you remember when you put
24 them in?

25 A. It was before our last cut.

1 Q. Okay. It was after the start
2 of the shift?

3 A. We usually put 'em in while
4 we're mining this side.

5 Q. Okay.

6 A. We'll have timber men go up
7 there and put them in prior to going
8 up in there.

9 Q. Okay. And when that bounce
10 occurred, did it --- you say it took
11 out all the timbers that you had in?

12 A. Most of them.

13 Q. Most of them. All the way
14 around?

15 A. Yeah. Not our breaker rows,
16 just where we had 'em set, where we
17 was mining.

18 Q. Did they take the ones you set
19 out on the backside of the block on
20 the Number Three entry side?

21 A. Over here?

22 Q. Yeah.

23 A. No.

24 Q. Okay. You didn't set the
25 timbers all the way around?

1 A. No, no, just ---.

2 Q. Just on that one side, okay.

3 A. Just the Number Two entry is
4 all.

5 Q. Okay. I was thinking you set
6 them all the way around.

7 A. No.

8 Q. Okay. Other than the
9 sloughage, what did the pillar look
10 like after the bounce?

11 A. It still looked strong. It
12 looked --- still looked solid other
13 than, you know, what sloughage come
14 off of it.

15 Q. Did it separate from the roof?

16 A. No.

17 Q. Had you ever seen a, when you
18 were in that area, a bounce that had
19 actually separated the block from the
20 roof?

21 A. Maybe on corners, but not, you
22 know, clear across the block at all.

23 Q. About how far back in are you
24 talking about?

25 A. Maybe seen it on the corners

1 or five feet in, maybe.

2 Q. On this particular block?

3 A. No, not on this one.

4 Q. Do you remember which block it
5 was at?

6 A. It had to have been up here
7 somewhere. Maybe the row before.
8 It's kind of hard to recollect.

9 Q. You're doing good. What about
10 floor heavage? Were the floors
11 heaving in that area anywhere?

12 A. Yeah. I noticed some floor
13 heavage in the belt line.

14 Q. Do you remember where at?

15 A. It was behind where the feeder
16 was sat. This time we was mining
17 probably a break or two.

18 Q. Where was the feeder setting?

19 A. I want to say 140.

20 Q. Okay. Just go ahead and mark
21 that in, if you don't care. Number
22 Two entry, Crosscut 140.

23 A. And probably had some heavage
24 back here in the belt line.

25 Q. Just go ahead and highlight

1 that with one of the colors there.
2 Use one of the colored markers and
3 just ---.

4 WITNESS COMPLIES

5 BY MR. WATKINS:

6 Q. Number Two entry, between
7 Crosscut 138 and 139?

8 A. Yeah, roughly. I'm not exact.

9 Q. That's fine. How high was ---
10 how high did it heave?

11 A. I'd say a foot and a half or
12 so.

13 Q. Is there any particular reason
14 why you remember the heaving --- the
15 floor being heaved in that area?

16 A. Yeah. We was having structure
17 --- our structure was coming apart on
18 occasion. We was using older
19 structure, so we had to go back and
20 repair it back there from time to
21 time, and I noticed it.

22 Q. So you would go back and would
23 you remove the --- some coal out of
24 the bottom or how did you correct the
25 condition?

1 A. They had shoveled on it and
2 raised the belt up a little bit, if I
3 recall.

4 Q. Okay. You mentioned you had
5 to do that from time to time. Did
6 you have to clean it out and then it
7 would raise up again and you'd have
8 to go back in and continuously do
9 this or ---?

10 A. No. I just noticed the floor
11 heaves. I didn't --- I know the
12 preshifters were aware of the floor
13 heaves. And so I knew they was ---
14 had corrected it a few times in the
15 past. And I know the belt had been
16 raised a couple times so it wasn't
17 riding close to the heave.

18 Q. Did you ever back the miner
19 out and use the miner to cut some of
20 the bottom and clean the heave out of
21 it any?

22 A. No, not here. Not in the belt
23 line.

24 Q. Anywhere else?

25 A. No. That's the only heave I

1 noticed in the section.

2 Q. How many shuttle cars were on
3 the section?

4 A. Two.

5 Q. Two? And just to mark up ---
6 where was the power center?

7 A. Let's see here. Right here, I
8 believe.

9 Q. And it would be between
10 Crosscuts 138 and 139, in the Number
11 Three entry?

12 A. Correct.

13 Q. Okay. The kitchen would also
14 be in that location?

15 A. What's that?

16 Q. The kitchen would be in that
17 location?

18 A. Yeah. Uh-huh (yes).

19 Q. Okay. Did you have a scoop on
20 the section?

21 A. Yes.

22 Q. And where would the charger
23 station for the scoop be?

24 A. Probably right here somewhere
25 on the intake. Let's see. Right

1 here somewhere.

2 Q. Crosscut 136 in the intake,
3 was that a stopping?

4 A. Roughly.

5 Q. Roughly, okay.

6 A. Normally that's where it is.

7 Q. Okay. Josh, do you remember
8 any water being in that area?

9 A. I remember --- I believe it
10 was in between 140 and 141 there was
11 a waterhole right there. And you
12 know, other than that, it was pretty
13 dry.

14 Q. Between 140 and 141?

15 A. Yeah. It could even have been
16 between 141 and 142. Somewhere in
17 this general area.

18 Q. Okay. Did it present any
19 problems to you as far as mining, I
20 mean, as far as your equipment goes?

21 A. No. No, we --- we didn't have
22 a pump system. The crew before had
23 been driving through it so much that
24 it was just --- we call it soupy,
25 where a pump won't suck it up. So

1 they'd push it with a scoop so it
2 wasn't deep or whatnot.

3 Q. I believe early on when you
4 were describing the section and where
5 you was taking cuts at I think you
6 might have mentioned something about
7 this would have been the last block
8 before your move.

9 A. Uh-huh (yes).

10 Q. Where were you intending to
11 move to?

12 A. I believe it was back past
13 this jog right here, back in this
14 area.

15 Q. And the jog is 140, 141,
16 around the old sump?

17 A. Yeah.

18 Q. Okay.

19 A. But I don't know where, you
20 know, it had been moved to. I wasn't
21 on shift. I was on my days off, so I
22 don't know where, you know, it ended
23 up being moved to.

24 Q. Did anyone ever give you any
25 direction about where you was going

1 to move to when ---?

2 A. No. I think I would have had
3 some direction if it would have been
4 closer to one of my first shifts.
5 Whereas my last shift, you know, just
6 probably got passed on to the other
7 crews because they would have been
8 the ones doing it.

9 Q. You mentioned you moved out
10 around the old sump area where
11 the ---

12 A. Yeah.

13 Q. --- return is kind of offset
14 there. Do you know why you was
15 leaving those blocks, all those
16 blocks?

17 A. I didn't know why. I just
18 remember on my map that these blocks
19 was X'd out.

20 Q. Do you remember which ones
21 were X'd out?

22 A. I believe it was ---.

23 Q. Go ahead and draw them in, if
24 you would.

25 WITNESS COMPLIES

1 A. I believe it was that one,
2 that one, here. I believe it was
3 like that, ---

4 BY MR. WATKINS:

5 Q. Okay.

6 A. --- the best to what I can
7 recollect.

8 Q. And the ones you got blocked
9 out are between Crosscut 140 and ---
10 140 and 142?

11 A. Yeah.

12 Q. You left the block between
13 Number One and ---?

14 A. I can't recollect. I want to
15 say these ones, too, just because,
16 you know, you'd want to protect this
17 jog right here by leaving these ones.

18 Q. Okay.

19 A. So I'd want to probably X
20 these ones, too, if I remember right.

21 Q. Okay. And so you had ones
22 between 139 and 140 straight across?

23 A. Yeah.

24 Q. Okay. I notice you also
25 marked the barrier.

1 A. Uh-huh (yes).

2 Q. So you had instructions not to
3 mine the barrier?

4 A. On my map I had, you know, X'd
5 out like this is here.

6 Q. Okay.

7 A. But I never had, you know,
8 instructions that we wasn't going to
9 take the barrier. In fact, I
10 wondered why they wouldn't, you know,
11 take the barrier. I just wondered in
12 my head, you know. I didn't ask or
13 nothing because it was my last shift,
14 so I didn't worry about it.

15 Q. You wanted to go home?

16 A. Yeah.

17 Q. Who provided you that map?
18 Where did that map come from?

19 A. I believe it was the surveyors
20 or the company. They have a folder
21 where they have maps of the section,
22 you know, and updated maps on
23 pillars, you know. They'll X out the
24 pillars they want to leave and the
25 ones they want to take and ---. They

1 always have down in the south when I
2 was pillaring before, so ---.

3 Q. Who's your supervisor?

4 A. Phil Cox was.

5 Q. Do you remember if Phillip
6 come on the section that day?

7 A. Yeah, he come on every day.

8 Q. He come on every day?

9 A. Yeah.

10 Q. Any particular time when he
11 would ---?

12 A. No, usually once, maybe
13 sometimes twice a shift.

14 Q. And what type of things would
15 Phillip be looking at when he came?

16 A. Just see how we're doing, make
17 sure everything is going all right,
18 see if we needed anything, just kind
19 of support, have some --- probably
20 have some, you know, comments or
21 suggestions, too, you know, if he
22 thought something would help us out
23 and whatnot.

24 Q. Did Phillip observe those
25 conditions around the block that you

1 had the concerns with?

2 A. No. I told him how we was
3 going to do it.

4 Q. Okay.

5 A. But, you know, it was all good
6 until our last cut, so ---.

7 Q. Okay.

8 A. But I just anticipated it
9 going bad, and I didn't want to go up
10 on that other side for that little
11 amount of coal for, you know, the
12 trouble it would have been --- or
13 could have been.

14 Q. That last cut, since you knew
15 you weren't going to the other side,
16 was it --- how deep did you cut it?

17 A. It was deeper. I'd say
18 probably close to 50 feet.

19 Q. Close to 50 feet, okay.

20 A. We could cut, you know, to the
21 cab of the buggies. So before the
22 cab got to the last row of bolts,
23 that's where we'd stop at. I think
24 it was usually about 50 feet. We cut
25 it a little bit deeper because we was

1 on this side, not going over there.

2 Q. So that last cut is
3 approximately 20-feet wide --- 18-
4 feet wide and ---

5 A. Yeah.

6 Q. --- 50-feet deep? And you
7 took bottom coal out of that also?

8 A. Yeah, some.

9 Q. On your first exhibit that you
10 had there, ---

11 A. Uh-huh (yes).

12 Q. --- that production report for
13 that day, I got a couple questions.
14 I didn't really --- it might help me
15 understand a little bit.

16 A. Uh-huh (yes).

17 Q. You report both the number of
18 shuttle cars that were loaded --- I'm
19 going to say both the shuttle cars
20 and the footage as well.

21 A. Yeah.

22 Q. Okay.

23 A. Yeah.

24 Q. In the top right up there
25 where it says tons, 1,810 tons that

1 shift, ---

2 A. Uh-huh (yes).

3 Q. --- is that about normal, that
4 you would normally produce, or is it
5 high or ---?

6 A. That's a good day.

7 Q. That's a good day?

8 A. Yeah.

9 Q. How did you come up with
10 1,810?

11 A. 1,810, we do our shuttle cars
12 times ten.

13 Q. You get ten tons per car?

14 A. Yeah.

15 Q. Okay. And also on that top
16 row, next to the cars loaded you have
17 a feet advance?

18 A. Uh-huh (yes).

19 Q. I believe that's 278 or
20 somewhere around that neighborhood?

21 A. Uh-huh (yes).

22 Q. How was that number achieved?

23 A. I knew you was going to ask
24 that, and I was trying to remember
25 before you asked.

1 ATTORNEY RICKETTS:

2 Excuse me. Can I have
3 a point of clarification?

4 MR. WATKINS:

5 Sure.

6 ATTORNEY RICKETTS:

7 --- 628 is where, Tim?

8 MR. WATKINS:

9 628? 278.

10 ATTORNEY RICKETTS:

11 Oh, 278?

12 MR. WATKINS:

13 Yeah, the feet advance.

14 ATTORNEY RICKETTS:

15 Okay. Now I got it.

16 A. I'm trying to remember how we
17 was figuring that. I knew you was
18 going to ask that.

19 BY MR. WATKINS:

20 Q. Maybe you should be doing the
21 questioning then.

22 A. I can't recall. Right now I
23 can't. If I looked at it for a
24 minute ---.

25 Q. We can always come back to it.

1 A. Yeah, let's come back to that.

2 Q. Okay.

3 A. I'll think about it. There
4 was a way we was figuring it, but I
5 can't recall.

6 Q. In the middle, I guess where
7 it says cuts, you got cut, places,
8 widths and all that. And you've got
9 it looks like six Xs going across.

10 A. Uh-huh (yes).

11 Q. Are those --- I take it those
12 are representative of the number of
13 cuts you took that day?

14 A. Yeah.

15 Q. You took six cuts?

16 A. Yeah. I didn't even look at
17 that. That was pretty good, huh?

18 Q. Yeah, it was real good. You
19 done real well there. Okay. But
20 those are six full cuts with ---?

21 A. Yeah, it's six full cuts.

22 Yeah.

23 Q. Okay. If it wasn't a full
24 cut, is there another designation
25 that you would use?

1 A. If it wasn't?

2 Q. If it wasn't a full cut, would
3 you ---?

4 A. No, we'd just use a full cut
5 still, usually. This is kind of
6 really --- it's really not accurate,
7 you know. You could have a lot more,
8 then there wouldn't be --- this is
9 just not real accurate, with
10 anybody's report, really.

11 Q. Okay.

12 A. And I've seen guys that ---
13 some guys' seemed a lot different.
14 They'll think one cut in is a cut and
15 then an offcut of it or something is
16 two. Some guys count it as one. It
17 just depends on the foreman.

18 Q. Were you given any guidance on
19 how to fill these out?

20 A. Not really. Not really.

21 Q. Who do you turn these in to?

22 A. Phillip Cox, my shift manager.

23 Q. Do you know what he uses them
24 for?

25 A. He just uses them to fill out

1 his reports.

2 Q. So you just put the X in for
3 number of cuts. You don't have any
4 designation as to where the cuts were
5 actually made?

6 A. No.

7 Q. Is there another form or some
8 way to keep up with where you
9 actually took the cuts from?

10 A. No.

11 Q. Okay.

12 A. They used to --- sometimes
13 they put a map up kind of like this,
14 then you'd mark it up kind of like we
15 did here. But sometimes it got done,
16 sometimes it didn't.

17 Q. Where was that map at?

18 A. They'd have it hanging in the
19 book room, the foreman room.

20 Q. You say you used to do it
21 pretty often or always ---?

22 A. Well, sometimes you do it,
23 sometimes you don't. I don't know.
24 It's kind of overlooked sometimes, I
25 guess. More of it is communication

1 from me to the next guy, you know, is
2 more effective than just that map.

3 Q. So do you guys hot seat on a
4 section? Do you change out on a
5 section?

6 A. No.

7 Q. So how did this communication
8 between you and the next guy ---?

9 A. Call-outs?

10 Q. You'd call out?

11 A. Uh-huh (yes).

12 Q. When you called out, who did
13 you talk to when you called out,
14 though?

15 A. My cross-shifters were --- I
16 had Dale Black as a cross-shifter.
17 Brandon Kimber was my main
18 cross-shifter.

19 Q. By cross-shifter --- explain
20 cross-shifter. What do you mean by
21 the term cross-shifter?

22 A. I'd call out, let him know
23 where we're at, what's going on, you
24 know, give him my preshift, you know,
25 that kind of stuff, just

1 communicating from, you know, one
2 foreman to the next. Anything they
3 need to bring in, you know, I'd let
4 them know at that time if they needed
5 more water or, you know, rag or, you
6 know, anything like that, tools.

7 Q. Okay.

8 A. Give them a heads up on what's
9 going on.

10 Q. He'd be the guy that was
11 coming in after you then?

12 A. Yeah.

13 Q. So you'd call out and you'd
14 talk to him, too, what you'd mined
15 and ---?

16 A. Yeah.

17 Q. Okay. Did anybody do that for
18 you?

19 A. Yeah.

20 Q. Who would be the foreman prior
21 to you?

22 A. It would be Brandon, too.

23 Q. Brandon?

24 A. Yeah.

25 Q. Just rotate back around;

1 right?

2 A. Yeah, 12-hour shifts. It was
3 him all the time, except for when
4 we'd change, then it was another, you
5 know --- my last shift, it would have
6 been another boss on the opposite
7 rotation.

8 Q. What's the average mining
9 height in that section, how high?

10 A. I'd say seven feet, six and a
11 half. Well, seven to eight feet,
12 probably.

13 Q. Seven to eight?

14 A. Yeah. It varied. I think it
15 went to --- the lowest, six and a
16 half to, you know, seven. We tried
17 to keep it for when we developed it,
18 about six and a half, seven feet.

19 Q. Okay. On the right side, just
20 above, it's got an average mine
21 height the same --- you got ten feet?

22 A. That's after we cut the bottom
23 coal.

24 Q. That's averaging the bottom
25 coal?

1 A. Yeah.

2 Q. Okay. Looking through some of
3 these reports, that number changes.
4 I'm just trying to get clarification.

5 A. Everybody does it a little
6 different, so ---. I gauge that by
7 the whole coal seam height, not just
8 where the entries are, you know.

9 Q. Are these reports you used for
10 any type of incentive program or
11 anything? I mean, did you guys get
12 bonuses or anything for ---?

13 A. We've got a quota for every
14 month. If we meet our safety and
15 shipping quotas and our tonnage
16 quotas, then we get bonuses.

17 Q. What are those numbers? What
18 kind of quota do you have to make?

19 A. I believe right around 50,000
20 is a close quota.

21 Q. 50,000 for the month?

22 A. Yeah.

23 Q. And who benefits from the
24 bonus? Does everybody on the section
25 benefit, management?

1 A. Mostly management.

2 Q. Mostly management.

3 A. Pretty much management only.

4 Q. Are shift foremen classified
5 as management?

6 A. Yeah.

7 Q. That clears up a lot of these
8 questions. Do you remember how you
9 got the feet of advance yet? Did it
10 come back to you yet?

11 A. I'll remember. When this is
12 over, I'll remember.

13 Q. Okay.

14 A. It's kind of a --- I don't
15 know. I think it's kind of a ---
16 there was a way of figuring it out.
17 I just can't remember it.

18 Q. Okay. It might come back to
19 you here a little bit.

20 A. Yeah.

21 Q. The same with this production
22 report. It looks like also that you
23 track your delays.

24 A. Uh-huh (yes).

25 Q. And you got a delay code on

1 the --- I guess it would be the left
2 side of the page.

3 A. Yeah.

4 Q. How many different codes are
5 there? I mean, are there a bunch of
6 different codes or ---?

7 A. Yeah, there's a big --- good
8 size list, a lengthy list of codes.

9 Q. How would you remember all
10 them codes?

11 A. You don't. You got to look
12 through 'em and ---. A lot of 'em
13 are repetitious, so you --- you know,
14 you get to know them ones, but you
15 got to look up a lot of 'em. It
16 takes a while sometimes.

17 Q. Where do you look those up at?

18 A. You have printoff sheets,
19 laminated sheets, you know, that have
20 the delay codes on them.

21 Q. I guess we probably could get
22 those from the company?

23 A. Uh-huh (yes).

24 Q. I mean, you don't have one in
25 your possession, do you?

1 A. I actually have one in my
2 truck.

3 Q. Oh, do you?

4 A. I think I do. I think I might
5 have one in my lunchbox.

6 MR. WATKINS:

7 Do you have a problem
8 with us getting a copy of
9 that?

10 ATTORNEY RICKETTS:

11 Let me see it.

12 A. Want me to go grab it?

13 BY MR. WATKINS:

14 Q. We'll take a break here in a
15 minute and you can grab it. We'll
16 take one ---.

17 A. I think it's in there.

18 Q. That's all right.

19 A. It might not be.

20 Q. Okay.

21 A. Might be lying to you.

22 Q. That's all right. We'll see
23 what you got. I guess according to
24 this you had two delays on that day?

25 A. Yeah.

1 Q. The first one was for a ---
2 the first one was when you first got
3 on the section at 6:30?

4 A. Yeah.

5 Q. You were delayed what, four
6 hours?

7 A. Yeah.

8 Q. What was the cause for that
9 delay?

10 A. A lot of roadway accumulations
11 was the main thing I remember that
12 day, so we cleaned --- it makes
13 everything a lot easier when you
14 don't have --- you're not running
15 over stuff. So I take a little time
16 usually the first of my shifts to
17 make things right. It makes
18 everything go a little easier
19 throughout the day.

20 Q. Okay. When you clean those
21 up, is that with a scoop or with a
22 miner or ---?

23 A. Scoop.

24 Q. With a scoop?

25 A. A scoop that day.

1 Q. So that's not counting ---
2 that cleanup is not counted into your
3 feet of advance or the number of
4 shuttle cars per day?

5 A. No.

6 Q. So those two numbers are
7 strictly based on cuts taken in the
8 ribs ---

9 A. Yeah.

10 Q. --- in the blocks?

11 A. Uh-huh (yes).

12 Q. Okay. And I think the last
13 one you've already referred to is
14 that bounce that you had to clean up
15 afterwards?

16 A. Yeah.

17 Q. Okay.

18 A. Why am I trying to think of
19 this? I got it wrote down.

20 Q. And you got an hour down for
21 that bounce?

22 A. Yeah.

23 Q. To clean that up?

24 A. Uh-huh (yes).

25 Q. Was there any stoppings

1 damaged or anything along with that
2 that you had to repair?

3 A. Yeah, there was. There was
4 --- I believe it was this diagonal
5 right here.

6 Q. Go ahead and circle it ---.

7 A. Little hole in the corner of
8 it. That's this one right here.

9 Q. That's at 141?

10 A. Right here it had a ---.

11 Q. Okay. How long did it take
12 you to repair that, do you remember?

13 A. Not long. Probably --- I
14 think I had a guy fixing it while we
15 was cleaning the entry so that it was
16 clean before we left. It was fixed.
17 I remember it was just a --- you
18 know, a little one-foot-by-one-foot
19 hole, if I remember correctly.

20 Q. Okay. Do you remember how you
21 fixed it?

22 A. Yeah, put a --- slid the panel
23 over that had come loose, buckled it
24 back down and foamed it around.
25 Foamed it with polyurethane foam.

1 Q. Okay. And I notice on this
2 sheet, Josh, you got it down to 540?

3 A. Uh-huh (yes).

4 Q. And you didn't move the
5 section until six o'clock?

6 A. Yeah.

7 Q. Do you remember what you did
8 from 5:40 to six o'clock, before you
9 left the section?

10 A. It seems like we just kind of
11 head back to the kitchen, get all our
12 stuff, rescuers, and go, I guess.

13 Q. I'm just wondering if you ---.

14 A. By that time, I think on our
15 last shift, on a Friday, it was kind
16 of, that's enough, let's go home, you
17 know, slowly make our way to the ---
18 get our stuff into the truck.

19 Q. Do you know if you called that
20 bounce outside or anything?

21 A. Yeah. Dale Black, I told him
22 about it. I'm just trying to
23 recollect if it was ---.

24 Q. Do you remember what you told
25 him?

1 A. I told him what I --- how I
2 had set it up. I know I had told him
3 that. I'm just trying to remember if
4 I talked to him face to face or if it
5 was over the phone. I seen him
6 outside. It's possible they could
7 have ran a load of dust out of there
8 that day. And I seen him outside
9 before he had to come in the mine, if
10 I remember correctly. And I kind of
11 explained to him, you know, what
12 happened and what we had going, that
13 he had to reset these timbers and,
14 you know --- I remember talking to
15 him about it, though.

16 Q. Do you remember talking to
17 anyone else about it?

18 A. I think I mentioned to Phillip
19 that we had a good bounce at the end
20 of the shift.

21 Q. Is it normal for you to call
22 the bounces out or just --- which
23 ones do you call out?

24 A. The ones that give us
25 downtime.

1 Q. Any downtime or ---?

2 A. Yeah. I'd say the ones that I
3 feel that they need to know about as
4 far as if we're going to be down more
5 than a half hour, then I'd say I'd
6 call that one out. Just kind of
7 judge it as it comes, I guess.

8 MR. WATKINS:

9 Let's take about a five
10 or ten-minute break, Josh.

11 Let's take about a five, ten-
12 minute break here.

13 SHORT BREAK TAKEN

14 BY MR. WATKINS:

15 Q. One bad part about taking a
16 break, Josh, is finding out how much
17 stuff you missed from the guys in the
18 back. Actually, there's not that
19 much stuff, just a couple of
20 clarifying questions before we get
21 going again.

22 I think I asked you, looking
23 at the production report, if the
24 --- when you cleaned up with the
25 scoop, if it counted as part of ---

1 as production up there at the top,
2 and you said you didn't add that in.

3 A. Uh-huh (yes).

4 Q. Did you ever have occasion to
5 have to clean up with a miner in the
6 shuttle cars some of the sloughage?

7 A. Yeah.

8 Q. Okay. When you cleaned that
9 up, when you used a miner and shuttle
10 car to clean up the sloughage, did
11 you count that in as your production?

12 A. Yeah.

13 Q. So that would count in on the
14 number of cars?

15 A. Uh-huh (yes).

16 Q. Okay. But for clarification,
17 further, Exhibit Number One that
18 you're looking at there, that wasn't
19 the case with that?

20 A. No, I don't believe so. I
21 mean, I've --- sometimes I have
22 chalked a few if I've had a lot of
23 cleaning, but I don't think so.

24 Q. Okay. You had that large
25 bounce toward the end of your shift.

1 Do you recall any other bounces that
2 may have occurred in the south
3 barrier block that may have stopped
4 production?

5 A. No, not in the barrier.

6 Q. Not in the barrier?

7 A. It was relatively calm in the
8 barrier.

9 Q. Do you remember anywhere else?

10 A. No, nothing of any
11 significance. Nothing like that one.

12 Q. You don't remember any other
13 bounces that stopped production that
14 you had to call out, anything like
15 that offhand?

16 A. No, not that I recollect.

17 Q. We talked about taking the
18 fender cuts and the cuts in --- I'm
19 sorry, the cuts in the barrier and
20 the cuts in the pillar. You
21 mentioned sometimes in the pillar
22 blocks that you would have to leave a
23 fender.

24 A. Uh-huh (yes).

25 Q. In the blocks themselves, in

1 the pillars themselves, did you leave
2 a fender in those, too, or were those
3 all cut out?

4 A. In the pillars?

5 Q. In the pillar itself.

6 A. No. We'd leave stumps here
7 and there, you know.

8 Q. Stumps where? Where would you
9 leave stumps, for example?

10 A. This corner. Corner to
11 corners, a lot of times we'd leave
12 some. And just anything that was
13 harder --- I mean, we'd take what we
14 could because as any pillar man
15 knows, the more you can get, the
16 better, as far as override.

17 Q. Yeah.

18 A. I mean, we wanted to get what
19 we could to --- it makes it safer,
20 really.

21 Q. When you would leave those
22 fenders or those blocks in the
23 barrier and you would come in with
24 the next cut with the miner, did you
25 leave that block or did you kind of

1 angle the miner around a little bit
2 and take some of that block?

3 A. A lot of times we'd take some
4 of it, yeah.

5 Q. Take some of it out?

6 A. Uh-huh (yes).

7 Q. And put them back together?

8 A. I can't really recollect on
9 this one, but yeah, we'd --- if we
10 could, we'd take them.

11 Q. Okay.

12 A. Conditions, you know,
13 permitting.

14 Q. Yeah. Okay. You made a
15 statement there that you'd take all
16 you could so you'd have --- the cave
17 behind in the pillar line was what
18 you would want.

19 A. Yeah.

20 Q. Do you remember what the
21 cave-in conditions was like on that
22 section?

23 A. I believe we had a good cave
24 back here, but it was only for maybe
25 ten-feet high. And it still hadn't

1 caved above it.

2 Q. Back there, you're talking
3 about the previous row?

4 A. Yeah, behind our breaker that
5 was there, ---

6 Q. Okay.

7 A. --- if I recall it right.

8 Q. If you look behind the breaker
9 rows that you had set say, for
10 example, in the Number One entry
11 before you started cutting, ---

12 A. Uh-huh (yes).

13 Q. --- how far back was it to the
14 cave line?

15 A. On this particular row or
16 just ---?

17 Q. On this particular row.

18 A. Since we started down here, I
19 really couldn't tell you, you know,
20 for sure, but I mean, you could see
21 it I'd guess maybe five, ten feet
22 from the breaker row.

23 Q. Would you say that was normal
24 or would it ---?

25 A. Yeah, pretty normal. A lot of

1 times it would come right up to the
2 breaker row.

3 Q. Right up to the breaker row.
4 Okay. I think you mentioned that
5 there was some indicators that that
6 block was --- is it 142, 143, between
7 Two and Three entry, where you took
8 your last cut, that there was some
9 indicators that that was being heavy
10 or taking weight or might be a
11 problem for you.

12 A. Uh-huh (yes).

13 Q. Did you see there any
14 discoloration along the roof, like a
15 reddish-brownish dust or anything
16 like that?

17 A. No.

18 Q. Had you ever seen it anywhere
19 in the mine?

20 A. Yeah.

21 Q. Do you remember where you seen
22 it at?

23 A. I seen it a lot during the
24 recovery and mostly on the longwall
25 face, when I was on the longwall.

1 Q. Okay.

2 A. I seen it quite a bit.

3 Q. Okay. But during retreat
4 mining --- you don't recall seeing it
5 during retreat mining?

6 A. No.

7 Q. Okay. Now, you were --- any
8 time when you were retreat mining,
9 especially in the south barrier
10 block, did anyone on your section
11 ever express any concerns about the
12 conditions or anything?

13 A. No, not that I can recall.

14 Q. Nobody concerned about the
15 bumping or bouncing?

16 A. No. Most of these guys were
17 pretty experienced pillar men, and
18 you know, they knew --- they ---
19 yeah, I mean, it was just a normal
20 pillar section, you know, nothing ---
21 sometimes it would get, you know,
22 bad, but, you know, you take certain
23 precautions to, you know, take care
24 of that. But I mean, it was just a
25 heavier part in the pillar section,

1 really.

2 MR. WATKINS:

3 Okay. Mark that
4 Fielder Exhibit Three, please.
5 (Josh Fielder Exhibit
6 Three marked for
7 identification.)

8 BY MR. WATKINS:

9 Q. I mentioned to you ahead of
10 time. If you happen to remember as
11 you go through a little bit ---.
12 There's not much on this one. I just
13 wanted to ---.

14 A. Okay.

15 Q. A couple I'd like to touch on.
16 Do you recognize this, Josh? Is this
17 the preshift that you done to the
18 section that was coming on?

19 A. Yes.

20 Q. Okay. I noticed on the 3rd
21 there, about 3:30 a.m., you did
22 mention that you had the bounce on
23 the preshift and that you sent men
24 down to repair the damaged stoppings?

25 A. Uh-huh (yes).

1 Q. Okay. Is that all that you
2 had left as far as remnants from the
3 earlier bounce and no more cleanup
4 work that had to be done or any more
5 posting or anything that had to be
6 done?

7 A. No, just what had been passed
8 on to the next shift, that they'd
9 have to reset their timbers, and we
10 had --- we had --- before we had left
11 the section, we'd clean that
12 entry ---

13 Q. Okay.

14 A. --- with the miner.

15 Q. Okay. I guess the only
16 question I would have is, is there a
17 particular reason why we didn't state
18 that we set the timbers in our
19 preshift report?

20 A. Yeah. It was passed on that
21 you had to reset the timbers.

22 Q. You told them verbally, but
23 you just didn't put it in the book?

24 A. Well, it's not a --- it's just
25 an extra precaution that we did. You

1 know, there was nothing illegal about
2 it, you know what I mean? I mean, we
3 was still within our parameters or
4 our goals and stuff. It was just,
5 you know, something we do to --- as
6 an extra safety, you know, device,
7 so ---.

8 Q. Okay.

9 A. But it was passed on that, you
10 know, we probably wanted to reset all
11 them timbers.

12 Q. Okay. I guess as far as the
13 preshift goes, these just help us as
14 we look --- you know, look through
15 the books. What type of stuff would
16 you put in your preshift books? I
17 mean, just stuff that was a violation
18 or any hazard or what type things
19 would or wouldn't you put in the
20 books?

21 A. Hazards definitely would go in
22 the book. I'd kind of be the judge
23 on violations. I think you kind of
24 have to be. But they was always
25 taken care of in one way or another,

1 whether reported to the shift foreman
2 and then the next shift would take
3 care of it or we'd take care of it
4 ourselves.

5 Q. Okay.

6 A. Any violations that we'd see
7 we'd take care of, especially hazards
8 we would take care of. They
9 wouldn't' be left.

10 Q. Do you know if the other guys
11 who were doing the preshift, if they
12 felt the same way or put the same
13 type of information in the books
14 or ---?

15 A. I think I put --- just from
16 what I see, I think I put more in the
17 books than the others. I just, you
18 know --- that's how I learned, I
19 guess.

20 Q. Did anyone ever give you any
21 guidance as far as what to put in and
22 what not to put in?

23 A. Maybe early on when I started
24 bossing, but, you know, I pretty much
25 picked up on it pretty fast, and

1 so ---.

2 Q. Do you remember what any of
3 that earlier guidance was or ---?

4 A. I can't recall.

5 Q. Okay. I notice on here that
6 you also put methane and oxygen
7 readings in.

8 A. Uh-huh (yes).

9 Q. And oxygen, you indicate on
10 this date you had 20.8 and zero. Are
11 those --- is that pretty much only
12 for the first section?

13 A. Yeah.

14 Q. Did you ever detect any
15 methane or low oxygen?

16 A. No. The whole time I've
17 worked at that mine I've taken
18 dedicated methane readings, and I've
19 never, never encountered any methane
20 in that mine.

21 Q. How about low oxygen?

22 A. Yeah, I have.

23 Q. Where would you encounter low
24 oxygen at?

25 A. For example, the old pillar

1 section up above, we encountered low
2 oxygen while building seals. You
3 know, we'd properly ventilate
4 'em while we was working 'em. It was
5 taken care of ---

6 Q. Okay.

7 A. --- whenever it was
8 encountered.

9 Q. What seals are you referring
10 to?

11 A. It was the old sections up
12 above, is the ones I'm just --- as an
13 example, section 36, just those old
14 pillar sections up there.

15 Q. Okay.

16 A. The back bleeder entries would
17 get low oxygen.

18 Q. Okay. Did you ever examine
19 the bleeder entries?

20 A. No.

21 Q. Did you ever have occasion to
22 go back into the bleeder entry?

23 A. This entry I did, this
24 bleeder. I take that back. I did
25 examine this quite frequently.

1 Q. Okay. You're referring to the
2 Number Four entry of the ---

3 A. Yeah.

4 Q. --- South Block?

5 A. Yeah.

6 Q. Okay. Why would you be in
7 there so often?

8 A. I check my return for noxious
9 gases every three, four hours. And
10 before, you know, we got too far
11 away, I'd actually walk this just to
12 make sure no stoppings were damaged,
13 that the bleeder was still intact.

14 Q. Did you ever have any problems
15 while you were walking that,
16 encounter any hazardous conditions or
17 anything?

18 A. No, I mean, other than some
19 stoppings had been damaged, you know,
20 here and there sometimes, not all the
21 time. But other than that, no.

22 Q. What type of stoppings are in
23 there?

24 A. Kennedies.

25 Q. They're all Kennedies?

1 A. Uh-huh (yes).

2 Q. No low oxygen? No methane?

3 A. No.

4 Q. How about your roof and rib
5 and floor conditions back in there,
6 what did they look like?

7 A. Good. They was better than
8 what I thought they'd be. The ribs
9 were still straight up, you know, not
10 much sloughage, really. I mean, a
11 little bit, but nothing out of the
12 ordinary. The roof is good, no
13 cracks, no drummy roof. It was
14 really good, it was. Good shape.

15 Q. What about floor heave, any
16 floor heave?

17 A. No floor heaves back there.

18 Q. Josh, let's jump ahead a
19 little bit, I guess, to August the
20 6th, which would be, of course, the
21 day of the accident. I think you
22 stated earlier that you were
23 scheduled to come on at 6:00 a.m.
24 that morning.

25 A. Uh-huh (yes).

1 Q. When did you find out about
2 the accident?

3 A. I got a phone call
4 approximately 3:00 a.m. from Gary
5 Peacock's wife. And she told me that
6 there was a cave-in in the mine and
7 that all the foremen needed to report
8 up there as soon as possible.

9 Q. Okay. If you don't care, just
10 start at that point and, the best you
11 can remember, take me through the
12 events of that day.

13 A. Okay.

14 Q. As many times as you can
15 remember would be great.

16 A. Okay. I immediately, you
17 know, got dressed and headed to the
18 mine. I think it was a half hour I
19 arrived there. I knew it was bad
20 because there was cop cars at the
21 bottom of the canyon.

22 Got there. I believe --- I
23 can't remember who the shift foreman
24 was that I talked to. You know, it
25 was real quiet. Nobody was saying

1 much. Kind of asked, you know,
2 around what's going on, you know.
3 Been a cave-in. The guys are in by.
4 You know, got a brief idea what had
5 happened. Didn't think it was going
6 to be to the magnitude it was when I
7 got in there.

8 I can't remember who rode in
9 with me that day, but I headed right
10 underground as soon as I had a ride
11 in there and immediately started
12 restoring ventilation up as far as we
13 could with rag lines, check curtains,
14 polyurethane foam. Worked on that
15 with probably at least ten other guys
16 working on that.

17 Somewhere in the mix, after I
18 worked on a stopping, I come up to
19 see the extent of, you know, what
20 happened. I recall seeing Gary
21 Peacock and Lyle Christensen walking
22 the cave line. I remember I walked
23 it myself, all the entries, to see,
24 you know, if there was any way to get
25 in there.

1 Kept working on ventilation
2 the whole time, getting it up there
3 as far as we could. I never
4 encountered low oxygen, but the guys
5 that had been there before me had, so
6 it was a pretty big rush to get the
7 ventilation restored up to that cave
8 line.

9 Come up with a plan, and I
10 can't remember exactly --- it come
11 from outside, I believe. Gary
12 Peacock was going to try and set up
13 to get in Number Four entry.

14 I began --- took my crew and I
15 started working on the belt because
16 we knew we'd eventually need the belt
17 sooner or later while a plan was
18 being devised to try and get in there
19 one way or another. Worked on the
20 belt pretty much all that night.
21 That's kind of all I remember,
22 really.

23 Q. Let's go back up there a
24 little bit. And I actually have some
25 questions with you on --- you might

1 remember some more stuff, you know,
2 as we go. So you got the call around
3 3:00 a.m. that morning ---

4 A. Uh-huh (yes).

5 Q. --- from Gary's wife, and you
6 came to the mine.

7 A. Uh-huh (yes).

8 Q. Go to the mine around 3:30, in
9 about 30 minutes or so. And you say
10 you went underground. How long after
11 getting to the mine was it before you
12 headed underground, do you recall?

13 A. Maybe 20 minutes to a half
14 hour, maybe.

15 Q. But you talked to someone on
16 the surface ---

17 A. Yeah.

18 Q. --- and you kind of got a
19 little bit of a feel for what was
20 going on?

21 A. Uh-huh (yes).

22 Q. And you don't recall who you
23 spoke with?

24 A. It could have been Phillip or
25 Gale Anderson. One of the shift

1 foremen, I believe.

2 Q. Do you recall what they told
3 you?

4 A. I don't, really.

5 Q. Okay. At that point, you went
6 right in, you went underground?

7 A. Uh-huh (yes).

8 Q. Did someone go with you or was
9 you by yourself, do you remember?

10 A. I believe there was a lot of
11 my crew that went with me. Well,
12 they hadn't gotten there yet. I
13 can't remember who went with me
14 initially.

15 Q. As you was going in, do you
16 remember stopping by any phones to
17 call in as you went or did you just
18 go on in?

19 A. I believe we called in. I'm
20 pretty sure we did.

21 Q. Okay. Before you went
22 underground, do you remember who was
23 in charge on the surface? Who was
24 the guy that was ---?

25 A. Gary.

1 Q. Gary?

2 A. Yeah.

3 Q. Peacock?

4 A. Yeah.

5 Q. Okay.

6 A. He wasn't on the surface, but
7 yeah, he's --- I'd say he was pretty
8 much in --- him or the shift foreman
9 on duty would be in charge of, you
10 know, the surface and underground.

11 Q. Okay. So as you went
12 underground, the first thing you did
13 was stop and start repairing
14 stoppings?

15 A. Yeah. There was already men
16 working on it from the shift that was
17 on. They was already working on
18 that, but I got out and helped on
19 that, restoring ventilation.

20 Q. Is that how you know where to
21 start repairing at was where they
22 were at?

23 A. Yeah.

24 Q. You just found somebody
25 and ---?

1 A. Just started out and worked
2 our way in.

3 Q. Do you remember where that was
4 at, which stopping you started
5 working on?

6 A. Ninety-five (95), I believe.

7 Q. Take a minute and start with
8 --- you already have that map. You
9 know where everything is at.

10 A. I believe it was down there,
11 '95, in this area.

12 Q. The stopping between --- which
13 one? Which one are you at now?

14 A. Let's see here. About --- we
15 was working on the return side, I
16 believe, clear back to 95.

17 Q. Return side at 95, between the
18 stopping line between Number Three
19 and Four entry?

20 A. Yeah.

21 Q. But you say there was already
22 people in there working?

23 A. Yeah.

24 Q. Had they already repaired some
25 stoppings before you got underground,

1 do you know?

2 A. Yeah, I believe so. I believe
3 they had actually --- where I started
4 work on was up, I'd say, right around
5 112 or so.

6 Q. Where you started working on
7 them?

8 A. Yeah.

9 Q. What was the 95 number that
10 you gave me earlier? What was that?

11 A. I think that's where the
12 stoppings had blowed out to, ---

13 Q. Okay.

14 A. --- if I remember right. By
15 that time there was a lot of people
16 and, you know, we was kind of spread
17 out here and there and, you know, a
18 lot of guys working from outby in
19 and, you know, a few guys a little
20 bit ahead of them, not far, but ---.

21 Q. Did anybody direct you to go
22 to 112 to start repairing ---?

23 A. No. I directed myself.

24 Q. Okay. Did you bring any
25 materials in with you from the

1 outside?

2 A. No, I don't think so.

3 Q. So the material that you used
4 to repair these stoppings, where did
5 you get that material from?

6 A. A lot of it was in there.

7 Q. What was the conditions like
8 at 112, roof and rib and floor? What
9 was the condition of the floor?

10 A. It was fine. There wasn't no
11 --- nothing looked bad, just ---
12 other than the stoppings were blowed
13 out.

14 Q. Okay. When you say blowed
15 out, do you know which direction they
16 were blowed towards?

17 A. The return side.

18 Q. Toward the return side?

19 A. Yeah.

20 Q. Did the whole stopping lay
21 over or just panels come off and fly
22 off or ---?

23 A. Some more than others. It
24 seemed like the farther you got up
25 here, the more they was completely

1 knocked out.

2 Q. At 112, what did you --- give
3 me an example. What did you have to
4 do to repair the stopping in that
5 area?

6 A. Just set up a rag line, you
7 know, throw your rag out across the
8 width of the whole entry. We had a
9 lot of rag, a lot of pogo sticks, a
10 lot of polyurethane foam. Kind of,
11 you know, to the width of the entry.
12 More than that.

13 Q. Uh-huh (yes).

14 A. Pogo it up all the way around,
15 corners, then tight seal with the
16 polyurethane.

17 Q. You didn't actually repair the
18 initial stopping, you just put a ---?

19 A. Yeah, we just did temporaries,
20 just, you know, as fast as we could
21 to restore ventilation.

22 Q. How many of those did you
23 think you got in? How many of those
24 did you put in?

25 A. Oh, clear up to the cave line

1 from 95, I would say.

2 Q. I think you mentioned you went
3 to the --- you ran into Gary Peacock
4 and Lyle.

5 A. Uh-huh (yes).

6 Q. And you wanted to go see how
7 far you could make it. How many
8 stoppings did you work on before you
9 decided you were going to go up to
10 the face and see how far you could
11 go?

12 A. Probably four or five, I'd
13 say. Three or four.

14 Q. Okay. Did anyone go with you
15 when you went to the ---?

16 A. No.

17 Q. You went by yourself?

18 A. Uh-huh (yes).

19 Q. Okay.

20 A. There was people up there,
21 but ---.

22 Q. Do you remember which entry
23 you traveled in to get up there?

24 A. I believe --- I believe I
25 caught Number One first.

1 Q. Caught Number One?

2 A. Uh-huh (yes).

3 Q. Do you remember how far you
4 made it up Number One?

5 A. I don't remember it, no. I
6 don't recollect an exact number.
7 Somewhere, you know, in here. And I
8 can't recollect ---.

9 Q. Okay.

10 A. If I can remember where the
11 cave line was, then I could ---.

12 Q. So you started up the Number
13 One entry?

14 A. Uh-huh (yes). I take that
15 back. I started up the belt line
16 entry, because that's the entry I was
17 working on the stopping line.

18 Q. Okay. And the belt line was
19 in Number Two?

20 A. Uh-huh (yes).

21 Q. Okay. So you started up the
22 Number Two entry?

23 A. Yeah.

24 Q. What was the condition like in
25 the Number Two entry as you

1 progressed?

2 A. I believe it was good until I
3 got to the cave line. It wasn't bad.

4 Q. Okay.

5 A. Maybe more sloughage than ---
6 I don't know, but nothing too bad.

7 Q. Okay. What was it like at the
8 cave line?

9 A. It was --- you could go up a
10 little farther. It wasn't --- Number
11 Two, I believe, mostly a lot of coal
12 sloughage at the cave line. You
13 could still get through there I think
14 another break or two and then it was
15 closed completely off.

16 Q. When you was going up Number
17 Two in the belt line, did you travel
18 beside the belt or did you have to
19 get up on the belt to get through
20 there?

21 A. Walkway side of the belt.

22 Q. Okay. So you went up Number
23 Two entry as far as you could go?

24 A. As far as I could go.

25 Q. I guess --- you said you had

1 your meter, but you didn't encounter
2 any low oxygen?

3 A. No.

4 Q. Okay. How far would you say
5 before you got to the cave, when you
6 couldn't get any further, did you see
7 the sloughage? Do you remember how
8 many crosscuts or breaks you might
9 have went before you ---?

10 A. A couple was all.

11 Q. A couple. The sloughage that
12 was leading up into that, did it ---
13 how far over into the belt line did
14 it come? I think we talked about it
15 before about over in the walkway.
16 Did it slope all the way to the
17 middle or did it ---?

18 A. Yeah, it sloped some, but it
19 was mostly just completely closed
20 off. It looked like the top was kind
21 of bad in there, too, ---

22 Q. Okay.

23 A. --- in the belt line entry.

24 Q. That's all the way up at the
25 cave line as far as you ---?

1 A. Uh-huh (yes).

2 Q. Did the material go all the
3 way to the roof or was there a small
4 opening at the top of the roof?

5 A. A small opening, but not
6 enough to fit or anything.

7 Q. Okay. Did it look like to you
8 that the material came off both ribs?

9 A. Uh-huh (yes). Yeah.

10 Q. Could you see where the
11 material --- those materials come off
12 the rib line? Kind of like before,
13 up on the section you talked about
14 from the last bolt over that you
15 could see a certain distance. Could
16 you see any of that going on here?

17 A. Yeah. It was a little bit
18 farther, but it was just like
19 compressed so much that you couldn't
20 really --- you couldn't really tell,
21 you know.

22 Q. Okay.

23 A. Like it just filled full, but
24 the ribs were still in the same
25 place.

1 Q. How about the roof bolts, were
2 they --- anything abnormal about the
3 roof bolts or anything ---

4 A. No.

5 Q. --- that you remember?

6 A. No.

7 Q. Okay. So you go up Number
8 Two. You can't recall exactly which
9 crosscut, but you go as far as you
10 can go in Number Two. Where did you
11 go to next?

12 A. I believe from there I went to
13 Number One.

14 Q. Okay.

15 A. I had to go back I think it
16 was a crosscut because I can't get
17 through the crosscut, so I had to go
18 back a crosscut and then over one and
19 then encountered kind of the same
20 thing. But in Number One all the
21 screens were hanging down real low,
22 and the top looked worse than --- you
23 know, as compact as it was in Number
24 Two. There was a lot of sloughage.
25 And it was low. You did have to

1 crawl through it.

2 Q. Okay.

3 A. And you'd have the screens
4 hanging down.

5 Q. Could you get further up
6 Number One than what you did in
7 Number Two?

8 A. Maybe a little bit, but not
9 much. It was almost like a straight
10 line clear across.

11 Q. Okay. The sloughage that you
12 observed in Number One entry, do you
13 think it came off the barrier, the
14 blocks, both?

15 A. Both.

16 Q. Okay.

17 A. I mean, the screens were blown
18 down.

19 Q. Okay. How about the roof
20 bolts in Number One, were they ---
21 anything ---?

22 A. I remember setting some
23 timbers up along the cave line where
24 it had fell out in between some
25 bolts, you know, maybe a foot or two,

1 nothing bad. I mean, you timbered
2 it, but ---.

3 Q. While you were there you set
4 these?

5 A. Not right off the bat, but we
6 did as we kind of established a fresh
7 air base there.

8 Q. Okay. So you advanced up Two,
9 then you crossed over and went up One
10 as far as you could?

11 A. Uh-huh (yes).

12 Q. Okay. Do you remember where
13 you went to next?

14 A. I continued across to Three
15 and to Four.

16 Q. Okay. I think you stated it
17 was pretty much straight across
18 there, that you couldn't get in?

19 A. Yeah. Three and Four, it was
20 just coal, you know, not very much
21 clearing. The roof was good as far
22 as you could see, just coal was just
23 --- buried the entry.

24 Q. Was there more clearing over
25 top of it in One or Two than what

1 there was in Three and Four?

2 A. There were --- Three, I
3 believe, is where there was more room
4 than any of the other entries.

5 Q. More what?

6 A. More room.

7 Q. More room in Number Three?

8 A. Uh-huh (yes).

9 Q. Okay. But, again, it appeared
10 like it sloughed off for the --- off
11 both ribs?

12 A. Yeah.

13 Q. And was there any sloughage
14 around roof bolts or anything?

15 A. No, not in Three and Four.

16 Q. You crossed over to Four,
17 observed the same conditions ---

18 A. Uh-huh (yes).

19 Q. --- again come off the rib
20 line and the pillar block?

21 A. Yeah.

22 Q. Okay. So you went as far as
23 you could go.

24 A. Yeah.

25 Q. What did you do after that?

1 A. I believe the mine rescue team
2 arrived then, and they tried to go as
3 far as they could in Number Three
4 entry. I think they got maybe a
5 crosscut crawling, and that was about
6 it.

7 Q. Got a crosscut further than
8 you did?

9 A. Yeah. I never attempted to go
10 in Number Three entry.

11 Q. Oh, okay.

12 A. The mine rescue team got there
13 and then they proceeded to go in
14 there as far as they could.

15 Q. Were you with them as they
16 went down Number Three?

17 A. I was there, yeah.

18 Q. I mean, you was --- but you
19 were there?

20 A. Uh-huh (yes).

21 Q. Okay. Do you recall who on
22 the rescue team was there, who was
23 doing this exploring?

24 A. Yeah. It was the West Ridge
25 Mine Rescue Team. Kyle Abeyta, Ernie

1 Martinez, Mike Porter, Jeremy Young.
2 Those are the faces that stand out
3 the most.

4 Q. Did all of them try to go or
5 did ---?

6 A. No. Kyle and Ernie did, I
7 believe. Kyle was the one that got
8 the furthest, and Ernie was kind of
9 behind him, just seeing, you know,
10 how much clearance they could get
11 back there.

12 Q. Did they say what stopped him?

13 A. Closed completely off. I
14 think they made it up one break in
15 Number Three and over in Number Four,
16 and that was it.

17 Q. While you were exploring these
18 entries, trying to get up, when you
19 came to a crosscut, was there more
20 coal, less coal in the crosscuts than
21 what was in the entries?

22 A. A little bit less, I'd say.
23 You know, a little bit.

24 Q. Okay. And you stayed with the
25 mine rescue the whole time --- the

1 mine rescue team the whole time they
2 were exploring?

3 A. Yeah. I was there for quite a
4 while.

5 Q. Okay. Did you go out when
6 they came out or what?

7 A. Yeah. I believe when they
8 couldn't go any farther was when ---
9 ventilation had been established and
10 we began working on the belt after
11 that.

12 Q. Okay. When the team came out,
13 do you know where they went to?

14 A. I think after they established
15 that none of the entries were
16 passable, they --- I'm not sure if
17 they went out or what. It didn't
18 seem like I seen them after that.

19 Q. Okay. And where did you go to
20 after ---?

21 A. I went to the belt line.

22 Q. Do you remember what crosscut
23 or rib?

24 A. Let me see here. Maybe 123.

25 Q. Do you remember what you did

1 at that location?

2 A. Yeah. We had a tail piece
3 come in to us. We set the tail
4 piece, anchored it, climbed the belt,
5 thread the belt, just got it ready to
6 run.

7 Q. Do you know about what time
8 this was?

9 A. We finished at the end of the
10 shift, but that was probably I think
11 a 14-hour day that day.

12 Q. Okay.

13 A. We finished threading the tail
14 piece and the belt was all ready to
15 run at the end of our shift. No
16 feeder was in there or set yet, but
17 the belt was ready to run.

18 Q. Who worked on that with you,
19 do you remember?

20 A. Yeah, a couple guys on my
21 crew. They had arrived for their
22 regular shift and they was in there
23 by that time.

24 Q. What was the conditions like
25 while you were in there trying to get

1 in as far as you can and while you
2 was working at setting the feeder?
3 What was the conditions? Any bumps,
4 bounces in there?

5 A. Little hits, nothing big.
6 You'd hear a few little bounces, but
7 you could tell --- I wouldn't say ---
8 you could tell that the roof was
9 working, you know, inby the cave
10 line, nothing where we was at.

11 Q. You could tell by sound or
12 by ---?

13 A. It was unsettled, yeah. You
14 could tell it was unsettled.

15 Q. Okay. So you pretty much
16 completed your shift in setting the
17 tail piece?

18 A. Uh-huh (yes).

19 Q. Then I take it you went
20 outside. When you got to the
21 surface, did anyone talk to you or
22 did you talk to anyone there on the
23 surface about what you had seen or
24 what you had done around ---?

25 A. It was pretty quiet. I think

1 everybody was kind of --- you know,
2 couldn't believe what they had seen.
3 I couldn't. I never thought that
4 would ever happen. I don't think
5 much was said. Just went home and
6 come back the next day, the next
7 shift.

8 Q. When you were --- before we
9 get to that part, when you passed
10 Peacock, did you guys have any
11 conversation about what he observed
12 or what he seen?

13 A. No. No, we didn't have any
14 conversation.

15 Q. Okay.

16 A. He was there when the mine
17 rescue team was exploring, as I was,
18 too. Not much was said.

19 Q. Had him and Lyle completed
20 their exploration by the time you
21 seen him? Had they tried to get as
22 far as they could go?

23 A. Yeah, I think so.

24 Q. Okay. Did he tell you what he
25 saw or anything? Did he describe it

1 to you while you were ---?

2 A. No. Like I said, just the
3 mood set was there was very little
4 said.

5 Q. Okay. Did he know you was
6 going to go on up and check the faces
7 and ---?

8 A. Yeah. He seen me with --- you
9 know, looking around with the mine
10 rescue team and stuff, so ---.

11 Q. He didn't give you any type of
12 warning talk or anything, I mean,
13 just ---?

14 A. No. I mean, I had my meter
15 out. We was ---.

16 Q. Okay. So you went home that
17 evening. Do you remember who you
18 talked to on the surface?

19 A. I don't think I talked to
20 anybody.

21 Q. No one from MSHA or the
22 company talked to you about what you
23 had seen or ---

24 A. No.

25 Q. --- done underground?

1 A. Not at that time. I don't
2 think so.

3 Q. Okay. So you come back the
4 following day?

5 A. Uh-huh (yes).

6 Q. Would that be that 6:00 a.m.
7 shift?

8 A. Yeah. Could have been
9 earlier. I can't recollect for sure.
10 I remember going in earlier on days.

11 Q. What did you do on the 7th?

12 A. The day after the accident?

13 Q. The day after the accident.

14 A. Started getting equipment
15 arriving from different mines. And I
16 believe --- I'm trying to remember.
17 I believe they had started --- or we
18 had started mucking in Number Four
19 entry, loading coal in scoops. And
20 we didn't have a feeder at that time,
21 so I think in the meantime, before we
22 had a feeder set, we was just putting
23 crosscuts behind us, stacking it, you
24 know, until we got a feeder we could
25 put it on.

1 Q. You had been doing it with
2 scoops?

3 A. Uh-huh (yes).

4 Q. You say you started in Number
5 Four?

6 A. Uh-huh (yes).

7 Q. Do you remember what entry the
8 cleanup started --- I mean, what
9 crosscut that cleanup started?

10 A. I know it was just one break
11 inby where the feeder was set.

12 Q. You don't recall which
13 crosscut the feeder was in?

14 A. Not for sure. It could have
15 been 124. I can't remember for sure.

16 Q. When you was going through
17 your day on the 6th you mentioned a
18 fresh air base you had established on
19 the 6th, the day of the accident.

20 A. Uh-huh (yes).

21 Q. Do you remember where that was
22 at?

23 A. Could have been 125. It
24 wasn't much farther inby than where
25 the feeder was ---

1 Q. Okay.

2 A. --- in Number One entry.

3 Q. So you established --- helped
4 them establish a fresh air base in
5 the Number Six entry?

6 A. Yes.

7 Q. What did it entail? I mean,
8 what did you do to establish it?

9 A. Just set timbers. We had
10 first-aid kits brought up,
11 stretchers, extra self-rescuers, that
12 kind of stuff, phones, phone line.

13 Q. So you did bring the phone up
14 to ---?

15 A. Yeah, there was a phone there.

16 Q. Okay. Do you remember when
17 the rescue team went in and was
18 making their advance if they had any
19 type of communication with you?

20 A. They didn't, but we had
21 reiterated to 'em not to go far
22 without communication line.

23 Q. Who's we?

24 A. Gary was there and myself. I
25 knew that they needed a communication

1 line. I think the wanting to get in
2 there kind of --- you know, it
3 prompted them to go a little farther
4 before they got that line to 'em.

5 Q. Okay. I jumped days on you
6 there. I apologize for that,
7 but ---.

8 A. That's fine.

9 Q. So you started cleaning up in
10 the Number Four entry?

11 A. Uh-huh (yes).

12 Q. Did that go on the whole shift
13 that you worked that day?

14 A. Yeah.

15 Q. Okay.

16 A. I can't think. We may have
17 advanced. We was going pretty good.
18 I don't know how far we got for sure,
19 but I don't know if it was 300 feet
20 for our shift or 300 feet on the day
21 before it bounced again and filled
22 the entries up.

23 Q. Were you on the shift when it
24 bounced?

25 A. No.

1 Q. How much material was being
2 removed as you were mucking Number
3 Four?

4 A. I think the buckets on those
5 three-and-a-halves are maybe eight-
6 feet wide, so, you know, that much.

7 Q. Were you just taking the width
8 of the ---?

9 A. The center of it, so --- not
10 even rib to rib, just the center.

11 Q. Okay. How much material was
12 in the floor? How high was it?

13 A. The floor was intact as it was
14 before.

15 Q. The roof material was on top
16 of it.

17 A. The coal was, you know, maybe
18 that much room (indicating) from the
19 top. Maybe a foot in some places.
20 Six inches to a foot.

21 Q. So you're talking about quite
22 of bit of material then?

23 A. Yeah.

24 Q. Do you know why the decision
25 was made to go up the Number Four?

1 Did anybody talk to you about why
2 they started cleaning up Number Four
3 entry?

4 A. It just --- from the exams, we
5 had looked across, you know, it
6 seemed like --- it seemed like it was
7 the best one as far as, I don't know,
8 the crawl floor was still intact, the
9 roof was still intact. It just
10 seemed like the fastest, you know, we
11 could load it and put it back, you
12 know, it just seemed like the best
13 way to do it at the time.

14 Q. Were you in on any of those
15 discussions or that decision to go
16 into Number Four?

17 A. I think I had mentioned that,
18 you know, that that would be the
19 better one to go in. I kind of felt
20 that it was, based upon, you know,
21 what I seen.

22 Q. Who did you mention that to?

23 A. I think I mentioned it to
24 Gary, but I can't recall for sure.

25 Q. Do you know what day this was?

1 Was this on the 6th or 7th when you
2 had this discussion with Gary?

3 A. I think it was the 6th, ---

4 Q. Okay.

5 A. --- but I can't remember for
6 sure.

7 Q. Okay. Did you do anything
8 else on the 7th other than working
9 the Number Four entry?

10 A. No, I don't think so. Not
11 that I can remember.

12 Q. Okay. Did you work every day
13 from the 6th to the 16th?

14 A. The 16th was the second
15 accident, second bounce; correct?

16 Q. Yes.

17 A. Yeah, up until --- I had that
18 date off.

19 Q. You had the date of the ---

20 A. The 16th.

21 Q. --- 16th off?

22 A. Uh-huh (yes).

23 Q. Okay.

24 A. I was going to come in. I
25 actually set my alarm, but by that

1 time I was so worn out, I thought I'd
2 be better if I had one day's rest.

3 Q. I'm not going to try to ask
4 you to remember from the 7th to the
5 16th, each day, what you done that
6 day, but you mentioned a bounce that
7 occurred that stopped --- that caved
8 back in at Number Four entry?

9 A. Uh-huh (yes).

10 Q. Do you remember what day that
11 was in, what shift it was on?

12 A. It was on the opposite shift I
13 was on. I know they had pulled the
14 machines back to service them when
15 the bounce had occurred. I just
16 heard about it. I wasn't on shift
17 when it happened, so ---.

18 Q. What did they tell you about
19 it?

20 A. Just that all the progress
21 that we had done was undone again.

22 Q. Okay. What was the discussion
23 at that point about the efforts?

24 A. I believe they was
25 reevaluating which entry to go in

1 next and, you know, come up with a
2 plan on how they was going to do it.
3 Got a little more technical on how we
4 was going to do it.

5 Q. Was you in on any of those
6 discussions with ---?

7 A. No.

8 Q. When you came back to work
9 after the 7th, where was the cleanup
10 efforts at at that time, which
11 crosscut, which entry?

12 A. I believe when I come back on
13 the 7th --- I can't remember for sure
14 how far.

15 Q. After the bounce, did you do
16 any more work in the Number Four
17 entry?

18 A. No.

19 Q. Okay. Do you remember where
20 you started to work at again, which
21 entry it was in?

22 A. I believe --- and I can't
23 recall when they said to go in Number
24 One entry. We had some rehab work to
25 do around the feeder, some molding,

1 spot molding, some meshing where it
2 was ate out on the rib so shuttle
3 cars could make the turn to the
4 feeder to dump. I remember working
5 on that for a day or so, a shift.

6 Q. When you came back, the
7 efforts had shifted to the Number
8 One ---

9 A. Yeah.

10 Q. --- entry?

11 A. Uh-huh (yes).

12 Q. Okay. What were the
13 conditions like in the Number One
14 entry as they were being cleaned up?

15 A. It was a lot of screen. It
16 was slow water, a little more rock.
17 That's one of the reasons I didn't
18 want to go in Number One. It just
19 seemed like the rock and the screen
20 and the high voltage that you'd have
21 to go through, it would slow you down
22 a lot. So I wanted to go through
23 Four the whole time. You know, I
24 didn't --- it just looked --- based
25 on looks alone, it looked like it

1 would have been the most feasible one
2 to go through. But then after it
3 bounced again, you know, it makes you
4 wonder.

5 Q. What type of job did you
6 perform in the Number One entry as
7 far as the cleanup and recovery
8 efforts go?

9 A. I was up on the miner the
10 whole time, either running it or
11 helping on it.

12 Q. Okay. What type of efforts
13 were being made behind you?

14 A. A lot of materials, making
15 sure --- a lot of material work,
16 making sure, you know, we had
17 everything up there to do what we was
18 doing. Mostly that.

19 Q. Any type of support being set?

20 A. Support being set behind us,
21 extra supports. Along the
22 transformer, stuff like that was
23 being set behind us, as well along
24 with us.

25 Q. What type of --- what supports

1 were being set?

2 A. Rock props.

3 Q. Anything else?

4 A. Chain link, rock props,
5 cables, yeah. At that time, we was
6 using one cable, I think. When we
7 advanced a little farther, we went to
8 three cables.

9 Q. Okay.

10 A. Square sets before the rock
11 props arrived, were set.

12 Q. Okay. Were you using shuttle
13 cars at this time, ram cars? What
14 were using to line the miner?

15 A. Shuttle cars, cable cars.

16 Q. Okay. Did you later switch to
17 ram cars?

18 A. Uh-huh (yes). We got far ---
19 once we advanced, the cables wouldn't
20 reach, you know, was when we switched
21 to the ram cars, diesel ram cars.

22 Q. How much material was in front
23 of the miner? Was you doing the same
24 thing you did in the Number Four
25 entry, only take it out of the

1 center, or were you trying to clean
2 up the whole entry?

3 A. Clean kind of the whole entry,
4 you know, as much as we needed to set
5 our supports at 14-feet wide. We
6 didn't want to take too much because
7 we wanted to keep it as general as
8 possible. We had to take enough to
9 keep our 14-feet width to get our
10 machinery in there.

11 Q. How far in would the miner cut
12 before it would stop? Is there a
13 certain distance it would go?

14 A. Usually just cut --- at first
15 --- first, we was cutting a little
16 ways farther, to --- I believe the
17 cab of the shuttle car was to the
18 last supports.

19 Q. Okay.

20 A. The inby end of the cab was at
21 the last supports.

22 Q. How far would that be,
23 approximately?

24 A. Probably 60 feet.

25 Q. Sixty (60) feet inby the last

1 support?

2 A. Yeah. Fifty (50) to 60,
3 probably. He could stop and you
4 could still look clear to the end. I
5 mean, you could go a little ways.

6 Q. From the tip of the miner, the
7 bench of the miner back to the last
8 support would be --- how far would
9 that be?

10 A. Right around 60 feet.

11 Q. Sixty (60) feet. Okay. Did
12 that distance change as time
13 progressed or ---?

14 A. It got shorter.

15 Q. Do you know what --- by the
16 change, what caused it to get
17 shorter?

18 A. Just the plans MSHA and the
19 company had made along the way.

20 Q. Okay. What did he get down
21 to? What did he go to?

22 A. I think we was maybe going 10,
23 15 feet, setting three supports on
24 each side, going a little farther,
25 three supports to the back end of the

1 miner. We didn't want to get to
2 where we was in between the machinery
3 and the rib, so ---.

4 Q. Just kind of walk me through
5 that process, if you don't care,
6 Josh, of when you --- as you mined up
7 --- when you mined up the 10, 15 feet
8 you said and you stopped, just kind
9 of walk me through the process from
10 the time that you stopped --- the
11 miner stopped to actually it started
12 backing up.

13 A. We go ahead and cut our 10, 15
14 feet. I call --- correlate with the
15 shuttle car drivers. We had a pump
16 on the shuttle car and a set of rock
17 props --- actually, it was on the
18 miner, sorry. I called for rock
19 props every --- you know, we'd time
20 it out until when we needed them.
21 We'd load up so many cars and then
22 I'd tell the next guy, okay, we need
23 rock props on your next trip. He'd
24 bring them in, and it would work out,
25 you know, to where we'd set them with

1 the miner, him bringing them in with
2 the buggy.

3 We'd shut down. Once we got
4 to depth, we'd take the miner in so
5 we wasn't --- you know, we didn't
6 want to be working alongside of the
7 miner. We set 'em along the sides of
8 the tailbone up to the back of the
9 miner, and then just repeat the
10 process.

11 Q. What about the chain link and
12 the cables, when do they come into
13 play?

14 A. When we advanced, as we were
15 setting the props.

16 Q. Okay.

17 A. The cables would be taken up
18 to --- and then wrapped on the last
19 props we'd do. We'd wrap them, clamp
20 them off, go again, just keep
21 repeating the process.

22 Q. Was the chain link strung out
23 or how was it placed in there?

24 A. It was --- it would go a
25 little bit farther before we'd string

1 out the chain link just because, you
2 know, it would get in our way. You
3 know, we didn't have a lot of room to
4 work with. So if we'd roll it all
5 out all the way, it would be to the
6 last row of props and just fall in
7 our way of the miner and stuff. So
8 we'd roll it out probably to the last
9 prop, lay it against the roof, you
10 know. We wouldn't go past our props
11 with the chain link.

12 Q. Was the chain link strung out
13 before the props were set or was the
14 props set when the chain link ran
15 out?

16 A. It's easier --- we would ---
17 at first we was rolling out the chain
18 link and then setting the props. But
19 as we slowed down, we started setting
20 the props and the chain link.

21 Q. And how many props would you
22 have to set per --- I'm going to call
23 it a cut, but ---?

24 A. Six.

25 Q. Six?

1 A. Three on each side.

2 Q. Would you set three on one
3 side, then three on the other, or
4 would you set them ---?

5 A. Back and forth.

6 Q. Back and forth, okay. During
7 this --- how about the other
8 conditions outby? Did anybody
9 express any concerns outby?

10 A. Yeah. There was some concern
11 outby where the transformer was, just
12 some cracking noises. I went and
13 evaluated the roof and, you know,
14 there was some old cracks but nothing
15 real deep. We had, you know, a foot
16 of cap rock that I was telling you
17 about in the barrier that would fall
18 sometimes. That looked like that was
19 the only thing that was cracked to
20 me. The bolts were holding it up
21 good. A few guys were concerned back
22 there. I actually talked to Donnie
23 Durrant and asked him if he'd go back
24 there and assure them guys that, you
25 know, it's all right, if he seen

1 something I didn't see, you know.
2 Maybe, you know, he could see
3 something --- if he saw anything out
4 of the ordinary that, you know, I
5 didn't see, so ---.

6 Q. What was the conditions in the
7 face? Anybody express any concerns
8 or anything about the conditions in
9 the face area?

10 A. As time went on, a lot of guys
11 did. They didn't feel comfortable up
12 there.

13 Q. How was that matter resolved,
14 when they ---?

15 A. They was just reassigned
16 outby.

17 Q. Any comments with any of the
18 MSHA personnel as far as conditions?

19 A. Just disbelief of what the
20 conditions were. I mean, it was just
21 like you was mining a new face again.
22 It was just kind of hard to
23 comprehend how hard it compressed in,
24 you know. Just a lot of disbelief,
25 really.

1 Q. Do you remember any
2 conversations you might have had with
3 Brad Allen.

4 A. I remember I was frustrated
5 with him a few times, but I bit my
6 tongue.

7 Q. What was your frustration?

8 A. Dust. He was worried about
9 dust. And in my mind, I didn't think
10 it was bad, the dust, when they was
11 cleaning around the feeder breaker to
12 gain access for the shuttle cars. I
13 mean, guys are in there. You know,
14 you want to get to them. I think the
15 little things can wait, like that.
16 You know, I thought that. I mean,
17 that's kind of the least of our
18 concern, I thought.

19 I mean, we did wet down the
20 area and still he was complaining
21 about, you know, stuff that was
22 mining stuff that, you know, if it
23 had been a regular inspection on a
24 regular day, yeah, I would take care
25 of it. But, you know, there was no

1 hazard involved, nothing --- it made
2 me mad.

3 Q. Did it kind of work itself out
4 or what kind of happened with it?

5 A. I didn't want to be around
6 that guy. I was ---. He could have
7 set me off really easy that day.

8 Q. Nothing about any hazard in
9 the face area itself?

10 A. No.

11 Q. Okay. So this routine
12 progressed up until you said you
13 worked --- you said the 15th was your
14 last day?

15 A. Yeah.

16 Q. Anything out of the ordinary
17 on the 15th you remember?

18 A. No. I was a little concerned
19 about the pillar side because it had
20 showed some activity. The barrier
21 never made a noise the whole time I
22 was in there.

23 Q. How many people were on the
24 section or in --- I'm going to call
25 it the section, in the face area

1 where the cleanup was taking place?

2 A. Usually a couple inspectors
3 and just myself and the miner
4 operator.

5 Q. How about the outby guys that
6 was putting up the support?

7 A. They'd come in after he was
8 done cutting and help on the
9 supports.

10 Q. Where would they be while the
11 cutting was taking place?

12 A. Back usually a break or two.
13 We'd have a crosscut cleaned. I
14 believe they was in there.

15 Q. Okay.

16 A. And it was all supported with
17 rock props and screen, chain link.

18 MR. WATKINS:

19 Let's take about a
20 five-minute break here real
21 quick.

22 OFF RECORD DISCUSSION

23 SHORT BREAK TAKEN

24 BY MR. WATKINS:

25 Q. Josh, just a couple quick

1 questions here about the south mains
2 recovery effort before we move on.
3 While you were in the Number One
4 entry, cleaning up with the miner, do
5 you ever recall any bumps or bounces
6 that stopped the miner or stopped
7 production?

8 A. Yeah, a couple.

9 Q. Okay. Do you remember any
10 details about those instances?

11 A. Just that pillar side that I
12 was telling you, you know, I was a
13 little worried about bounced out and
14 wouldn't stop the miner, but it
15 would, you know, bury it pretty good.

16 Q. Okay.

17 A. I mean, not bad enough --- we
18 backed right up and, you know,
19 continued cleaning.

20 Q. Do you remember any bumps that
21 might have actually broken the shaft
22 or anything on the miner?

23 A. We never had nothing that
24 broke the shaft.

25 Q. Not that you remember, okay.

1 Okay. You don't recall where that
2 was at with the bumps, but you do
3 remember it kicked some material out
4 that ---?

5 A. Yeah.

6 Q. Do you remember crosscut?

7 A. Where it's at, I can't recall.

8 Q. Did it kick from the barrier
9 side or from the pillar side?

10 A. Pillar side.

11 Q. From the pillar side?

12 A. Uh-huh (yes).

13 Q. You mentioned that there was
14 several people, I guess, in the face
15 area towards the end during the
16 recovery efforts in Number One entry.
17 Do you recall --- do you know any
18 reason why it would take nine people
19 --- I guess when we was going through
20 it a while ago, we had about nine
21 people. Why would it take about nine
22 people to be in that area to do the
23 work?

24 A. More toward the beginning of
25 the rescue effort, you know, nine

1 people was --- because we could cut
2 so far and then, you know, --- there
3 weren't that many people. It worked
4 all right for, you know, getting our
5 rows cleared out there, you know. It
6 seemed like on my shift we didn't
7 have that many toward the end. It
8 was more like six or seven.

9 Q. You had more people at the
10 beginning, ---

11 A. Yeah.

12 Q. --- when you first started
13 cleaning it out?

14 A. Yeah. They thinned out toward
15 the end.

16 Q. How many would you have at the
17 beginning?

18 A. Probably right around eight or
19 nine.

20 Q. Was there any discussions with
21 anyone as far as limiting the number
22 of people that was on the section?

23 A. No.

24 Q. Do you ever recall it being
25 more than nine, say seven, eight or

1 nine on this area?

2 A. Yeah, at times, you know,
3 you'd have management come in there,
4 MSHA or, you know, not those that
5 were actually involved in setting
6 props. You know, from time to time
7 there would be a few more, company
8 officials and whatnot.

9 Q. Did you ever feel like there
10 was anybody that was there that was
11 not needed, that was not being
12 utilized?

13 A. Yeah. A lot of times I think
14 there were some people that ---
15 mainly company officials. They're
16 always in your way. So, you know,
17 just kind of tripping over them while
18 they're looking.

19 Q. Did you ever have any
20 discussion about --- to any of those
21 people about maybe you don't need to
22 be here?

23 A. No. Probably get in trouble
24 if I did. No, I didn't. No.

25 Q. I guess before you started

1 developing in the barriers in the
2 south, was there any discussion ---
3 did you guys ever have any discussion
4 about any concerns about mining the
5 barriers?

6 A. No. I mean, I just figured,
7 you know, it's a plan that has been
8 reviewed by, you know, people that
9 figured it would be all right, you
10 know, but I never had any concerns
11 about it.

12 Q. Okay.

13 A. This mine has always been, you
14 know, pretty safe, and I think maybe
15 it got taken for granted a little
16 bit. But I never thought that would
17 happen, no.

18 Q. Okay. This where you was
19 coming in the mine from was where the
20 accident on the 16th, you know, we
21 had three that were fatally injured
22 and we had six injured.

23 A. Uh-huh (yes).

24 Q. Do you have any idea what
25 those nine would be doing?

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ATTORNEY RICKETTS:

I'm not sure I
understand the question.

BY MR. WATKINS:

Q. I mean, what --- if you have
nine people on the face, what jobs
would they be performing?

A. The only thing I can think of
is they was helping set props and
chain link and cable, maybe, you
know. I wasn't there, so I don't
really know.

Q. Okay. On your shift, how many
people would it take to do that same
job or those jobs?

A. Six or seven.

Q. Six or seven. So you're only
talking about a couple more.

A. I mean, we could cut that
down, but, you know, we're kind of in
a hurry. Everybody wants to help.
So probably six or seven.

Q. Okay. Josh, was you working
when they developed the north barrier
block?

1 A. No, I wasn't there.

2 Q. Okay. Not during advance or
3 during retreat, any of that?

4 A. No.

5 Q. Okay. How about the --- it's
6 labeled on the map as Main West.
7 It's kind of the area between the
8 north and the south. Were you there
9 during that development?

10 A. Yeah.

11 Q. Okay. Do you recall the
12 conditions while you were mining in
13 that area?

14 A. Yeah. They seemed really good
15 at the time. You know, it's been a
16 long time ago, but they really
17 developed it fast. Didn't encounter
18 any problems.

19 Q. Okay. No water problems or
20 no ---?

21 A. Minor water, you know,
22 nothing ---.

23 Q. I saw they drove a sump off
24 down there --- later you had to avoid
25 in the south. I mean ---

1 A. Uh-huh (yes).

2 Q. --- I'm just wondering how
3 much --- if water was a problem,
4 whether they had to drive that sump
5 or ---?

6 A. It didn't seem like a problem.

7 Q. Okay.

8 A. Most of the water was from the
9 mining machines, it seemed like, at
10 that time.

11 Q. Okay. And that was --- what
12 type of a section --- what type of
13 equipment was used to mine that
14 panel?

15 A. Had a continuous haulage in,
16 two roof bolters and a miner.

17 Q. Okay. What job were you
18 performing at that time?

19 A. I was a roof bolter.

20 Q. Roof bolter, okay.

21 A. I also worked on the haulage
22 some, too.

23 Q. Do you remember how wide those
24 entries were driven?

25 A. I think 19 feet.

1 Q. Okay. Most of the time on the
2 continuous hauler section, you drove
3 some of it at angles it looks like.

4 A. Yeah.

5 Q. Do you remember any conditions
6 about those entries --- I mean, about
7 the crosscuts and intersections, how
8 wide they got or anything?

9 A. I don't. I was pretty new,
10 you know, at that time so I didn't
11 really grasp a lot of it.

12 Q. Did you happen to notice how
13 much the corners of those blocks
14 would fall off or ---

15 A. No.

16 Q. --- slough off?

17 A. I knew they had to come at a
18 pretty good angle because the machine
19 wouldn't, you know, turn over a 90
20 real good, so ---.

21 SHORT BREAK TAKEN

22 BY MR. WATKINS:

23 Q. Again, getting back to the
24 intersection, did you ever have to
25 put additional support or anything in

1 the intersections due to the
2 sloughage there getting too wide?

3 A. Maybe some extra bolts.

4 Q. Extra bolts, okay. Yeah, I
5 know we're going back a ways on your
6 memory.

7 A. Yeah.

8 Q. Sort of in the middle of that
9 --- on that panel there's some
10 crosscuts that's got some material on
11 them. I think it's labeled rock on
12 that. Do you know what that might
13 be, the rock, I guess?

14 A. If I remember correctly, a lot
15 of this area was --- had a lot of bad
16 roof areas. And they was mostly in
17 the crosscuts and they was timbered
18 off, you know, straight entries.

19 Q. Okay. You don't remember
20 material being cleaned up and
21 scooped ---?

22 A. No. No. It wasn't, you know,
23 caved high material. It was mostly
24 they left top coal maybe around the
25 bolts or whatnot. So they just

1 timbered off, marked it, dangered it
2 off in the crosscut.

3 Q. Do you remember any bumping or
4 bouncing taking place in that area
5 when you were going through there?

6 A. No, I don't.

7 Q. Before that, I guess you mined
8 in the south mains area?

9 A. Uh-huh (yes).

10 Q. Okay. What was your job title
11 at that time?

12 A. I was a pillar foreman then,
13 too.

14 Q. You was a pillar foreman.
15 Quick map of that area. Maybe you
16 can color some of that stuff, too.

17 A. Okay.

18 WITNESS COMPLIES

19 MR. WATKINS:

20 Exhibit Four, please.

21 (Josh Fielder Exhibit

22 Four marked for

23 identification.)

24 BY MR. WATKINS:

25 Q. Look halfway familiar to you,

1 Josh?

2 A. Yeah.

3 Q. You can turn it any way you
4 want?

5 A. Okay.

6 Q. You were a pillar foreman; ---

7 A. Yeah.

8 Q. --- is that correct? Okay.

9 Was you involved in the pillaring of
10 the south mains all the way out?

11 A. Not all the way, but most of
12 the way.

13 Q. Okay. How far out did
14 you ---? Use one of those pens
15 there, if you don't care, and just
16 mark halfway out. One of the
17 highlighters. They're better.
18 Probably the orange one now.

19 A. I'd say around 28, I'd say.

20 Q. Just put it across there.

21 A. Right across here?

22 Q. Yeah, just cross it ---.

23 WITNESS COMPLIES

24 BY MR. WATKINS:

25 Q. You were there when they

1 pillared from the south?

2 A. From --- yeah.

3 Q. Pillared from the far south on
4 up?

5 A. Yeah.

6 Q. Okay.

7 A. Six East and out far south.

8 Q. Do you remember --- I guess
9 when they drove those, they drove
10 five entries down?

11 A. Uh-huh (yes).

12 Q. They spread out to the left
13 and to the right and to the barriers
14 and picked up some entries off to the
15 left and right?

16 A. Uh-huh (yes).

17 Q. Okay. Do you remember how you
18 pillared those, how you developed and
19 pillared those?

20 A. Kind of. We --- some of these
21 were left even though we developed
22 them.

23 Q. Okay.

24 A. There's a lot of them that
25 were left. Down here, you know, you

1 had to leave a --- if I remember
2 correctly, we left a row on the side
3 all the way out until we got in Six
4 East here.

5 Q. Okay. Did you develop the
6 rooms off to the left and then off to
7 the right?

8 A. Yeah.

9 Q. Do you remember how you
10 pillared those, if it was left to
11 right, right to left or ---?

12 A. It was usually --- it kind of
13 changed a little bit, ---

14 Q. Okay.

15 A. --- but I think mostly it was
16 right to left.

17 Q. Right to left. Okay. What
18 were the conditions like as far as
19 when you were pillaring out between
20 those two longwall districts?

21 A. Well, I kind of thought, you
22 know, when we was doing it that it
23 was going to be bad, but it was
24 really good. It was really good. I
25 mean, it got a --- in this area here

1 it got a little rough.

2 Q. You're talking around panel
3 15, the mouth of panel 15?

4 A. Yeah. Up here somewhere.

5 Q. When you say rough, what do
6 you mean by rough?

7 A. More bouncing, you know,
8 throwing coal, you know, just set
9 more supports. One of these entries
10 were developed a long time ago, so
11 they was cross diagonal, cross-
12 sectional areas were kind of big. We
13 set trees and little cribs to narrow
14 our entries down. It helped a lot.

15 Q. You mentioned moving some
16 blocks on the right as you ---
17 looking down toward the south, down
18 on the right. Other than leaving
19 those blocks, I guess you --- you say
20 you left them for --- was it for a
21 return for a bleeder? Why would
22 you ---?

23 A. I believe we left this for a
24 bleeder down --- when we went down to
25 Six East.

1 Q. Okay.

2 A. But if I remember correctly,
3 we left a lot of pillars over here,
4 too.

5 Q. Do you remember why you left
6 those?

7 A. No, I don't.

8 Q. Okay.

9 A. We got a plan every so often,
10 you know, on what to leave and what
11 to take. And if I remember right, we
12 left, you know, a lot on each side.

13 Q. Did you ever leave any due to
14 roof and rib conditions or ---?

15 A. It was all pretty good mining
16 down here. Maybe up here a little
17 bit, left a little bit.

18 Q. What was the mine height like
19 in that area?

20 A. Kind of the same as the south
21 mains area as Main West.

22 Q. Do you remember any areas
23 where the ATRSS wouldn't reach?

24 A. When we look ahead of
25 ourselves, if we seen an area that it

1 wasn't going to reach, we had
2 extensions ---

3 Q. Okay.

4 A. --- that would secure to the
5 top of them RSSs so they would reach.
6 There was more top coal down here
7 than up here. There wasn't much
8 floor coal in the south, more top
9 coal and floor coal.

10 Q. As far as the pillars showing
11 signs of weight compared to the
12 south, south barrier, how would you
13 compare those two?

14 A. Probably pretty similar up
15 here, you know, so ---. If I
16 remember right, this general area.

17 Q. And you stated that you were
18 there, I guess, up --- it looks like
19 from the mouth of panel 14.

20 A. Roughly.

21 Q. Somewhere in that area. Where
22 did you go to at that point or ---?

23 A. I went to West Ridge at that
24 time.

25 Q. Okay.

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MR. WATKINS:

Off the record.

OFF RECORD DISCUSSION

BY MR. WATKINS:

Q. Just one quick follow-up question here. This is going all the way back to the south barrier. We talked a lot about retreat mining, the conditions. You was also involved, I guess, in the development of the south barrier block.

A. Uh-huh (yes).

Q. Just anything with the roof and rib conditions while developing?

A. No. It was pretty good developing.

Q. Bumps, bounces?

A. It was easy cutting. The coal was easy to cut. Nothing real hard to cut.

Q. No signs of weight or anything at that time?

A. No.

Q. Bumps, bounces? Abnormal ---?

A. No.

1 ATTORNEY RICKETTS:

2 You're back on the
3 south mains?

4 MR. WATKINS:

5 Yeah, I was back on the
6 south barrier development. We
7 had a follow-up question.

8 ATTORNEY RICKETTS:

9 Okay.

10 A. I don't know if it matters,
11 but after I went to West Ridge for a
12 year, I went to Deserado --- I failed
13 to mention that to you --- for two or
14 three months before I come back to
15 Genwal. I don't know if that matters
16 or not, but ---.

17 MR. WATKINS:

18 We'll have it on the
19 record anyway.

20 Josh, on behalf of
21 MSHA, I want to thank you for
22 appearing and answering
23 questions today. Your
24 cooperation is very important
25 to the investigation as we

1 work to determine the cause of
2 the accident.

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

13 After questioning other
14 witnesses, we may call you if
15 we have any follow-up
16 questions that we feel we need
17 to ask of you. If at any time
18 you have additional
19 information regarding the
20 accident that you would like
21 to provide to us, please
22 contact us at the information
23 on the card I gave you
24 earlier.

25 A. I lost it already.

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MR. WATKINS:

We'll give you another one.

The Mine Act provides certain protection to miners who provide information to MSHA and, as a result, are treated adversely. If at any time you believe that you have been treated unfairly because of your cooperation in this investigation, you should immediately notify MSHA.

If you wish, you may now go back over any answer that you have given, and you may also make any statement that you wish to make.

A. I can't think of anything to go over again. My mind is kind of, you know --- it's not all real accurate as it is. It's the best as I can, but ---.

MR. GATES:

Anything you'd like to

1 add or we might have missed or
2 not covered that you'd like to
3 get on the record?

4 A. No, just that, you know, it's
5 unfortunate, but, you know, I don't
6 think anybody seen this coming, you
7 know, but ---. That's all.

8 MR. WATKINS:

9 Josh, again, I want to
10 thank you for your cooperation
11 today.

12 A. Okay.

13 MR. WATKINS:

14 Thank you very much.

15 A. Thank you.

16 * * * * *

17 STATEMENT CONCLUDED AT 1:02 P.M.

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