

STATEMENT UNDER OATH  
OF  
KEVIN STRICKLIN

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at MSHA Technical Support Office, Building 2, Industrial Park Drive, Triadelphia, West Virginia, on Wednesday, December 12, 2007 beginning at 11:26 a.m.

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24      ALSO PRESENT:

25      Suzanne Escott, Notary Public

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## P R O C E E D I N G S

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MR. GATES:

Kevin, my name is Richard Gates, and I'm an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the U.S. Department of Labor. With me is Derek Baxter, from the Solicitor's Office. We will be conducting the questioning today.

I, together with other government investigators and specialists, have been assigned to investigate the conditions, events and circumstances surrounding the fatalities that occurred at the Crandall Canyon Mine in Utah in August 2007. The investigation is being conducted by MSHA under Section 103 of the Federal

1 Mine Safety & Health Act and  
2 the Utah Commission of Labor.  
3 We appreciate your assistance  
4 in this investigation.

5 After the investigation  
6 is complete, MSHA will issue a  
7 public report detailing the  
8 nature and causes of the  
9 fatalities in the hope that  
10 greater awareness about the  
11 causes can reduce their  
12 occurrence in the future.  
13 Information obtained through  
14 witness interviews is  
15 frequently included in these  
16 reports. Your statement may  
17 also be used in other  
18 proceedings.

19 A court reporter will  
20 record your interview. If you  
21 do not understand a question,  
22 please ask me to rephrase it.  
23 Please answer each question as  
24 fully as you can, including  
25 any information you've learned

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from someone else.

I would like to thank you in advance for your appearance here. We appreciate your assistance, and your cooperation is critical in making the nation's mines safer.

After we have finished asking questions, you will have an opportunity to make a statement and provide us with any other information that you believe to be important. If at any time after the interview you recall any additional information you believe might be useful, please contact me.

Ms. Escott, would you swear in the witness?

MS. ESCOTT:

Yes. Just raise your right hand.

-----

1 KEVIN STRICKLIN, HAVING FIRST BEEN  
2 DULY SWORN, TESTIFIED AS FOLLOWS:

3 -----

4 MR. GATES:

5 Ms. Escott, are you  
6 empowered as a notary in the  
7 State of West Virginia?

8 MS. ESCOTT:

9 Yes.

10 MR. GATES:

11 And when does your  
12 commission expire?

13 MS. ESCOTT:

14 9/23/2015.

15 MR. GATES:

16 And have you sworn in  
17 Mr. Stricklin?

18 MS. ESCOTT:

19 Yes.

20 BY MR. GATES:

21 Q. Kevin, would you state your  
22 full name and address for the record?

23 A. Kevin G. Stricklin,

24 S-T-R-I-C-K-L-I-N, (b)(7)(C)

25 (b) (7)(C) .

1 Q. Kevin, do you have any  
2 questions about the interview process  
3 as I've described it?

4 A. No, I don't.

5 Q. Just a few general background  
6 questions. What's your present  
7 position?

8 A. I'm the Administrator for Coal  
9 Mine Safety and Health for MSHA in  
10 Arlington, VA.

11 Q. And how long have you been in  
12 that position?

13 A. It feels like 15 years, but  
14 it's really only been six months in  
15 the position. And I acted six months  
16 prior to that.

17 Q. And could you give a brief  
18 description of your employment  
19 history and mining experience leading  
20 up to that appointment?

21 A. I graduated from the  
22 University of Pittsburgh as a mining  
23 engineer in 1980. Prior to  
24 graduation, I worked three summers at  
25 the Maple Creek Mine in the United

1 Mine Workers of America. During my  
2 senior year of college, I worked part  
3 time for MSHA in the Noise Division  
4 of Technical Support. Upon  
5 graduation, I took a job with the  
6 Ventilation Division of Technical  
7 Support, worked there for  
8 approximately ten years and decided I  
9 wanted to do something different. I  
10 applied for the MSHA supervisor in  
11 coal enforcement, was accepted and  
12 accepted a job as the health  
13 supervisor in District Two. I worked  
14 in that job for about three years and  
15 was promoted to the assistant  
16 district manager in charge of  
17 technical services in District Two.  
18 I believe it was somewhere in 1994.

19 Between that time and 2003, I  
20 worked as the ADM of Enforcement. I  
21 worked as the Active District Manager  
22 in District Two for about one year of  
23 that time, and I acted in various  
24 positions as a district manager in  
25 other districts, as the Chief of the

1 Health Division and Headquarters and  
2 as the Deputy Administrator in  
3 Headquarters. And as I said, in ---  
4 I believe it was April of this year,  
5 I was named the Administrator for  
6 Coal Mine Safety and Health.

7 Q. Congratulations.

8 A. Thank you very much.

9 Q. Kevin, how did you hear or how  
10 were you made aware of the August 6th  
11 accident at Crandall Canyon?

12 A. I received a phone call early  
13 in the morning from Bill Crocco, who  
14 is the accident --- chief accident  
15 investigator in our headquarters  
16 office. And the information was  
17 sketchy at the time, but he said  
18 there was a bounce that had occurred  
19 at the Crandall Canyon Mine, and  
20 there were six miners unaccounted  
21 for. And I asked him as I was coming  
22 to work to get back with me as soon  
23 as he got any more information.

24 And I don't know if there was  
25 a second call that he made to me in

1 the car, but ultimately we decided  
2 that this seemed like something we  
3 were in for, for the long haul, and I  
4 asked him to set up a command center  
5 and headquarters there so we can  
6 converse with the district and people  
7 at the mine.

8 Q. Do you remember about when ---  
9 what time it was Bill made that call  
10 to you?

11 A. Somewhere between 6:00 and  
12 7:00 a.m. Eastern Standard Time.

13 Q. And what did you do? How did  
14 you react to that? What did you do?

15 A. Well, I didn't do anything,  
16 really, other than just continue to  
17 come to work. Because there's been  
18 many cases when things like this  
19 occur and naturally there's a happy  
20 ending, something changes in a short  
21 period of time. And when I didn't  
22 receive a call back in a short period  
23 of time, I knew that we were in it  
24 for, like I said, the long haul and  
25 it was serious and nobody was going

1 to walk out of the mine.

2 Q. You knew that early there or  
3 you had those feelings early on that  
4 that ---?

5 A. Typically, if you don't have a  
6 callback within, say, the first hour,  
7 it turns into an extended rescue  
8 period. And when I didn't get a call  
9 back from Bill, I kind of figured  
10 that there was something that we were  
11 going to have to get engaged in at  
12 headquarters and start following and  
13 start making decisions on it.

14 MR. BAXTER:

15 Can I just ask a ---?

16 When you say no one is going  
17 to walk out of the mine, do  
18 you mean that there's going to  
19 be a long rescue operation?

20 A. Typically, yeah, when  
21 something this serious --- when I say  
22 no one --- yes. I'm trying to think  
23 of some examples, Derek, where in the  
24 past, you know, you'd get a phone  
25 call to headquarters and then you get

1 a phone call shortly after that, hey,  
2 we got everybody accounted for and  
3 we're okay. That typically comes  
4 within the first hour. And if you  
5 don't get it within the first hour,  
6 it's something that you have to go  
7 after people who may be trapped.

8 BY MR. GATES:

9 Q. So you proceeded on your way  
10 to the office then. And after you  
11 didn't get the call, maybe if you can  
12 just walk us through what happened  
13 after you got to the office and ---.

14 A. Got to the office probably ---  
15 the best of my recollection, I think  
16 I went and had a conversation with  
17 Bill Crocco, and Bill kind of filled  
18 me in on where we were at that time  
19 and that, you know, we had had people  
20 underground. It sounded like this  
21 bounce was pretty extensive. It  
22 included all four entries. We had  
23 inspectors on the site. And I asked  
24 him to make sure that we get a  
25 regular update from the mine or from

1 the district because I knew --- Al  
2 Davis was in the district office,  
3 which is about eight hours from the  
4 mine. I know he hadn't naturally  
5 gotten to the mine. And we kind of  
6 needed information from both  
7 locations.

8 One of the other things that  
9 I'm kind of aware of is when  
10 something like this happens,  
11 everybody wants information. So I  
12 wanted to make sure that we weren't a  
13 burden on the rescue operation going  
14 on. And I didn't want them calling  
15 out there every 15 minutes to find  
16 out what was happening, but I did  
17 want to get information. So I think  
18 I said, let's see if we can just get  
19 Al Davis to fill us in on the  
20 information rather than having the  
21 people at the mine call Al and then  
22 call us. I shortly after that went  
23 downstairs and talked to Richard  
24 Stickler and Bob Friend, my boss,  
25 about what was going on and invited

1       them to come up and sit in the  
2       command center that we set up on the  
3       24th floor in headquarters in case  
4       they had any questions or  
5       information. It just makes it easier  
6       than us having to go downstairs and  
7       brief them every time we get a phone  
8       call in the command center.

9       Q.       And the information then ---  
10       you had some kind of protocol set up  
11       for you to receive information on a  
12       fairly regular --- fairly regular  
13       intervals?

14       A.       I think initially it was on a  
15       one-hour basis. We wanted a phone  
16       call just to see what was going on on  
17       a one-hour basis.

18       Q.       Did you ever talk with anybody  
19       at the district or at the mine during  
20       this time frame or were you relying  
21       on Bill Crocco?

22       A.       I was part of the conversation  
23       we had on the speaker phone with Al  
24       Davis in the district office.

25       Q.       So maybe after you got the

1       command center set up, you got some  
2       of the --- Stickler and Friend  
3       invited up, maybe just walk through  
4       what happened the rest of that day.

5       A.       Well, we --- again, as time  
6       went on, we learned the extensiveness  
7       of what had occurred, was the bounce  
8       occurring in all four entries, near  
9       Crosscut 120. And the information  
10      that the stoppings had been blown out  
11      back to I believe it was Crosscut 95.  
12      They were Kennedy stoppings. And the  
13      mine operator initially was in the  
14      process of trying to get ventilation  
15      re-established.

16             We had lost our belt tail  
17      piece because naturally it was inby  
18      where the bounce occurred. So the  
19      mine operator was trying to set up a  
20      new tail piece. We were looking at  
21      the possibility, could we go through  
22      the sealed area of main west to get  
23      up to where we could possibly get  
24      into the south barrier section. So  
25      all that was in our conversation, as

1 well as --- I think in that same time  
2 frame was when they started trying to  
3 clean up the Number Four entry, when  
4 another bounce occurred and chased  
5 them out of there. So all that was  
6 going on in the same --- in that day.

7 And I had made the decision  
8 that I wanted to go out to District  
9 --- to the mine somewhere on that  
10 day. And Richard Stickler also  
11 decided to go out to the mine. And  
12 we were looking at arrangements on  
13 when we could get out of D.C., on the  
14 next flight out there. Naturally,  
15 it's a little different because  
16 you're looking at two time zones.  
17 And I think the next flight that was  
18 available to us didn't leave the next  
19 morning until 7:30 from Dulles. So I  
20 think I was in the office until about  
21 ten o'clock that evening and then I  
22 went back to pack --- to get my stuff  
23 together and leave the next morning  
24 for Utah.

25 Q. You mentioned Crosscut 95 and

1 the information that Bill Crocco had  
2 been relaying to you. Did he have a  
3 map for you at this time to kind of  
4 lay out --- I mean, certainly things  
5 are easier explained if you got  
6 something in front of you to look at.

7 A. I think as the day went on I  
8 think the district downloaded on the  
9 computer system and sent it to  
10 headquarters and we printed out a  
11 copy of the map in headquarters  
12 there.

13 Q. How did you make the decision  
14 to go to Utah?

15 A. I guess I just kind of thought  
16 it was the right thing to do, to go  
17 out and support my district manager.  
18 I know he was up against it because  
19 I've been in the position before,  
20 both at QueCreek and Sago, and I just  
21 wanted to go out there and be of any  
22 support that I could to him with this  
23 emergency going on.

24 Q. Was it the --- I guess the  
25 severity of the incident or the fact

1       that there were six people  
2       unaccounted for or --- did that  
3       factor into your decision?

4       A.       It was a combination of both.  
5       And I knew that there would be a lot  
6       of news media present. In addition,  
7       I knew we had six people unaccounted  
8       for was probably the main reason for  
9       going. And I just knew that there  
10      would be times when he'd want to  
11      bounce some stuff off of someone  
12      where he'd need an additional hand,  
13      and I wanted to be there for him.

14      Q.       Is that common then for you to  
15      --- since you've assumed the position  
16      that you're in right now, for you to  
17      go to the mine site when an accident  
18      occurs or a serious accident occurs?

19      A.       Well, that's the first one  
20      that I've ever been associated with  
21      in headquarters there, but if it  
22      happened tomorrow, I'd do the same  
23      thing.

24      Q.       Okay. Go ahead.

25      A.       Well, I was just going to say

1 at both QueCreek and Sago, I guess  
2 there's no specific plan on how to  
3 handle each one. Both QueCreek and  
4 Sago, Ray McKinney came out on site,  
5 and he was the administrator at the  
6 time. And I don't want to say it was  
7 a template for me, but it was  
8 comforting to me that when something  
9 occurred --- and Ray didn't come out  
10 to make any decisions. I still made  
11 the decisions as the DM. But there  
12 were times when I wanted to bounce  
13 something off of someone, and he was  
14 a good person to go to for guidance  
15 or to just discuss things with, and I  
16 wanted to do the same thing for Al.

17 Q. You mentioned that you were  
18 looking into flight arrangements and  
19 also that a decision had been made  
20 for Mr. Stickler to travel as well.  
21 Was that at your request or do you  
22 know how that decision was made?

23 A. I'm not sure if someone  
24 suggested he go or if he wanted to  
25 go. I guess when I look at the

1 picture and based on --- as it turned  
2 out, you had Senators on site, you  
3 had the Governor on site. And I  
4 think he was almost compelled to go  
5 based on who else was going to be on  
6 site out there. And I think it would  
7 have looked a lot worse if he didn't  
8 come out to the site and be a part of  
9 what was going on out there. So I  
10 think that probably played a role in  
11 it. And he's a hands-on guy, that  
12 probably instead of making decisions  
13 from headquarters or being involved  
14 from headquarters, he wanted to see  
15 firsthand what was going on.

16 Q. So arrangements were made for  
17 you and Mr. Stickler to travel to  
18 Utah on what would have been the 7th  
19 of --- Tuesday the 7th?

20 A. And I also asked Bill Crocco  
21 to go with us, because Bill is in  
22 charge of accidents. I thought ---  
23 he had worked out west and I thought  
24 maybe there was something he could  
25 help us with as far as these bounces,

1       because it's something that if you're  
2       from the east you're really not real  
3       familiar with. So I asked Bill  
4       Crocco. So the three of us went out  
5       there together.

6       Q.       You used a term there --- you  
7       used the term bounce. And one thing  
8       --- I mean, we've interviewed a lot  
9       of people during the course of this  
10      investigation, and that term has been  
11      --- certainly been used a lot, as  
12      well as bump, bounce, outburst. And  
13      I guess from your perspective, could  
14      you tell me what that means to you or  
15      how --- what a bounce is?

16      A.       A guess a bounce is probably  
17      synonymous, in my opinion at least,  
18      with a bump. And what a bounce is,  
19      is it's a sudden outburst of the coal  
20      rib, where the material is just  
21      pushed out of the pillar itself and  
22      fills the entry up with the coal  
23      itself.

24      Q.       Had you --- being from the  
25      east or with most of your experience

1 in the east, had you been involved in  
2 investigations of bumps or bounces  
3 before?

4 A. I had never been involved in a  
5 bounce investigation prior to going  
6 out to Crandall Canyon.

7 Q. So you --- on August 7th then,  
8 you, Mr. Stickler and Bill Crocco  
9 have arrangements to travel to Utah.  
10 Maybe if you can just walk me through  
11 that day as well the best you recall.

12 A. We caught a plane out of  
13 Dulles at about 7:30 in the morning,  
14 and I believe we landed in Salt Lake  
15 City somewhere around 10:00 a.m.  
16 Central --- or Mountain Standard  
17 Time. And we got off the plane and  
18 were going through the airport and I  
19 hear an announcement that would  
20 Richard Stickler please go to a  
21 courtesy phone. So I found a  
22 courtesy phone, and we were told that  
23 the Governor had made arrangements  
24 for a small plane to fly us from Salt  
25 Lake City down to Price. And so

1       instead of us getting in a car, me  
2       and Richard, we got into a small  
3       plane. Bill Crocco just got in the  
4       car and went.

5               And we flew down to  
6       Huntington, where there was a  
7       helicopter there. And they flew us  
8       in a helicopter from Price to  
9       Huntington in a helicopter. And we  
10      met for a very short period of time  
11      with the Governor. And there was  
12      kind of a ruckus, I guess you could  
13      say, with the state government at the  
14      time. They were kind of upset with a  
15      press conference that had just been  
16      held where, I guess, Bob Murray went  
17      off on things not really dealing with  
18      the mine emergency but political  
19      things. And the Governor seemed to  
20      be frustrated because apparently Bob  
21      Murray had told him he couldn't come  
22      on mine property.

23              And the state really has no, I  
24      guess, power or jurisdiction to do  
25      any mine inspections in Utah, so I

1       guess he basically had the authority  
2       to do that. I'm talking about Bob  
3       Murray. And we just basically told  
4       the state that we wanted to have a  
5       working relationship with them, we  
6       were on our way to the mine, and you  
7       know, we would get them to  
8       participate in any way that we could  
9       to try to rescue the miners.

10               So then shortly after that, we  
11       all got into a car. And the state  
12       came with us in a separate car. We  
13       went up to the mine site and were met  
14       by Bob Murray --- or first we were  
15       met by Al Davis. And then Al gave us  
16       just a quick briefing and said that  
17       the mine operator wanted to sit down  
18       and talk to us and give us a full  
19       briefing of everything that has been  
20       going on. So myself, Richard  
21       Stickler, Bill Crocco, as well as Al  
22       Davis, sat down with the mine  
23       operator. And in that meeting, the  
24       Governor was part of it. And we sat  
25       down and --- I believe it was Senator

1 Bennett from Utah was also present in  
2 that meeting on the afternoon of  
3 August the 7th to discuss where we  
4 were at and what we were looking at  
5 doing to try to rescue the miners.

6 Q. Do you remember what time it  
7 was that you may have gotten to the  
8 --- actually got to the mine site?

9 A. I would guess somewhere around  
10 12:30 or one o'clock Mountain  
11 Standard Time on the 7th.

12 Q. And when you got there and met  
13 with --- I guess first met with Al  
14 and then with the company and with  
15 the state, what was going on at the  
16 mine at that time? What did Al ---  
17 what kind of information did Al have  
18 to share with you?

19 A. I think that was the time that  
20 --- at that time they had been chased  
21 out of the Number Four entry because  
22 of the other bounce that had  
23 occurred, and they were  
24 re-establishing ventilation more  
25 permanently. Shortly after these

1 stoppings had been blown down, they  
2 put canvas checks up, is my  
3 understandings. There was a lot of  
4 leakage and we knew that we were  
5 going to need as much air as we could  
6 possibly get up there, so they were  
7 doing all the repair of the permanent  
8 stoppings between 95 up to 120 to get  
9 as much air as possible up there.

10 They had already made a  
11 decision to bring in the helicopter  
12 drill. And I think the decision was  
13 also already made where the second  
14 drill --- where the directional drill  
15 was going to be put in at. In  
16 addition to that, we already knew  
17 that we could not advance in main  
18 west because a mine rescue team had  
19 been put into main west and there was  
20 some follows that were place and  
21 there no way for us to advance. And  
22 there was I believe a roof fall that  
23 occurred while they were in there  
24 that chased them out of the area, so  
25 we knew that that was not going to be

1 an option for us to go into main  
2 west.

3 Q. The previously sealed area?

4 A. Yes. In addition to this, I  
5 believe Tech Support may have been on  
6 site around the same time, and we  
7 asked them to go underground and kind  
8 of evaluate the situation. And I  
9 believe after they came outside ---  
10 and I believe it was on August the  
11 7th. Naturally, all this is, I'm  
12 sure, available in the logs. A  
13 decision was made that our best  
14 chance of moving forward would be the  
15 Number One entry of the south barrier  
16 section.

17 Q. Were you involved in the --- I  
18 guess the initial decisions to begin  
19 the recovery in the Number Four  
20 entry?

21 A. No, I was not. That was  
22 something I believe Al Davis decided  
23 after consulting with the people at  
24 the mine site, our inspectors and the  
25 field office supervisor who was

1       there.

2       Q.           And I think you said when you  
3       got there that the rescuers had been  
4       chased out of the Number Four entry?

5       A.           I think that already had  
6       happened by the time we had gotten to  
7       the mine. It was somewhere in that  
8       same area. I put a log together  
9       shortly after this. Naturally, I  
10      don't have it in front of me now, but  
11      it would show the sequence that  
12      things occurred out there.

13     Q.           Had they made --- they were  
14     out of the Number Four entry. Do you  
15     know whether they had made the  
16     decision to move to the Number One  
17     entry or was that ---?

18     A.           I think that decision was made  
19     during this meeting that we held on  
20     the afternoon of the 7th.

21     Q.           So you had some input or some  
22     involvement in the plan that was  
23     ultimately put in place to move to  
24     Number One?

25     A.           Yes.

1 Q. Was there a command center set  
2 up at the mine site when you arrived?

3 A. The Blue Goose was already in  
4 place. And we had a field office  
5 supervisor set up in the Blue Goose.  
6 It was Bill Taylor on daylight.  
7 Naturally, Al Davis was there on  
8 daylight. And it was manned ---  
9 there was an inspector there that was  
10 actually keeping a log. And then we  
11 --- that was kind of basically, I  
12 guess, our staging area for sending  
13 any of our people underground, and  
14 that would have been manned around  
15 the clock. And that was the location  
16 that we'd call back to headquarters  
17 and give them updates on an hourly or  
18 two-hourly basis when anything was  
19 occurring.

20 Q. Did the mine operator and/or  
21 the state have a role in our command  
22 center or were they present in our  
23 command center?

24 A. They were not. As I said, the  
25 state had no jurisdiction to go up to

1 the mine. Every once in a while they  
2 would come up and just stop in. But  
3 the company was set up in the mine  
4 office, on the second floor of a  
5 building at the mine. And we were  
6 connected through the same phone,  
7 pager phone, that the company was. I  
8 can't give you a good reason right  
9 now why we were set up separately. I  
10 don't know initially why that was  
11 established. And when I got out  
12 there I really didn't question that,  
13 although I knew that we could be in  
14 contact with them through these pager  
15 phones.

16 Q. I was going to say, typically,  
17 or in your typical command center all  
18 of the interested parties are  
19 together?

20 A. That's the way I've always  
21 seen it done until this one. And  
22 again, I didn't question them on it.  
23 I thought there was probably a reason  
24 they did it that way, but I don't  
25 know what it was.

1 Q. During your time at the mine,  
2 then, arriving on the 7th, and I  
3 believe you were there for an  
4 extended period of time, did you ever  
5 see that this separation, if you  
6 will, of the MSHA command center and  
7 the company command center  
8 complicated the efforts?

9 A. No, I didn't see it complicate  
10 the efforts. I guess if I would have  
11 saw it do that, I probably would have  
12 tried to address it with Al and ask,  
13 you know, is there a reason that it's  
14 set up this way. But it didn't seem  
15 to me like it complicated things.

16 Q. But I would assume at some  
17 time all of the people --- all of the  
18 parties were together, either at the  
19 MSHA Blue Goose or at the mine ---

20 A. That's correct.

21 Q. --- command center?

22 A. There were a number of  
23 meetings that we had, numerous  
24 meetings, when these things were  
25 ongoing to look down the road at

1 decision making. And in addition,  
2 the district had set up meetings with  
3 the company at 7:00 a.m. and 7:00  
4 p.m. of every day just to kind of  
5 look ahead and think of what plans we  
6 may need to approve in the future so  
7 we have a plan in place so we didn't  
8 have to waste time on the decision  
9 making when the time actually came.

10 Q. If you could, Kevin, you get  
11 to the mine on the 7th with Stickler.  
12 And I assume Crocco is with you as  
13 well. You have the meeting. The  
14 plan is put together to move over  
15 into the Number One entry. I guess  
16 if you could just kind of go through  
17 what you did from that point on,  
18 while you were in Utah?

19 A. Well, shortly after you'll see  
20 that initially we were modifying the  
21 K Order by the time the mine operator  
22 wanted to do something. I suggested  
23 to Al, instead of continuing to  
24 modify the K Order every time, why  
25 don't you modify it one time and say

1       that the plans will be submitted and  
2       approved by both the company and  
3       MSHA. And I think you'll find that  
4       shortly after I arrived. And that  
5       was something that I talked to the  
6       district about putting in place. So  
7       I guess if you're wondering where  
8       that came --- where the change came  
9       from, it was from my suggestion to  
10      Al.

11                 The first thing, as I said, we  
12      were --- had an extensive briefing  
13      from UtahAmerican. It was mostly Bob  
14      Murray talking, Laine Adair and Bruce  
15      Hill. They seemed to be the three  
16      individuals that were the decision  
17      makers for the company out there.  
18      After the meeting broke up, as I  
19      said, I believe that that was ---  
20      somewhere in that vicinity is when we  
21      had a plan together to move forward  
22      in the Number One entry. We agreed  
23      to a tail piece set up somewhere in  
24      the vicinity of the Number Two entry,  
25      near Crosscut 120. We were in the

1 process of moving ram cars up in  
2 there, re-establishing ventilation,  
3 getting the mining machine up in  
4 there to start moving forward in the  
5 Number One entry. And we had agreed  
6 that the support in that area would  
7 be with these rock props that would  
8 be installed, I forget now the exact  
9 distance that they would be supported  
10 on, naturally it's in the plan, and  
11 with screening and three tables tied  
12 in place to try to protect the ribs  
13 from outbursts into the area where  
14 the people were actually trying to  
15 gather the material and remove it  
16 from the mine.

17 In addition, I mean, it  
18 was --- naturally, you've been  
19 involved in Sago. Some of you other  
20 folks have been involved. There's  
21 really a media frenzy that takes  
22 place at these things. And we knew  
23 that there would be naturally a  
24 number of press conferences. Richard  
25 wanted to get engaged.

1           Later that day we went down  
2           and met with the families, him and  
3           me. And we were set up for briefings  
4           twice a day with the families at 8:30  
5           a.m. and five o'clock p.m. And there  
6           were press conferences shortly after  
7           that, after each of those.

8           I think early on there was  
9           probably going to be a plan that  
10          Richard would spend a short period of  
11          time out there and he would go back  
12          to D.C. and I would basically fill  
13          his role. And as things started  
14          going on and he became engaged in all  
15          this, I think he basically himself  
16          wanted to stay because there were so  
17          many --- naturally, it just keeps  
18          going on and it's kind of building  
19          into a crescendo as to what was  
20          occurring as the bore holes are going  
21          in, as we're mining in the Number One  
22          entry. And he basically didn't think  
23          that he could leave because he was so  
24          involved in what was going on with  
25          the families and with the media. So

1 he was more --- I would think that he  
2 was more tied up with the press and  
3 the families, and he would be looked  
4 at as a consultant. If we asked him  
5 a question, he would give his opinion  
6 on. If there were meetings with Bob  
7 Murray, naturally he would  
8 participate in those meetings. And  
9 he would address the families and the  
10 media.

11 Myself, I guess I looked at  
12 myself as a backup to what he was  
13 doing and supporting him. There were  
14 some news medias that wanted  
15 interviews, and he seemed to be the  
16 person in charge of holding the press  
17 conferences. And I was the person  
18 that actually would be at the  
19 one-on-one interviews with the media  
20 types. In addition, I supported him,  
21 talked to the families as well. And  
22 I also tried to be there for Al to  
23 discuss any subject or any topic that  
24 he wanted to discuss when we were  
25 deciding whether to move forward with

1 a plan or what was taking place  
2 underground.

3 In addition, both Richard and  
4 myself spent --- went underground on  
5 two separate visits. I can't tell  
6 you the exact days. That would be in  
7 the log. The second visit would have  
8 been, I believe, one day prior to  
9 where we lost three rescuers  
10 underground. That would have been my  
11 second visit.

12 In addition, we kicked around  
13 a lot of things on the surface. I  
14 probably had some involvement into  
15 where we decided to put the bore  
16 holes in on the surface, as well as  
17 the work that was done underground.

18 Q. You mentioned that you were  
19 there, Stickler was there and Al  
20 Davis was there and then what some of  
21 the --- what your duties consisted of  
22 or who you had met with. Are you  
23 familiar with a policy letter dealing  
24 with the family liaison and primary  
25 communicator that was put out as a

1 result of the MINER Act?

2 A. Yes. I believe I may have  
3 signed it even.

4 Q. There are a couple --- I  
5 mentioned family liaison and I  
6 mentioned primary communicator are  
7 two titles in that policy letter that  
8 are to be assumed by MSHA personnel  
9 on the mine site during a rescue and  
10 recovery activity. Did you see ---  
11 how did you see this policy letter  
12 being implemented and who did you see  
13 filling the roles of the family  
14 liaison and the primary communicator?

15 A. This was the second emergency  
16 that we implemented the family  
17 liaison at. The first one was where  
18 we had the double fatality in  
19 Maryland during this, where we had  
20 two people killed in a highwall  
21 collapse. And at this one, we  
22 basically --- I guess after the first  
23 one, we decided at this one we needed  
24 to have people there around the  
25 clock. So initially, after this

1 occurred, we knew that Bill Denning,  
2 from District Nine, was trained as a  
3 family liaison. He needed to go  
4 immediately and we needed two  
5 additional people to be there. We  
6 asked Carla Marcum, I believe, from  
7 District Seven, to go out there, and  
8 Metal/Non-metal offered Rich  
9 Laufenberg, who was also trained to  
10 go on site. We wanted to have  
11 someone be there with the families  
12 around the clock.

13           Initially, we were set up at a  
14 middle school auditorium and  
15 gymnasium. And they basically had  
16 the ability to call the command  
17 center and get any information that  
18 they wanted at any time to try to  
19 keep the families apprised of  
20 anything that was going on. In  
21 addition, I mean, what we thought was  
22 Richard Stickler would be the primary  
23 communicator at these family  
24 briefings. And so I guess we ---  
25 that's the way I looked at it.

1 Again, we wanted someone to be there  
2 around the clock, but we expected  
3 someone from a higher-up position to  
4 go down there and actually give the  
5 company the additional information  
6 and answer any questions that they  
7 may have during those two briefings a  
8 day.

9 Q. There's also another term  
10 that's used in the policy letter, and  
11 it doesn't really get a whole lot of  
12 attention, but it's referred to as  
13 the MSHA official in charge of  
14 accident activities. And I guess I'd  
15 be curious, does that fall into ---  
16 do you see that as falling into the  
17 duties of the primary communicator or  
18 the family liaison or is this a  
19 different role, if you will?

20 A. I haven't looked at that for a  
21 long time. Could I possibly look it  
22 over?

23 Q. Sure. I've got the term  
24 circled. And I guess as you're  
25 reading that, what I was trying to

1 determine, Kevin, is who from MSHA on  
2 the --- at the mine site was actually  
3 responsible for the rescue and  
4 recovery activities, the person in  
5 charge, if you will, or the person  
6 described in that sentence?

7 A. I would take that to be Al  
8 Davis. It would be the district  
9 manager.

10 Q. Do you think that Al was aware  
11 that these responsibilities were  
12 expected of him or that he was  
13 expected to fulfill that role?

14 A. Well, I don't know if him and  
15 I ever had a talk where I said to him  
16 that, Al, you're in charge of this,  
17 but I think by my actions it was  
18 shown that he was in charge and I was  
19 there as a support person more so  
20 than me being in charge of the  
21 operation.

22 Q. And I think you mentioned as  
23 part of a --- and I hate to use the  
24 word normal because I know there's no  
25 such thing, but the way things were

1 set up then, there were briefings  
2 with MSHA and a company at 7:00 in  
3 the morning and 7:00 in the evening?

4 A. Yeah. I wouldn't call it a  
5 briefing. I guess it was a ---.

6 Q. Maybe a planning ---

7 A. Planning meeting ---

8 Q. --- meeting?

9 A. --- I would call it, yeah,  
10 where the mine operator --- I  
11 mentioned a couple of the individuals  
12 before, Laine Adair, Bruce Hill, they  
13 typically were the people --- would  
14 be the people who would come down and  
15 meet with Al. And some of the field  
16 office supervisors, the ADMs who were  
17 there, would just kind of look into  
18 the future and see some of the stuff  
19 that we may be coming up upon and  
20 what they are looking at doing. And  
21 an example --- and I sat in on some  
22 of those meetings where we talked  
23 about locations of bore holes on the  
24 surface, some of the stuff that they  
25 were doing underground. I remember

1       there was as big push to get diesel  
2       ram cars to the site from Galacia  
3       Mine. We talked about because there  
4       was so much restriction with the  
5       amount of material in the entry, how  
6       we were going to ventilate it, so we  
7       talked about getting tubing to the  
8       mine because we thought we was going  
9       to have to pull some air from the  
10      face. We didn't have hardly any  
11      flow-through going through in the  
12      Number One entry so we were looking  
13      at ways to make sure we had it  
14      ventilated. That type of thing was  
15      some of the stuff that was discussed  
16      at these planning meetings.

17      Q.       Was that the type of  
18      information then that you and Richard  
19      would then subsequently take to the  
20      families and share with them?

21      A.       Yes, naturally the depth of  
22      bore holes, what we were finding as  
23      we were going down the bore holes,  
24      what was the concentrations of gas  
25      that we found when the bore holes

1       went through, the camera information  
2       when it went into the mine, how much  
3       footage we were gaining, the number  
4       of people working on the sections,  
5       those types of things.

6       Q.        You talked a little earlier  
7       about when you got to the mine site  
8       that, again, they had been chased out  
9       of Number Four. Do you know why ---  
10      what had occurred that chased them  
11      out of Number Four?

12     A.        A bounce had occurred and  
13      refilled the entry with material, was  
14      our understanding.

15     Q.        And that the Number One seal  
16      of the west mains had been breached  
17      in an exploration to try to explore  
18      and see if that was a viable option  
19      and then subsequently move into  
20      Number One entry. Do you know of any  
21      other --- were there any other  
22      methods or options that were  
23      considered?

24     A.        Well, we had, I'll call them,  
25      two reconnaissance missions, where we

1 basically kind of sat still for a  
2 period of time. We didn't do any  
3 mining. And we sent a company person  
4 and an MSHA person to see how far we  
5 could get up in Number Four. And we  
6 did the same thing in entry number  
7 one. The company felt like --- in  
8 number one at least I recall them  
9 thinking that they think they seen an  
10 opening and they think maybe there's  
11 a possibility we could get through  
12 that area. And those were two other  
13 things that were tried. And  
14 naturally that would be in the  
15 command center notes. I don't know  
16 the exact dates of those, but both of  
17 those would be in the command center  
18 notes, in addition to the bore hole  
19 drilling at the top end.

20 Q. And I believe you had also  
21 mentioned the support plan that was  
22 ultimately put in place with the use  
23 of the rock props, the chain link and  
24 the cables. Do you know any  
25 background on how that particular

1 system of support was ultimately  
2 submitted and approved?

3 A. I don't know the exact way it  
4 got to the final approval, but I  
5 think the company talked to some of  
6 their experts and they had suggested  
7 these rock props were the best suited  
8 for the conditions. Our folks in  
9 Tech Support kind of went in and  
10 looked at it. I know they talked to  
11 a number of experts that wasn't on  
12 site. And I recall having a  
13 conversation with Joe Zelanko that he  
14 had talked to a number of people on  
15 that, including Tom Barczak from  
16 NIOSH, who --- I don't want to say he  
17 agreed with it. The way Joe talked  
18 to me was he asked him what do you  
19 think would be the best thing that we  
20 could use in this case and Barczak  
21 said rock props without being, I  
22 guess, baited into saying that. And  
23 we all talked about it. When I say  
24 we, the company and MSHA at a  
25 meeting, and we decided that that

1 would be the best support that we  
2 could put in to advance in the Number  
3 One entry.

4 Q. So it was a mutual consensus  
5 of the people on site then that  
6 that's where --- that's the system  
7 that would be used?

8 A. Yes.

9 Q. I think you mentioned that you  
10 went underground twice while you were  
11 on site. Maybe if you could just  
12 describe what you --- what you saw,  
13 what your impressions were with the  
14 event, what your impressions were  
15 with the rescue and recovery efforts  
16 as you observed them?

17 A. I guess I wanted to go  
18 underground to see firsthand what was  
19 there and also to talk to the people  
20 underground about how things were  
21 going, make my own personal  
22 observations and just show the people  
23 that we appreciated what they were  
24 doing underground. So I went  
25 underground --- I believe both trips

1 me and Stickler went underground  
2 basically about the same time. And I  
3 think Al Davis may have went with us  
4 as well.

5 And I went to all four entries  
6 at 120 and saw that the material was  
7 filling all four entries and advanced  
8 into Number One entry as they were  
9 cleaning it up as far as I could to  
10 the imaginary face or where the  
11 material was gobbled at. And  
12 naturally one of the first things  
13 that I noticed was that it's kind of  
14 amazing that in most cases the roof  
15 was still in place and bolted and  
16 standing and materials almost looked  
17 to me like they were --- they had  
18 some type of scoop that gobbled the  
19 entries themselves, like you would  
20 find in crosscuts where mines take  
21 materials and gob them. That was my  
22 first observation.

23 And then we made a point of  
24 talking to the people who were  
25 working and asked them to work as

1 safely as they could. And we talked  
2 to the mine operator about trying to  
3 limit the number of people that were  
4 underground because we saw a lot of  
5 people that basically just seemed to  
6 be standing around. In these  
7 situations you find everybody wants  
8 to help. But sometimes more people  
9 is a hindrance than less. And I  
10 recall having another conversation  
11 that we needed to revise a plan to  
12 get SCSRs closer to the face just in  
13 case. And that was a conversation  
14 --- or an observation that I made as  
15 well. And we needed to tighten up a  
16 check curtain, I believe, between  
17 Number One and Two crosscut to try to  
18 force as much air up over the top of  
19 the miner as we could.

20 The second visit was similar  
21 to the first. They had advanced  
22 further into Number One entry. The  
23 rock props at that time appeared to  
24 be doing a good job. No material was  
25 coming out into the air course of the

1       Number One entry. And at that time,  
2       I felt comfortable with the  
3       conditions that I was in. I did not  
4       feel afraid for anything that was  
5       going on underground, and it appeared  
6       that the rock props, the fencing and  
7       cables were doing exactly what they  
8       were intended to do.

9       Q.       You gave me your definition of  
10       a bounce earlier. Was there anything  
11       similar to that that you encountered  
12       while you were underground on either  
13       occasion?

14       A.       There were bounce --- I guess  
15       it was referred to to me as a small  
16       bounce that occurred. You could hear  
17       something going on and it felt like  
18       the earth shifting or making some  
19       type of settling noise. It reminded  
20       me if you run a rib line section, you  
21       could hear something, but you just  
22       didn't know where it was occurring  
23       at. And there was one of those  
24       occurred when I was underground, and  
25       I could not tell you exactly where

1 the sound came from. Someone said,  
2 oh, that occurred back at 120. And I  
3 don't know how anybody could tell you  
4 exactly where anything was occurring  
5 at. I just knew that there was some  
6 sound it was giving, but I couldn't  
7 tell you where.

8 The other thing that we had  
9 Tech Support doing when I'm saying  
10 that, they set up convergence  
11 stations, and we were real interested  
12 in seeing if we were getting any  
13 convergence from these small bounces  
14 occurring. And based on the  
15 observation, we received very little  
16 movement at our convergence stations.

17 Q. You earlier stated that there  
18 were a few recommendations that you  
19 made based on your observations on  
20 the first trip underground, and one  
21 of them was to move the SCSRs closer  
22 to the face just in case.

23 A. Yes.

24 Q. What do you mean by the just  
25 in case?

1       A.       Well, in case we had another  
2 bounce and we had anybody trapped, I  
3 wanted to have the SCSRs as close as  
4 possible to where the people were  
5 working. We had a lot --- as an  
6 example, I mean, this was a big mine.  
7 It had a long travel distance to get  
8 outside. And they had a lot of outby  
9 caches of SCSRs that I didn't think  
10 was going to help us with anything,  
11 so I asked them --- or I talked to  
12 Al, I think, and I said, Al, what do  
13 you think about us moving some of  
14 these outby caches of SCSRs up there  
15 just in case something were to occur  
16 again? And Al said, you know, that's  
17 a good idea, we'll get that in the  
18 plan.

19       Q.       Was there anything that you  
20 observed or encountered that would  
21 have led you to believe that there  
22 was anything impending or ---?

23       A.       No. As I said, I mean, I was  
24 underground. I was at the face and I  
25 didn't feel uncomfortable at the

1 time. I thought that we had  
2 protection. I think we needed to be  
3 cautious, and we were doing that. We  
4 were --- we had a plan in place about  
5 how these rock props were going to be  
6 installed. And naturally the miner  
7 was done by remote control. No one  
8 could be in by any rock props. No one  
9 could be in by any areas where rock  
10 props were not installed. And the  
11 material, based on everything that I  
12 had seen and been told, was kind of  
13 loose, and we felt we were making  
14 headway and we were doing it safely.  
15 And naturally, on the 16th we found  
16 out that that wasn't to be the case.

17 Q. From the time that you arrived  
18 on the 16th until the time you left,  
19 were you in any way made aware of any  
20 of the --- the bounces that were  
21 going on underground or the --- you  
22 had mentioned some ventilation  
23 issues, I believe, or the confined  
24 space that the folks were working in.

25 A. Yes. I mean, I had --- I

1        tried to make a point of talking to  
2        our inspectors when they came out  
3        from being underground during their  
4        shifts. I can't tell you everybody's  
5        name. I specifically recall talking  
6        to Donnie Durrant when he came  
7        outside. He was the inspector that  
8        seemed to me to be on the daylight  
9        shift.

10                I had a conversation with  
11        Frank Markosek about, you know, how  
12        things were going underground, what  
13        does it look like. Could you repeat  
14        the question again? I know you asked  
15        about the inspectors, but I know you  
16        asked about something else.

17        Q.        Well, I guess I had started  
18        off, were you --- did you review the  
19        logs of what was going on underground  
20        or were you aware that there was ---  
21        of some of the hazards or potential  
22        hazards that were being encountered,  
23        such as some of the bounces that you  
24        referred to, the low oxygen or the  
25        ventilation issues, the confined area

1 that the folks were working in?

2 A. I was aware of that. And I  
3 did try --- when I got to the mine in  
4 the morning, I tried to review the  
5 command center log from the previous  
6 night and just kind of look over what  
7 was going on. And I was aware of  
8 calls outside saying that a small  
9 bounce had occurred or a bounce had  
10 occurred and I --- I was aware of  
11 that.

12 Q. And I think you did mention  
13 that you talked with some of the  
14 inspectors. You mentioned Donnie  
15 Durrant, Frank Markosek by name. Do  
16 you recall what they shared with you  
17 or how they --- when you asked them  
18 how things were going, what they  
19 said?

20 A. I'm sure that you'll interview  
21 them and they'll speak for  
22 themselves, but they basically were  
23 --- I guess I'll call it cautiously  
24 optimistic that we were moving  
25 forward. And naturally it was the

1 situation where everybody needed to  
2 be concerned, but they felt that  
3 everything was going okay. And you  
4 know, we naturally gave them the  
5 authority that if they didn't think  
6 it was going okay and they needed to  
7 do something, that they had the  
8 authority to do so.

9 Q. In your conversations with the  
10 MSHA inspectors or the MSHA folks on  
11 site or any of the miners that you  
12 may have spoke with, company folks,  
13 while you were underground, did any  
14 of those folks express any kind of  
15 concern for continuing the operation?  
16 I mean, I understand that there's  
17 always a concern when you're in a  
18 situation like this, but ---.

19 A. I personally didn't hear  
20 anybody say that there was any reason  
21 to stop the operation or that they  
22 felt uncomfortable. And I know at a  
23 news conference someone asked Bob  
24 Murray a question that they heard  
25 about miners not being --- or not

1       wanting to go underground and work.  
2       I didn't dig into any of that at the  
3       time. I don't know if that was the  
4       case. Murray made the statement that  
5       they were wearing people out and they  
6       were getting tired. They were  
7       bringing other people in to do this,  
8       that he made the statement that he  
9       didn't know of anybody not wanting to  
10      go there because they were afraid.

11               I don't think any of my folks  
12      from MSHA --- I'm sure there was  
13      always a --- naturally, if you're  
14      underground in an emergency  
15      situation, you have to --- no matter  
16      how many times you did it, I'm sure  
17      you have to be afraid to a certain  
18      extent. But I don't think any of my  
19      folks that I talked to thought that  
20      there was going to be another bounce  
21      that something that happened on the  
22      16th.

23               I've heard rumors, and I don't  
24      know if this is true, that Gary  
25      Jensen had some type of conversation

1 with someone. Personally, I talked  
2 to Gary a number of times, and I  
3 never --- he never raised that issue  
4 with me.

5 Q. You mentioned the accident on  
6 August 16th. Were you at the mine  
7 when that occurred?

8 A. I was not. I was in the  
9 process of traveling back to the  
10 hotel when I received a phone call  
11 from Bob Cornett. And Bob told me  
12 that we've had a big bounce, we got  
13 two possible fatalities. And he  
14 said, we got people unaccounted for.  
15 And you could hear it on the mine  
16 phone in the background that --- you  
17 know, that it was a bad situation, so  
18 I just turned the car around. And I  
19 think I may have called Stickler and  
20 told him he needed to get back to the  
21 mine.

22 Q. You were by yourself?

23 A. I was by myself.

24 Q. Then you turned around  
25 and ---?

1       A.           Turned around and got back to  
2       the mine. I got back to the mine  
3       before they were bringing any injured  
4       people outside, so it didn't take me  
5       that long to get back. I beat some  
6       of the ambulances to the site. And I  
7       had a conversation with a number of  
8       people from --- I made sure that ---  
9       you know, it sounded like this bounce  
10      was pretty extensive. And I wanted  
11      to make sure the miner operator --- I  
12      talked to him. I said, you need to  
13      have someone up here to check  
14      everybody out of the mine. We need  
15      to get a list of who's going into the  
16      mine.

17                I made arrangements, talking  
18      to our MSHA mine rescue team. I  
19      wanted them geared up to go in  
20      because someone --- somewhere in the  
21      conservation they said there's some  
22      low oxygen coming back at us. I was  
23      concerned about that. I said, we  
24      need to make sure we get the  
25      ventilation up as best we can. I

1 thought we may need people under  
2 oxygen to retrieve people that were  
3 injured or involved in this latest  
4 bounce.

5 I guess that was --- at that  
6 time ---. I talked to the sheriff at  
7 the time and I told the sheriff we  
8 needed to get some --- we needed to  
9 make sure we had enough  
10 transportation to get people out of  
11 here that were injured. And he said,  
12 helicopters are already on the way.  
13 We had ambulances here. We got  
14 enough to take care of the people.

15 And the phone conversations  
16 started coming outside saying that,  
17 you know, they're in the process of  
18 transporting injured people out.  
19 And, you know, I was there when all  
20 the injured people came out of the  
21 mine. Naturally, it ended up being,  
22 I think, nine injured. And I knew  
23 that one of them, when he came out of  
24 the mine, he was dead. And I believe  
25 it was Mr. Black. And there was

1 another guy that they were performing  
2 CPR on, Mr. Kimball, that I know he  
3 was in a bad way.

4 As far as --- Frank Markosek,  
5 when he came out, he looked --- in my  
6 opinion, (b) (7)(C)

7 did. Frank (b) (7)(C)

8 (b) (7)(C) He was conscious, and we  
9 were talking to him. And he got in a  
10 helicopter and was taken away. And  
11 then Gary came out shortly after  
12 that. And Gary was alert and  
13 conscious and I was talking to Gary.  
14 A number of us, me, Urosek and Larry  
15 Ramey, I recall was with Gary. And  
16 Gary was in a lot of pain in his  
17 back. And Gary asked, you know, how  
18 is everybody else doing? And you  
19 know, we told him, you know, we've  
20 accounted for everybody, we need to  
21 just --- we need to get you out of  
22 here and get you some treatment. So  
23 Gary got on a plane.

24 And I asked Al at that time, I  
25 said, Al, I said, we need to notify

1 their families and get them to  
2 whatever hospital these guys are  
3 going. So Al jumped on that. And,  
4 you know, we got everybody accounted  
5 for and out of the mine, and we  
6 thought we had two fatalities,  
7 Kimball and Black. And then probably  
8 about nine or ten o'clock or so the  
9 sheriff called me over, Sheriff  
10 Guymon, and he said, we think we may  
11 have a third fatality. And he says,  
12 it may be one of your guys. And  
13 well, naturally, you hope he's wrong.

14 And he got on the phone with  
15 someone and he said, we can't confirm  
16 it, though, he says. He says, maybe  
17 it was just some bad information.  
18 And he said, we'll get back with you  
19 if something changes. Probably a  
20 half hour went by and I mean I was  
21 just nervous as hell. And he did  
22 come back over to me and said Gary  
23 had died. And I had a meeting and  
24 told all our MSHA people.

25

MR. GATES:

1                   Let's go off the record  
2                   and take a shirt break.

3           SHORT BREAK TAKEN

4           BY MR. GATES:

5           Q.           Kevin, you mentioned before we  
6           quit that you had passed along word  
7           to the MSHA folks on site that Gary  
8           Jensen had passed away.   What  
9           happened after everybody got out of  
10          the mine on the 16th?

11          A.           Well, we --- naturally, we  
12          made a decision that it was unsafe to  
13          do anything underground at that time.  
14          I mean, something happened that I  
15          don't think anybody saw coming to  
16          that extent.   And I think it was at  
17          that time that we made a decision  
18          that no one could go inby Crosscut  
19          105, I believe it was.   We modified  
20          the K Order, put a plan in place, no  
21          inby 105.

22                   And the next day I think we  
23          talked about having a number of other  
24          experts come in to get their opinion  
25          as to whether there was any way we

1       could try to move forward  
2       underground.   And it was that Sunday  
3       after this accident occurred on the  
4       16th that there were a number of  
5       experts, both from the government and  
6       from private industry, that spent the  
7       day at the mine.   And then they sat  
8       down with a number of folks, and the  
9       two most knowledgeable from our side  
10      was Mike Gauna and Joe Zelanko and I  
11      believe Joe Cybulski ---.   I'm sorry,  
12      I don't know if Mike was out there at  
13      the time, and basically worked with  
14      them to have any questions answered  
15      that they had as far as roof control  
16      expertise.

17                 And they made a statement  
18      later --- they wrote a statement  
19      later in the day saying that they  
20      didn't see any way that it was safe  
21      for anybody to try to advance  
22      underground.   And after that time,  
23      then we focused our efforts from the  
24      surface, solely through bore holes.

25      Q.         On the 16th, after everybody

1 had got out of the mine, was there  
2 any kind of debriefing of the folks  
3 who were underground in an attempt to  
4 learn what might have taken place or  
5 what did take place?

6 A. Yes. There was a debriefing  
7 at --- there was a joint, I guess,  
8 debriefing between us and the  
9 company. And we got everybody  
10 together in --- I guess it's the  
11 mechanics' room on the bottom floor  
12 of the office building. And Richard  
13 Stickler was there and myself, Al  
14 Davis. The company had personnel  
15 there, Bob Murray, Laine Adair. Just  
16 about everybody that was there  
17 through the whole process was there  
18 that evening. And there was, I  
19 guess, a map put up on the wall. And  
20 they tried to interview the people  
21 who weren't taken away to the  
22 hospital in the ambulances to try to  
23 determine at that time what occurred.

24 And basically what I recall at  
25 the time --- and there should be some

1 type of map left on there, what I  
2 recall is the installation --- the  
3 mining had been ceased and the mining  
4 machine had been backed up. And they  
5 had installed rock props on the left  
6 side of the Number One entry and they  
7 were in the process of installing the  
8 rock props on the right side of the  
9 entry or the solid side when, without  
10 any type of notice, the rib between  
11 the Number One and Two entry bounced  
12 and approximately 30 foot of the  
13 material in that pillar was blown out  
14 into the Number One entry, trapping  
15 the individuals, or the nine  
16 individuals that we talked about  
17 earlier, to the point that they had  
18 to be dug out.

19 My understanding was some of  
20 them was trapped from the waist down  
21 and some of them I believe may have  
22 been covered with coal. And they  
23 were dug out by the people that were  
24 up on the section. And there were  
25 about eight rock props, to the best

1 of my knowledge, that had been blown  
2 out from the right side of the Number  
3 One entry, thrown towards the left  
4 side of the Number One entry.

5 Q. So it's your recollection from  
6 that debriefing that the support was  
7 in the process of being installed on  
8 the right side or it had been or ---?

9 A. To the best of my  
10 recollection, it was being installed  
11 on the right side from when this  
12 occurred.

13 Q. And we've certainly, as a part  
14 of the investigation, talked to  
15 everybody that we think can share ---  
16 that has any relevant information to  
17 what happened on the 16th. Do you  
18 recall who may have said that, where  
19 that information may have come from?

20 A. I don't know that. It was  
21 during the same time frame that the  
22 sheriff kept calling me out of the  
23 room to talk to me.

24 Q. Okay. Did you have anything  
25 to do with putting this panel of

1 experts together that you referred  
2 to?

3 A. Yeah. I mean, naturally, I'm  
4 not knowledgeable as to who the  
5 experts are. But when we did come up  
6 with a group, there was some work  
7 with our headquarters' office, with  
8 the Solicitor's office and there was  
9 some concern from these individuals  
10 from the private industry about legal  
11 protection. And I was working with  
12 Joe Zelanko and Joe Cybulski and Ed  
13 Clair into crafting some kind of  
14 letter to indicate that if they were  
15 ever personally sued by UtahAmerican,  
16 that MSHA would be their legal  
17 representation. So we were trying to  
18 get that done the day they were  
19 there. And it wasn't completed until  
20 I believe the following day, on that  
21 Monday. And I had to go meet with  
22 three of the individuals who were  
23 private consultants and sign a  
24 letter, along with them signing the  
25 same letter, saying that the

1 government would provide legal  
2 services for you for this one-day  
3 window that you were at the mine site  
4 and you were part of this statement  
5 that there's not a safe way to  
6 advance underground.

7 Q. Is that what ultimately  
8 confirmed the decision then to  
9 suspend the activity in by 107?

10 A. Yeah, I think it confirmed it.  
11 I think we were in a position after  
12 what occurred on the 16th that there  
13 just --- we were 99 percent positive  
14 that there was no safe way to get in  
15 there, and they gave us that  
16 additional one percent from an  
17 independent view rather than the  
18 people that were on site and were  
19 emotionally involved with what  
20 occurred on the 16th.

21 Q. Changing gears a little bit,  
22 are you familiar with the seismic  
23 equipment that the agency brought to  
24 Crandall Canyon?

25 A. Yes.

1 Q. And did you have any input  
2 into the decision to bring that?

3 A. Didn't have any input into it,  
4 but I was aware that shortly after  
5 the accident occurred on the 6th, I'm  
6 not sure if Crocco just told them to  
7 go ahead and do it or if John Urosek,  
8 who's in charge of the MEO, decided  
9 to send it, but I was in agreement  
10 that we needed to do just anything we  
11 could to try to get out to the mine  
12 site. Whether we needed it or not,  
13 we wanted to get it on the road. And  
14 ultimately, it went on longer than a  
15 couple of days, so the equipment did  
16 get to the mine site.

17 Q. And how would you characterize  
18 the effectiveness of that seismic  
19 equipment in the rescue and recovery  
20 efforts?

21 A. My experience with it is it's  
22 never done much for us. But I guess  
23 in a situation like this, I mean, you  
24 kind of want to use every possible  
25 tool that you may have. And while I

1 didn't have much expectation out of  
2 it, I figured that it didn't hurt us  
3 to have it on site.

4 Q. Was there any information that  
5 was gained from the seismic equipment  
6 that affected any decisions on how to  
7 proceed with the rescue and recovery?

8 A. Yes.

9 Q. What would that have been?

10 A. The location where we drilled  
11 the fourth bore hole.

12 Q. If you would explain how all  
13 that evolved.

14 A. Okay. Do you want me to start  
15 with bore hole one or do you just  
16 want me to get into where the seismic  
17 was?

18 Q. Why don't we just go into the  
19 --- start with the seismic or we'll  
20 finish with the seismic, and then  
21 we'll get into bore holes all  
22 together.

23 A. Shortly after bore hole three  
24 went into the mine, Jeff Kravitz, who  
25 was at the bore hole locations, said

1 that there was some movement on his  
2 seismic readings that indicated that  
3 there was some type of communication  
4 that he could not --- that appeared  
5 like it was something from  
6 underground, near Crosscut 142 or  
7 141. And I asked him to --- I asked  
8 a helicopter to go get him and bring  
9 him back down with the information to  
10 --- for the people in the command  
11 center from MSHA and the company to  
12 review. And for him to kind of  
13 explain his reasoning behind why he  
14 thought that it may be communication  
15 from underground.

16 So he brought it down and he  
17 talked to me about why he thought  
18 that it showed that there may be some  
19 communication from underground. And  
20 he says that all the equipment was  
21 turned off for a short period of time  
22 up there. There was no movement  
23 around where the geophones had been  
24 set up. And he says if you look at  
25 it, there basically looked like there

1 was a certain number of tappings from  
2 underground and a distinct period of  
3 time, like every second-and-a-half,  
4 for a while, then it stopped and then  
5 it started up again. And we  
6 basically used that information to  
7 where we wanted to put bore hole four  
8 into the mine.

9 Q. So bore hole four was drilled  
10 in the vicinity of where Kravitz felt  
11 these noises were coming from?

12 A. It was in the vicinity, when I  
13 looked at the map, I thought that  
14 would be the next logical location,  
15 somewhere in that area, to put a bore  
16 hole. Even if he didn't give me that  
17 information, I would have been  
18 politicking for something in that  
19 area, I believe.

20 Q. Do you know if Kravitz or any  
21 of the folks that he was working with  
22 ever did any kind of tests  
23 underground to determine if they  
24 could, in fact, detect a pounding on  
25 a bolt or anything?

1       A.       They had done tests in the  
2       past. My understanding was that this  
3       information had --- the testing in  
4       the past had shown where you could  
5       detect up to about a thousand foot  
6       underground. Now, naturally we're  
7       breaking new ground here because this  
8       is over 2,000 foot. But again, we  
9       basically --- we had nothing else  
10      available to us to use, and we were  
11      basically at the end of our rope.  
12      And if we felt that there was  
13      something that we could use, we  
14      wanted to at least try.

15      Q.       Let's go back to the bore  
16      holes in general. Do you know when  
17      the first discussions took place to  
18      drill a bore hole?

19      A.       Before I got there. And the  
20      decision was made early on, on that  
21      first day where the bore holes would  
22      go in. And as I said, the first one  
23      was a helicopter drill that ---  
24      because of the topographic area up  
25      there, naturally you had to build

1 roads to get up there. But they  
2 thought by bringing this helicopter  
3 drill in, that it would be the best  
4 chance of getting some in quick. And  
5 I believe it was only a two-and-a-  
6 half inch hole. And it was supposed  
7 --- the intent was for it to go in at  
8 Crosscut 138, entry number three.  
9 And in addition to that, they were  
10 starting to build a road, and the  
11 second bore hole was to go in at  
12 Crosscut 137, at entry number two.

13 Q. Do you know why those  
14 particular locations were selected?

15 A. 138 Crosscut Three was  
16 somewhere around the area. I guess  
17 we would call it like the lunchroom,  
18 I believe, where they would expect  
19 people to congregate. And 137  
20 Crosscut Two would have been  
21 somewhere around the belt tail piece.

22 Q. Those decisions to drill at  
23 those locations were made prior to  
24 you arriving?

25 A. Yeah. I don't think I had any

1 conversation or input into where they  
2 went in. I knew where they were  
3 going in before I got to the site,  
4 but I think that decision --- I don't  
5 think I had any involvement in,  
6 Kevin, where do you think the bore  
7 hole should go in at. I think they  
8 already made those decisions on those  
9 first two before I had any  
10 involvement in the decision making.

11 Q. So how was the decision then  
12 to move to bore hole three arrived  
13 at, or do you know?

14 A. Yeah, I do know. When bore  
15 hole one and two went in and when we  
16 saw the oxygen content at those bore  
17 holes, I mean, that just kind of  
18 broke me. I just --- when we saw  
19 seven or eight-percent oxygen, I  
20 mean, I just knew that there's no way  
21 that anybody could be surviving in an  
22 atmosphere like that. So I looked at  
23 the map. I'd say probably myself and  
24 John Urosek had the biggest input  
25 into this, is the best chance at

1 survival was knowing that this area  
2 had been pillared, but we still had  
3 the bleeder standing. They would try  
4 to get away from it as far as they  
5 could. They naturally couldn't come  
6 out because we had blockage in all  
7 four entries. So I looked at it if  
8 was underground, what I would do, and  
9 I would try to build a barricade  
10 between Crosscuts 140 and 141, where  
11 we only had three entries, and try to  
12 get as far away from this as I could,  
13 which would be the back end of the  
14 bleeder system in near Crosscut 148,  
15 147, in the Number Four entry.

16 So I'd say the company  
17 probably logically looked at it the  
18 same way and felt that would be the  
19 location where the next bore hole  
20 should go in. So it wasn't a hard  
21 sell to anybody to get the number  
22 three bore hole put in back in the  
23 bleeder system.

24 The bore hole went through  
25 and, as it turned out, it was our

1 highest concentration of oxygen. It  
2 was about 16-percent oxygen, I  
3 believe. And shortly after one and  
4 two went in --- let me just back up.  
5 We made a decision that --- after we  
6 got the cameras down and we saw what  
7 we were going to see, we decided to  
8 try to pump air into the mine. And  
9 that was --- I was involved with that  
10 decision making. I said, we need to  
11 get as much air in there as we can.  
12 And I think we did that in one or two  
13 and then we sampled out of the other  
14 one.

15 And then we put three in, and  
16 there was about 15-and-a-half percent  
17 oxygen, I think was the lowest  
18 reading that we saw, and that's when  
19 Kravitz said that he thought he saw  
20 some type of communication near  
21 Crosscut 141. So we made the  
22 decision to start pumping oxygen in  
23 Number Three as well because we  
24 thought --- I mean, now we're  
25 grasping for straws, but maybe --- we

1 got barricades across between 140 and  
2 141 and there's some reason that  
3 these people can't travel up to the  
4 bottom in Number Three to let us know  
5 that they're there. So we decided to  
6 put another bore hole in where Number  
7 Four was located at, at Crosscut 142  
8 and pump air into three, with the  
9 hopes that maybe some of this air  
10 that we're pumping in could get to  
11 the people that were located down  
12 near where he had heard the  
13 communication.

14 Q. Was he ever able to further  
15 define that noise that he heard?

16 A. No.

17 Q. So it's still unexplained  
18 or ---?

19 A. To me it is. And four went  
20 in, and there was lower oxygen at  
21 four than there was at three. I  
22 believe it was somewhere around 12  
23 percent. And naturally there was no  
24 communication from anyone. I believe  
25 Three and Four --- when I look back,

1 I think we had void space and there  
2 was enough --- the bounce material  
3 didn't make it to either of those  
4 locations. And I believe in three  
5 you could still see a stopping  
6 standing in the crosscut. So the  
7 bounce had not affected that area in  
8 the back of the bleeder system.

9 And then after we had  
10 everything done here, it looked like  
11 that would have been ---. If the men  
12 could have made it through or did  
13 make it through the initial bounce,  
14 their best chance at survival would  
15 have been going back into that area  
16 back there.

17 After bore hole number four  
18 --- I guess you never lose hope in  
19 these situations. But I mean, our  
20 chance of anybody surviving, in my  
21 opinion, at that time greatly  
22 decreased when I saw the bottle  
23 sample, the results at four. Up  
24 until four I think I still held out a  
25 hope. But after four, it definitely

1       lessened, in my view. And I guess  
2       bore hole five was put in where it  
3       was in the Number One entry because  
4       there was a feeling, number one, we  
5       wanted to know how, if this bounce  
6       had been extensive enough --- because  
7       we didn't know where it ended on the  
8       inby side. We wanted to put it in in  
9       that area there and see if it reached  
10      the inby point of the bounce. And  
11      also there was a feeling among the  
12      mine employees that if the people  
13      tried to escape, they would probably  
14      try to come straight down Number One.  
15      So that was the reason that the fifth  
16      bore hole went in there.

17      Q.       That was ---?

18      A.       At Crosscut 133, in the Number  
19      One entry.

20      Q.       That was the fifth bore hole  
21      --- I mean, I think you've described  
22      three and four very well, as far as  
23      the input that you had. But the  
24      fifth hole's location was more the  
25      idea of coming from the company?

1       A.       I think it was more the  
2       company's impression.  And I think we  
3       agreed with it because we wanted to  
4       see if the bounce --- how far the  
5       bounce extended inby.  Because where  
6       one and two went in we had void space  
7       there.  We had void space at Three  
8       and Four, so we wanted to see what we  
9       had in the Number One entry at  
10      Crosscut 133.  And I believe when  
11      five went in, there wasn't much void  
12      space at all.  It indicated that the  
13      bounce had continued in all  
14      probability from 120 up to at least  
15      133.

16                So the next decision was made,  
17      let's put it in close to where we  
18      think they may have been mining.  And  
19      we got that information based on, I  
20      guess, someone had just generally  
21      talked to the people who had been in  
22      there the shift before.  It wasn't  
23      any type of interview that ---  
24      anything close to what you folks are  
25      doing, but we just basically wanted

1 an idea of where mining was taking  
2 place. And there was some discussion  
3 whether we should put it right where  
4 we thought the miner was or we should  
5 back it up to Crosscut 138. Because  
6 if we put it back to 138, we could  
7 drop a camera in look in three  
8 different directions rather than  
9 where the miner was located. And the  
10 decision was made at the time that  
11 let's put it in close to where the  
12 miner was located. I personally  
13 would have preferred it to be back at  
14 138, but I had no knowledge that I  
15 would see anything different at 138  
16 rather than 138-and-a-half.

17 Went in at 138-and-a-half, and  
18 again, I think it was --- there was  
19 no void space in the cross --- in the  
20 bore hole. And then lastly, a  
21 decision was made to put it in close  
22 to where this dinner hole was  
23 located, bore hole number seven,  
24 between Crosscut 137 and 138. Again,  
25 I think initially that bore hole one

1 was supposed to go down somewhere in  
2 that general vicinity to see if the  
3 miners had made it to --- that's  
4 probably the location of the section  
5 where rescuers were stored, where  
6 their vehicle may have been stored.  
7 And when seven went in, I guess there  
8 was no void space there either.

9 So looking at the big picture  
10 of what we had found through the use  
11 of --- or through bottle sample  
12 results, the analysis of the low  
13 oxygen, the no void space in any of  
14 the areas out here at five, six or  
15 seven, I guess a decision was made by  
16 the mine operator and agreed by us  
17 that there was really no chance that  
18 anybody could be surviving  
19 underground. And just prior to these  
20 bore holes going in --- not just  
21 prior, probably in the week leading  
22 up to this, there was some discussion  
23 of drilling a bore hole big enough  
24 from the surface to drop people into  
25 the mine.

1                   MR. GATES:

2                   Can we take just a  
3                   couple minutes --- or just a  
4                   second here and go off the  
5                   record?

6                   OFF RECORD DISCUSSION

7                   BY MR. GATES:

8                   Q.           Okay. Kevin, I think you were  
9                   starting to describe some of the  
10                  thoughts about the possibility of  
11                  drilling a bore hole that would allow  
12                  mine rescue people to be --- to enter  
13                  the mine.

14                 A.           Yes. As this was going on in  
15                  time and the family members I guess  
16                  were told that there's no safe way to  
17                  proceed underground, a number of  
18                  questions came up from them, as well  
19                  as the media, as to why not drill a  
20                  30-inch bore hole from the surface  
21                  and have rescue people enter the mine  
22                  from one of the bore hole locations.  
23                  I was just naturally --- I guess you  
24                  consider it, but based on what we  
25                  had, the air concentrations, the

1       2,000 foot of cover minimum in the  
2       area, the fact that the earth was  
3       still, I guess, moving, we decided  
4       that it was not an acceptable risk to  
5       send any rescue teams underground in  
6       that way. And the family members had  
7       came up with volunteers, basically,  
8       they said, that would go in.

9               And that was kind of an issue  
10       that we had to discuss at great  
11       length. And it's probably something  
12       that they're still not happy about,  
13       that they felt that that was an  
14       avenue that we should have addressed  
15       and went further.

16              And I guess my opinion, and I  
17       don't think I would have been  
18       overruled on this, that if we ---  
19       naturally, if we had any live people  
20       in the mine, that we would have done  
21       that. We would have taken that  
22       chance and gone in with the capsule,  
23       with people, to get them. Based on  
24       what we had, we just didn't feel that  
25       there was a possibility that anybody

1 was alive, so we just didn't think  
2 that that was a chance to take.

3 Q. When you say we, are you  
4 referring to MSHA ---

5 A. Yes.

6 Q. --- or the mine operator or  
7 both?

8 A. I think MSHA. I heard a  
9 number of comments from the mine  
10 operator that they didn't even know  
11 if it would be safe if there were  
12 people alive. And I just don't  
13 understand how anybody could take  
14 that position. I think ---.  
15 Personally, if there were people  
16 alive, I don't care what the operator  
17 wanted to do, we were going in after  
18 them.

19 Q. Was there ever any  
20 consideration given to utilizing more  
21 than one drill rig during the course  
22 of the surface operations?

23 A. There was. We talked about it  
24 a number of times with the mine  
25 operator. And their comment was that

1       there wasn't enough space to service  
2       more than one drill. I know Richard  
3       Stickler had that conversation with  
4       Bob Murray, and I had that  
5       conversation with a number of their  
6       people as well, that we were wasting  
7       time getting from one bore hole set  
8       up to another, and it would be a lot  
9       more beneficial if we had another  
10      drill that was actually there that  
11      could --- drill more than one at a  
12      time is okay. I mean, there was no  
13      reason we couldn't have more than  
14      one. And their answer to us always  
15      was that the water trucks and the  
16      things on the road up there, we just  
17      can't handle more than one drill at a  
18      time.

19      Q.        What's your thoughts on that?

20      A.        I don't agree with that. I  
21      think we could have handled more than  
22      one at a time. And we even looked at  
23      the possibility of --- we discussed  
24      it with the Solicitor's office on  
25      whether we could force the mine

1 operator to drill more than one or  
2 whether we had the authority to  
3 consider a J Order and actually take  
4 over. And thirdly, we looked at the  
5 possibility of us paying for a  
6 drilling operation. Those  
7 conversations were with Ed Clair that  
8 I had. And I believe Richard  
9 Stickler may have had some  
10 conversations with the main Labor  
11 Department about that.

12 And naturally nothing ever  
13 came about that and we lived with one  
14 drill, but it was a topic of concern  
15 for us, did we have the authority to  
16 force the operator to drill more than  
17 one at a time. And it just --- I  
18 guess by the time it got to the point  
19 of us moving forward on anything we  
20 wanted to do, he would set up on  
21 another bore hole. Or as it got  
22 closer to the end, with these five,  
23 six and seven bore holes, it really  
24 didn't seem like it mattered.

25 Q. And maybe I didn't follow up

1 very well to kind of close the loop  
2 as to why there wasn't a bore hole at  
3 number eight.

4 A. I can only speak for myself,  
5 but after the seventh bore hole, we  
6 didn't really feel like there was  
7 anywhere else that we were going to  
8 gather anything from. We had been in  
9 three of the four entries. We had  
10 basically put four bore holes in  
11 around the area where we thought they  
12 were working. We had put two bore  
13 holes in in the back end of the  
14 bleeder system, where we found it to  
15 be the highest concentration of  
16 oxygen. And we just --- I personally  
17 didn't think that any other bore  
18 holes were going to be of much  
19 assistance to us to find anything out  
20 because the low oxygen and the amount  
21 of material that we saw in the  
22 entries, there was no way, in my  
23 opinion, that anybody could have been  
24 surviving at that time.

25 Q. So did that effectively end

1 the rescue/recovery operation?

2 A. It ended the rescue and I  
3 guess it ended the recovery as well,  
4 you're right. Yeah, that effectively  
5 ended it. And I believe our position  
6 is, we've left a door open that if  
7 there was a safe way to get in there,  
8 we would consider approving it. You  
9 know, one of the things I looked at  
10 was there's this big fault out there  
11 that's a thousand-foot fault from  
12 Joe's Valley. I mean, one of the  
13 things that you had --- if you had  
14 the money, you could possibly drive a  
15 slope from that Joe's fault into the  
16 back end of this bleeder system at  
17 148 or so to come in, because that  
18 was the area that seemed to be  
19 standing the best. So I mean, I  
20 guess I've taken the position, I  
21 think Richard Stickler has, too, that  
22 we'd never say never, but, you know,  
23 naturally, that would be a very  
24 time-consuming and expensive  
25 proposition to try to get back into

1       there.

2       Q.           Were those ideas or  
3       suggestions shared with the mine  
4       operator?

5       A.           I think I had a conversation  
6       with Laine Adair and Bruce Hill about  
7       that, you know, just brainstorming  
8       basically. You know, as far as this  
9       rescue operation, there's no way that  
10      you could get in there in a  
11      reasonable amount of time and still  
12      expect anybody to be alive. But I  
13      mean, if it ever got to the point  
14      that someone felt the need that we  
15      had to go in and try to retrieve  
16      bodies, to me that would probably be  
17      the safest way to do it.

18     Q.           Are you aware of any plans or  
19     ideas that the mine operator has had  
20     subsequent to the completion of bore  
21     hole number seven to re-enter the  
22     mine?

23     A.           No.

24     Q.           There's been a lot of --- I'm  
25     sure you've been a part of it, a lot

1 of discussion and a lot of attention  
2 given to allowing members of the  
3 media and some of the family members  
4 to go underground during the rescue  
5 and recovery operations. What  
6 impact, if any, did you see this  
7 having on the rescue and recovery  
8 efforts?

9 A. I don't see it having any  
10 impact on the rescue and recovery  
11 operation. I guess you had to be  
12 part of the family briefings. As  
13 you're aware, I was part of the Sago  
14 briefings, and it's a very difficult  
15 situation when you brief the  
16 families. There's nothing ---  
17 especially after the fact or during  
18 that --- there's just no way you can  
19 convince them that you're advancing  
20 as quickly as you can but doing it  
21 safely.

22 I think I saw this kind of  
23 getting --- it was kind of built to  
24 the point that the family members  
25 just really didn't accept that things

1        were moving as quickly as possible,  
2        and a decision was made between  
3        Richard and Bob Murray to take two  
4        family members underground. And both  
5        of them were experienced miners. The  
6        one individual was on the San Juan  
7        mine rescue team, a very  
8        knowledgeable kid on what could and  
9        should be done, and he gave us his  
10       opinion on things. And I think, you  
11       know, in a means to try to show the  
12       families that everything was being  
13       done as possible, they decided to  
14       take these two family members  
15       underground and let them come outside  
16       and basically share with the family  
17       their thoughts of what they saw. So  
18       that was something that Richard and  
19       Bob had agreed to.

20                Now, there was a news  
21       conference --- it was one evening.  
22       I'm not sure which evening it was,  
23       but Bob Murray and Richard were  
24       holding it. I was just in the back,  
25       listening to them. And Bob Murray

1       made the statement to the press ---  
2       or asked a question to the press,  
3       does anybody have a certain bulb that  
4       can be used in a camera that's taken  
5       underground. And apparently someone  
6       --- I don't know if it was Jerry  
7       Taylor or someone that was taking  
8       pictures underground didn't have the  
9       right bulb for a camera. And he  
10      asked the media if they had any, and  
11      he said --- I think he was the one  
12      that said it at the time that if you  
13      give us a bulb, we'll consider or  
14      we'll take you underground so that  
15      people could see firsthand what it  
16      looks like.

17               And this was all going on  
18      during this press conference. And  
19      Richard is standing right next to  
20      them. And they have --- the press  
21      conference continues. At the end of  
22      the press conference, you know,  
23      they're still asked a couple of  
24      questions and they're having a  
25      conversation. And there's a couple

1 of media people that --- I don't know  
2 how they were selected, but they were  
3 taking like two cameramen and maybe  
4 two spokesmen underground.

5 And I get up to Richard after  
6 the news conference breaks and ---.  
7 I'm not sure we had much of a  
8 conversation about it, but, I mean he  
9 was ---. I kind of knew that he was  
10 in agreement with it, to send --- to  
11 let the media go underground because  
12 I think in his mind --- I talked to  
13 him afterwards, he wanted the  
14 families to see the photos as well as  
15 having this conversation with the two  
16 mine rescue people. He thought that  
17 --- I think he told me a picture is  
18 worth more than a thousand words, and  
19 he basically wanted them --- wanted  
20 the families to actually see what was  
21 going on.

22 Shortly after that I got a  
23 phone from --- Bob Cornett, I think  
24 it was, called me and he says  
25 something like, there's people up

1 here that thinks they're going to go  
2 underground from the press. And I  
3 said, well, they are. He said, what?  
4 And I said, well, I said, we just had  
5 a press conference down here and  
6 Richard and Bob agreed that we were  
7 going to allow a couple of press  
8 people to go underground. I said,  
9 but I want you and Ted Farmer to go  
10 with them and, you know, make sure  
11 they don't get into any areas that  
12 are a hazard and make sure they get  
13 their correct training up at the mine  
14 site before they go in as far as SCSR  
15 training, hazard training. And you  
16 need to stay with them wherever they  
17 go underground. And they said, okay.

18 So it was basically something,  
19 I guess, that came up in the press  
20 conference that Bob talked about.  
21 And I guess because Richard didn't I  
22 guess approach him to say no, by the  
23 end of the press conference, I just  
24 talked to Richard and there was like  
25 an unwritten rule --- or unwritten

1 word that --- in my opinion, from him  
2 that it was okay for these people to  
3 go. So I didn't approach him and say  
4 I thought it was a bad idea or a good  
5 idea or anything like that.

6 Q. But you were or weren't aware  
7 of any negative repercussions or any  
8 delays or any impact on the efforts  
9 that were going on underground by  
10 this decision?

11 A. Right. I didn't think that it  
12 would hold up any work that was going  
13 on underground. And I do think it  
14 was beneficial for the families to  
15 actually see how bad the conditions  
16 were and how dire they were because  
17 eventually they were --- I was more  
18 interested in what the families was  
19 getting out of than the media, quite  
20 frankly. It was --- they were  
21 wondering why is it taking so long,  
22 and I did think that this would help  
23 them understand how much material was  
24 in the entries themselves that was  
25 actually being cleaned up.

1 Q. Were you aware of any security  
2 issues anywhere on the property  
3 during the rescue and recovery  
4 efforts?

5 A. Not that comes to mind at all.  
6 I don't know of any. The sheriff  
7 basically --- the Sheriff's  
8 Department provided pretty tight  
9 security, I thought, for us out  
10 there.

11 Q. And I asked you a minute ago  
12 about the decision to allow the  
13 family members and the media and  
14 whether or not that had any negative  
15 impact on the efforts. Was there  
16 anything that you observed on behalf  
17 of the mine operator that would have  
18 impeded the rescue and recovery  
19 efforts?

20 A. Not that I can recall right  
21 now.

22 Q. When did you last visit the  
23 mine? You mentioned you were there  
24 the evening of the accident on the  
25 16th. I don't know if you went back

1 or not.

2 A. I was at the mine probably  
3 every day through August the 29th.  
4 And then I went out the following  
5 week again. Me and Richard both came  
6 back to D.C., I believe it was August  
7 29th. And he stayed back and I went  
8 back out there. And I believe I was  
9 at the mine site that following week  
10 as well.

11 Q. Do you know why you went ---  
12 what you went back for?

13 A. Just I think the bore holes  
14 were still continuing to be drilled  
15 and we were still having family  
16 briefings. And it didn't turn out  
17 that way, but I wanted to be there  
18 when we told the families that the  
19 operation was no longer --- we were  
20 no longer going to proceed in the  
21 rescue and recovery phase.

22 It didn't happen that way. I  
23 came back to D.C. for something, and  
24 when I was back in D.C. is when we  
25 made the decision that we were going

1 to cease the rescue and recovery  
2 operation, and Al Davis talked to the  
3 families about that. But that was  
4 one of the reasons I went back out  
5 there. And it just didn't work out  
6 that way.

7 Q. Are there any other issues  
8 that I haven't asked you about  
9 concerning the accident or anything  
10 that you could provide to me and the  
11 team that would help us in the  
12 investigation?

13 A. I guess I just want to stress  
14 the point that we thought that it was  
15 going to be unsafe in this Number One  
16 entry. If we thought there was a  
17 chance of something occurring like it  
18 did on August the 16th, we would not  
19 have approved that plan. I realize I  
20 had people unaccounted for and we  
21 want to get there, but we would not  
22 have taken any type of chance to get  
23 to them if we thought that something  
24 similar to what occurred on the 16th  
25 was going to occur. I want to

1 just --- I think from all of our  
2 standpoints it was something that we  
3 just did not see occurring. And that  
4 would be my only additional comment.

5 Q. And as a follow-up to that.  
6 And I'm going to go way back here.  
7 You mentioned when you got to the  
8 property that they were leaving the  
9 Number Four entry and that the plan  
10 was ultimately approved to go into  
11 Number One. Do you remember why it  
12 went to Number One as opposed to  
13 resuming in Four or Two or Three?

14 A. Two reasons I think. Number  
15 one, had a bigger, solid barrier in  
16 the Number One entry to protect us.  
17 And there was a feeling that the  
18 bounce or that the trouble that we  
19 were having may have connected us up  
20 to main west. And the problem had  
21 been on that side rather than on the  
22 solid barrier of Number One side. So  
23 for those two reasons we decided to  
24 come up Number One.

25

MR. GATES:

1                                   Let's go off for five  
2                                   seconds.

3       SHORT BREAK TAKEN

4       BY MR. GATES:

5       Q.           Just a couple of follow-up  
6       questions. We were talking about the  
7       bore holes that went in, and you  
8       referred to the analysis of the  
9       atmosphere at those bore holes that  
10      there was low O2. Do you have any  
11      feelings or opinions on where that  
12      low oxygen --- why the oxygen was  
13      what it was?

14      A.           I was shocked at the low  
15      oxygen. I don't know much about  
16      where --- how this bounce affects the  
17      oxygen content, but it basically gave  
18      me the impression that we broke  
19      through either into main west, which  
20      was a sealed area, or from these  
21      longwall panels that are sealed areas  
22      on the left of the Number One entry.  
23      And for the oxygen to go that low  
24      that quickly, it made me think that  
25      we broke into an atmosphere that was

1       once sealed. I can't tell you if it  
2       was main west or this other side, but  
3       that's what I thought.

4       Q.       Were you aware or were you  
5       involved in any of the discussions on  
6       the potential use of the tracer gas  
7       to maybe assist in furthering the  
8       expectations of where that would have  
9       came from?

10      A.       I think I may have been the  
11      one that suggested it, to start ---  
12      that maybe we could use tracer gas to  
13      make that determination.

14      Q.       Was it used?

15      A.       No.

16      Q.       Do you know why?

17      A.       If I sit here long enough,  
18      I'll probably remember. But right  
19      now I can't remember. The intent was  
20      to drop the tracer gas down one of  
21      these bore holes --- probably one or  
22      two at the time and measure what's  
23      coming out of main west, the Number  
24      One entry of main west. I think the  
25      holdup was that main west, sometimes

1       it was intaking rather than  
2       exhausting. And that kind of  
3       confused us a little bit that, boy,  
4       if it's broke through, you would  
5       think that it would always be  
6       exhausting, that you would have the  
7       fan pulling on it. And I think  
8       because it was intaking and  
9       exhausting --- we had a pressure  
10      recorder set up there, I believe,  
11      that we monitored it. And we  
12      basically didn't feel that if we  
13      moved it down in One or Two, that we  
14      were actually going to pick it up  
15      where the main west seals were  
16      because of that reason. So that  
17      would be the reason behind why we  
18      didn't do it.

19      Q.       Anything else to add that you  
20      can think of? I know you've provided  
21      a lot of information and your recall  
22      has been --- recall from three months  
23      ago has been good.

24      A.       I can't think of anything else  
25      that you folks haven't asked me that

1 I would want to share --- that I  
2 haven't shared.

3 MR. GATES:

4 Kevin, on behalf of the  
5 team I want to thank you for  
6 appearing and answering  
7 questions today. Your  
8 cooperation is very important  
9 to the investigation as we  
10 work to determine the root  
11 cause of the accident.

12 After questioning other  
13 witnesses, we may call you  
14 back if we have any follow-up  
15 questions that we need to ask.  
16 And at any time if you have  
17 additional information that  
18 you'd like to provide, please  
19 contact me. I want to thank  
20 you again for your  
21 cooperation.

22 A. You're quite welcome.

23 \* \* \* \* \*

24 STATEMENT CONCLUDED AT 1:39 P.M.

25 \* \* \* \* \*