

STATEMENT UNDER OATH
OF
PHILLIP COX

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Thursday, October 11, 2007, at 7:00 a.m.

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P R O C E E D I N G S

MR. O'DONNELL:

my name is Joe
O'Donnell. I'm an accident
investigator with the Mine
Safety & Health Administration
(MSHA), an agency of the
United States Department of
Labor. With me is Tim
Williams 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(a) of the Federal

1 Mine Safety & Health Act and
2 the Utah Commission of Labor,
3 who just walked in.

4 This is Sherrie
5 Hayashi. She's with the Utah
6 Commission of Labor.

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

1 completely voluntary. You may
2 refuse to answer any question
3 and you may terminate your
4 interview at any time or
5 request a break at any time.
6 Since this is not an
7 adversarial proceeding, formal
8 cross-examination will not be
9 permitted; however, your
10 personal representative may
11 ask clarifying questions as
12 appropriate.

13 A court reporter will
14 record your interview, so
15 please speak loudly and
16 clearly. If you do not
17 understand a question asked,
18 please ask me to rephrase it.
19 Please answer each question as
20 fully as you can, including
21 any information that you've
22 learned from someone else.

23 I want to thank you in
24 advance for your appearance
25 here today. We appreciate

1 your assistance in this
2 investigation. And your
3 cooperation is critical in
4 making the nation's mines
5 safer.

6 After we have finished
7 asking questions, you will
8 have an opportunity to make a
9 formal statement and provide
10 us with any other information
11 that you believe to be
12 important. If at any time
13 after the interview you recall
14 any additional information
15 that you believe might be
16 useful, please contact Mr.
17 Richard Gates at the telephone
18 number and email address that
19 we will provide you.

20 Ms. Kirkwood, would you
21 swear the witness in?

22 MS. KIRKWOOD:

23 Please raise your right
24 hand.

25 -----

1 PHILLIP COX, HAVING FIRST BEEN DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 -----

4 MR. O'DONNELL:

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

8 MS. KIRKWOOD:

9 I am.

10 MR. O'DONNELL:

11 And when does your
12 commission expire?

13 MS. KIRKWOOD:

14 August 15th, 2008.

15 MR. O'DONNELL:

16 And have you sworn in
17 Mr. Cox?

18 MS. KIRKWOOD:

19 I have.

20 BY MR. O'DONNELL:

21 Q. Would you please state your
22 full name and address for the record?

23 A. Phillip Gary Cox, (b) (7)(C)

24 (b) (7)(C)

25 (b) (7)(C)

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

4 A. No.

5 Q. Okay. Do you have a personal
6 representative with you today?

7 A. Yes.

8 MR. O'DONNELL:

9 And would your personal
10 representative identify
11 himself by name and address
12 for the record.

13 ATTORNEY HOLBROOK:

14 Allen Holbrook, 100 St.
15 Ann Street, Owensboro,
16 Kentucky.

17 BY MR. O'DONNELL:

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

23 ATTORNEY HOLBROOK:

24 I think I would say
25 he's been advised of the

1 potential at any time early on
2 but not of any actual.

3 MR. O'DONNELL:

4 Well, Mr. Holbrook,
5 would you state for the record
6 whether you represent the mine
7 operator in these operators?

8 ATTORNEY HOLBROOK:

9 No, I don't. I
10 represent Mr. Cox.

11 MR. O'DONNELL:

12 Okay. Thank you.

13 BY MR. O'DONNELL:

14 Q. Phillip, are you appearing
15 here today voluntarily?

16 A. Yeah.

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

19 A. About 22.

20 Q. And just briefly give us a
21 description of where you've worked
22 and what you've done.

23 A. I started at Trail Mountain
24 Mine and worked there for about six
25 years. Started in about '86, I

1 believe. And then I've been at
2 Crandall since '93.

3 Q. Since 1993. And what do you
4 do there? What's your present
5 position?

6 A. I'm a shift foreman.

7 Q. Shift foreman? How long have
8 you been the shift foreman?

9 A. I'd say two years.

10 Q. And did you --- what did you
11 do before that?

12 A. I was a section foreman. I
13 was probably in that position for two
14 years.

15 Q. And before that?

16 A. And before that, various
17 things. I worked on the longwall, in
18 the sections, ---

19 Q. Okay.

20 A. --- outby, fireboss.

21 Q. Do you have any mining
22 certificates?

23 A. Mine foreman, dust.

24 Q. All from Utah, ---

25 A. Uh-huh (yes).

1 Q. --- for state certifications?
2 And who is your immediate supervisor?

3 A. Gary Peacock.

4 Q. And how long has Gary Peacock
5 been your supervisor?

6 A. Probably since --- for the
7 last four years, I guess, that's all.

8 Q. Okay. What was your work
9 schedule for the week of the
10 accident?

11 A. I was off at the time. Our
12 last shift was three days prior to
13 it. I don't remember what the dates
14 was. That morning I was to come out
15 on dayshift.

16 Q. And that's the --- so you were
17 on the --- you worked the four on,
18 three off?

19 A. I was, yeah, four on, three
20 off.

21 Q. Okay. And you were off three,
22 so the last day you worked would have
23 been what?

24 A. Thursday.

25 Q. Thursday of the week before?

1 A. I think we was on --- I think
2 we was on graveyard, so that would
3 have --- I would have been off Friday
4 morning, I guess.

5 Q. And so what was --- what time
6 were you going to start your shift on
7 your first day back?

8 A. 6:00.

9 Q. 6:00 a.m.?

10 A. Uh-huh (yes).

11 Q. And that would have been on
12 what day?

13 A. The 6th.

14 Q. August 6th, okay. Let's just
15 talk about the last shift you work on
16 Friday --- or Thursday you said;
17 right?

18 A. Uh-huh (yes).

19 Q. Tell us about what you did
20 that day and where you went in the
21 mine.

22 A. Oh, shoot. I know I had been
23 in the section a couple times, been
24 outby on the belts. It's kind of
25 hard to say exactly what I was doing.

1 I mean, the main thing was clearing
2 the belts. I always make at least
3 two or three trips into the section
4 every night.

5 Q. Okay. We're going to pull out
6 a map. And you can stay --- I'll
7 bring it over to you. Anyway, this
8 is a --- are you familiar with this
9 map? It's a map of the Crandall
10 Canyon Mine?

11 A. Uh-huh (yes).

12 Q. And we'll go back to where
13 they were mining. Do you remember
14 where they were mining?

15 A. Yeah. They was --- the last
16 pillars that we left, was pulling the
17 last bolt before we started leaving
18 the pillars.

19 Q. So that was the last row
20 before the --- how many were you
21 going to leave?

22 A. I think it was --- was it
23 three rows? Three rows of pillars, I
24 think it was.

25 Q. Okay.

1 MR. O'DONNELL:

2 Let's take a break.

3 SHORT BREAK TAKEN

4 BY MR. O'DONNELL:

5 Q. Mr. Cox, do you recognize this
6 map? This is a reproduction of the
7 AutoCAD map that the company provided
8 us.

9 A. Uh-huh (yes).

10 MR. O'DONNELL:

11 And we just made copies
12 of it. We'll mark this Cox
13 Exhibit One.

14 (Cox Exhibit One marked
15 for identification.)

16 MR. O'DONNELL:

17 And we have a smaller
18 map here that we could mark
19 Cox Exhibit Two.

20 (Cox Exhibit Two marked
21 for identification.)

22 BY MR. O'DONNELL:

23 Q. And before the break there we
24 were talking about you had traveled
25 in the section a couple of times ---

1 A. Uh-huh (yes).

2 Q. --- this shift, which was the
3 Thursday before your last work shift.

4 A. Right.

5 Q. And if you could --- we have
6 some marking pens here. If you can
7 remember, tell us where they were
8 mining, if you would.

9 A. The beginning of the shift we
10 was mining down in here.

11 Q. Whenever you --- we have to
12 refer to it by the crosscut and the
13 block, if you would, or entry number.

14 A. 142 and 143. We started down
15 in here.

16 Q. Which would be Number Two
17 entry?

18 A. Which would be the Number One
19 entry.

20 Q. Number One entry. I'm sorry.

21 A. Number One entry. The barrier
22 in the Number One pillar.

23 Q. Okay.

24 A. And then I wasn't there at the
25 end of the shift, where they left

1 off, but I'm pretty sure they was
2 down in --- they took a hit off this,
3 and they was down in here on this
4 pillar.

5 Q. Which would be in Number Two
6 entry; right?

7 A. In the Number Two entry,
8 right.

9 Q. Okay. So you were in there
10 when you were mining in the Number
11 One entry?

12 A. Right.

13 Q. And how were they mining that,
14 do you remember? Were they --- was
15 it a Christmas tree, were they hit
16 the barrier ---

17 A. Yeah.

18 Q. --- in that first block?

19 A. Yeah. In fact, when I was in
20 there, we was on this last lip in the
21 barrier.

22 Q. So that would be the straight
23 in Crosscut 142? That would be
24 straight?

25 A. Yeah.

1 Q. Yeah, the straight. And then
2 they were going to move into the
3 Number Two entry?

4 A. Right.

5 Q. Okay.

6 A. Take a hit there, then move
7 down here. They was down here at the
8 end of the shift.

9 ATTORNEY WILLIAMS:

10 And you've made marks
11 on Exhibit Two to reflect that
12 mining; right?

13 A. Pardon?

14 ATTORNEY WILLIAMS:

15 You've made marks on
16 Exhibit Two there to reflect
17 that mining; is that right?

18 A. Yeah.

19 ATTORNEY WILLIAMS:

20 Okay. Thank you.

21 BY MR. O'DONNELL:

22 Q. When you were in there for
23 your last shift, did you notice
24 anything different than you had
25 noticed before on your other trips

1 into the section?

2 A. No, I hadn't.

3 Q. So was the section bouncing at
4 all, bottom heave, any difference in
5 the ribs, anything?

6 A. I'm not sure. I believe at
7 the end of the shift, when they come
8 out, they said they had a bounce when
9 they was over here in the Number Two
10 entry.

11 Q. Uh-huh (yes).

12 A. They said they had to back up
13 and clean up and ---.

14 Q. So that would be in the Number
15 Two entry of --- between Crosscut 142
16 and ---?

17 A. 143, yeah.

18 Q. Okay. Now, was that a common
19 occurrence?

20 A. Yes, it was. I mean, it was
21 nothing out of the ordinary. I mean,
22 you expect that kind of stuff when
23 you're pulling pillars or
24 longwalling.

25 Q. What's your definition of a

1 bounce?

2 A. Definition of a bounce would
3 be just the weight just relieving
4 itself and, you know, taking weight
5 on the pillar. Usually it's right on
6 the pillar line. It usually happens
7 right where you're mining, you know.
8 You're taking something out and it
9 will settle.

10 Q. Does it throw some coal?

11 A. Yes.

12 Q. Okay. And that's what you
13 were referring to, they had to clean
14 up a bit?

15 A. Right.

16 Q. Did it happen to cover the
17 machine or anything or ---?

18 A. Not to my knowledge, no.

19 Q. Okay. So you would say that
20 that was a normal activity from the
21 time that they started out of the
22 south mains barrier or ---?

23 A. Yeah, usually when you start a
24 pillar section ---

25 Q. Uh-huh (yes).

1 A. --- it's fairly quiet. I
2 mean, you're not relieving much. And
3 you just pull back, until you get
4 your initial cave, usually that's
5 what causes it. If you don't get a
6 cave behind you as you're pulling, it
7 will weight up on you and the pillars
8 will bounce.

9 Q. Was the bottom heaving at all
10 in there?

11 A. Yeah, the floor was heaving in
12 there. In fact, we pulled back the
13 --- past the worst part that was in
14 the belt line in the Number Three
15 entry, which would have been probably
16 the worst part where the floor was
17 heaving probably would have been in
18 between 146 to 144, somewhere around
19 in there.

20 Q. Do you remember what entry
21 that ---?

22 A. Or, no ---

23 Q. Okay, I'm sorry.

24 A. --- about 143 or something to
25 146, somewhere in there.

1 Q. And do you recall what entry
2 that was in?

3 A. Number Two entry.

4 Q. Number Two entry was the belt
5 entry?

6 A. Uh-huh (yes).

7 Q. And how much of a heaving area
8 did you have? I mean, how high was
9 the heave?

10 A. It --- oh, shoot. I don't
11 know, probably --- what we've done is
12 we left a lot of --- about two to
13 three foot of bottom coal when it
14 would break up. You know, it would
15 kind of break up.

16 Q. Okay. So you really ---?

17 A. It's kind of hard to tell how
18 high it was heaving. I mean, it
19 wasn't solid. It was ---.

20 Q. But you would have to clean it
21 up to get into your --- into the
22 pillars to start? No?

23 A. No, not really. I mean, it
24 wasn't anything like that. You'd
25 have to --- it would just break up as

1 you pulled the miner, you know, load
2 it out. It wasn't nothing to where
3 it impeded travel or anything.

4 Q. Yeah. But was that pretty
5 common through --- pulling the area
6 back? How many feet of bottom coal
7 was left?

8 A. Two to three feet, I'd say,
9 or, you know, sometimes it was more.

10 Q. Did you ever take the bottom
11 coal anywhere?

12 A. Just in our cuts, you know.
13 We'd take all the coal we could in
14 our lifts.

15 Q. What would you do, ramp down
16 into it?

17 A. Yeah, exactly.

18 Q. You didn't take any in the
19 entries, though?

20 A. No, not to my knowledge.

21 Q. Okay. That gives us an idea
22 of what you had in there before the
23 accident. Phil, how were you
24 notified of the accident?

25 A. A phone call.

1 Q. Who called you?

2 A. Gary.

3 Q. And do you remember what time
4 he called you?

5 A. It was around three o'clock in
6 the morning, I guess.

7 Q. And what did he tell you?

8 A. He said there had been an
9 accident in the mine and we need you
10 up there.

11 Q. Okay. So about what time did
12 you get there that day?

13 A. I'd say before 4:00. I don't
14 know exactly what time it was. I
15 threw my clothes on at the time. It
16 takes about 45 minutes to get there.

17 Q. Just starting from the time
18 that you got there at the mine that
19 day, just give us an explanation of
20 everything that you did, everything
21 that you saw through the course of
22 that day.

23 A. I arrived there and they said
24 that there's been a cave-in or
25 something and there's six guys they

1 haven't been able to get ahold of.
2 The guys on the section, they haven't
3 been able to contact them. So I put
4 my clothes and light on and I went
5 in, and they said the ventilation was
6 blowed out to 95. I stopped at 95.
7 They already had rags up. I walked
8 over to 107, between 107 and 108 is
9 where our section regulator was, out
10 in the mains, just to see if that was
11 intact or what the deal was there. I
12 walked out in there. The regulator
13 itself was all right, but the
14 stopping in the entry adjacent to it
15 had been blowed out. And then from
16 there I went on into the section.
17 There was already people in there to
18 121, I believe it was, where --- as
19 far as you could go. From there they
20 had some mine rescue people and stuff
21 that went over the gob. I went from
22 there, followed them in as far as we
23 could go. I think we went to 125 or
24 something, crawling over the gob.
25 Seen that wasn't --- so we come back

1 out. And we had decided that ---
2 like I say, all our equipment was
3 inby, and we had some machinery
4 coming up from Deer Creek.

5 We got it there and decided
6 we'd muck this Number Four entry out.
7 It looked like it was the --- you
8 know, less rock and easier to do. So
9 as soon as we got the equipment
10 there, we started mucking, cleaning
11 it out and mucking that entry out to
12 the end of the shift. We got in
13 there probably a break or so by the
14 end of our shift.

15 Q. About what time did you go
16 home that day?

17 A. I really can't remember
18 exactly what time it was. It was
19 probably around eight o'clock or ---
20 7:00 or 8:00, something like that.

21 Q. Okay. Let's go back --- now,
22 when you went --- you got called by
23 Gary, got to the mine about 4:00, and
24 you say there were already people
25 underground?

1 A. Uh-huh (yes).

2 Q. Who was underground, do you
3 know?

4 A. There was some mine rescue
5 people. I'm not sure exactly who it
6 was. The mine rescue team was in
7 there. Gary was in there. In fact,
8 Gary left about the time I went to
9 get dressed to go underground.

10 Q. So was Gary the one that
11 briefed you before you went
12 underground? Did you have a meeting?

13 A. No. He just told us, you
14 know, what it was, and I really
15 didn't know ---.

16 Q. Did he give you any kind of
17 special instructions before you went
18 underground?

19 A. No.

20 Q. Okay. So then you went
21 underground. Who did you go ---?

22 A. Rather than, you know, the
23 ventilation --- we knew the
24 ventilation was out and there was
25 people already starting to hang rag

1 and stuff up on that. I checked it
2 on the way in to make sure that ---.

3 Q. Okay. Who did you go in the
4 mine with?

5 A. I think I went in by myself.

6 Q. Okay. And you traveled by
7 truck?

8 A. Uh-huh (yes).

9 Q. Okay. Where was your first
10 stop?

11 A. Probably right there, at 107,
12 between 107 and 108.

13 Q. And what did you do there?

14 A. There I walked into the return
15 to check the regulator.

16 Q. What did you see at the
17 regulator?

18 A. The regulator was intact, but
19 the stopping adjacent to it had been
20 blown over.

21 Q. And which way was it blown
22 over?

23 A. Outby.

24 Q. But do you remember where that
25 was? Maybe we can mark it on the big

1 map here.

2 WITNESS COMPLIES

3 A. Right there is the regulator.

4 MR. O'DONNELL:

5 And he's saying ---.

6 A. Right here's the regulator.

7 Right there is the regulator.

8 BY MR. O'DONNELL:

9 Q. Okay. And you're pointing to
10 --- it's between Crosscut 107 and
11 108, in the Number ---?

12 A. This would be the Number Four
13 entry.

14 Q. Okay.

15 A. And the regulator was in the
16 Number Five entry.

17 Q. And which stopping was out
18 now?

19 A. This one.

20 Q. That would be the one in
21 number what entry?

22 A. Number Four.

23 Q. And which way was it blown?

24 A. I believe it was blown out.
25 I'm not sure.

1 Q. Towards the surface?

2 A. Right.

3 Q. Okay. So we've marked it out
4 and put an arrow on it; is that
5 correct?

6 ATTORNEY WILLIAMS:

7 Is that correct, sir?

8 A. Yeah.

9 BY MR. O'DONNELL:

10 Q. Okay. So then you see that.
11 Now, was there any repairs done to
12 that one yet?

13 A. No.

14 Q. So that was just left open;
15 right?

16 A. Yes.

17 Q. Okay. And where did you go
18 next?

19 A. From there I went on into to
20 --- I think it was 121, where the ---
21 is as far as you could go in.

22 Q. Now, did you check the
23 ventilation as you traveled into the
24 section?

25 A. Yeah. As I traveled in, yes,

1 into the other exits.

2 Q. They were all the way up until
3 you got to 120; is that right?

4 A. Right.

5 Q. And then what did you do when
6 you got to 120?

7 A. I can't remember exactly.
8 There's some other people there.

9 Q. Do you remember who you might
10 have met?

11 A. Huh?

12 Q. Do you remember who was there
13 and who you talked to?

14 A. I think I might have talked to
15 Gary and Lyle Christensen.

16 Q. Did they give you an update of
17 what they had done and what ---?

18 A. What they --- yeah, where it
19 was at, what they done and ---.

20 Q. And what was that?

21 A. They had the ventilation and
22 the mine rescue team was
23 traveling ---.

24 Q. Do you remember what team it
25 was?

1 A. No. It was our team.

2 Q. Do you remember how many
3 people?

4 A. I don't know. There was four
5 --- three, four, five. I don't know.

6 Q. Were they wearing apparatuses?

7 A. No.

8 Q. Okay. So what did you do
9 after that?

10 A. Then we started getting phone
11 line, taking phone line in as far as
12 the mine rescue team had gone.

13 Q. How far did you get in with
14 that?

15 A. I believe I went in as far as
16 125.

17 Q. Is that as far as you could
18 get in?

19 A. Yeah. It didn't get any
20 better, and it was ---.

21 Q. And what did you see in there?
22 Were you in the Number One entry
23 or ---?

24 A. No. I think we started down
25 the belt line. And we had to go over

1 to this Number Three entry and went
2 down a break or two, it seems like.

3 Q. Where did you first start to
4 see, other than ventilation, some of
5 the coal being thrown?

6 A. It was pretty close to right
7 around 121.

8 Q. Okay.

9 A. 120 throwed a little bit, and
10 then from there out it wasn't ---.

11 Q. And when you say throw out,
12 tell me how was it thrown out, from
13 what directions?

14 A. From what directions? Well,
15 when we was traveling over this gob,
16 it looked like to me that it went
17 from both directions. I mean, you'd
18 go down one entry and the bolts and
19 stuff would be bent one way, and
20 you'd go over to the next entry
21 and ---

22 Q. So you're talking about ---

23 A. --- it would be going the
24 other way.

25 Q. --- the pillars being blown

1 towards the entries, from left and
2 right, ---

3 A. Yeah.

4 Q. --- is that what you're
5 saying?

6 A. I mean, there wasn't
7 one ---.

8 Q. It didn't appear that coal had
9 come from the inby part of the mine
10 and come out, did it? Or did it?

11 A. No, it was side to side.

12 Q. Okay. So all the coal that
13 you saw was pillar ---

14 A. Right.

15 Q. --- being ---

16 A. Blown out.

17 Q. --- blown out? How far did
18 you try to get in?

19 A. To 125, I think, is as far as
20 we tried.

21 Q. And tell me what your
22 observations were. I mean, how high
23 was the coal?

24 A. I mean, there was some places
25 we actually had to dig coal out to

1 get across the top of it.

2 Q. So you did travel over the
3 tops of the piles?

4 A. Uh-huh (yes).

5 Q. How far did you get in?

6 A. About 125.

7 Q. Okay. Did you have a methane
8 detector with you?

9 A. Yes.

10 Q. And tell me, did it alarm at
11 any time?

12 A. No.

13 Q. So you had ---?

14 A. There had already been people
15 in there before I had gone in,
16 so ---.

17 Q. Did they tell you they had
18 encountered any gases or lack of
19 gases?

20 A. They did at --- right at the
21 incident they had. You know, when
22 those ventilations was blown out,
23 they said they --- their meters was
24 going, the first people that went in.

25 Q. What did they say that they

1 were indicating on those detectors?

2 A. I can't remember exactly. It
3 was before they ever got to 121,
4 though, I think.

5 Q. Was it methane, CO, low
6 oxygen?

7 A. Low oxygen.

8 Q. Low oxygen?

9 A. Uh-huh (yes).

10 Q. And why do you think they had
11 low oxygen?

12 A. To tell you the truth, I'm not
13 sure ---

14 Q. Okay.

15 A. --- why exactly. I mean, I
16 could guess, but ---.

17 Q. Go ahead.

18 A. The only thing I can think of
19 is if one of these barriers got
20 breached somehow.

21 Q. Did you ever experience low
22 oxygen before in the section?

23 A. No.

24 Q. Okay. How many of the entries
25 did you try to get into? You say you

1 were crawling over top of coal. How
2 many did you try to get into?

3 A. Well, we just --- you'd go to
4 an intersection is usually where it
5 was --- I don't know, maybe three
6 feet. Some places you could actually
7 stand up. But you just kind of
8 picked out the way, you know, the
9 easiest way to get in there. And it
10 was --- I know we started in Number
11 Two, down the belt line, went over to
12 Number Three. And I think some of
13 them might have went over to Number
14 Four. I never did.

15 Q. So in other words, after you
16 had checked them out, you agreed with
17 the other people that it was not
18 accessible?

19 A. Right.

20 Q. Okay. What about the --- was
21 it still bouncing while you were in
22 there?

23 A. No. I mean, it was making ---
24 might have been making a little bit
25 of noise. It didn't bounce or

1 anything, though.

2 Q. What kind of noise?

3 A. Oh, just cracking kind of, you
4 know, maybe a small (makes sound
5 effect).

6 Q. Coal or rock?

7 A. It was up above.

8 Q. It was the roof?

9 A. It was probably rock.

10 Q. Okay. Have you heard that
11 before?

12 A. Yeah, usually in the pillars
13 up by the face you would. I mean,
14 it ---.

15 Q. So you've made your
16 evaluation. You've taken a look.
17 You said that you started to make
18 arrangements for cleaning up an
19 entry; right?

20 A. Uh-huh (yes).

21 Q. Now, were you directed by
22 someone else or were you kind of
23 running the show in there?

24 A. It was --- I don't know, Gary,
25 you know, had most of the say in it.

1 I mean, we all conversed on what ---
2 you know, it was a team effort, more
3 or less, just --- from what we could
4 see.

5 Q. So based on everything that
6 you saw, you decided that the Number
7 Four entry was the best?

8 A. Probably.

9 Q. Why was that?

10 A. It was all coal. Over here in
11 Number One entry there was some cap
12 rock that had fell out of the roof
13 and in places it would break up or
14 so. And as near as we could see,
15 Number Four, you know, it was all
16 coal. It looked like it would be the
17 easiest. And plus we had places to
18 gob it back there, ---

19 Q. Uh-huh (yes).

20 A. --- it would be easier access.

21 Q. Was someone else cutting the
22 belt and trying to get a feeder set
23 up?

24 A. Yes. Yes.

25 Q. And that happened --- you

1 started mucking before any of that
2 happened; is that right?

3 A. No. We cut the belt first to
4 get the muckers over there.

5 Q. Okay.

6 A. And then we had people
7 trammimg the feeder up.

8 Q. How many muckers did you have?

9 A. Two.

10 Q. And what kind of equipment is
11 a mucker?

12 A. It's a scoop. Geez, I can't
13 even think of the number. They're a
14 Wagner scoop.

15 Q. A Wagner scoop?

16 A. Yeah.

17 Q. Is it a diesel or ---?

18 A. Diesel.

19 Q. Okay. And do you remember who
20 was operating the scoops?

21 A. I think Danny Daley was on
22 one, and I'm not sure who was on the
23 other one.

24 Q. And could you mark on the map
25 there where they started --- in the

1 Number Four entry, where they started
2 mucking?

3 WITNESS COMPLIES

4 A. I'd say about right there.

5 BY MR. O'DONNELL:

6 Q. And you're looking at ---

7 A. 121.

8 Q. --- 121 in Number Four entry.
9 So Phil, where were they dumping the
10 stuff at?

11 A. He was coming around here and
12 putting it in between ---.

13 Q. Crosscuts in between Two and
14 Three, outby any place you could
15 find?

16 A. Right. I mean, these was
17 empty.

18 Q. And the material that they
19 were cleaning out you say was
20 primarily coal?

21 A. Right.

22 Q. And how much of that did you
23 get cleaned out during your shift?

24 A. I think we got a little bit
25 past --- probably right at 122, I

1 think.

2 Q. 122. Did the roof activity
3 increase, ---

4 A. No.

5 Q. --- the bouncing? Did
6 anything change when you started
7 mucking?

8 A. No.

9 Q. And was the air in your face
10 there?

11 A. Was the air ---? Yeah.

12 Q. So you were in what was now
13 the return; is that right?

14 A. Right.

15 Q. How were they --- were they
16 trying to get just a single pass
17 through it or ---?

18 A. Yeah. They wasn't trying to
19 take the whole thing out. They was
20 just trying to --- like I said, you
21 have no idea what ---.

22 Q. As they cleaned it up, did
23 more stuff --- more material come in?

24 A. No.

25 Q. No? Okay. Anything else you

1 can tell me about the section until
2 you left?

3 A. I believe we had the --- when
4 I left, we had the feeder set ---
5 tail piece anchored and the feeder
6 set.

7 Q. Where did you have the feeder
8 set at?

9 A. It was at 120, just outby 120.

10 Q. Just outby 120 in Number ---

11 A. Two entry.

12 Q. --- Two entry, okay. And were
13 they able to dump onto that yet?

14 A. I can't remember if we started
15 it then or not. I'm not real sure
16 whether we started. It was close.

17 Q. So whenever you left the
18 section that day, was the plan to
19 continue to clean Number Four entry?

20 A. Right.

21 Q. Okay. So you went home that
22 day. And tell me about your next
23 shift back. Were you given
24 instructions when to come back before
25 you left or did you get called when

1 you were at home?

2 A. No, I came back on my regular
3 shift, six o'clock in the morning.

4 Q. Okay. Now, if you would,
5 because a lot has happened between
6 the 6th and the 16th, the next
7 accident, just tell me what you did
8 in that time period in the mine up
9 until the 16th. What was your job?
10 What did you ---?

11 A. My job was --- as shift
12 foreman was outby in, and I spent
13 most of the time in the section,
14 trying to coordinate everything,
15 making sure we had the material and
16 what have you in the --- when we
17 needed it as we was advancing. We
18 --- I guess you already know we was
19 going down the Number One entry at
20 that time, later on, with the miner
21 and setting water props on
22 two-and-a-half-foot centers, boarding
23 and that and, you know, just trying
24 to evaluate everything as we went in,
25 you know. And like I said, I ---.

1 Q. So your job was primarily at
2 the loading operation and just keep
3 things going?

4 A. From there outby to the
5 corner, the whole operation right
6 there is what I focused on.

7 Q. Your next shift in, which was
8 the next day, were they still in
9 Number Four entry?

10 A. No.

11 Q. So they had already made the
12 decision to move?

13 A. Uh-huh (yes).

14 Q. And do you know why that
15 decision was made to move?

16 A. Yeah. I don't know exactly
17 how far they had got with the
18 mucking, but there was another
19 bounce, and that pretty much covered
20 up everything that they ---.

21 Q. Any equipment get covered up?

22 A. I'm not real sure if any
23 equipment got covered up or not.
24 There wasn't anything when I got
25 there that morning.

1 Q. So when you got in the next
2 shift, it had already --- the
3 decision had been made, the bounce
4 occurred ---?

5 A. Actually, we had pulled out
6 and nobody could go in from the
7 corner in for I can't remember how
8 long.

9 Q. The corner in where?

10 A. Right here, the end of the
11 section.

12 Q. Oh, I understand. It bounced
13 and then ---?

14 A. MSHA and everybody pulled us
15 out ---

16 Q. Okay.

17 A. --- to re-evaluate everything.
18 And I can't remember exactly how long
19 that was. I know it was probably two
20 shifts. In this meantime we went
21 back, we hung rag for ventilation.

22 Q. So your next shift in the next
23 day you weren't permitted inby ---?

24 A. No.

25 Q. Okay. There was nobody inby

1 there?

2 A. No.

3 Q. Okay.

4 A. The work performed was
5 rebuilding these stoppings that had
6 been blowed out from 95 in.

7 Q. So that was your next shift,
8 repair stoppings?

9 A. Uh-huh (yes).

10 Q. And then the shift after that
11 now, were you able to get in?

12 A. I'm not sure exactly when it
13 was, whether it was a couple shifts.
14 It might have been a couple shifts,
15 was down to the stopping. I'm not
16 real sure.

17 Q. So the shift that you ---
18 well, let's talk about the shift
19 where you did get in to start doing
20 some cleanup work. Were other people
21 already in and the work was started,
22 or were you the first one that
23 started it?

24 A. To tell you the truth, I can't
25 remember.

1 Q. That's okay. Was the miner
2 already set up?

3 A. I don't know. We helped bring
4 the miner in. Shoot. I'm not sure
5 whether we was actually the ones that
6 set it up or it was set up when we
7 got there, which shift did it.

8 Q. From what I understand, square
9 sets were set first; is that right?

10 A. Right.

11 Q. Okay. Were you involved in
12 setting the square sets?

13 A. Yeah.

14 Q. Okay.

15 A. Yeah.

16 Q. So those were put in and then
17 there was a decision to use another
18 type of support?

19 A. Yeah, water jack, ---

20 Q. Water jacks?

21 A. --- not rock prop.

22 Q. Okay. You were involved in
23 the cleanup work. Tell me about how
24 it was done. How was the process?

25 A. After we got the miner and

1 everything set up?

2 Q. Yep.

3 A. It was just --- shoot, I can't
4 remember how far we went. Probably
5 about 40 feet was what we started.
6 And then we'd rock prop up to the
7 back of the miner, chain link it.

8 Q. So it was kind of a process
9 that you had?

10 A. Uh-huh (yes). And I --- later
11 on we went in there and there was
12 another bump, and we revised the plan
13 and everything and then ended up, I
14 think, was going in seven feet, I
15 believe, with the miner then we'd
16 rock prop, seven feet with the miner,
17 rock prop.

18 Q. So before you went in each
19 day, did they get your shift
20 together? Was there like a briefing
21 for the shift?

22 A. Yeah. Yes, there was.

23 Q. And who held that briefing?

24 A. It was between me and Gary and
25 --- I mean, it was --- everything was

1 lined out, you know, on the shift.

2 Q. What about the crews, all the
3 men, were they also involved in the
4 briefing?

5 A. Uh-huh (yes).

6 Q. They were?

7 A. Yeah.

8 Q. And where did you have this
9 shift briefing at?

10 A. In the bathhouse.

11 Q. In the bathhouse?

12 A. Uh-huh (yes).

13 Q. So all the people that were
14 going underground that shift, you say
15 Gary talked to them?

16 A. Uh-huh (yes).

17 Q. Was there anyone else there
18 from MSHA also there?

19 A. I'm sure there was. I mean,
20 they was there. I don't know if they
21 was there on every briefing or not.
22 I can't tell you for sure, but I know
23 they was there constantly.

24 Q. So the whole crew --- the
25 whole shift that was going in at six

1 o'clock was brought together at that
2 --- in the shop there and ---?

3 A. Uh-huh (yes).

4 Q. And was there a specific plan
5 that was discussed?

6 A. Yeah. I mean, it --- I'm not
7 sure how many times we changed the
8 plan as we went in. I mean, nobody
9 knew exactly what we was going into,
10 to begin with, and there was
11 amendments made as we went in. And
12 every time we got down there it was
13 --- everybody was brought together
14 and gave a plan in writing.

15 Q. So you would be the lead
16 foreman, I would say, at the
17 operation, the inby operation; is
18 that right, or was there another
19 foreman there?

20 A. No, there was a foreman ---.
21 We had a foreman at the mine itself
22 ---

23 Q. Okay.

24 A. --- that stayed right there
25 with the miner.

1 Q. And on your shift who was
2 that?

3 A. It was Dale Black at the
4 last ---.

5 Q. Okay.

6 A. And had one other one.

7 Q. Okay. So there was a foreman
8 there and he was ---?

9 A. Josh Fielder was --- starting
10 with Josh Fielder and then ended up
11 with Dale Black.

12 Q. So was there a specific number
13 of people that was assigned to go
14 from the fresh air base inby and be
15 involved in that work?

16 A. Uh-huh (yes).

17 Q. And others that were assigned
18 to other work?

19 A. Uh-huh (yes).

20 Q. So about how many people were
21 assigned?

22 A. I think we had a total of six
23 people inby.

24 Q. That would be inby where?

25 A. Inby the fresh air base.

1 Q. And where was the fresh air
2 base as of ---?

3 A. It was at 119, at the
4 transformer.

5 Q. And was there a person there
6 at all times on the phone?

7 A. Yes. There was usually MSHA
8 there and everybody else. When we
9 was cutting, the only one allowed was
10 the miner operator and the miner
11 helper, when we was loading.

12 Q. Okay. The shuttle car
13 operator ---?

14 A. We'd get that loaded and we'd
15 start setting rock props and ---.

16 Q. About how many guys did it
17 take to set up the rock props? How
18 many people were involved?

19 A. Six seemed to work pretty
20 good.

21 Q. Did it?

22 A. Uh-huh (yes).

23 Q. And you set these rock props
24 on both sides; right?

25 A. Uh-huh (yes).

1 Q. What would you do? Would you
2 leave the miner in ---

3 A. Uh-huh (yes).

4 Q. --- and then bring the car up
5 behind it with the supplies?

6 A. Uh-huh (yes).

7 Q. Okay. And six people. About
8 how long did it take to do that work?

9 A. It varied on how much digging
10 and stuff you had to do to get it,
11 but it ---. Oh, I don't know. I'd
12 say 15, 20 minutes to a half hour.

13 Q. And how many rock props would
14 be set up each time?

15 A. At the last, there was three
16 on each side, six.

17 Q. Six. And at times were there
18 more?

19 A. Yeah. When we first started
20 we was going farther.

21 Q. Okay. You mentioned chain
22 link and cable. Tell me about that.
23 How was that installed?

24 A. Chain link would be set behind
25 the rock props, usually come in a

1 row. You'd hook it on to your last
2 piece and drag it out to wherever
3 your last rock prop was.

4 Q. And what were the lengths?
5 Was it cut in lengths?

6 A. It was --- I think they was
7 50-foot lengths ---

8 Q. Fifty (50) foot?

9 A. --- per roll.

10 Q. And you would leave the roll
11 at the inby ---?

12 A. Right.

13 Q. Okay. And how was that chain-
14 link fence attached to the water
15 jacks?

16 A. Wire around the wire jacks.

17 Q. Tie wires?

18 A. Huh?

19 Q. Tie wires?

20 A. Yeah, tie wire.

21 Q. And how high was the fence?
22 Was it a four-foot fence, a five-foot
23 fence?

24 A. I think we had six. Six and
25 five.

1 Q. Six and five?

2 A. Uh-huh (yes).

3 Q. And was the fence from the
4 bottom --- was it on the bottom or
5 was it hung from the roof down?

6 A. It depended on the --- you had
7 that much room. We kept it towards
8 the top.

9 Q. And if you --- and usually you
10 left the bottom open?

11 A. Well, if it wasn't long enough
12 to reach the bottom, it would be
13 better to leave the bottom open than
14 the top.

15 Q. Okay.

16 A. You didn't have stuff fly over
17 the top.

18 Q. I understand. Now, there was
19 a cable involved, too. Now, how was
20 the cable installed?

21 A. It was wrapped around and
22 clamped to itself around a rock prop.

23 Q. You mean looped around?

24 A. Right.

25 Q. And then how was it secured?

1 A. With a cable clamp.

2 Q. With cable clamps?

3 A. Uh-huh (yes).

4 Q. So that would be on the outby
5 one; right?

6 A. Right.

7 Q. And then the cable was
8 stretched to the last one?

9 A. Let me see. I was trying to
10 think how long them cables was. I
11 think we went every 40 foot to tie it
12 in.

13 Q. Okay. So if I have the cable
14 looped down and I only had 20 feet to
15 the last jack, how would I secure it
16 to that last jack, or wasn't it
17 secured ---?

18 A. It wasn't secured fully.

19 Q. Until I had 40 feet?

20 A. Right.

21 Q. And then it was secured?

22 A. Right.

23 Q. Okay. So about how many lifts
24 would we take before we had the last
25 cable secured?

1 A. Seven feet. Probably about
2 six, at the last ---.

3 Q. Six lifts?

4 A. Yeah.

5 Q. And then we would secure
6 the ---?

7 A. Uh-huh (yes).

8 Q. Okay. And that was the same
9 on both sides, left and right?

10 A. Uh-huh (yes).

11 Q. And what were the centers that
12 you were putting the water jacks on?

13 A. Two-and-a-half.

14 Q. And how did you secure it?
15 How did you pressurize the water
16 jacks?

17 A. We had a water pump on the
18 scoop and the miner.

19 Q. Water pump on the scoop and
20 the miner. Okay. So where did the
21 water come from?

22 A. We hooked it into the miner
23 water.

24 Q. Okay. So the miner supplied
25 the water for the water jacks, but

1 you ---?

2 A. The same waterline. We had Ts
3 on it.

4 Q. And if you were using the
5 scoop to pressurize, ---

6 A. Uh-huh (yes).

7 Q. --- you said there was also a
8 pump there; right?

9 A. Uh-huh (yes). We had one on
10 the bolter and one on the scoop.

11 Q. Okay. And you would connect
12 the water supply line from the miner
13 into that?

14 A. Yes. No. We didn't take it
15 out of the miner. We had Ts with
16 holes on it, ---

17 Q. Okay.

18 A. --- so we'd move it up every
19 50 feet or whatever.

20 Q. All right. About what was
21 that, an inch line, two-inch line?

22 A. I think we had an inch line
23 with that.

24 Q. Okay. So how did you --- tell
25 me about the process. You say you

1 dug out for the water jack; right?

2 A. Uh-huh (yes).

3 Q. Tell me about the full
4 installation, how you did that, what
5 the process was.

6 A. We got a cap that fits on the
7 bottom of a base that it sits in.
8 Dig out the solid, set your base
9 down. Put your water jack in it, and
10 it's got a helmet on the top, and
11 then you put a cap piece on it. Then
12 it's got holes that goes from your
13 pump down to the bottom of the water
14 jack. You hook it up. You pump it
15 up to about 1,500 pounds. It's got a
16 gauge on it. And then it's got a
17 lead seal around it, and it's got a
18 hammer that wraps around it, and you
19 set that seal, release your water
20 and ---.

21 Q. Now, whenever you put it up,
22 you had --- like you said, you had
23 somebody holding it; right?

24 A. Uh-huh (yes).

25 Q. And it would go to the roof.

1 Then would they just set them first
2 and then did they stand there while
3 they were pressurizing them or did
4 they ---?

5 A. No. Once you get pressure on
6 it, then you leave it alone.

7 Q. Okay. So they would --- it
8 was all done in one process, though?
9 Were they ever just tightened up and
10 then just left go and tightened up
11 later?

12 A. No.

13 Q. So the process was one that
14 you began until it was finished?

15 A. It had a gauge right on the
16 thing there. As you set it, you
17 watched the gauge. When it reaches
18 its ---.

19 Q. So they stepped back. About
20 how long did it take to get the 1,500
21 pounds on it?

22 A. Not very long, just a matter
23 of seconds.

24 Q. Seconds?

25 A. Uh-huh (yes).

1 Q. What about if one wasn't set
2 straight? Could you ever take the
3 pressure off of it and set it back
4 up?

5 A. Before you did the seal, set
6 the seal, you did that.

7 Q. Yeah, that's what I mean,
8 before you set the seal. Let's say I
9 got it up and it's starting to kick a
10 little bit, you could --- could you
11 relieve the pressure and pull it
12 down?

13 A. Yeah. You'd turn the pump
14 off, and it's got a valve that
15 you ---.

16 Q. So you could pull it down from
17 the roof ---

18 A. Right.

19 Q. --- and readjust it?

20 A. Right.

21 Q. Okay. I wasn't sure how that
22 worked once it --- I didn't know if
23 it ---.

24 A. You can actually --- even
25 after they're set, you can pump them

1 back up and blow that seal out and
2 drop them down.

3 Q. You can?

4 A. You know, if they're not up
5 against the roof you can. If they're
6 getting knocked down or whatever, you
7 can pump them up and redo them.

8 Q. You can redo them?

9 A. Yeah.

10 Q. You can reuse them as long as
11 the seal is out?

12 A. Right.

13 Q. Okay. And you can pop that
14 seal out by --- you have to pop it
15 out with pressure?

16 A. Uh-huh (yes).

17 Q. Okay. So once you got the
18 1,500 pounds in --- you say it's a
19 lead seal?

20 A. Yeah, lead seal. You got a
21 hammer that wraps clear around it.
22 You pound it down into ---.

23 Q. How do you pound it? Do you
24 use a hammer to pound it in or ---?

25 A. It's a --- it's got a swivel

1 on the end of it that's round like
2 the rock prop on the middle, hangs
3 down so it fits down inside your seal
4 there. You just wrap it around.
5 It's got a pin in it and you just use
6 it like a hammer.

7 Q. One guy can do that or two
8 guys?

9 A. One guy can, but it's usually
10 one on each side.

11 Q. Once that's hammered in, how
12 is it secured?

13 A. What do you mean by secured?

14 Q. When you hammer down into the
15 gap, ---

16 A. Yeah.

17 Q. --- does just that pressure
18 hold it?

19 A. That's it.

20 Q. Okay. So that process
21 continued up until the 16th. Were
22 you in the section on the 16th?

23 A. Uh-huh (yes).

24 Q. And just go through that day
25 for me, if you would.

1 A. Just a normal day. I mean,
2 there wasn't any changes. We did
3 have one bounce earlier in the shift
4 that ---.

5 Q. Did that bounce throw any coal
6 where you had to pull back and clean
7 up again?

8 A. I wasn't right at the face
9 when it hit, but by the time I got up
10 there, I'm not sure if they did.
11 They might have probably did back up,
12 but it wasn't, you know, nothing real
13 bad. We'd had three or four all the
14 way in there. And usually when you
15 get to an intersection is usually
16 when it would --- you know, you'd be
17 prepared for it. And other than
18 that, it was just a normal day. It
19 was normal going in, setting, going
20 in, setting. It wasn't nothing out
21 of the ordinary, as far as conditions
22 went.

23 Towards the end of the shift,
24 I would go outside to get with the
25 oncoming shift foreman to coordinate

1 him with where we was at, what we
2 needed or if we needed anything. And
3 I stayed in a little late that day,
4 doing stuff, and I was late getting
5 out. It was about 15 minutes until
6 the end of the shift by the time I
7 got out. And they had already had
8 their meeting. And I got with Gale,
9 who was the oncoming shift foreman,
10 told him that --- what we had,
11 everything looked good, where we was
12 at.

13 And I had already went and got
14 in the shower, was waiting for them
15 guys to get out. I happened to be in
16 the book room there. Heard somebody
17 calling on the phone, so I just
18 picked it up to see what was going
19 on. And they said they had had a
20 bounce and they gave it some ---.

21 Q. Do you want to take a little
22 break?

23 A. No.

24 Q. Okay.

25 A. So I threw some clothes on,

1 and got in the back of the next truck
2 that was headed in and went in. I'm
3 all right.

4 Q. We can stop.

5 A. And by that time they had the
6 first three out. We passed a couple
7 of 'em going in. And I went up the
8 face there and we started helping dig
9 the others out.

10 Q. I know it's difficult for you,
11 but if you could even just remember
12 where some of the people were, if you
13 can.

14 A. Like I said, they had three of
15 them out, the ones that --- there was
16 three left in there when I got in
17 there. And they was all right
18 together. I mean, it was --- my
19 understanding, that what they was
20 doing was they was just finished
21 setting rock props after a push, and
22 they was tying the chain link in at
23 the time. And so they was all right
24 there.

25 I can't even remember what

1 A. What do we got here?

2 BY MR. O'DONNELL:

3 Q. Okay. This is Crosscut 126.
4 This is where the miner was at.

5 A. Okay.

6 Q. And this is ---

7 A. All right.

8 Q. This is --- you know where the
9 coal started? This is where the toe
10 of the loose coal started.

11 A. Okay.

12 Q. And this is up on the top of
13 the pile right here. You know the
14 miner was in here ---

15 A. Right.

16 Q. --- and the coal was across
17 the top of the boom.

18 A. Okay.

19 Q. That gives you a little
20 perspective where we're at.

21 A. Okay. There was one guy right
22 here, Carl Grossman. Dale was right
23 there and the other ones were right
24 there.

25 Q. So you're saying Mr. Grossman

1 was the outby ---?

2 A. Uh-huh (yes).

3 Q. And the middle one was

4 Mr. ---?

5 A. Dale. In fact, they was
6 pretty close to each other.

7 Q. Black, Mr. Black?

8 A. Dale Black.

9 Q. And you don't know who the
10 inby guy was?

11 A. I do, but I can't think of his
12 name right now.

13 Q. Okay. And that was in this
14 area right here ---

15 A. Right.

16 Q. --- or was it ---? See, these
17 were the ones that were out.

18 A. I know there was rock props
19 set. Oh, well, yeah, these were the
20 ones that --- it was the ones that
21 got blowed out.

22 Q. Okay. So it would be slightly
23 inby this?

24 A. Right. Right.

25 Q. It would be like right in

1 muckers, whenever they were cleaning
2 up over in Number Four. When you
3 left that day, were they still
4 running?

5 A. Yeah.

6 Q. So they were still operating
7 and you were out of the section;
8 right?

9 A. Yeah. The next shift come in.

10 Q. The next shift that come in,
11 were they still cleaning up, too?

12 A. Yes.

13 Q. Okay. All right. You
14 mentioned that you were told ---
15 someone told you that they were
16 finishing up setting the rock props
17 whenever the accident happened. Who
18 told you that? Did you hear --- who
19 did you hear it from?

20 A. I can't remember. It was when
21 I got in there and I --- I asked
22 somebody, I says --- I asked them if
23 they was loading or what. I don't
24 know. It was one of the first people
25 that I run into that was on the crew.

1 And they said, no, we was --- we was
2 finished setting the rock props and
3 we was hanging the chain link.

4 Q. So they were --- were they in
5 the process of putting the chain link
6 up?

7 A. That's what I got out of it.

8 Q. When the accident happened?

9 A. Yeah.

10 Q. So they had been over on that
11 left side. Would they have been on
12 the left side or the right side?

13 A. They was on the right side.

14 Q. They were on the right side,
15 putting the chain-link fence up
16 behind the rock props when it
17 bounced?

18 A. Uh-huh (yes).

19 Q. Okay.

20 A. That's what I got out of it.

21 Q. Okay. So there hadn't ---
22 then that means the cable wouldn't
23 have been put up yet; right?

24 A. No.

25 Q. So it wouldn't have been a

1 cable, but they were putting the
2 fence up?

3 A. Uh-huh (yes).

4 Q. Okay. And that's when the
5 accident happened?

6 A. Uh-huh (yes).

7 MR. O'DONNELL:

8 Okay. Thank you.

9 COURT REPORTER:

10 Sir, could you say yes
11 or no, please?

12 A. Yes. Yes. Okay.

13 BY MR. O'DONNELL:

14 Q. We are going to switch gears
15 now and talk a little bit about ---
16 you said you were at the mine from
17 19 ---

18 A. '93.

19 Q. --- 93. So you were involved
20 with the development of the --- tell
21 me, when you got there in 1993, where
22 were they mining?

23 A. They was mining in ---.

24 Q. You can use that map. That's
25 the large mine map.

1 A. We was right --- we were
2 mining these panels right here.

3 Q. And where are you referring to
4 on the large mine map?

5 A. This is First North. And we
6 was --- I think they was developing
7 Six Left, and they was pulling Second
8 Left, something like that.

9 Q. So that was a ---?

10 A. In fact, I can't even remember
11 if they come down --- this is when I
12 first got there, if they was coming
13 down this way or going in. I think
14 they was going in.

15 Q. So you're referring to the
16 Section 36 area?

17 A. Section 36, yeah.

18 Q. And that was the area there
19 that --- that was a continuous
20 haulage system, wasn't it?

21 A. Right.

22 Q. And they pillared using
23 continuous haulage?

24 A. Yes.

25 Q. What was your job back then?

1 A. I was a mason.

2 Q. You built stoppings?

3 A. Yeah.

4 Q. Did you ever work at the face
5 areas?

6 A. I would occasionally go help
7 them run buggy or set a few loads.

8 Q. When you were pulling those
9 sections, do you remember any bounce
10 activity in that area?

11 A. Yeah. There were several
12 bounces, yes.

13 Q. How were those? I mean, what
14 were they ---?

15 A. Typical bounce. I don't know
16 how to explain it.

17 Q. Did it throw coal?

18 A. Yeah. Yeah, it would throw
19 coal.

20 Q. And did it have occasion to
21 knock out some walls?

22 A. No. We had a whole different
23 stopping. We had Omega stoppings. I
24 don't think it ever blowed any
25 stoppings out, no.

1 Q. What about bottom heave up
2 there, did you get any bottom heave?

3 A. Yeah. There was places that
4 heaved, yeah.

5 Q. Where was it typically at?

6 A. You know, as far as ---?

7 Q. Where at in the section? What
8 were you developing there, five, six
9 entries?

10 A. Yeah, Five Entry.

11 Q. It was a five-entry system
12 then with a --- how many ---?

13 A. It wasn't a common thing, you
14 know. Like once in a while. It's
15 usually when you was pulling pillars
16 that the floor would heave. And I
17 can't --- but I don't think there was
18 a designated area that I remember. I
19 never was in the face that much
20 anyway.

21 Q. You weren't?

22 A. No.

23 Q. Okay.

24 A. I mean, other than pulling the
25 stoppings as they was developing.

1 Q. Okay. Now, how many bridges
2 were attached to that unit?

3 A. I think they had four pigs.

4 Q. And it was a duckbill system?
5 It wasn't attached to the miner?

6 A. No.

7 Q. Okay.

8 A. No. It was separate from the
9 miner.

10 Q. So after you worked in that
11 area, where did you work after that?

12 A. Let's see. We pulled these,
13 developed those. Let me think.
14 Maybe we started driving Main South
15 down. No, actually we finished
16 driving this Main West section out.

17 Q. You drove the west main
18 section?

19 A. Uh-huh (yes).

20 Q. Okay.

21 A. In fact, this was kind of
22 going on as far as just driving
23 south.

24 Q. So what was your job then?

25 A. I was a mason for --- I don't

1 know, the first two or three years.
2 I was still a mason on this, when
3 they was developing this. And then
4 mason when they drove these down.

5 Q. Anything --- you've been in
6 that mine a long time and you were in
7 different areas of the mine?

8 A. Uh-huh (yes).

9 Q. Did some areas bounce more
10 than others? Was there more activity
11 in different areas of the mine than
12 others?

13 A. When we started the longwall,
14 every panel you had bounces.

15 Q. How would it bounce at the
16 longwall?

17 A. The face would blow out.

18 Q. The face would blow out?

19 A. Uh-huh (yes).

20 Q. Did it ever cause you to stop
21 mining?

22 A. Several ---. I mean, it would
23 usually blow out a hydraulic hose on
24 the relay bars or something.

25 Q. Did it ever cause any injuries

1 to anyone?

2 A. There was two that I know of.
3 It was just a chunk of coal blew out
4 and broke one guy's leg. Broke
5 another guy's arm.

6 Q. Was it more in a certain line
7 than others or was it not typical? I
8 mean, was it --- where at in the
9 panel? Do you remember what panel?

10 A. Usually the first of the panel
11 was okay from, say, here to --- until
12 you got out about, oh, to Crosscut 20
13 or so, and then it would mellow out.
14 You'd leave the middle of them.

15 Q. So you're saying more of the
16 deep cover area?

17 A. Yeah. Yeah. Probably.

18 Q. That's where you seemed to get
19 some more activity?

20 A. Uh-huh (yes).

21 Q. Okay. Were you involved in
22 pulling the south mains at all?

23 A. This here?

24 Q. Yes.

25 A. No, other than I was the shift

1 foreman when they got out to --- I
2 don't know. When they started ---
3 yeah, I was the shift foreman when
4 they started all this as far as ---.

5 Q. Phil, how was that --- pulling
6 that?

7 A. This here?

8 Q. Yeah. How was it?

9 A. It went reasonably well.

10 Q. Did it?

11 A. Uh-huh (yes).

12 Q. Did you do anything different
13 in there? Were you pillaring
14 differently in that area than you
15 would, say, in the north or south
16 barrier pillars?

17 A. There was more area and we was
18 taking more pillars.

19 Q. Was there a sort of direction
20 you pulled in?

21 A. It was all from left to right.

22 Q. So from the east to the west,
23 you'd say?

24 A. Uh-huh (yes) --- or yeah.

25 Q. That worked out better?

1 A. Seems like it. Seems like
2 they tried it both ways. I can't
3 remember. It worked out better.

4 Q. Any bounces in that area that
5 you can remember?

6 A. Yeah.

7 Q. How were those bounces?

8 A. You know, they were your
9 typical bounce. I mean, ---.

10 Q. When you say typical bounce,
11 you mean a bounce that throws coal or
12 a bounce that makes noise?

13 A. It --- they usually threw
14 coal, although it was usually right
15 on your pillar line.

16 Q. So right at the face area?

17 A. Right.

18 Q. What about outby?

19 A. Well, it would work a little
20 bit out there. I mean, nothing, you
21 know, blow up clear out in the entry,
22 but it would knock ribs and stuff
23 out.

24 Q. Where you'd have to go back
25 and clean up or ---?

1 A. Usually just with a scoop.

2 Q. Did it ever chase you where
3 you had to quit mining and leave
4 blocks?

5 A. No. These here was the water
6 and back there was water,
7 groundwater, and here we built seals
8 across for our bleeder here.

9 Q. Okay. So the south came out
10 pretty good then, huh?

11 A. It did.

12 Q. And you said you developed the
13 west mains then. You were building
14 walls in the west mains?

15 A. Yeah.

16 Q. What were the coal ribs like
17 when you were driving the west mains?

18 A. Well, they was, I don't know
19 --- I mean, they wasn't straight up
20 and down.

21 Q. Did you have any problems when
22 they were driving it?

23 A. No, not that I'm aware of.

24 Q. Okay. And do you know why
25 they stopped the section in the west

1 mains?

2 A. Stopped what section?

3 Q. The west mains from going any
4 further?

5 A. Oh, they got into this fall
6 right here.

7 Q. Oh, okay. And was there a lot
8 of water in that area, too?

9 A. Yes, there was.

10 Q. Okay. So how long did the
11 west mains set before they sealed it?

12 A. I can't remember what they
13 sealed in this thing down here.

14 Q. Did it stay open for quite a
15 while?

16 A. Yeah.

17 Q. And was it travelable?

18 A. Yeah.

19 Q. So it was part of an exam?

20 A. Yeah.

21 Q. How was it ventilated?

22 A. We'd blow a hole in to put our
23 feeder.

24 Q. So that was open the whole
25 time those panels were getting

1 pulled?

2 A. Uh-huh (yes).

3 Q. Okay. So a number of years
4 then before it was sealed?

5 A. Right.

6 Q. Did you notice --- did you
7 ever --- did you happen to go back
8 there from time to time, to the pump?

9 A. Yeah.

10 Q. And tell me about the entries.
11 I see there's some entries marked
12 there rock. Was that from a fall or
13 what? See the little slashes there?

14 A. That brown thing?

15 Q. Yeah.

16 A. No, I can't remember any roof
17 falls in there at all.

18 Q. I mean, what would --- if
19 there was no roof falls, then what
20 was --- how did the material get
21 there? What was it from, do you
22 recall?

23 A. I don't. I don't recall.

24 Q. Do you remember if they
25 had ---?

1 A. I don't recall all that rock
2 being in there.

3 Q. Do you remember if they
4 bounced at all on development there
5 or later?

6 A. I'm not sure if it did or not.

7 Q. Okay. Was it always a clear
8 road for you to drive up ---

9 A. Uh-huh (yes).

10 Q. --- or did you ever have to
11 rehabilitate the area?

12 A. There was some rehabilitation
13 in the ---. I can't remember where
14 it was. There was some
15 rehabilitation in the return area
16 right here, I know, where we went in
17 and set square sets.

18 Q. Okay.

19 A. And then this Number Two
20 roadway, I believe, there was square
21 sets. I can't remember exactly where
22 it was.

23 Q. And was that for ---? What
24 were they set for, what reason?

25 A. Stoppings was pressing out.

1 Q. From bottom heave?

2 A. I'm not sure whether it was
3 bottom heave or ---.

4 Q. Or was it from rib pressure?

5 A. I'm not sure.

6 Q. You don't know?

7 A. No.

8 Q. Okay. So you set the square
9 sets to protect ventilation controls?

10 A. Ventilation. And then they
11 left some --- they left some top coal
12 in the two places that started
13 falling out between the pits. And we
14 did set a couple square sets ---.

15 Q. But you were getting pressure
16 over on the right side, though, in
17 the Number Four entry or Five entry?

18 A. Yeah.

19 Q. And that was on the bleeder
20 side?

21 A. Over here?

22 Q. Yeah.

23 A. This here was the bleeder.

24 Q. Yeah. I mean, it would have
25 been the ---

1 A. Yeah.

2 Q. --- return side?

3 A. Exactly.

4 Q. Okay. Okay. Anything else
5 about the west mains that you might
6 remember, that you might want to talk
7 about?

8 A. No.

9 Q. Okay. So you were there for
10 the development of the north barrier,
11 south barrier and pillaring of both;
12 right?

13 A. Right.

14 Q. Let's talk about --- first
15 let's just compare the two. How
16 would you compare development and
17 pillaring of the north pillar
18 compared to development and pillaring
19 of the south barrier pillars?
20 How would you compare the two, as far
21 as bounces, pressures, activities,
22 heaving, any of that stuff?

23 A. I don't know. I believe there
24 was probably more heaving and what
25 have you down here.

1 Q. More heaving in the south?

2 A. Heaving in the south. And as
3 far as the ribs and stuff like that,
4 I'd say it was pretty close to the
5 same, same area.

6 Q. In the north I see that they
7 stopped mining before --- there's a
8 large block ahead of the north
9 barrier pillar where they stopped
10 development. Is there a reason why
11 they stopped development in the north
12 barrier pillar?

13 A. The water. They had quite a
14 bit of water there.

15 Q. And where was the water coming
16 from?

17 A. The roof.

18 Q. Cracks or bolt heads?

19 A. Cracks and bolt heads.

20 Q. Okay. Was there any type of
21 --- did they do anything to --- what
22 did they do to dewater the area?

23 A. We had a dewatering system in
24 a little spot, and I can't remember
25 where it was, around 155 or 157.

1 Yeah, somewhere into here there was a
2 little spot where that came from, set
3 up right there. I think we was
4 pumping face pumps into that and pump
5 it right out.

6 Q. Okay. Pumped it out to where?

7 A. To the main dewatering system
8 that went down behind --- or went
9 down and it stopped right here.

10 Q. And you pumped it down into
11 the south mains?

12 A. South mains, yes.

13 Q. Okay. Were there any holes
14 drilled?

15 A. Holes drilled?

16 Q. To attempt to dewater?

17 A. Oh, yes, there was a hole
18 drilled. I can't remember exactly
19 where it was. They drilled here and
20 here. I think down in here.

21 Q. Here and there means you
22 drilled ---?

23 A. To this barrier.

24 Q. You drilled into the west
25 mains?

1 A. Right.

2 Q. From the ---?

3 A. About the same place that sump
4 was.

5 Q. Okay. And how big of a hole
6 was it?

7 A. I didn't have really nothing
8 to do with it. I think it was about
9 a three-inch hole or four-inch. I'm
10 not sure.

11 Q. Did it work?

12 A. No.

13 Q. Did they pump into it or did
14 they try to gravity feed?

15 A. No, it was just gravity. I
16 think it was what they expected. I'm
17 not sure what they were doing in
18 there.

19 Q. Any other holes that were
20 drilled anywhere?

21 A. No.

22 Q. So they stopped mining and
23 they started pillaring out. And do
24 you recall why they stopped
25 pillaring?

1 A. Yeah, had that bounce on
2 whatever day it was. It was in
3 March. These stoppings here, some of
4 them had blown out during that bounce
5 there. And I didn't want to send
6 anybody back there, so I told Gary to
7 come look at it.

8 Q. Were you there when it
9 bounced?

10 A. Some people were back there to
11 go repair stoppings.

12 Q. Were you in the section when
13 it bounced?

14 A. No.

15 Q. Were you working that shift?

16 A. I was the oncoming shift
17 after.

18 Q. Okay. So you went in --- you
19 took a look at it then?

20 A. Uh-huh (yes).

21 Q. How bad was it?

22 A. It was --- I don't know, this
23 pillar that was leaking right here on
24 this side, it hit pretty hard.

25 Q. You're talking about what

1 crosscut in the north?

2 A. That's where we pulled and got
3 back to here. I guess this is where
4 we was mining if we had this mined.

5 MR. O'DONNELL:

6 We have another map
7 here. We'll call this Cox
8 Exhibit Four. I'm giving you
9 lots of paper. Okay. There
10 you go. That's it.

11 (Cox Exhibit Four
12 marked for
13 identification.)

14 A. This pillar was hit pretty
15 hard on this side.

16 BY MR. O'DONNELL:

17 Q. Do you remember where they
18 were mining whenever it hit, where
19 the miner was?

20 A. The miner must have been in
21 here, in Number Two entry.

22 Q. Number Two entry, between 135
23 and --- what is that? I can't see.

24 A. 134 and 133.

25 Q. Okay. The miner was in Number

1 Two entry then; right?

2 A. I'm not sure.

3 Q. Well, the best you can
4 remember.

5 A. Looking at this map,
6 apparently ---. It wasn't in. But I
7 don't know ---. I believe it was.

8 Q. All right. And you say it
9 bounced pretty hard?

10 A. Yeah.

11 Q. That would be the third
12 block ---?

13 A. It hit this pretty hard.

14 Q. That would be the one between
15 Three and Four; right?

16 A. Right.

17 Q. Of 134 and 135?

18 A. Uh-huh (yes).

19 Q. So tell me what you saw.

20 A. And I think blew this stopping
21 out, the stopping ---.

22 Q. Could you mark the stoppings
23 that blew out, the best that you can
24 remember.

25 WITNESS COMPLIES

1 A. That one and that one, I
2 think. I'm not sure about this
3 one, ---

4 BY MR. O'DONNELL:

5 Q. Okay.

6 A. --- whether it was blowed out
7 or not. I know this one was.

8 Q. About what time of the day was
9 it? You said ---.

10 A. I'm trying to think what shift
11 I was on. I think I was on
12 graveyard, so it must have been in
13 the afternoon ---

14 Q. Uh-huh (yes).

15 A. --- on the day that it
16 happened.

17 Q. Well, you said you called
18 Gary?

19 A. Yeah.

20 Q. So he had ---

21 A. Well, I ---.

22 Q. --- already been gone then
23 probably, if he was daylight; right?

24 A. Yeah.

25 Q. Okay.

1 A. This was later on in the
2 shift.

3 Q. Okay.

4 A. They just come out and said
5 they had a bounce in there and
6 they ---.

7 Q. Did anybody get hurt?

8 A. No.

9 Q. Did anybody get knocked down?

10 A. Not that I know of.

11 Q. Did any equipment get buried?

12 A. I think the scoop was in by
13 here somewhere. I think they was ---
14 I mean, it pulled out by itself, but
15 it was about level with the scoop.

16 Q. Okay. And was there a guy on
17 it when it happened?

18 A. I'm not sure. Couldn't answer
19 that.

20 Q. So anyway they got the scoop
21 out. So ventilation was disrupted
22 for a period of time?

23 A. Yeah, from here in. And then
24 there was a few stoppings down in
25 here blown out.

1 Q. When you're saying in here,
2 you're talking about on the bleeder
3 side?

4 A. That was the bleeder. Yeah.

5 Q. Did you go back in there and
6 check it that day?

7 A. Yeah.

8 Q. And how far did you get back
9 in?

10 A. I don't know. All the way to
11 the water's edge is what it was.

12 Q. So you could travel all the
13 way to the evaluation point?

14 A. Yeah.

15 Q. And how many walls were out?

16 A. It was --- I think there was
17 one that was laid over pretty good,
18 and it wasn't clear out. And then
19 there was some corners on a couple
20 others that was leaking. There was
21 still air ---

22 Q. Still air coming down?

23 A. --- coming down.

24 Q. Okay.

25 A. It was up through the bottom.

1 Q. Did you notice any --- did you
2 detect any low oxygen or anything at
3 that time?

4 A. No.

5 Q. Okay. About how long were
6 they down before they could start
7 running again?

8 A. Well, we just went in and
9 started cleaning is what we did.

10 Q. Now, this was the last bounce,
11 right, or what bounce was this? This
12 was the last ---?

13 A. The one before we pulled out
14 of here.

15 Q. Okay. So that was the last
16 bounce. What about the bounce up
17 here? What happened here?

18 A. I'm not sure. I wasn't
19 involved with that at all.

20 Q. But it looks like they had
21 left two rows of blocks; right?

22 A. Yeah.

23 Q. Do you know why they did that?
24 Did you ---?

25 A. It might have been for the

1 bounces. Maybe the bounces was --- I
2 believe it was. It was bouncing
3 quite a bit, and they decided to
4 leave two rows and start over.

5 Q. Okay. So you weren't --- was
6 this your time when you were off?

7 A. I was probably off, yeah, at
8 that time.

9 Q. Is this when you first came
10 back, when you were already pulled
11 back?

12 A. I'm not sure if we had started
13 here or --- I think we mined that.
14 When we come back we was starting on
15 this row.

16 Q. Do you remember when that one
17 was?

18 A. As far as ---?

19 Q. That bounce, the one where you
20 pulled out of the section.

21 A. When it was?

22 Q. Yes. Do you have any idea?
23 You said it was in March.

24 A. It was the time --- oh, yeah,
25 March. The date, I have no idea what

1 the date was, no.

2 Q. Okay. And you said you were
3 probably off when the decision was
4 made to drop a couple blocks ---

5 A. Right.

6 Q. --- and you came back in? Did
7 Gary talk to you about that?

8 A. About?

9 Q. That they had pulled back?

10 A. Yeah. I believe they had left
11 a couple rows, yes. That's why,
12 because it was bouncing, I guess,
13 quite a bit on them, so ---.

14 Q. What was the pressures like
15 outby where you were working?

16 A. As far as the pillars and
17 stuff?

18 A. Yeah, the bounces, the
19 pressures? Was it ---?

20 A. I mean, it was --- stayed the
21 same outby. I mean, it --- this here
22 bounced right here. Like they had
23 hit across here and part way up on
24 this next row it was kind of
25 overriding. But outby, I mean, there

1 wasn't any stoppings knocked out.

2 There wasn't any ---.

3 Q. I'm saying it wasn't --- it
4 was chasing you, but it wasn't behind
5 you?

6 A. No.

7 Q. Okay.

8 A. No. Like I said, this one
9 here kind of --- you could see where
10 it was starting a pattern, where it
11 was working out away from the face.

12 Q. Did the guys come to you at
13 all and have concerns? Did they tell
14 you, Phil, this is getting shaky, I
15 think we need to get out of here?
16 Would you have any conversations,
17 anybody have any concerns that they
18 brought to you?

19 A. On this one?

20 Q. Yeah.

21 A. No.

22 Q. Or as a section was pulled.
23 About the north. We're just staying
24 in the north.

25 A. Okay. Nobody did other than

1 this date here. Like I said, the
2 crew come out and they said they had
3 a bounce, and they was starting to
4 clean it up. So I sent my crew in
5 there.

6 Jim Hanna was the section
7 foreman. And so they went in to
8 clean it up. And I don't know, about
9 an hour later or something, Jim
10 called and says, why don't you come
11 and take a look at these. It's
12 knocked a few stoppings out. I want
13 to see what you want us to do.

14 So I went in and talked to
15 Jim, and I says, well, what do you
16 think, Jim? He says, I don't know,
17 it's all right, other than ---. He
18 had walked down here. I think it was
19 --- I can't remember which one of
20 these stoppings it was. I don't want
21 to send people back there to repair
22 these stoppings.

23 Q. So you didn't really hit any
24 more blocks, you just cleaned up?

25 A. No, we didn't mine any more

1 coal.

2 Q. There was no ---?

3 A. I say, well, let's just start
4 outby here and start cleaning these
5 entries up and check your ribs. And
6 if we needed timber, let's set the
7 timber and get everything squared up.
8 I'll call Gary and ---.

9 Q. And then you pulled?

10 A. When Gary come in, I told him
11 what we had or showed him what we had
12 and told him about these here, and
13 his decision was to pull out.

14 Q. What's what I was just going
15 to ask you. How much coal did you
16 load out? How much did you have to
17 clean up? How long did it take you,
18 all that?

19 A. We was all night setting
20 timbers and cleaning up, bringing new
21 stoppings.

22 Q. So all night ---?

23 A. I mean, well, until Gary got
24 there. And I can't remember what
25 time he got there for sure.

1 Q. So there was a good bit of
2 cleanup to do?

3 A. Yeah.

4 Q. Okay. Did you clean up with
5 the muckers or the miner?

6 A. Miner. We brought the miner
7 out and put it on the feeder.

8 Q. Okay.

9 A. Does that answer ---?

10 Q. Yeah. That's what we were
11 interested in, how much coal you
12 loaded out.

13 A. It was time-consuming because
14 there was quite a few rib --- or
15 timbers we had to put in.

16 Q. Okay. So where did you go
17 after you left that section? Where
18 did you set up?

19 A. We didn't. We was still in
20 the process of building the stopping
21 when Gary --- I mean, we ---.

22 Q. I mean, now the section was
23 done. The decision was made to pull
24 out.

25 A. We went to Third North.

1 Q. And about how long did you
2 mine there before the south was
3 ready?

4 A. I don't know. It was a matter
5 of weeks.

6 Q. Was it?

7 A. A week or better. Two weeks.
8 I'm not sure.

9 Q. Okay. And then you --- let's
10 talk about the development of the
11 south barrier pillar now. Anything
12 remarkable about the development?

13 A. No.

14 Q. As far as did you get any
15 increased pressures on the drive
16 with, say, heaving --- bottom heaving
17 in the south barrier?

18 A. No. There was more bottom
19 heaving there than there was over on
20 the other side. I mean ---.

21 Q. Where did you notice that,
22 Phillip? Was it --- where did you
23 notice bottom heaving?

24 A. It was probably --- I don't
25 know, from this area in.

1 Q. What crosscut are you talking
2 about?

3 A. Probably 140 in from the
4 bottom we noticed it in the belt
5 line ---.

6 Q. That's the heaving that we
7 talked about earlier?

8 A. Right.

9 Q. Okay. And so that's the only
10 --- tell me about driving the north
11 barrier compared to driving the south
12 barrier, just development.

13 A. As far as ---

14 Q. Conditions.

15 A. --- conditions? Well, the
16 conditions --- I don't know, about
17 the same as far as pressures, as far
18 as, I don't know, pillars and that.
19 There wasn't a lot of difference
20 between either one.

21 Q. So --- okay.

22 A. This was a little better
23 because we didn't have all the water
24 we had over there.

25 Q. But the difference was the

1 bottom heaving?

2 A. There was some bottom heaving
3 here, too, but, you know, it wasn't
4 as bad as over here.

5 Q. Okay. Bad meaning, you
6 said ---.

7 A. Well, I was going to say it
8 was in the belt line.

9 Q. It was in the belt line and it
10 was bottom coal?

11 A. We had to raise the belt line
12 because it was heaving up into the
13 bottom coal.

14 Q. So you started pulling the
15 sections. Tell me about that, as far
16 as increased pressures when you
17 started pulling.

18 A. We started pulling the
19 section. I mean, it was --- you got,
20 like I said, a cross there in
21 probably the first row and started
22 get a good cave. It caved in right
23 on us, so I mean, it was ---
24 actually, it was quite good. I
25 thought it was looking good. And

1 that's ---. I mean, you'd have an
2 occasional bounce once in a while.
3 It was always right on with the
4 pillar line, where we was mining.

5 Q. So it was right at the face?

6 A. Nothing was riding over.

7 Q. You didn't notice
8 anything ---?

9 A. In fact, I remember telling
10 Josh, you know, it got started
11 bouncing outby, why don't you get
12 ahold of Gary.

13 Q. Why was that? Was it because
14 of what had happened in the north
15 barrier?

16 A. Right.

17 Q. Did you expect the same kind
18 of activity?

19 A. I didn't know what to expect.
20 I mean, the way it was coming out, it
21 was coming out ---

22 Q. Yes.

23 A. --- quite a bit, and I didn't
24 know if --- you know, if we could
25 keep our cave going with this, I

1 thought, you know, maybe it would be
2 all right. I tried to tell him, you
3 know, we need to take as much pillar
4 as we possibly can. If we have to
5 pull out, wait a minute, let it
6 settle down ---.

7 Q. Did you have any of the miners
8 --- did they have any concerns? Did
9 they bring anything to your attention
10 saying that they had --- they were
11 starting to get skittish or anything?
12 Did anybody come to you?

13 A. No. Nobody come to me and
14 said anything. I mean, I can't ---.

15 Q. Did you have any concerns?

16 A. Oh, I always got concerns.

17 Q. No, I understand that.

18 A. As far as what we was doing,
19 no, I didn't.

20 Q. Okay.

21 A. No, I didn't --- you know, if
22 conditions would have changed, yes.
23 I mean, I experienced as much time as
24 I could in there, you know, just
25 watching and stuff.

1 Q. Sure. How did that bleeder
2 entry hold up?

3 A. The last time I went down
4 there --- walked down, it was really
5 good. In fact, these ribs was almost
6 straight up and down. I mean, there
7 was no sloughage in 'em.

8 Q. On the right side?

9 A. On the barrier side.

10 Q. On the north side, I would
11 say?

12 A. Yeah. And then, in fact, I
13 remember going out and telling Gary
14 how the longwall looked out there.
15 There was one cave-in --- one
16 stopping out, that we went back there
17 and repaired that. That was the only
18 trouble we had back there.

19 MR. O'DONNELL:

20 Let's take a short
21 break. I'll see if we have
22 any follow-up questions here.
23 Okay?

24 A. Okay.

25 SHORT BREAK TAKEN

1 BY MR. O'DONNELL:

2 Q. Just a few follow-up
3 questions. In the north mains in
4 March you said that you had two
5 return walls that were out. Were
6 they repaired before you started
7 loading?

8 A. Before we started cleaning up?

9 Q. Yeah.

10 A. No. We had to clean up to
11 build them. They was started.

12 Q. Okay. You're talking about
13 the two that were blown out on the
14 bounce?

15 A. Yeah.

16 Q. So you had to clean up two of
17 them?

18 A. I can't remember if that one
19 was. I know there was one for
20 sure, ---

21 Q. Okay.

22 A. --- the one closest to it.

23 Q. What about the bleeder
24 stoppings, were they ever repaired?

25 A. No.

1 Q. So they were just --- and then
2 you pulled out; right?

3 A. Uh-huh (yes).

4 Q. Did you have any input into
5 the decisions or plans to mine the
6 north and south barriers?

7 A. Input? No, not really. I
8 mean ---.

9 Q. So that was --- how was that
10 plan? Was it done by the engineers
11 and ---?

12 A. It was done by --- as far as I
13 know, the engineers submitted the
14 plan, and I know they had people come
15 in and take a look at the south
16 barrier, both of them, I guess.

17 Q. Did they ever ask you
18 anything?

19 A. They changed the pillar size
20 on the --- I know they changed the
21 pillar size on the south. And, no, I
22 didn't have any trouble.

23 Q. Okay. Do you recall
24 mentioning to Donnie Durrant that
25 there was heavy bouncing in the south

1 barrier when you were riding in with
2 him?

3 A. When?

4 Q. This would have been after the
5 first accident.

6 A. No, I don't. Did I? In the
7 south barrier? No, I don't.

8 Q. Okay.

9 ATTORNEY HOLBROOK:

10 Are you asking him if
11 he recalls making that
12 statement?

13 MR. O'DONNELL:

14 If he recalls having a
15 conversation with Donnie
16 Durrant about the conditions
17 in the south barrier, that it
18 was bouncing pretty heavy.

19 A. No.

20 ATTORNEY WILLIAMS:

21 Was it bouncing?

22 A. No, I didn't know it was. No.
23 I hadn't noticed anything, you know,
24 bouncing. I think the first time it
25 bounced on us when we was in there

1 was I think that day, that earlier
2 one. But there had been some on the
3 other shift.

4 BY MR. O'DONNELL:

5 Q. How do you designate the
6 responsible person on each shift?

7 A. It's usually the shift
8 foreman.

9 Q. Okay. And how do the men know
10 who the responsible person is before
11 that shift? Is it marked somewhere
12 or ---?

13 A. Oh, yeah. We got a board that
14 has a --- you put your tag in
15 and ---.

16 Q. Is it like a nameplate or ---?

17 A. Yeah. It's just a plastic
18 thing with a hook on it. Whoever ---
19 like if you're off, you come in
20 dayshift or the graveyard, hang your
21 tag.

22 Q. Okay. And if you would have
23 occasion to, say, leave during the
24 shift, who would be the responsible
25 person?

1 A. It would usually be --- the
2 section boss who would come out and
3 you'd have somebody step up for him,
4 be the responsible person, or you can
5 --- I have firebosses I'd use.

6 Q. Is that a procedure that you
7 followed? I mean, did you ---?

8 A. I never really used it. I
9 mean, I was pretty much there every
10 day. But I was planning some
11 vacation, and I talked to my fireboss
12 and I probably was going to use him
13 as a section foreman, leave the
14 section guy in there.

15 Q. And would you tell the shift
16 when you went in? You wouldn't be
17 there. I guess it would be just the
18 person that would be changing?

19 A. Right. His name would be up
20 on the board as the responsible
21 person. He had a name tag.

22 Q. Do you have anything you'd
23 like to add that may be relevant to
24 the investigation?

25 A. I don't know what. I just

1 hope there can be a positive
2 solution.

3 Q. Sure.

4 MR. O'DONNELL:

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

13 We ask that you not
14 discuss your testimony with
15 any person who may have
16 already been interviewed or
17 who may be interviewed in the
18 future. This will ensure that
19 we obtain everyone's
20 independent recollection of
21 the events surrounding the
22 accident.

23 After questioning other
24 witnesses, we may call you if
25 we have any other follow-up

1 questions that we feel we may
2 need to ask you. If at any
3 time you have any additional
4 information regarding the
5 accident you'd like to provide
6 to us, please contact us at
7 the contact information we
8 gave you. I put Mr. Gates'
9 card in front of you. Did you
10 get it?

11 A. Yes.

12 MR. O'DONNELL:

13 Okay. The Mine Act
14 provides certain protections
15 to miners who provide
16 information to MSHA and, as a
17 result, are treated adversely.
18 If at any time you believe
19 you've been treated unfairly
20 because of your cooperation
21 with this investigation, you
22 should notify us immediately.

23 If you wish, you may
24 now go back over any answer
25 that you've given us during

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the interview and you can make
a statement at this time.

A. I can't think of anything.

MR. O'DONNELL:

Okay. Thanks, Phillip.
We appreciate you coming
forward.

* * * * *

STATEMENT CONCLUDED AT 9:05 A.M.

* * * * *