

STATEMENT UNDER OATH  
OF  
TED FARMER

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Thursday, October 4, 2007, at 7:10 a.m.

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

2

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

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ALSO PRESENT:  
Kelly C. Kirkwood, Notary Public

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

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MR. GATES:

Ted, 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 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 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 these  
11 causes can reduce the  
12 accidents 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. Please  
21 speak loudly and clearly. If  
22 you do not understand a  
23 question asked, please ask me  
24 to rephrase it. Please answer  
25 each question as fully as you

1 can, including any information  
2 you've learned from someone  
3 else.

4 You may have a personal  
5 representative present during  
6 the taking of this statement  
7 and may consult with the  
8 representative at any time.  
9 Your statement is completely  
10 voluntary, and you may refuse  
11 to answer any question or  
12 terminate your interview at  
13 any time. You may also  
14 request a break at any time.

15 I would like to thank  
16 you in advance for your  
17 appearance here. We  
18 appreciate your assistance in  
19 this investigation. And your  
20 cooperation is critical in  
21 making the nation's mines  
22 safer.

23 After we have finished  
24 asking questions, you will  
25 have an opportunity to make a

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statement and provide us with any information that you believe to be important. If at any time after the interview you recall any information that you believe might be useful, please contact me at the telephone number or e-mail address on this business card.

Ms. Kirkwood, would you swear in the witness?

MS. KIRKWOOD:

Please raise your right hand.

-----  
TED FARMER, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:  
-----

MR. GATES:

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

MS. KIRKWOOD:

I am.

1                   MR. GATES:

2                   When does your  
3                   commission expire?

4                   MS. KIRKWOOD:

5                   August 15th, 2008.

6                   MR. GATES:

7                   Have you sworn in Mr.  
8                   Farmer?

9                   MS. KIRKWOOD:

10                  I have.

11                  BY MR. GATES:

12                  Q.           Ted, would you please state  
13                  your full name and address for the  
14                  record?

15                  A.           Ted E. Farmer, (b) (7)(C)  
16                  (b) (7)(C)

17                  Q.           And do you have any questions  
18                  about the interview process as I've  
19                  described it to you?

20                  A.           No, I don't.

21                  Q.           Okay. Do you have a personal  
22                  representative with you today?

23                  A.           No, I do not.

24                  Q.           Ted, are you appearing here  
25                  today voluntarily?

1 A. Yes, I am.

2 Q. And how long have you worked  
3 for MSHA?

4 A. Twenty-three (23) years.

5 Q. And your current duty station  
6 is?

7 A. Price, Utah.

8 Q. And you've been there ---?

9 A. Probably seven years.

10 Q. And what is your current  
11 position in Price, Utah field office?

12 A. Supervisor of Workgroup 01.

13 Q. And how long have you been in  
14 that position?

15 A. Twelve (12) years.

16 Q. And your supervisor is?

17 A. Bob Cornett.

18 Q. Okay. Ted, could you just  
19 give a little summary or recap of  
20 your mining background and  
21 experience?

22 A. My granddad owned Trail  
23 Mountain Mine over in Emery County.  
24 I was going into the mine when I was  
25 very young. I was contracting at 15

1 years of age, shoveling coal. And  
2 that went on until, you know, I  
3 graduated from high school. After  
4 high school, you know, there's  
5 different jobs, but then I went back  
6 in the mines in '72 --- excuse me,  
7 '70, and worked at Kaiser Steel in  
8 pillar sections, mostly in pillar  
9 sections at Keiser. Then I worked at  
10 Wilberg, development and track  
11 haulage. And then I come on board  
12 with the government.

13 Q. What other offices have you  
14 worked in with MSHA?

15 A. Castle Dale, Utah. For the  
16 majority of my time I was acting  
17 supervisor, as well as down in the  
18 Aztec, New Mexico field office for a  
19 year while I was also the supervisor  
20 here, as an acting supervisor up in  
21 Craig, Colorado for a short period of  
22 time. So those are the two offices  
23 other than Price and Castle Dale.

24 Q. Were you ever assigned to  
25 inspect the Crandall Canyon Mine?

1 A. Yes, I was.

2 Q. When was that?

3 A. From basically when it first  
4 opened up. I had an inspector who  
5 quit and went with what was called  
6 the Gentz (phonetic) family, and his  
7 name was Woolen (phonetic). So they  
8 opened that mine up, and it was  
9 basically from the time they kind of  
10 first opened it up until --- my last  
11 time there was in December of 2006.

12 Q. And since you became the  
13 supervisor, was the Crandall Canyon  
14 Mine ever assigned to your workgroup?

15 A. Yes, it was.

16 Q. And when might that have been?

17 A. Oh, let's see. I've had  
18 Crandall Canyon when I was in Castle  
19 Dale as a supervisor in 1995 and  
20 probably up until --- well, then we  
21 switched on and off from the field  
22 offices. And then they gave me ---  
23 they took Crandall --- when I come to  
24 Price I didn't have Crandall Canyon.  
25 And then when Price --- well, even

1 before Castle Dale moved to Price,  
2 there was some shifting around. And  
3 I got Crandall Canyon until last  
4 year, and then went --- starting in  
5 October of last year, 2006, then it  
6 went back over to the Price Two Field  
7 Office.

8 Q. And you were in the Price ---  
9 which field office?

10 A. One.

11 Q. You were in the One?

12 A. Yeah. Workgroup One.

13 Q. And if you could, I mean it  
14 sounds like you've been involved  
15 either as an inspector or as a  
16 supervisor with enforcement  
17 activities at Crandall Canyon for  
18 some time, so I'm not going to ask  
19 you to go into great detail to  
20 stretch your memory. But if you  
21 could, maybe just give us a general  
22 overview of how you perceived the  
23 conditions at the mine, compliance  
24 history of the mine, just a general  
25 overview of your take on the mine

1 since you've been involved with it.

2 A. Well, over the years with the  
3 different management people, it  
4 seemed like when --- it was just a  
5 normal mine, you know, that got, I  
6 guess, you know, average-type  
7 citations, just --- is what was ---  
8 we'd say within the field office, you  
9 know. It didn't have any more or any  
10 less. It didn't have any different  
11 problems, anything like that. There  
12 was no methane. They had to pull out  
13 of the one area because of a fall  
14 went down.

15 And so the compliance issues  
16 weren't that great until it seemed  
17 like when Mr. Murray took over. And  
18 then the compliance --- the  
19 violations got a lot harder, a lot  
20 --- it just seemed like from when I  
21 was there last in December, it was,  
22 to me, a disaster area that I've  
23 never really seen that conditions for  
24 quite a while. It seemed like I  
25 walked back in history for, you know,

1 a few years, you know.

2 So I wasn't really pleased,  
3 but it wasn't my mine at that time.  
4 I was there on a call from an  
5 individual that they thought that  
6 somebody needs to go up there and  
7 look. And Bill Taylor was on  
8 vacation because it was during  
9 Christmastime. So I grabbed four  
10 guys and --- three guys and we went  
11 up to check out what this man was  
12 saying. And he was pretty well  
13 correct in what he was saying.

14 So it just seemed like it kind  
15 of went downhill a little bit when  
16 Murray took over. They seemed to  
17 have a more --- prior to that, a more  
18 proactive way of, you know, trying to  
19 solve the problems, things like that,  
20 with the Tower group. It seemed to  
21 me like when I was working with them  
22 I had a better working relationship  
23 with them, you know, in trying to  
24 solve the compliance issues, things  
25 like that. But that's --- that was

1 my take on the mine.

2 Q. You mentioned a couple times  
3 your visit in December. How long had  
4 it been prior to that since your last  
5 visit to the mine?

6 A. Well, it would have been at  
7 least over a year.

8 Q. And I think you used the term  
9 that the citations were harder after  
10 the sale of the mine. I'm not sure,  
11 what do you mean by harder?

12 A. Yeah. It seemed like more  
13 orders were being issued. More  
14 numbers of citations were being  
15 issued.

16 Q. Now, this would have been then  
17 from your --- just your observations  
18 or was the mine actually under  
19 your ---

20 A. It was just from ---.

21 Q. --- workgroup at that time or  
22 since the time of the sale?

23 A. Part of the time --- just a  
24 small part of the time it was under  
25 my workgroup. And then through the

1 observation and then what we had done  
2 at the mine itself in December, the  
3 type of actions that we took in  
4 December.

5 Q. Maybe if you could just  
6 describe what you did do in December.  
7 And this would have been December  
8 of ---

9 A. '06.

10 Q. --- '06?

11 A. Yeah. It was the latter ---  
12 it was, I think, the last week of  
13 December of '06, when I had a call  
14 from an individual. And the  
15 individual said, you know, you just  
16 ought to go up there and take a look.  
17 He wasn't filing a complaint. He  
18 didn't --- all he just said was you  
19 need to take a look and basically  
20 hung up, and that was it.

21 And so what I did is, there  
22 was three inspectors in the office at  
23 that time. Well, basically one  
24 trainee and two inspectors. And Rick  
25 Boyle was the diesel inspector. The

1       trainee was Bill Bordea. And then  
2       Mike Shumway, one of my inspectors.  
3       So we went to the mine. And while we  
4       were out on the surface we decided  
5       what we were going to do. I told  
6       them I'd walk all the belts and that  
7       they'd go into the section and go  
8       through the equipment and see what  
9       the section looked like and make sure  
10      everything was good in there.

11                We --- I called a person on  
12      the outside and told him I was going  
13      to start walking belts because there  
14      was nobody on the outside, no  
15      management people. Everybody was  
16      underground. So I started walking  
17      the belts. And I walked the belts  
18      --- finally I was able to get down to  
19      the first phone that I could locate.  
20      I had them shut down the belts,  
21      because the belt was rubbing in the  
22      structure. It was heating. There  
23      was accumulations, float dust just on  
24      the first couple belt drives, you  
25      know, couple of belts that I was on.

1           So they finally got --- I  
2     think I was down on the Number Three  
3     or Number Four belt drive and someone  
4     come up along and we went back,  
5     showed them what the problems were,  
6     you know, unguarded belt drives,  
7     where the float dust was, where the  
8     accumulations was, where the belt  
9     structure was rubbing. I gave him  
10    those locations. In fact, I even had  
11    some red flagging material with me,  
12    and I flagged those areas.

13           I got on down, you know, there  
14    was more accumulations on down the  
15    other belt lines, I think Number Six  
16    belt line. As I got to the Number  
17    Seven belt line, I met Mike Shumway,  
18    and he said that he had walked the  
19    Number Seven. That was their last  
20    belt. It took about three hours to  
21    walk that area. And then Mike told  
22    me that they were down and they had  
23    an order on a section because of lack  
24    of rock dust and that they were ---  
25    Rick Boyle and Bordea were taking

1 care of it.

2 There was over --- right  
3 around a thousand feet in a couple  
4 entries, two or three entries, I  
5 guess, that had no rock dust, you  
6 know, applied to the ribs or  
7 anything. They were in a pillar  
8 section. They were in their south  
9 mains coming out on a pillar section,  
10 was bumping them pretty good, you  
11 know, and the ribs, a lot of  
12 sloughage, but you just couldn't find  
13 any, you know, rock dust whatsoever.

14 And the mine manager was  
15 there. The boss was there. The  
16 safety director had all been in that  
17 section that day. And so they issued  
18 the unwarrantable. They issued  
19 inadequate onshift, preshift. And I  
20 issued --- I think there was six  
21 violations I issued on the belt. But  
22 because they were doing the preshift  
23 citation on --- you know, lack of  
24 preshift or inadequate preshift.  
25 That would have also included the

1 belt line, so ---. And I think Mike  
2 wrote a couple violations. I don't  
3 know exactly what they were, but ---  
4 I can't remember, but ---.

5 And in our --- we recommended  
6 that a 110(c) investigation be  
7 conducted on three of the  
8 individuals. That was the (b) (7)(C)

9 (b) (7)(C)

10 (b) (7)(C) So we were basically told  
11 that the mine --- they had to ---  
12 they had 4,000 ton to get before the  
13 bosses could get --- make bonus by  
14 the end of the month, and that the  
15 graveyard boss was even running the  
16 shuttle car, you know, and trying to  
17 get this bonus money near the end of  
18 the month.

19 And the men don't ---  
20 apparently the men don't get that  
21 bonus, but the bosses do. I was told  
22 that. You know, it came out a little  
23 bit that a lot of this money was paid  
24 by cash. This is something that Rick  
25 Boyle --- some information he got

1 from I don't know where, but they was  
2 all paid by cash. And there was no  
3 --- but anyhow, that's --- I think  
4 that was the determining factor, that  
5 these guys were trying to make a  
6 bonus and just let the section go  
7 plum to hell, or the mine, as far as  
8 I'm concerned. I mean, it was --- it  
9 didn't look good.

10 ATTORNEY WILLIAMS:

11 Did you get the  
12 information about the fact  
13 that they were that close to  
14 the bonus as well? Rick  
15 Boyle, you said he got the  
16 information about ---.

17 A. Well, he just --- somebody  
18 just told him that it was paid by  
19 cash. He didn't get that  
20 information. I guess what I should  
21 have said is, you know, at the very  
22 --- when that guy called me, instead  
23 of just hanging up, he did say that  
24 there was a --- you know, they were  
25 being paid bonus. And that this boss

1 was running the shuttle car and that.  
2 And that's where I got that  
3 information, was from the guy on the  
4 phone. But he didn't give me his  
5 name. He didn't say anything ---.

6 I kind of ---. Mike Shumway  
7 said he recognized the voice, and I  
8 didn't --- and Mike said he was a  
9 (b) (7)(D) . Since I didn't,  
10 you know, recognize the voice or  
11 anything like that, I didn't --- you  
12 know, because Mike answered the phone  
13 at first.

14 BY MR. GATES:

15 Q. Any other --- I guess it's a  
16 loose definition if you would call  
17 that a mitigating circumstance, but  
18 any other explanations given by any  
19 of those mine management people that  
20 were with you at the mine as to how  
21 those conditions were allowed?

22 A. Well, they just said it ---  
23 they would rock dust and it would  
24 just bump and the ribs would slough.  
25 And we just said, hey, that's --- you

1 know, that's no excuse, you know.  
2 The mine needs to be rock dusted, and  
3 it needs to be kept in compliance.  
4 And, you know, really they didn't  
5 have much of an excuse because, you  
6 know, it was there. And they took  
7 samples, you know. And I think they  
8 come back like around 20 percent,  
9 things like that, you know, of  
10 combustible or noncombustible 20  
11 percent, you know, stuff like that.  
12 So there is a record of that, you  
13 know, of percentages of rock dust,  
14 samples they took, and they took  
15 quite a few samples.

16 Q. Do you remember where the  
17 section was at?

18 A. It was in the south mains,  
19 yeah.

20 Q. You mentioned the south mains.

21 A. Yeah. They was pulling out.  
22 They were getting close to being  
23 totally out of that area, so ---  
24 fairly close to the mouth of the  
25 section.

1 Q. And the way they were --- if I  
2 recall, the way they were mining that  
3 section, as the section retreated,  
4 there was not a bleeder or anything  
5 that was left that would require  
6 anybody to travel inby?

7 A. You know, they had measuring  
8 points to where, you know, you could  
9 measure what was going in to the  
10 bleeder. And then on the other side  
11 --- they had a measuring point on the  
12 other side where it came out. They  
13 also had the return.

14 Q. Right. That other side where  
15 it came out was a pretty --- by that  
16 time would have been a pretty  
17 significant distance?

18 A. Oh, yeah. Yeah. Quite a  
19 ways.

20 Q. When you were at the mine at  
21 that day, did you have a --- was  
22 there a representative of the miners  
23 who traveled with you?

24 A. They don't have a  
25 representative of the miners. I

1 think they do now. But at that time  
2 basically they'd say, well, the  
3 safety director is the representative  
4 of the miners.

5 Q. And that was --- did they ever  
6 have a miners' rep at any time that  
7 you were familiar with during your  
8 inspection activities?

9 A. Nobody other than, you know,  
10 the company person. Most generally  
11 they would say, well, it's the safety  
12 director. Well, I guess I can't say  
13 that. One time they had a guy by the  
14 name of Rodney Cox, and I can't  
15 remember the other guy. And Rodney  
16 was the representative for some  
17 period of time. But he never  
18 traveled with us. You know, I think  
19 he was mostly in name only. And  
20 Rodney works at the Deer Creek Mine  
21 now.

22 Q. When you were at the mine in  
23 December, you mentioned that they  
24 were about to pull out of the south  
25 mains. Did you have any discussions

1 with any of the miners or any of the  
2 management about where they were  
3 going to go to next, what ---?

4 A. No, I didn't, you know.

5 Q. Did you know where they were  
6 going next at that time?

7 A. Yeah. They had --- and I  
8 can't remember, but they had started  
9 some entries up in their north mains.  
10 I think it was off their north mains.  
11 It was kind of like a --- if this  
12 section shut down and broke down,  
13 then they would move up into that and  
14 start working there, in those north  
15 mains.

16 Q. Is that Third North --- the  
17 Third North section or, you know,  
18 there's ---?

19 A. I guess it would have been  
20 over --- let's see.

21 Q. Right here is where they were  
22 pulling out of. They would have been  
23 retreating out of there.

24 A. Then they came back over. It  
25 seemed like they were going up in

1 here. Starting to go up in here. Of  
2 course, some of this area had already  
3 been mined. It seemed like they were  
4 just driving up one of these entries.  
5 I can't remember which one.

6 Q. Okay. That's showing on the  
7 map driving some rooms or entries to  
8 the north of the west mains, just  
9 east of the first west?

10 ATTORNEY WILLIAMS:

11 Below Section 36?

12 MR. GATES:

13 Right. South of  
14 Section 36.

15 BY MR. GATES:

16 Q. Did you know at that time that  
17 there were any plans to develop the  
18 barriers, the north or the south  
19 barrier, farther inby?

20 A. No, I didn't --- did not.

21 Q. Nobody at the mine made any  
22 mention of it that day or anything?

23 A. No.

24 Q. When did you first become  
25 aware that they were --- that the

1 mine had plans to develop and then  
2 subsequently retreat the north and  
3 south barriers?

4 A. Where the accident occurred,  
5 it would be on the day of the  
6 accident. I went over and looked at  
7 the map and seen where the accident  
8 occurred. And I seen, you know, just  
9 on the map where they were mining.

10 Q. So you didn't have any input  
11 at all into the mining plans for the  
12 north barrier or the south barrier?

13 A. No. No, I didn't.

14 Q. Nor any inspection activities  
15 while that mining was taking place?

16 A. None whatsoever.

17 Q. You mentioned when you were on  
18 that section as it was retreating in  
19 the south mains that there was some  
20 --- I think you used the term  
21 bouncing --- bounce activity or that  
22 there had been?

23 A. Yeah. And it wasn't bad. It  
24 was just a thump where the ribs would  
25 roll, you know, as they were

1       retreating.    There was nothing there  
2       that I was aware of, you know, like  
3       major --- you know, major thumping,  
4       you know, that would really have  
5       large outbursts.   It didn't look like  
6       that to me, you know.   It looked like  
7       just bumping and it would spall.   You  
8       know, no one ever said anything to me  
9       while I was on the section or in that  
10      area that it was bumping.   They just  
11      said that --- or I mean it had major  
12      bounce problems.   They just said it  
13      was bumping, and that's why the ribs  
14      were spalling.

15      Q.           From your previous inspection  
16      activities at the mine, how would you  
17      describe the roof, rib and floor  
18      conditions?

19      A.           Previous experience, you know,  
20      it was pretty good.   You know, it  
21      didn't --- you know, we didn't really  
22      see a lot of problems when they did  
23      put their longwall in.   I can  
24      remember they had a three-entry  
25      system, and we was having all kinds

1 of problems in there, you know,  
2 maintaining roof and your bleeder,  
3 and, you know, your headgate --- I  
4 mean, tailgate. And I can remember,  
5 you know, going with management  
6 underground and looking at those  
7 things. And then they went to the  
8 two entry, and it seemed to, you  
9 know, hold up a lot better. And they  
10 moved their longwall from there into  
11 the low coal, and it seemed to be  
12 okay in that low coal.

13 Q. When they were using the  
14 three-entry gate road system, was the  
15 problem with the roof or was it with  
16 the ribs and the floor?

17 A. It was mostly with the roof  
18 and floor.

19 Q. Roof and floor?

20 A. Yeah.

21 Q. How did you hear about the  
22 accident, the August 6th accident?

23 A. I got a call around four  
24 o'clock in the morning from Bill  
25 Denning saying that they had a ---

1       you know, they had lost  
2       communications with miners  
3       underground at the Crandall Canyon  
4       Mine. And I told him, well, that was  
5       Bill's mine, you know, we need to  
6       contact Bill. But we were, you know,  
7       concerned about it. He was  
8       concerned. And that's how I learned  
9       about it.

10               And then when I got to the  
11       office, you know, I got all the  
12       explanations where people --- I mean,  
13       where they had lost communications  
14       with the people, you know. And  
15       that's why I went and looked at the  
16       map to see exactly where they were  
17       at. But it was from Bill Denning.

18       Q.       And when you said that was  
19       Bill's mine, that was not Bill  
20       Denning's mine?

21       A.       No. That was Bill Taylor's  
22       mine. That was Workgroup's Two ---  
23       Workgroup Two.

24       Q.       So you heard the information  
25       from Bill around 4:00 a.m., and you

1       proceeded to the office as you ---

2       A.       Normally do.

3       Q.       --- later on that morning, as  
4       you normally would?

5       A.       Uh-huh (yes).

6       Q.       And what was going on at the  
7       office when you got there? And I  
8       guess maybe what time do you normally  
9       get to the office?

10      A.       I got to the office, it was  
11      about ten 'til 6:00. Things were  
12      kind of quiet, you know. I mean, it  
13      seemed like they were --- Taylor was,  
14      you know, trying to get everything  
15      that he needed to get up to the mine.  
16      And then he immediately left. I  
17      really didn't have any conversations  
18      with him other than he said that  
19      there were six people that was  
20      unaccountable for that they didn't  
21      have communications, and that was it.  
22      I sat around there. And then I got a  
23      call from Denver basically saying  
24      standby to get the MEO vehicle. And  
25      then shortly after that, they said go

1 get the MEO vehicle and get it to the  
2 mine.

3 Q. Was that from Denning --- Bill  
4 Denning as well?

5 A. That was from JoLynn. She  
6 first called me about the MEO  
7 vehicle. And then Al Davis called me  
8 and told me to get it up ---.

9 Q. So what did you do --- what  
10 did you do after that?

11 A. I took the MEO vehicle up to  
12 the mine and went up and seen kind of  
13 what was going on. Bill Taylor and  
14 the mine rescue flew from Energy  
15 West, were talking and going over a  
16 map. And they were discussing things  
17 that, you know, they might want to  
18 look at, you know, for --- because  
19 the rescue team went in and kind of  
20 came back out and they were  
21 discussing it.

22 I asked Bill where the company  
23 people were, and he said they was up  
24 in another room. So I went up in the  
25 other room, sat down and looked

1 around, and they were kind of doing  
2 the same thing. You know, they were  
3 saying, well, we need to do this, we  
4 need to do that.

5 And I went over and sat down  
6 by Mr. Murray. I told him, I says,  
7 you know, I think it would be better  
8 if we all get together and worked  
9 this together. I said, you're making  
10 plans and mine rescue people and MSHA  
11 is down here making plans. I think  
12 we all ought to get together. And he  
13 said he thought that was a good idea.  
14 And so they went and got together.  
15 Then I left them once they got  
16 together and I went down and started  
17 getting the communication lines, you  
18 know, phone lines, things like that,  
19 installed, calling to get that MEO  
20 vehicle all set up.

21 Q. Where's the MEO vehicle kept  
22 at?

23 A. It's kept up at a garage on  
24 the property of a guy by the name of  
25 --- well, it's Nelco. It's a

1 construction company, and they have a  
2 garage up there, and big enough to  
3 hold that MEO, and that's where it's  
4 stored right now.

5 Q. So from the time that you got  
6 the calls from JoLynn and the call  
7 from Al Davis, how long did it take  
8 you to get to the MEO vehicle and get  
9 to the mine site?

10 A. It was probably two hours,  
11 something like that. Approximately  
12 two hours.

13 Q. So you would have got to the  
14 mine about what time?

15 A. I think around 10:00.

16 Q. 10:00 a.m.?

17 A. Yeah.

18 Q. Who was --- you mentioned that  
19 Bill Taylor and some of the Energy  
20 West team were congregating ---

21 A. Uh-huh (yes).

22 Q. --- somewhere. Where were  
23 they at?

24 A. They were down in a little  
25 conference room by the safety office.

1 And Murray's people was up in a ---  
2 kind of a conference room up where  
3 their bosses meet. You know, it's  
4 more of like a training room, where  
5 they train people, things like that,  
6 for SCSRs, stuff like that.

7 Q. Do you know who those people  
8 --- who Murray's people were that  
9 were there at that time?

10 A. Yeah. There was --- well, at  
11 least there was Murray and then there  
12 was Laine Adair. I know those two.  
13 I can't remember the other guy's  
14 name. It was mostly his engineers or  
15 his people that he had there on site.  
16 Well, Gary Peacock, the mine foreman,  
17 was there. And Bodee Allred, I  
18 believe, was also there.

19 Q. So there was some of the local  
20 mine people as well as some of the  
21 higher-ups, if you will, from  
22 UtahAmerican?

23 A. Yeah. It would have been  
24 Bruce Hill, I think was also there.  
25 Yeah, Bruce was there. So there was

1 people throughout the mines and this  
2 area that were there that he was  
3 relying on at that time.

4 Q. When you got all those folks  
5 together or suggested that they all  
6 get together to work on a common  
7 plan, do you know --- I mean, did  
8 Bill Taylor and the mine rescue teams  
9 come up or did they meet in the  
10 middle or do you know ---?

11 A. Murray brought his people  
12 down. He went and talked with Bill  
13 and he just said, Bill, we really  
14 need to --- you know, Ted's got a  
15 good idea, we need to kind of meet  
16 together, so he brought his people  
17 down to that room.

18 Q. Had you met Bob Murray before?

19 A. Oh, yeah. A few times, yeah.

20 Q. Just from ---?

21 A. Well, when he first took over  
22 the mines --- I had West Ridge, you  
23 know, the West Ridge Mine and the  
24 Crandall Canyon Mine when he first  
25 took over. And so I had met with him

1 a couple times, you know, prior to  
2 that incident.

3 Q. And I guess maybe could you  
4 just continue with the day then after  
5 you get the --- after you get  
6 everybody together to talk about a  
7 common plan, what was your role on  
8 site the rest of that day?

9 A. That was just basically  
10 getting all the --- you know,  
11 communications set up, you know, fax  
12 machines, trying to get all that ---  
13 MEO vehicle set up for its purposes.  
14 I mean, that was basically my role  
15 that day. Then they came and gave us  
16 --- you know, I had to put together a  
17 list of the inspectors who would be  
18 on site, who would be doing --- being  
19 sitting in on taking the log and the  
20 calls and everything in the MEO  
21 vehicle. We got that log --- or that  
22 set up for the individuals. Called  
23 those individuals and told what  
24 shifts to come out on, things like  
25 that. That was all the first day.

1 Q. Did you participate in the  
2 discussions as to what the mine plan  
3 was going to be or what was going to  
4 take place underground?

5 A. I don't know if it was that  
6 --- I don't believe it was that day  
7 that I, you know, really sat down and  
8 had anything to do. I was leaving it  
9 to Bill and those people because I  
10 had these other things to get taken  
11 care of.

12 Q. Did you go underground on  
13 August 6th?

14 A. No, I did not.

15 Q. And maybe if you could then,  
16 Ted, just --- after you had finished  
17 getting the MEO vehicle set up, you  
18 get the communications, you start  
19 working on setting up an inspector  
20 rotation for our presence --- MSHA  
21 presence at the mine, if you could,  
22 maybe just walk me through what your  
23 activities were from August 6th on up  
24 through the subsequent accident of  
25 August 16th.

1       A.       My role was to work the  
2       afternoon shift with Bob Cornett as  
3       the supervisor on site. And then it  
4       was to meet with the operator to talk  
5       with them about how the plans were  
6       going, if they submitted new plans,  
7       to review it and --- along with Bob  
8       Cornett. And then he would approve  
9       or disapprove or he would send it  
10      back to the table to look at it, you  
11      know, and to revamp it, those kind of  
12      things, make sure the communications  
13      were --- we were receiving the  
14      communications from underground on a  
15      regular basis of what was going on  
16      and log ---. Making sure the  
17      inspector was logging it properly and  
18      talking with the inspectors when they  
19      came out from underground of what  
20      they were seeing and what they were  
21      doing.

22      Q.       You mentioned that you were on  
23      the afternoon shift with Bob Cornett.  
24      How was the rotation set up with ---  
25      you were an MSHA supervisor there.

1       What role did Bob Cornett play or ---  
2       maybe if you can just describe who  
3       was there and where the people were  
4       and how things were set up.

5       A.       On the dayshift, Bill Taylor  
6       was the supervisor, and he had an  
7       inspector, and they changed on and  
8       off. But Bill was mostly there on  
9       the dayshift. And of course, Al  
10      Davis was there, you know, as the  
11      senior --- I guess you'd say the  
12      senior District Nine person on site.  
13      Then the afternoon shift was Bob  
14      Cornett, who was the senior person  
15      from District Nine, and myself as a  
16      supervisor, and then an inspector who  
17      was keeping records.

18             On all shifts at that time, we  
19      had mine rescue people who were under  
20      the direction of Larry Ramey. They  
21      were underground at the time,  
22      watching the procedures.

23             On the graveyard shift we had  
24      --- at first, Tommy Hooker, who was a  
25      senior person. And then they ---

1 see, Danny Frye was --- he was later.  
2 Don Gibson came and worked with Tommy  
3 Hooker, one of the inspectors there,  
4 and so ---. And Don Gibson was a  
5 supervisor out at Gillette, Wyoming.  
6 And later on that changed to Danny  
7 Frye on the graveyard shift.

8 And on the 15th of August, I  
9 was told to come out dayshift on the  
10 16th so that Bill could go home and  
11 get some rest and that. And I told  
12 them I didn't want to do it because  
13 of all the politics on dayshift. But  
14 anyhow, they talked me into coming on  
15 dayshift on the 16th.

16 There didn't seem to be any  
17 problems that day underground. It  
18 seemed like, you know, there was some  
19 thumping going on, you know, but  
20 nothing major.

21 There was concern by the  
22 inspectors of the amount of people  
23 that was being let underground, and  
24 this was from Frankie Markosek and  
25 Gary Jensen. They both came to me on

1 the 15th and --- excuse me, on the  
2 16th, prior to me leaving the  
3 property. Let's see. No, it had to  
4 be the 15th because they also talked  
5 to Bill Taylor.

6 And they were really adamant  
7 about the number of people being  
8 allowed to go underground. I guess  
9 that was Frankie who talked to Bill  
10 Taylor, too. The next day, that was  
11 the 16th. He came to me and he was  
12 really upset because of the amount of  
13 people that were allowed in the  
14 section. He said he had 15 people  
15 underground, you know, in that  
16 location, in that section. And I  
17 told him, I says, you know, Cornett  
18 and I, they had brought this proposal  
19 to us to allow whoever to go get in  
20 that section. And Bob and I said,  
21 no, we wouldn't approve that. And  
22 they said, well, we'll get back to  
23 you, you know, we'll get this plan  
24 back to you.

25 We never did see that plan.

1 And when we came back to work, that  
2 plan had been approved to allow  
3 people --- you know, a number of  
4 people that would go underground.

5 And so Frankie was upset with  
6 the 15. And I told him, I says,  
7 Frank, you're the inspector  
8 underground. If you deem that that  
9 is a hazard to the working conditions  
10 under there and to the men, I says,  
11 you get them out of there. I says,  
12 you allow as many --- only those  
13 people that you deem necessary to be  
14 in the mine.

15 They were in a hurry. The  
16 operator was in a hurry, trying to  
17 get to the men in the rescue effort.  
18 They wanted to speed things up, you  
19 know, and keep things going. And the  
20 more people they had down there  
21 setting the props and that, the  
22 faster they could, you know, continue  
23 moving in. But it got to a point  
24 with Frankie, I believe, that it just  
25 --- there was just too many people

1 under there, and he was a little  
2 worried about that.

3 He also --- you know, him and  
4 Gary both got on me a little bit that  
5 day before they went underground  
6 because of the amount of people  
7 underground. And I had to just show  
8 him that, you know, hey, you know,  
9 you have to talk to someone that ---  
10 you know, who approved it, who  
11 approved the plan, but you guys are  
12 the men underground. There was no  
13 supervisor underground and that kind  
14 of concerned me.

15 I don't know if that's  
16 protocol or not to have a supervisor  
17 underground, at least at the fresh  
18 air base. But I --- you know,  
19 hindsight, you know, I kind of think  
20 it would have been better if we had  
21 had somebody as a supervisor down  
22 there, you know, that he could ---  
23 those guys could have conversed with  
24 a little bit, you know. But anyhow,  
25 that's what I did at work that day.

1           I went home. I was only home  
2 about an hour and I heard on the news  
3 that there had been another major  
4 bounce up there and that people were  
5 hurt. I immediately drove to the  
6 mine, got there, and they was just  
7 bringing the guys out.

8           Got a briefing from Mr.  
9 Murray. Got a briefing with him.  
10 And he was talking about the  
11 different individuals, their  
12 conditions. He did say that Mr.  
13 Black had died and that there was one  
14 other that was real critical and they  
15 didn't think that he would live.

16           He talked about Frankie and  
17 said that basically that he just had  
18 a cut on his head and a cut on his  
19 leg, which, you know, that sounded  
20 good to me, you know, but they were  
21 taking him to Price. And he said  
22 Gary was talking and that he had ---  
23 he was complaining about his back,  
24 and so they were taking him to Provo.

25           So I didn't really think that

1       there was --- you know, just from  
2       what their assessment was and  
3       everything, that there was a real  
4       problem there. But they brought the  
5       guys out that night. Some of the  
6       inspectors just showed up on their  
7       own. I thought that was really good  
8       of them, you know, wanting to know if  
9       they --- you know, what they could do  
10      to help. We were concerned about  
11      everybody that was injured.

12               Murray was taking care of his  
13      people, so --- and making sure the  
14      families were notified, things like  
15      that. And I told Bob Cornett, I  
16      says, well, I'll go up to Provo and  
17      check on Gary. And I've got Donnie  
18      Durrant going down to Price to check  
19      on Frankie, to make sure everything  
20      was okay there.

21               And Bob says, well, I'll go  
22      with you. Before we did that, we had  
23      a meeting with all the miners that  
24      was underground, management people  
25      and MSHA officials that were on site.

1 Mr. Stickler was there, trying to  
2 figure out, you know, what was going  
3 on and what was --- there was only  
4 two guys that really came up and drew  
5 out what they had seen underground,  
6 where people were, and that was a  
7 Bell kid and a Guymon kid. And  
8 everybody else, you know, didn't have  
9 any input whatsoever of what they had  
10 seen and where everything was  
11 located, other than Mr. Murray, you  
12 know, saying that, you know, they  
13 were --- some of them were covered  
14 up, things like that.

15 So once that was over, then  
16 Bob Cornett and I drove to Provo. We  
17 had the radio on, listening. And  
18 they said that one guy had --- that  
19 we had two fatals, and we figured it  
20 was probably the other rescuer that  
21 --- because he was the most serious,  
22 according to that.

23 And when we got down on the  
24 freeway of I-70 and --- or I-15 and  
25 the radio said a third one had died,

1 and I knew --- I just knew it was  
2 Gary. So when we got to the  
3 hospital, Gary's family was there,  
4 and ---. Sorry.

5 Q. Do you want to take a break?

6 A. I'm okay. I talked with his  
7 family, and --- we got to, you know,  
8 meet his family. I had never met  
9 them before.

10 And they asked me if I wanted  
11 to go see him and I went and seen  
12 him. Apparently he had died on the  
13 way to the hospital because he was  
14 still, you know, in his mine clothes.  
15 And they did have a respirator mask  
16 on him, but he must have had some

17 (b) (7)(C)  
18  
19  
20

21 So anyhow, we left, Bob and I,  
22 and got to Price, oh, around 2:30 in  
23 the morning. We were going to go see  
24 Frankie. But we decided to get a  
25 couple hours' rest. I went to the

1 office, laid on the couch and got up  
2 around when the guys started coming  
3 in around 5:30.

4 Then I went and found out that  
5 Frankie had been in Provo while we  
6 were there, that they had life-  
7 flighted him in. So I went up and  
8 spent --- seen Frankie before he went  
9 into surgery. He had a (b)(7)(C)  
10 (b)(7)(C) ,  
11 (b)(7)(C) . So I stayed  
12 with him and his family that day, you  
13 know, until he was out of surgery,  
14 and then I come back.

15 And the rest of the --- you  
16 know, the rest of the time we were  
17 just trying to --- meeting and trying  
18 to figure out if we wanted to  
19 continue on with it or not. The  
20 thing --- during the course there,  
21 they let all the local inspectors go  
22 back to work. And they were using  
23 the people from back east that they  
24 had brought in to go underground and  
25 that. And I kind of talked with Al

1       Davis a little bit and told him that  
2       I thought maybe we ought to have our  
3       guys there because they knew the  
4       mountain, you know, they knew those  
5       type of conditions. You know, like  
6       Frankie and Donnie had worked in  
7       those type of covers before and  
8       things like that.

9                I think a couple days later  
10       they decided to, you know, bring them  
11       on back and get them underground.  
12       Frankie did tell me that it got real  
13       quiet and he was concerned just prior  
14       to the bounce that it was loading up.  
15       He was thinking that it might be  
16       loading up. And that's why I say in  
17       hindsight maybe we should have had a  
18       supervisor there, that he could have  
19       just come on up and said, you know, I  
20       got a little concern here, you know.  
21       And maybe they could have worked  
22       something out, you know, with the  
23       supervisor being there.

24               But Frank, he's driving  
25       himself crazy because he can't

1 remember what happened. He just  
2 can't remember. He can remember  
3 everything else but what happened  
4 that exact time.

5 But anyhow, those decisions  
6 then were made, you know, to get  
7 everything out of the mine. I was  
8 still on --- I can't even remember  
9 what shift I was on. I think I was  
10 on dayshift at ---.

11 Oh, I got to back up. On the  
12 first day daylight I was with the  
13 press and with the families. Murray  
14 went down and they told me to go with  
15 him because he was going to meet with  
16 the press and with the families. And  
17 so I went with him, and he met with  
18 the press and told them a few things.

19 And after he met the press,  
20 then we went down and talked with the  
21 families, and I was there. And he  
22 just made a statement, and he walked  
23 out, you know, and the families were  
24 trying to ask some questions and  
25 everything.

1           Even the Allreds went up to  
2 talk to him, and he just walked away  
3 from them. Didn't have anything to  
4 say to him. So the Allreds came to  
5 me and, you know, and I appointed  
6 Steve and Kip --- Kip is kind of a  
7 neighbor of mine, just a couple  
8 houses down the street. Steve ---  
9 I've known Allred for --- ever since  
10 we've been in the mines, when they  
11 come in the mines. And so they kind  
12 of came up and asked me. And I just  
13 said --- I just told them basically,  
14 hey, we're doing everything that we  
15 possibly can do.

16           Right now, I says, you know,  
17 we're up there. We're looking at  
18 ways to do things and do it safe and  
19 so we can get in there and get those  
20 people. That people were coming from  
21 Denver and that there would be  
22 probably a liaison person there to  
23 give them information and that. And  
24 so that kind of helped the Allreds.

25           I did notice that while we

1        were there that the Mexican families  
2        were all on the outside, other than  
3        one girl was kind of in the center  
4        with the white families. And I got a  
5        feeling that, you know, maybe they  
6        weren't understanding what was going  
7        on. And I talked with Al Davis when  
8        I got --- when he got there that I  
9        thought that maybe we ought to be  
10       looking at an interpreter for those  
11       families because I just felt that  
12       them being on the outside, I just  
13       didn't think that they were  
14       understanding, you know, really what  
15       we were saying other than the one guy  
16       who had some questions. So that was  
17       part of that first day.

18                    And then I got --- Barry  
19       Grosley called me on the highway and  
20       said that I needed to get ahold of  
21       Kevin Stricklin at the mine. I  
22       called Kevin and he says the Governor  
23       is having a press conference, you  
24       need to get down there and see what  
25       was going on there, get with the

1 Governor.

2 I told him, yeah, the press  
3 conference was going on when I came  
4 up the road. I got down there, the  
5 press conference was over, but I met  
6 the Governor and told him who I was,  
7 that I was representing MSHA, that  
8 MSHA management --- upper management  
9 were on their way from Denver. And  
10 he said, yeah, that Richard Stickler  
11 had called him and that he was on his  
12 way. So he was well aware of MSHA's  
13 --- their presence there. So that  
14 happened all on that first day.  
15 Things are all running together,  
16 but ---.

17 Anyhow, that --- we --- they  
18 started to allow them to pull  
19 equipment out of the mine from  
20 Crosscut 170 and not to let anybody  
21 go inby 170, that crosscut. And so  
22 they ---.

23 Q. 170 or 107?

24 A. 107. Excuse me. Yeah. Yeah,  
25 107. And they started to bring ---

1 well, they was bringing the equipment  
2 out. And I don't know which day it  
3 was, but they told me that one of the  
4 stoppings had crushed out between the  
5 intake and return. And I asked them  
6 if there was any movement going on  
7 down there, why that stopping went  
8 out. And that they ought to put a  
9 couple timber in there once they  
10 repaired it, just to make sure that  
11 we had some squealers so we could  
12 tell if the roof was shifting or what  
13 caused that stopping to --- it was a  
14 Kennedy stopping, what caused it to  
15 move out.

16 Terry went underground and he  
17 looked at the stopping at 107, and  
18 then he went in as far as 110,  
19 looking at the stopping line, and it  
20 was all intact. So we were relieved  
21 a little bit that it wasn't, you  
22 know, shifting, you know, on those  
23 people that were on the recovery of  
24 the equipment.

25 Then it was just, you know,

1 recovery operations from then on.  
2 And we just made sure that we had an  
3 inspector underground at all times  
4 with them. They'd only have four or  
5 five people on a shift, you know,  
6 movement, so it went really slow.  
7 And finally, we were all pulled off  
8 and just, you know, apparently they  
9 got all that they could get out and  
10 we were pulled off and told to go  
11 back to our normal work.

12 MR. GATES:

13 I appreciate that. And  
14 why don't we take like five  
15 minutes.

16 SHORT BREAK TAKEN

17 BY MR. GATES:

18 Q. Just a few follow-up  
19 questions, Ted, from your earlier  
20 testimony. You mentioned the family  
21 meeting and the press meeting that  
22 you went to on the first day. That  
23 was August 6th, the day that you ---

24 A. Yeah.

25 Q. --- the day that that took

1 place?

2 A. Right.

3 Q. And you also mentioned that on  
4 August 16th, after the accident, that  
5 there was a briefing that took place  
6 on the surface and that there were  
7 two gentlemen who appeared to have a  
8 better recall than others that were  
9 able to provide information to be put  
10 on a map. And I'm not sure if you  
11 could remember who those individuals  
12 were. I think you said Bell ---.

13 A. It's in my notes that I have.  
14 Their names would be on that. And I  
15 think a diagram of what they had  
16 drawn is on that, too, in my notes,  
17 that they had drawn on the map.

18 Q. Would you, by chance, know the  
19 location of that map?

20 A. It --- no, I don't. It was  
21 drawn on a pad, on a large pad, you  
22 know, at that time, so everybody  
23 could see it, and I don't know what  
24 happened to that pad.

25 Q. When you say a large pad, was

1 it just a large blank sheet of paper?

2 A. Yeah. Uh-huh (yes). Like on  
3 a easel, that they could set up on  
4 the easel.

5 Q. So it was not a --- it wasn't  
6 a map of the mine ---

7 A. No.

8 Q. --- that they drew on?

9 A. No.

10 Q. No idea where that ---

11 A. No.

12 Q. --- may be? When you were at  
13 the mine, working at the mine from  
14 the 6th through the 16th, and you  
15 were there primarily on the afternoon  
16 shift, I believe, were you involved  
17 in any --- or were there any  
18 briefings that took place during  
19 shift changes or at any time during  
20 your shift as to what was going on  
21 underground or what your  
22 responsibilities would be for the  
23 upcoming shift or what the  
24 inspector's responsibility would be,  
25 the mine rescue people's

1       responsibilities? And if you could  
2       just describe how that information  
3       exchange took place.

4       A.       Okay. When I came on shift,  
5       Bill Taylor would --- he and I would  
6       get together and he would explain  
7       exactly what had happened that day.  
8       If there was any plan changes or any  
9       additions to plans for underground,  
10      he would give me copies of those and  
11      review them with me. And then prior  
12      to the inspectors going underground,  
13      I would take that information and  
14      relay it to them, give them a copy of  
15      the new plans, you know, so that they  
16      were aware of what could or could not  
17      be done underground. Kind of brief  
18      them to what had gone on that day,  
19      how much progress they had made,  
20      where the locations of everything was  
21      and that before they went  
22      underground.

23               And then Bill, of course, he  
24      gave me all that information. And  
25      then at 7:00 --- around seven o'clock

1 most evenings, we had a meeting with  
2 the company, Bob Cornett and I, in  
3 the old vehicle, where they would  
4 give us a progress report, saying  
5 exactly what they had done, where  
6 things were at underground, how much  
7 they had accomplished during that  
8 period of time. If they had any  
9 plans, addition to the plans or  
10 anything like that, they would  
11 present that to us, and then Bob and  
12 I would go over it and either approve  
13 it or disapprove it and tell them  
14 they had to go back to the drawing  
15 board on this plan because we didn't  
16 think it was --- you know, it needed  
17 to be modified somewhat.

18 Then when the graveyard shift  
19 came on with Tommy Hooker and Don  
20 Gibson, I would then brief them  
21 exactly what went on during my shift  
22 and the dayshift, give them updates  
23 on the plans, you know, just update  
24 them on everything that happened on  
25 the afternoon shift and the dayshift,

1 the progress, what they were doing,  
2 and gave them copies of those plans.

3 We'd show --- on all shifts we  
4 would go through --- we had a map  
5 there on the desk and we would show  
6 exactly where they were at, a mine  
7 map, and where the props were, what  
8 their center line --- you know, what  
9 the center line was, where they were  
10 at, those type of things. It was ---  
11 and then --- and we'd leave, I mean.

12 And then Tommy would do the  
13 same thing with Bill and maybe just  
14 do those kind of things. I mean, it  
15 was just an ongoing process that we,  
16 you know, do things. In our --- you  
17 know, in the logbook, Mr. Stickler  
18 looked at it. And he thought there  
19 ought to be some changes in the way  
20 they were doing things, you know, so  
21 we kind of changed that, you know, so  
22 that it was more reader friendly, I  
23 guess. So where he could go and pick  
24 out things real quick, you know, the  
25 bore hole depths, things like that

1        were, so that he could pick them out  
2        really quick and not have to go  
3        through a lot of information, you  
4        know, that he could pick things out  
5        really quick. You know, we made  
6        those changes. And basically that  
7        was what we did, you know.

8                On the night of the 15th, on  
9        that --- prior to being told I was  
10       going on dayshift, I talked with Bob  
11       Cornett about going underground, and  
12       he just said, you know, that would be  
13       okay. You know, I said I want to go  
14       underground, see what was going on,  
15       but then they changed me on the  
16       shift, so I never did get underground  
17       only once, and that was with the  
18       press corps.

19       Q.        Okay. A couple things I  
20       wanted to follow up on just from what  
21       you just said. You mentioned that  
22       during the briefings you would get  
23       with the inspectors who were with you  
24       on shift. Was there a coordination  
25       between the inspectors and the mine

1 rescue team members as well or was  
2 there any kind of separation of  
3 duties there?

4 A. Well, the inspectors did  
5 communicate with the mine rescue  
6 people, you know. And the mine  
7 rescue people basically were doing  
8 the same thing that the regular  
9 inspectors were underground. We  
10 tried to keep what we were finding  
11 --- we was trying to get these  
12 different air readings on an hourly  
13 basis. And for them to go clear  
14 across the faces and still maintain  
15 --- so we was using all three of  
16 them, you know, to take --- you know,  
17 get the air readings so we would get  
18 them, you know, or one guy do the air  
19 readings, the other guys do the other  
20 things, you know. So they was part  
21 of the in-house, you know,  
22 underground team.

23 Q. So there wasn't --- was there  
24 a separate briefing, then, for  
25 inspectors and mine rescue personnel

1 or was it just one ---?

2 A. It was one briefing.

3 Q. One briefing and everybody was  
4 there hearing the same thing and  
5 sharing the same ---?

6 A. Yeah. They got the same  
7 information and things like that,  
8 yeah.

9 Q. Okay. You talked a little bit  
10 about the plan that I think you got  
11 on the 15th, August 15th, I believe.

12 Well, let me back up a little  
13 bit. You mentioned that sometime ---  
14 or on some occasion that Frank  
15 Markosek and Gary Jensen had  
16 expressed some concern to you about  
17 the number of persons either  
18 underground or on the section, and I  
19 guess I was wondering if you could  
20 just elaborate a little bit on what  
21 their concerns were, why they had  
22 those concerns and how you addressed  
23 them.

24 A. Okay. What they did is Laine  
25 Adair and Gary Peacock came, and I

1 believe Bodee Allred came to the MEO  
2 vehicle on one of the evenings of our  
3 seven o'clock meetings. And one of  
4 the things that they wanted to do is  
5 to revise their plan so that they  
6 would allow any number of people into  
7 that working area where they were ---  
8 recovery area. We --- Bob and I felt  
9 that that wasn't a good idea. We  
10 felt that we ought to have some kind  
11 of restriction of numbers of people  
12 that would go underground. And they  
13 felt that we ought to --- that they  
14 wanted to have the flexibility to  
15 have as many people under there so  
16 that they could get more distance, I  
17 guess, to speed up the process so  
18 that there was no lag in time of when  
19 they were pulling the miner out to  
20 revolt, those type of things.

21 We told them that, you know,  
22 we'd like to see, you know, a number  
23 --- you know, only X amount of people  
24 underground. We didn't know what ---  
25 we really didn't come up with a

1        number for ourselves. We just said  
2        --- you know, we just said we'd like  
3        to really know exactly how many  
4        people it would take, you know, to do  
5        the job without just giving a  
6        run-of-the-mill --- I mean, just  
7        saying anybody --- or any number of  
8        people.

9        Q.        Had there been a limit prior  
10       to this plan that they came to you  
11       with?

12       A.        No. It seemed to be like ---  
13       well, the --- I'm guessing the K  
14       order said only those involved, you  
15       know, with the recovery efforts and  
16       everything. And I think it was just  
17       a concern of everybody that, you  
18       know, we ought to limit, you know,  
19       the people under there. And so they  
20       came up with this plan and said --- I  
21       can't remember if there was or  
22       wasn't, you know, but this was a plan  
23       that they submitted. And then they  
24       didn't come back to us that night  
25       with that plan.

1 Q. They did or did not?

2 A. Did not. Did not. The next  
3 day, and I don't know which days  
4 these were, the next day we came and  
5 in our briefing that plan had been  
6 approved, and so --- to allow as many  
7 people as they needed to --- you  
8 know, to do the job underground. It  
9 didn't limit the numbers. You know,  
10 it was the same plan that they had  
11 submitted to us the night before.

12 So anyhow, we did brief Tommy  
13 Hooker and that, you know, on that or  
14 the graveyard people, you know, that,  
15 you know, they were supposed to bring  
16 us a plan but they hadn't brought us  
17 a plan yet and they might get to  
18 them. But when Frankie was  
19 underground, his concern was because  
20 we had had that second little bounce  
21 where we covered up the miner, about  
22 three foot of coal had came in and  
23 covered up the miner and threw some  
24 people around, he didn't want a large  
25 number in there because of the safety

1       considerations. Not only that, we  
2       had narrowed down the roadway to  
3       about 15 feet because we weren't  
4       disturbing the ribs, you know, trying  
5       to leave that, the rib sloughage, as  
6       part of our support.

7                 And so anyhow, he was  
8       concerned about, you know, people  
9       might be getting, you know, in the  
10      way of equipment and also if it  
11      --- they did have another occurrence,  
12      that there would be a lot of people  
13      in there. You could see that there  
14      was nine people in there as it was  
15      when the second one happened. But it  
16      was --- you know. I really believe  
17      it was an effort to get to those  
18      people as fast as they possibly could  
19      and by the numbers that they would  
20      have under there was able to go ahead  
21      and do it. I mean, it would be  
22      faster. Also, you have to look at  
23      the safety concerns and kind of pull  
24      back a little bit.

25                 Laine Adair even said to me, I

1 think it was the day of the second  
2 occurrence, I believe it was the  
3 second, that day he says, we just  
4 about got it organized well enough  
5 that we probably could make double  
6 the distance that we're making right  
7 now, you know, because of time, you  
8 know, of getting --- where the  
9 material is located and how they load  
10 the jacks on, get them up, you know,  
11 and how they're moving the miner, how  
12 they're getting the roof bolter in to  
13 do those kind of things that they  
14 could maximize their time --- double  
15 their time in advancement because of  
16 the things that they had put in place  
17 the days that they were trying to  
18 work, how they was moving. Made sure  
19 that they had their props right here  
20 would they could just go get it or  
21 whatever, their screen, roof bolts,  
22 whatever, so they could --- they were  
23 minimizing all the time that they  
24 possibly could do, you know, to get  
25 in there and proceed as fast as they

1 possibly could.

2 Q. Did Frank or Gary have --- did  
3 they suggest a number to you, a  
4 specific number that they thought  
5 would be --- should be the limit?

6 A. No, they didn't. They just  
7 felt that there was way too many  
8 people underground. And that's when  
9 I just told them both that they ---  
10 you know, you're the inspectors. You  
11 know what's going on down there. I  
12 don't --- you're my eyes, and so you  
13 guys take care of whatever needs to  
14 be taken care of and for the safety  
15 of those people underground and you  
16 limit the number that you feel is to  
17 the safest level possible, so ---.

18 Q. When they were sharing their  
19 concerns about the number of people  
20 underground, did they --- did either  
21 one of them say anything that they  
22 were concerned about their safety or  
23 the safety of the individuals who  
24 were working underground?

25 A. No. They were concerned

1 basically of the young guys. You  
2 know, most of them were young miners,  
3 you know, not with a lot of  
4 experience. And they were really  
5 concerned about the safety of those  
6 people, not because of, you know,  
7 maybe bounces or whatever but because  
8 of, you know, the closeness of the  
9 machinery, things like that in the  
10 entries. I believe that was their  
11 big concern.

12           And yeah, I think they were a  
13 little fearful. Donnie Durrant came  
14 to me when I --- I guess he called me  
15 on the phone and he says, hey, Ted,  
16 he says, I don't have a death wish,  
17 but he says, I do think that we need  
18 to be up there. That's when they had  
19 pulled the local inspectors off. We  
20 do need to be there so that we can  
21 help these young kids. That was the  
22 main concern, you know, was making  
23 sure that those guys had the best  
24 protection that they could possibly  
25 have.

1           So there was a concern that,  
2           you know, it might thump again, you  
3           know, because that was Donnie's  
4           comment, you know, that he didn't  
5           have this death wish, but, you know,  
6           he needed to make sure --- he would  
7           feel better if he was up there, you  
8           know, knowing the depths of the  
9           covers and things like that. Him and  
10          Frankie were very --- are very good  
11          mining men and had been in these deep  
12          covers before. Both of them has been  
13          in superintendent positions, longwall  
14          experience, so we relied on them  
15          really a lot.

16                 And so they did have the  
17          concern that it might or it could do  
18          it again, but they were --- and they  
19          were in helping, you know, and they  
20          were --- that's what they were doing.  
21          They was helping right along with the  
22          men. They weren't just standing  
23          around.

24          Q.           This call from Donnie, from  
25          what I understood from you earlier,

1 would have taken place after the  
2 16th?

3 A. No, it was before the 16th.

4 Q. It was before?

5 A. When they pulled those guys  
6 off, pulled the local guys off and  
7 left the guys from back east there,  
8 you know. His call to me, you know,  
9 basically was saying, hey, he had a  
10 concern because the inexperience that  
11 the guys from back east had with  
12 depths of cover and that that they  
13 were dealing with and that he did  
14 have that concern. And I told him,  
15 you know, at that time that, you  
16 know, it had been mentioned to Mr.  
17 Davis, and he was thinking about it.  
18 And it wasn't long after that they  
19 kept --- brought them back on.

20 Q. I guess I misunderstood  
21 earlier. I thought that this was  
22 after the 16th, when the local guys  
23 were pulled off?

24 A. No.

25 Q. Do you remember when that was

1 that they were pulled off?

2 A. No, I can't, but it was just  
3 for a couple days.

4 Q. Other than the conversations  
5 you mentioned with Gary and with  
6 Frankie and with Donnie, did anybody  
7 else, either MSHA, the company,  
8 anybody ever mention to you any other  
9 concerns they had, safety or health  
10 concerns that they had during the  
11 rescue and recovery efforts?

12 A. The only one that I talked to  
13 a little bit was Ron Paletta, when it  
14 bounced on him and knocked him down,  
15 where he couldn't see, you know, and  
16 it was hard for him to breathe  
17 because of the amount of dust. He  
18 was concerned that --- it seemed to  
19 me, like he says, you know, if it  
20 ever did hit hard, you know, like  
21 we're seeing, you know, like we're  
22 seeing in front of us, he says, I  
23 don't know how you could, anybody  
24 could get out of that, because he  
25 says the dust was so thick it was

1 even choking him, you know, so ---  
2 and that was one of the other  
3 comments that, you know, I've really  
4 heard from anybody underground. I  
5 don't know.

6           There was --- I guess that was  
7 the --- the one thing that was  
8 brought to my attention between the  
9 inspectors and the mine rescue team  
10 was, you know, there was some, you  
11 know, conflict in that they came to  
12 me and talked about the one inspector  
13 that was on the mine rescue team.  
14 And I brought those concerns to Mr.  
15 Davis' attention, and they took the  
16 guy off the mine rescue and sent him  
17 back to the office. But there was  
18 some conflict there. But that was  
19 the only other thing I can think of  
20 that anybody saying anything or stuff  
21 like that.

22 Q.       None of the people, then, that  
23 you were briefing or --- nobody from  
24 MSHA ever asked you to be moved outby  
25 or expressed concern that they didn't

1 want to work up in the face area of  
2 the ---?

3 A. No, not one of them. I mean,  
4 they --- I think they sensed some  
5 danger, you know, but they were more  
6 than willing to take that risk. You  
7 know, I'm just prouder than hell of  
8 them because of that, you know. I  
9 just --- I can't speak highly enough  
10 of them. You know, I'm sure that  
11 they were aware of the hazards more  
12 so than the people that were actually  
13 doing work because of their age and  
14 stuff like that.

15 Q. From the 6th through the 16th  
16 then, did you ever have the  
17 opportunity to go underground?

18 A. Yeah, I went underground the  
19 day that the press corps went  
20 underground. Gary and Jason and I  
21 went with the press corps to keep ---  
22 make sure that they didn't go in any  
23 areas that, you know, that they kept  
24 together as a group, that they didn't  
25 wander off and try to get statements

1 from people or anything like that,  
2 that they stayed in a group. So  
3 yeah, I went underground and watched  
4 where they were mining and things  
5 like that and looked at the  
6 conditions at that time.

7 Q. So what were your assignments  
8 then other than --- were you just to  
9 escort the crew?

10 A. Yeah. I was just to escort  
11 them in and out of the mine and make  
12 sure that they were kept in line and  
13 that we kept them out of harm's way,  
14 you know, if --- make sure they  
15 didn't get in any areas or any place  
16 where they could get themselves hurt.

17 Q. Did you do that by yourself or  
18 were there other people helping you  
19 do that?

20 A. There was Mr. Murray and Bodee  
21 Allred and Gary and I. And there  
22 might have been --- I think that's  
23 about the extent of it, you know, of  
24 keeping those guys there. And I  
25 believe somebody else from the

1 company, but I can't remember.

2 Q. But as far as MSHA folks, it  
3 was you and Gary Jensen?

4 A. Yes.

5 Q. How many people were with you  
6 in that party?

7 A. I think there was --- it  
8 seemed to me like there was around  
9 five press people with cameras  
10 and ---. There was probably around  
11 ten total in that party.

12 Q. Was that your only opportunity  
13 then to observe what was going on in  
14 the face area?

15 A. Yes.

16 Q. Do you remember where the  
17 recovery was at, what stage or what  
18 location the ---?

19 A. I think it was right at where  
20 the feeder breaker was. I think it  
21 was 120 crosscut. The feeder breaker  
22 was --- it was in the second entry,  
23 and they were at Number One entry.  
24 And they was just --- they was  
25 probably in there about 55 feet

1       because the shuttle car was just  
2       about at the crosscut when he was  
3       moving material. So the press was  
4       able to see it right there outby that  
5       crosscut, so tried to keep them out  
6       of --- so they were in --- you know,  
7       outby the crosscuts, looking in at  
8       the people.

9       Q.       Were they installing any ---  
10       was any roof support being installed  
11       while you were on the section that  
12       day?

13       A.       No, there wasn't. It was  
14       just --- they had the roof support  
15       installed. They were trying to ---  
16       they were just starting the first  
17       load of coal, to put it on the belt  
18       for the day.

19       Q.       How long were you underground  
20       that day?

21       A.       We were probably, you know,  
22       right in the face area probably for  
23       around 45 minutes. They went from  
24       Number One entry, to Two, into Number  
25       Three, where we was out of the road

1 of everybody and where he was able to  
2 show them the coal pile, you know,  
3 how the ribs spalled off and how ---  
4 what the material was. I think  
5 you've seen it in the news a lot,  
6 where he's standing on the coal pile,  
7 showing them and that. And so  
8 --- and he, you know, showed them a  
9 few things, like a Kennedy stopping.  
10 We talked to them about Kennedy  
11 stoppings and how they ventilated.  
12 And then the feeder breaker, he  
13 showed them what a feeder breaker  
14 was, you know, and how they dumped  
15 the coal on that, and then we come on  
16 out.

17 Q. Did you have any  
18 responsibilities to provide  
19 debriefing or provide any information  
20 to the party or you were there just  
21 strictly to keep them under control?

22 A. Basically --- you know, we  
23 were there basically to keep the  
24 group together and ensure their  
25 safety. Gary did --- Jensen did

1 holler at the press to keep the  
2 lights out of the shuttle car  
3 operator's eyes because he was having  
4 a hard time getting around the corner  
5 to get to the miner because of the  
6 narrowness of the entry. And he must  
7 have hit the rib three or four times,  
8 you know, because he couldn't get  
9 around with all these lights shining  
10 in their eyes. And he hollered at  
11 them to get their lights out of his  
12 eyes.

13           And then when they went up in  
14 the other area, Gary borrowed one of  
15 the lights, camera lights, from one  
16 of the guys and shined it in  
17 everybody's eyes and he says, can you  
18 see, can you see, can you see. They  
19 all said no. And he said, well,  
20 that's what that shuttle car operator  
21 was dealing with. And so, you know,  
22 there's a safety concern here. And  
23 he did mention that to them at that  
24 time, and so --- but yeah, we were  
25 just basically to ensure the safety

1 of the people in the group and those  
2 around us.

3 Q. So this was the crew, then,  
4 that had a camera ---?

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

6 Q. I mean, did they interview  
7 other people or --- while they were  
8 working ---

9 A. No.

10 Q. --- or just ---?

11 A. No, not at that time. The  
12 guys underground were really  
13 hustling. I mean, they were on the  
14 go, you know, everywhere you went.  
15 You know, they was --- it seemed like  
16 they were on the run, you know,  
17 trying to get in there and get the  
18 job done. They didn't have any time  
19 --- didn't take any time that I seen  
20 to talk to the press at all. You  
21 know, they just seemed to say, get  
22 out of my road, let me get my job  
23 done, and let's get to those men. So  
24 I didn't see them talking to any of  
25 them, you know, one on one.

1 Q. Back to --- and I apologize  
2 for jumping back.

3 A. That's okay.

4 Q. I had asked you a couple  
5 questions about how the briefings had  
6 gone and the exchange of information.  
7 When you were having those, you  
8 mentioned the inspector and also the  
9 MEU folks were there. Were there  
10 company people there? Was there one  
11 briefing with everybody involved or  
12 were there separate things going on?

13 A. They were separate. They were  
14 separate briefings. We held our  
15 briefing with our people. They held  
16 their briefing with their people,  
17 so ---.

18 Q. Do you think the same things  
19 were being said?

20 A. No. In fact, you know, a lot  
21 of the information wasn't getting to  
22 their people. We'd have a plan, and  
23 the people underground wouldn't have  
24 that plan. I'm sure it was Donnie  
25 Durrant that brought that to my

1 attention.

2 Q. The company people did not  
3 have the plan?

4 A. Yeah, didn't have the plan  
5 that they gave to us, submitted to  
6 us, that they were going to follow.  
7 And so I think it was Donnie was  
8 telling me that when he got  
9 underground --- maybe even Frankie,  
10 that when he got underground, they  
11 didn't even have the plan that we had  
12 in place.

13 Q. How did they know what to do?

14 A. Who, the company?

15 Q. Yeah.

16 A. Well, the inspector basically  
17 told them when he got underground,  
18 you know, that this is what we're  
19 going to go with, this is the  
20 approved plan. Although I'm sure you  
21 can double check that with Donnie.

22 MR. GATES:

23 Ted, on behalf of MSHA,  
24 I want to thank you for  
25 appearing and answering

1           questions today. Your  
2           cooperation is very important  
3           to the investigation as we  
4           work to determine the root  
5           cause of the accidents.

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

16                        After questioning other  
17          witnesses, we may call you  
18          back if we have follow-up  
19          questions that we feel need to  
20          be asked. If at any time you  
21          have additional information  
22          that you would like to provide  
23          to us, please contact me at  
24          the contact information I  
25          provided earlier. If you

1           wish, you may now go back over  
2           any answer that you've given  
3           during this interview or you  
4           may also make any statement  
5           that you would like to make.

6           A.        I don't ---. Just the  
7           statement I want to make is I think  
8           my guys did a hell of a good job. I  
9           think they did. I think they went  
10          above and beyond what was required of  
11          them. I just want to say that.

12                    I think MSHA has been  
13           criticized a lot in the press and  
14           everything, but the Price field  
15           office, those guys need a pat on the  
16           back for what they did. I'm real  
17           proud of them. That's it.

18                            MR. GATES:

19                            Again, Ted, I want to  
20           thank you for your  
21           cooperation. I appreciate  
22           your time.

23                            \* \* \* \* \*

24                            STATEMENT CONCLUDED AT 8:51 A.M.

25                            \* \* \* \* \*