

STATEMENT UNDER OATH

OF

TIM CURTIS

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 Monday, September 17, 2007, at 8:04 a.m.

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16

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21

22          ALSO PRESENT:

23          Kelly C. Kirkwood, Notary Public

24

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P R O C E E D I N G S

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MR. GATES:

My name is Richard Gates. I am an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the United States Department of Labor. With me is James Crawford from the Solicitor's Office and Sherrie Hayashi with the Utah Commission of Labor. 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

1           conducted by MSHA, under  
2           Section 103(a) of the Federal  
3           Mine Safety & Health Act, and  
4           the Utah Commission of Labor.  
5           We appreciate your assistance  
6           in this investigation.

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. Your statement may  
19          also be used in other  
20          proceedings.

21                        You may have a personal  
22          representative present during  
23          the taking of this statement  
24          and may consult with the  
25          representative at any time.

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

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

23 I'd like to thank you  
24 in advance for your appearance  
25 here. We appreciate your

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assistance in this  
investigation. Your  
cooperation is critical in  
making the nation's mines  
safer.

After we have finished  
asking questions, you will  
have an opportunity to make a  
statement and provide us with  
other information that you  
believe to be important. If  
at any time after the  
interview you recall any  
additional information that  
you believe might be useful,  
please contact me at the  
telephone number or e-mail  
address provided to you.  
There's my card.

Ms. Kirkwood, would you  
swear in the witness?

-----  
TIM CURTIS, HAVING FIRST BEEN DULY  
SWORN, TESTIFIED AS FOLLOWS:  
-----

1                   MR. GATES:

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

5                   MS. KIRKWOOD:

6                   Yes, I am.

7                   MR. GATES:

8                   When does your  
9                   commission expire?

10                  MS. KIRKWOOD:

11                  August 15th, 2008.

12                  MR. GATES:

13                  Have you sworn in Mr.  
14                  Curtis?

15                  MS. KIRKWOOD:

16                  Yes, I have.

17                  BY MR. GATES:

18                  Q.           Mr. Curtis, please state your  
19                  full name and address for the record.

20                  A.           Tim Curtis, (b)(7)(C)

21                  (b)(7)(C)

22                  Q.           Could you spell your name,  
23                  please?

24                  A.           T-I-M, C-U-R-T-I-S.

25                  Q.           Mr. Curtis, do you have any

1 questions about the interview process  
2 as I described it?

3 A. No.

4 Q. Do you prefer Mr. Curtis or  
5 Tim or ---?

6 A. However.

7 Q. Okay.

8 A. Tim is fine.

9 Q. I'll be Richard. You be Tim.

10 A. Okay.

11 Q. Tim, do you have a personal  
12 representative with you today?

13 A. Yes, Marco.

14 MR. GATES:

15 Would your personal  
16 representative identify  
17 himself by name and address  
18 for the record?

19 ATTORNEY RAJKOVICH:

20 Marco Rajkovich. Do  
21 you want the full --- 2333  
22 Alumni Park Plaza, Lexington,  
23 Kentucky.

24 BY MR. GATES:

25 Q. Tim, are you aware that your

1 representative may have a conflict of  
2 interest in representing you while  
3 being provided by someone else, such  
4 as the company?

5 A. Yeah.

6 MR. GATES:

7 Mr. Rajkovich, would  
8 you state for the record  
9 whether you also represent the  
10 mine operator in these  
11 matters?

12 ATTORNEY RAJKOVICH:

13 I do, sir.

14 BY MR. GATES:

15 Q. Tim, with this understanding,  
16 do you still want this person as your  
17 representative?

18 A. Yes.

19 Q. Have you been pressured in any  
20 way to accept this person as your  
21 representative?

22 A. No.

23 Q. Are you appearing here today  
24 voluntarily?

25 A. Yes.

1 Q. Tim, how many years of mining  
2 experience do you have?

3 A. Off and on, about ten.  
4 Roughly ten.

5 Q. And could you give a brief  
6 description of your mine employment  
7 history?

8 A. I started at Willow Creek Mine  
9 in '97. Was laid off there two times  
10 between '97 and 2000. I don't know  
11 how long between that time.

12 Q. That's fine.

13 A. From there, went to Twentymile  
14 in Colorado. Worked there for about  
15 six months, and then I was out of the  
16 mines for about two, two-and-a-half  
17 years. And then I started working at  
18 West Ridge. I'm not sure what year  
19 it was, but started working there.  
20 And then went from there to Crandall  
21 Canyon, and I've been there ever  
22 since, the last three years.

23 Q. So you've been at Crandall  
24 Canyon for approximately three years?

25 A. Yeah.

1 Q. And what is your present  
2 position at Crandall Canyon Mine?

3 A. Fireboss.

4 Q. And did you hold that same  
5 position on August 6th, the day of  
6 the initial accident?

7 A. Yes.

8 Q. How long have you been a  
9 fireboss at the Crandall Canyon Mine?

10 A. Let's see. Not quite two  
11 years. A year and a half, roughly.  
12 It had been May of last year I think  
13 I got my papers.

14 Q. And what other positions have  
15 you held at Crandall Canyon?

16 A. Belt mechanic, belt man,  
17 mostly just outby, stuff like that.

18 Q. Do you have any mining  
19 certifications, any papers?

20 A. Yes. I got fireboss and mine  
21 foreman papers.

22 Q. In the State of Utah?

23 A. In the State of Utah.

24 Q. And Tim, who was your  
25 immediate supervisor on August 6th?

1 A. Gale Anderson.

2 Q. And how long has that person  
3 been your supervisor?

4 A. Since about February or March  
5 of 2007.

6 Q. During the week of August 6th,  
7 what was your work schedule for that  
8 week or what kind of work schedule do  
9 you have at the mine?

10 A. We work a four-day --- work  
11 four days and have three off. It's a  
12 12-hour shift schedule.

13 One thing I would like to ---  
14 well, maybe I better talk to you  
15 first. Excuse us for just ---.

16 MR. GATES:

17 Yes. Can we go off the  
18 record for a minute?

19 WITNESS CONFERS WITH REPRESENTATIVE

20 BY MR. GATES:

21 Q. Can we go back on the record?

22 A. Yeah. I just needed to --- I  
23 wasn't sure --- the night of August  
24 6th, my normal supervisor was only  
25 there for a couple hours, and then he

1 had a meeting, so he had left. And  
2 so they had a step-up, and so that's  
3 --- I just didn't know if you needed  
4 him or the other guy.

5 Q. Okay. Then that's fine. And  
6 I guess one thing, like I mentioned  
7 earlier, any time you need a break or  
8 want to consult with Marco, that's  
9 certainly no problem.

10 A. Okay.

11 Q. Who was the individual, the  
12 step-up or the acting ---?

13 A. Don Erickson.

14 Q. Pardon?

15 A. Don Erickson.

16 Q. Don Erickson. What time ---  
17 well, you mentioned that you work  
18 four days --- your shift is four days  
19 on and three off.

20 A. Right.

21 Q. Around --- on or around August  
22 6th, then, was that --- or 5th, was  
23 that your first day or last day  
24 or ---?

25 A. That was our last day.

1 Q. That was your last day. So  
2 you had worked the previous three ---

3 A. Right.

4 Q. --- days, and you were getting  
5 ready for three days off?

6 A. Right.

7 Q. Okay. And what time did your  
8 shift start?

9 A. 6:00 p.m.

10 Q. 6:00 p.m. on August 5th?

11 A. Right. Right.

12 Q. And you normally worked 6:00  
13 p.m. to 6:00 a.m.?

14 A. Correct.

15 Q. Okay. Had you, by chance,  
16 worked the shift immediately prior to  
17 the accident? Had you doubled over  
18 for any reason?

19 A. No.

20 Q. Okay. Tim, starting on or  
21 around 6:00 p.m. on August 5th, or  
22 the time that you arrived at the  
23 mine, could you please just kind of  
24 take your time and walk us through  
25 what time you got to the mine and

1        what happened during the course of  
2        that day, up to and including the  
3        time that you left the mine?

4        A.        Got there around 5:30.  
5        Dressed, ready to go by 6:00, of  
6        course. Me and one other fireboss,  
7        we --- from 6:00 to 7:00, we usually  
8        go get our trucks ready, wash them  
9        and make sure they're pre-authed,  
10       stuff like that. And then we  
11       preshift, preshift usually from 7:00  
12       until whatever time it takes us. You  
13       know, we have to have it done by ten  
14       o'clock, of course, but ---. I think  
15       we finished up around 9:30.

16                We had just a little meeting  
17       with our supervisor, saying that they  
18       had meetings in the morning so that  
19       if we needed anything, that we had to  
20       get ahold of Don. He was going to be  
21       the step-up foreman.

22                The section boss, Benny, had  
23       asked us to go into the section and  
24       pick up his SCSR that he had left in  
25       there, and we told him no problem.

1 We got a list of stuff that we had to  
2 do from Gale. And he said that if we  
3 had any questions with this stuff, to  
4 contact him.

5 After that, we went and ate  
6 lunch, which was around 10:30,  
7 probably. And then we ran in, got  
8 Benny's SCSR and came back out, which  
9 was probably around 11:30, something  
10 like that, and proceeded to do the  
11 stuff that was on our lists, on our  
12 work lists, and then got ready to  
13 preshift.

14 About 2:30 we started ---  
15 headed out of the mine. Got outside  
16 --- we normally do the preshift from  
17 the section out, but for --- we was  
18 running late for some reason, and so  
19 we decided to work our way in that  
20 night.

21 I started preshifting at three  
22 o'clock and started at the silo.  
23 Walked the silo belt. Went in the  
24 mine. And then about --- let's see,  
25 it was probably about 3:15 I got a

1 PED saying that I needed to contact  
2 Conspect. And then I had a couple  
3 more PEDS after that, and that's when  
4 we found out that there was a --- you  
5 know, that they had had the bounce or  
6 a cave-in or --- we didn't know  
7 exactly what had happened at that  
8 time.

9 And at that time, my preshift  
10 partner had picked me up, and we  
11 headed into the section. And we got  
12 in there. It was dusty. You could  
13 just --- you could barely see  
14 anything, really. Checked our ---  
15 checked my meter and noticed that we  
16 were dropping in air as far as our O2  
17 levels were coming down.

18 So I went back to the truck.  
19 And I'm actually not certified, but  
20 in the process of being certified  
21 with apparatus, stuff like that and  
22 have training on it, so me and one  
23 other guy had put the apparatus on  
24 and headed in towards the section.  
25 And then it was working, you know,

1 the top and it was still bouncing and  
2 stuff like that. And we only got in  
3 --- I'm not sure what crosscut we  
4 actually made it to, but we didn't  
5 make it in very far. We made it in  
6 past --- one crosscut past the  
7 emergency supply trailer, the  
8 barricade trailer. So whatever  
9 crosscut that was at, that's as far  
10 as we made it.

11 Decided that we better not go  
12 any further because the top was too  
13 bad. Went back and started  
14 establishing ventilation.

15 And from there on out, it was  
16 all turned over to the supervisors.  
17 And that's all we did the rest of the  
18 morning was work on getting  
19 ventilation restored ---  
20 reestablished.

21 Q. And then at some particular  
22 time you eventually exited the mine?

23 A. Yeah. They --- it was --- I  
24 would say it was probably around  
25 8:30, nine o'clock they called us.

1 They basically called all the  
2 graveyard, the people that was on  
3 shift still, to come out in the  
4 morning and let the dayshift people  
5 go in and mine rescue and that, do  
6 what we were doing, basically.

7 Basically, just like a shift change,  
8 you know, except for we were still  
9 there up until about 8:30 or 9:00.

10 Q. Thanks, Tim. And I guess now  
11 we'll maybe just go back to the start  
12 of the day, and I'll just ask a few  
13 questions about how your day  
14 unfolded. But before we get started  
15 there, you used a term when you were  
16 describing your activities at the  
17 mine on the 5th and the 6th. I think  
18 you used the term bump.

19 A. Yeah.

20 Q. I guess I'd just be curious.  
21 I know there's a lot of different  
22 definitions of bump, depending on  
23 what part of the country you're from  
24 and depending on, I guess, what  
25 experience you've had. So I guess

1 maybe just for my benefit or for the  
2 folks' benefit, if you could describe  
3 what you mean by bump.

4 A. Basically, to me it's just ---  
5 God, it's hard to explain if you're  
6 not there. It's just --- it's a  
7 balance, you know. It's just like  
8 --- to me, it feels like the --- you  
9 just take and just --- you know, like  
10 it --- I don't know. God, it's hard  
11 to explain. It's like --- let me  
12 think. Like if somebody had --- like  
13 if you're standing on the ground and  
14 right beside you somebody dropped,  
15 you know, a 20,000-pound ball on the  
16 ground and it just --- it shakes the  
17 ground, you know, just for a split  
18 second right there, you know, and  
19 just bounces everything, you know.

20 Q. It's a vibration, then, that  
21 you ---

22 A. Yeah.

23 Q. --- feel?

24 A. Basically.

25 Q. Do you --- and maybe we'll

1 just go this way. Do you hear ---  
2 can you hear a bounce or hear ---  
3 excuse me, I've kind of gone that way  
4 myself. Can you hear a bump, I  
5 guess?

6 A. Yeah. It --- in a way it kind  
7 of --- you know, it kind of sounds  
8 like a small explosion, just a, you  
9 know, percussion, basically. Just a  
10 (makes sound effect). And then if  
11 you felt it and you hear it, then  
12 you're still alive.

13 Q. And there may or may not be  
14 any coal movement or any coal  
15 displaced from the pillar or any  
16 movement of the floor ---

17 A. Yep.

18 Q. --- or the roof or ---?

19 A. It all depends on how big of a  
20 bounce or a bump it was, you know.  
21 You have minor ones where you barely  
22 feel them and it barely even shakes,  
23 and then, you know, you --- you know,  
24 at other mines I've worked at we've  
25 felt pretty violent ones, you know,

1 that, you know, that almost knocks  
2 you over, you know, so ---.

3 Q. So you may or may not have any  
4 coal sloughage or any coal propelled  
5 or movement from a ---?

6 A. Yeah. It just depends on how  
7 violent they are, you know. It  
8 depends on how much weight it's going  
9 to relieve at the time, you know.

10 Q. So I think we've said you can  
11 see it, you can feel it, but you may  
12 or may not be able to see a bump or  
13 see the effects of a bump?

14 A. Usually even a small, minor  
15 one, you'll have a little bit of  
16 dust, you know, in the air, you know.  
17 If you feel one, you know, a lot of  
18 times you'll have a little bit of  
19 dust around where it was at. If  
20 you're outby the bounce, the dust  
21 will come in and you'll know it was  
22 outby you, you know. If it's in the  
23 section, you know, where they're  
24 mining or whatever, a lot of times  
25 you'll see, you know, sloughage from

1 the ribs or top or whatever.

2 Q. In your experiences at Willow  
3 Creek and at Twentymile and West  
4 Ridge and even at Crandall, had you  
5 seen coal expelled from the pillars?

6 A. Yeah. Yeah, I've seen it  
7 before.

8 Q. And just so I'm sure, I mean,  
9 you've also used the term bounce.  
10 And I think I may have used it as  
11 well. In your mind, is there ---  
12 does a bump and bounce --- are they  
13 --- are the terms interchangeable  
14 or ---?

15 A. Yeah. To me, they both mean  
16 the same.

17 Q. Okay. I just wanted to get  
18 that clear because I think to a lot  
19 of people they are the same thing and  
20 to some they aren't. And just so  
21 we're on the same page as we go  
22 through here.

23 So you mentioned on August 5th  
24 you arrived at the mine around what  
25 time?

1 A. 5:30.

2 Q. Around 5:30. And the areas  
3 --- particular areas of the mine that  
4 you were scheduled to work that day  
5 included where?

6 A. It was all outby. We were ---  
7 I believe, if I remember, we were  
8 supposed to load belt structure up  
9 around Crosscut 104, 105, somewhere  
10 right in that area. They had a  
11 storage of belt structure that we  
12 were supposed to get and take down to  
13 Crosscut --- I'm not sure exactly  
14 what crosscut it was. I think it was  
15 about 18 in the west, you know. That  
16 was where we were going to start  
17 storing all the good structure.

18 Q. Was there anybody underground  
19 from the previous shift when your  
20 shift began?

21 A. Yeah, dayshift. All of  
22 dayshift was underground because we  
23 do --- their shift doesn't actually  
24 end until 7:00, so they do what they  
25 call a hop seat change in the

1 section, so ---.

2 Q. What do you mean by hop seat  
3 change in the section?

4 A. You switch out in the face.  
5 You know, you basically --- whoever  
6 is running the buggy on dayshift, the  
7 guy out on the afternoon shift just  
8 hops right in and they, you know, do  
9 all their checks and whatever and  
10 switch out. And the same with the  
11 miner bolters, if you have bolters  
12 on, you know, stuff like that. You  
13 switch out on the face, basically.

14 Q. Okay. Your shift, I believe  
15 you mentioned, ran from 6:00 p.m. to  
16 6:00 a.m.?

17 A. Correct.

18 Q. What were the hours of the ---  
19 I guess the shift that you were  
20 relieving then? You indicated their  
21 shift ended at 7:00.

22 A. There's a 7:00 a.m. to 7:00  
23 p.m.

24 Q. Okay. So maybe could you  
25 explain or --- if you're familiar,

1 explain how the different shifts  
2 work? Were they four on, ---

3 A. Yeah.

4 Q. --- three off as well, or  
5 maybe just so we all have a good  
6 understanding as to what --- how the  
7 work flowed at the mine with the  
8 shifts.

9 A. Basically, it's a seven to  
10 eight-week rotation, depending on how  
11 you are, you know, depending on what  
12 crew you're on, basically, the way it  
13 falls. You start off working Monday  
14 through Thursday, four days. You'd  
15 have Friday, Saturday, Sunday off.  
16 You'll work that two weeks on  
17 dayshift, and then you'll rotate to  
18 graveyards or what they call their  
19 afternoon shift. You'll work the  
20 dayshift 7:00 a.m. to 7:00 p.m., and  
21 then you'll go to an afternoon shift  
22 and work 6:00 p.m. to 6:00 a.m., you  
23 know. And you'll do that two weeks.  
24 You'll rotate that every two weeks  
25 for eight weeks. But on your eighth

1 week, you'll work six days straight,  
2 six --- so you'll work Monday,  
3 Tuesday, Wednesday --- actually, what  
4 it is, is you work Tuesday ---  
5 instead of starting on Monday, you'd  
6 work Tuesday, Wednesday, Thursday,  
7 Friday, Saturday, Sunday, and then  
8 you would have Monday, Tuesday,  
9 Wednesday, Thursday off. And then  
10 you would switch to weekends, and you  
11 would work Friday, Saturday, Sunday  
12 and Monday. And then you do that for  
13 eight weeks, and then --- and then  
14 when you come off of that, you get  
15 your six days off and you start  
16 again.

17 Q. So you had to keep a pretty  
18 good calendar to ---

19 A. Yeah.

20 Q. --- figure out ---

21 A. It took me ---.

22 Q. --- if you were supposed to  
23 work and at what time?

24 A. It's actually not as complex  
25 as it sounds. My wife is still

1 confused.

2 Q. On, I guess, the evening of  
3 August 5th, did you review the  
4 preshift book before you went into  
5 the mine?

6 A. Yeah. We always check the  
7 books before we go in.

8 Q. And what was in the book?

9 A. I don't remember if there was  
10 anything there or not.

11 Q. You don't recall if there were  
12 any ---

13 A. No.

14 Q. --- particular notations or  
15 any hazardous conditions or  
16 conditions that needed addressed  
17 and ---?

18 A. No. I can't remember.

19 Q. Okay. In your --- you've  
20 given me the schedule that the mine  
21 worked. What were the shifts that  
22 corresponded to the preshift  
23 examinations? I mean, if that makes  
24 sense. Preshifts are required every  
25 eight hours?

1 A. Right.

2 Q. Are you familiar with the time  
3 frames ---

4 A. Yeah.

5 Q. --- that the preshifts were  
6 required?

7 A. On dayshift, you would do your  
8 preshift starting at 11:00, and then  
9 it had to be done by 2:00. On  
10 nightshift, you would actually --- if  
11 you were on the 6:00 p.m. to 6:00  
12 a.m., you actually had to do two  
13 preshifts, one starting at 7:00,  
14 running from 7:00 to 10:00, and the  
15 other one starting at 3:00 and  
16 running from 3:00 to 6:00.

17 Q. Okay. Could you go over that  
18 one more time just so I'm clear about  
19 the eight-hour shifts that you were  
20 performing the preshift examination  
21 for?

22 A. Okay. Dayshift, from 11:00 to  
23 2:00. Afternoon shift, the first one  
24 would be from 7:00 to 10:00. And  
25 then the morning shift you would do

1 from --- we started at, let's see,  
2 3:00 --- yeah, 3:00 to 6:00.

3 Q. And the preshifts have to be  
4 done within three hours prior to the  
5 shift?

6 A. Yeah.

7 Q. Okay. Prior to entering the  
8 mine on August 5th, did you talk to  
9 anybody in the mine or anybody on the  
10 surface about any conditions in the  
11 mine ---

12 A. No.

13 Q. --- or where you were going  
14 that day?

15 A. No. Just our supervisor was  
16 all lining us out with some stuff,  
17 what we needed to do.

18 Q. On August 6th, the day of the  
19 accident, where were you when you  
20 realized that something had happened  
21 in the mine, and do you remember when  
22 that was?

23 A. I was actually preshifting the  
24 Number One belt, which is on the  
25 north. And I was about halfway down

1 the belt line, I don't know exactly  
2 what crosscut it was, when I got a  
3 PED. I believe the first PED said  
4 that --- keep on going, Brian is on  
5 the way. And I didn't even know what  
6 that was, but I had to get to a  
7 phone. There's only a phone at the  
8 tail piece and at the drive. And,  
9 you know, I was halfway, so I figured  
10 I would just go up to the tail piece  
11 and finish that belt. And before I  
12 got there, I got another PED that  
13 said to call Conspect.

14 And by that time I was  
15 probably three-quarters of the way  
16 done with my preshift. Got there and  
17 called him on the phone. And at that  
18 time, he had --- one of my other  
19 preshift partners had interrupted him  
20 on the phone and said that, where are  
21 you, you know. And he said that  
22 there was, you know, a bounce in the  
23 section and we got to get in the  
24 section and see what's going on. And  
25 then he come and picked me up and we

1       headed in there.

2       Q.        You mentioned that you got a  
3       message on the PED.

4       A.        Yeah.

5       Q.        Could you describe exactly  
6       what a PED is?

7       A.        It's basically a one-way  
8       communication from --- it's a device  
9       on our light that can send us, you  
10      know, a message. Like if there's a  
11      problem or something like that, they  
12      can contact us. But the only way we  
13      can contact them is actually call  
14      them on the phone. So they could ---  
15      it's just basically a one-way  
16      communication device that they can  
17      get ahold of us in case of emergency.

18      Q.        How are you able to get the  
19      message then or to read the message  
20      that's being sent to you?

21      A.        It types it on a little --- I  
22      guess you would call it an LED screen  
23      on the light. And whatever they type  
24      in, it will bring it up on that  
25      little screen.

1 Q. So do you, during the course  
2 of your day, just occasionally look  
3 down to see if you have --- somebody  
4 is trying to get in touch with you  
5 or ---?

6 A. If you get a message, your  
7 light will flash or it will beep, and  
8 so you're --- you know that you're  
9 getting a message. You'll either  
10 hear the beep --- if you're driving,  
11 you know, and you have your light  
12 off, it will beep, like a beeper. Or  
13 if you've got your light on, it also  
14 flashes so that you know you're  
15 getting a message.

16 Q. Do you know who has the  
17 ability to send those messages?

18 A. Basically, you know, any --- I  
19 don't know if they're, you know, the  
20 shift foreman, Conspect, anybody  
21 that's outside on the surface that  
22 has access to, you know, the computer  
23 system that types in ---. You know,  
24 I don't think that there's any --- to  
25 my knowledge, there's --- anybody

1 that knows how to use it, can use it.

2 Q. So it operates through the  
3 Conspect system or ---

4 A. Right.

5 Q. --- the AMS system?

6 A. Well, I don't know if it  
7 actually runs through the AMS, but it  
8 --- you know, it's on there. I don't  
9 know if it's a different computer  
10 system or if it runs --- I don't  
11 know.

12 Q. Do you know if there's any way  
13 that the person who sent the message  
14 can tell whether you've seen it? I  
15 mean, do you ---?

16 A. The only way they would know  
17 if we've actually --- I mean, I know  
18 on the computer when you send a  
19 message, it will say message being  
20 sent, and then it will say message  
21 received. But the only way that they  
22 know that you've got the message is  
23 if you actually go to a phone and  
24 say, you know, you called me. What  
25 do you need? You know, so there's no

1 way of actually them knowing that  
2 you've got the message.

3 Q. So there's not a button for  
4 you to ---

5 A. Uh-huh (yes).

6 Q. --- press to ---? Does that  
7 message stay on until you clear it  
8 or ---?

9 A. Basically it will store two  
10 messages, and then it just --- after  
11 two messages, you know, and then you  
12 get a third message, the first  
13 message is erased, you know.

14 Q. And where did you say you were  
15 when the first --- you received the  
16 first message?

17 A. I was about halfway down the  
18 Number One belt in the north,  
19 preshifting.

20 Q. Okay. And after you got that  
21 message, you did what?

22 A. I just kept on going towards  
23 the tail piece, because that would be  
24 the closest --- basically the closest  
25 phone.

1 Q. You got to the phone and  
2 did ---?

3 A. And then I called Conspect to  
4 see what they needed. And before I  
5 could actually even talk to him, I  
6 was interrupted by one of the other  
7 guys that was trying to get ahold of  
8 me on the phone.

9 Q. And do you remember who that  
10 was?

11 A. It was Brent Hardee.

12 Q. And he said ---?

13 A. He told me that there was a  
14 problem in the section, that there  
15 was a bounce in the section and that  
16 they couldn't get ahold of anybody in  
17 there, that we needed to go in and to  
18 see if everything was okay,  
19 basically. And at that time, I told  
20 him to come pick me up at the tail  
21 piece.

22 Q. Who is Brett Hardee?

23 A. Brent, he is ---.

24 Q. Or Brent. Excuse me.

25 A. He's another fireboss up

1       there.

2       Q.           Do you know where Brent was  
3       when you guys spoke?

4       A.           I believe he was outside, but  
5       I'm not sure.

6       Q.           So he --- you're not sure if  
7       he received the same PED message that  
8       you did?

9       A.           I don't know if he did or not.  
10      Because they are --- you know, you  
11      can do --- send a PED to everybody,  
12      the way the system works, or you can  
13      send it just to one individual. So  
14      like if they were just trying to  
15      contact me, if they knew where the  
16      other guys were, they would just send  
17      a PED just to me.

18      Q.           Did you speak --- you  
19      mentioned you spoke with Brent  
20      Hardee. Did you have a conversation  
21      with the Conspect person as well?

22      A.           I did. It was brief. I don't  
23      remember what I had said, though. I  
24      can't remember.

25      Q.           Do you remember who was

1 manning the Conspect at that time?

2 A. There was two of them out  
3 there. One of them was Mark Toomer.  
4 And then the other guy, I know who he  
5 is, but I don't know his name, you  
6 know. I never really got to know his  
7 name.

8 Q. Do you remember any of the  
9 particulars of that short  
10 conversation that you had with him?

11 A. Not that particular  
12 conversation, but one --- maybe about  
13 five minutes later I called Brent  
14 again on the phone and I asked him  
15 where he was at, because one of the  
16 PEDs that I got, it said to keep  
17 going, keep going on the preshift,  
18 which I figured that, you know, they  
19 wanted me to just --- maybe Brian had  
20 broke down or something like that and  
21 that I was supposed to keep walking  
22 or something. And so I called him  
23 back and he said that Brian had  
24 headed for the section. And he says  
25 that he couldn't get in, in the main

1 roadway and that he was --- they were  
2 in the process of getting ahold of  
3 the mine manager to see what we  
4 needed to do.

5 Q. Who is the mine manager?

6 A. Gary Peacock. I guess that's  
7 his title.

8 Q. Was Gary at the mine ---

9 A. Not at that time

10 Q. --- at that time?

11 A. No. He was at home. They  
12 were contacting him on the phone, I  
13 guess.

14 Q. So you proceeded inby after  
15 your phone conversation?

16 A. After Brent came and picked me  
17 up, because I was on foot basically  
18 walking. And so I waited for him to  
19 come pick me up.

20 Q. Okay. And Brent was in a ---

21 A. An Isuzu truck.

22 Q. --- pickup truck?

23 A. Yeah.

24 Q. Do you remember where he  
25 picked you up at?

1       A.       He picked me up at Crosscut  
2       Four on the west, which is basically  
3       --- it's a transformer room.

4       Q.       And the travelway ---

5       A.       Yeah, it would be ---.

6       Q.       --- travel entry ---?

7       A.       Yeah. It would be --- gosh,  
8       I'm not sure what --- which roadway.  
9       I think it's Number Two roadway.

10      Q.       Was Brent by himself?

11      A.       Yeah.

12      Q.       And then what did you and  
13      Brent do after you got in?

14      A.       We headed in towards the  
15      section. As we were driving in, we  
16      got to Crosscut 90, noticed the  
17      overcasts had been buckled. The  
18      panels on it had been --- they  
19      basically had been turned, turned up.  
20      They're like a three-foot panel and  
21      you lay across them to seal it off,  
22      you know. And the panels had been  
23      turned upright from the pressure.

24      Q.       This was an over ---?

25      A.       An overcast.

1 Q. Built from --- what was the  
2 overcast initially constructed out  
3 of?

4 A. It had block walls with a  
5 Kennedy-paneled top, basically.

6 Q. Do you remember how the panels  
7 were bent?

8 A. They weren't bent. They were  
9 just rolled, basically. They lay  
10 flat on top. They were rolled over,  
11 you know, so they would overlap each  
12 other. Like if you just accordioned  
13 them, you know, they just pushed  
14 together.

15 Q. Where was this overcast  
16 located?

17 A. Crosscut 90.

18 Q. Crosscut 90. And you are  
19 still in the ---?

20 A. Number Two roadway.

21 Q. Okay. Was that the first  
22 thing you noticed that was out of the  
23 ordinary?

24 A. Yeah. Yeah, that's --- I  
25 mean, there was a little bit of dust

1 in the air, but just, you know, very  
2 little, you know. But that was the  
3 first thing we noticed that was not  
4 right.

5 Q. While you were driving inby in  
6 the travelway in your truck, did you  
7 keep going? Did you ever stop and  
8 get out and look into any of the  
9 other entries or was it just, let's  
10 go?

11 A. Well, we wanted to get to  
12 where the other people on our shift  
13 were at because they were basically  
14 waiting for us to ---.

15 Q. Where was that at? I'm sorry.

16 A. They were --- I believe they  
17 were at --- I'm not exactly sure of  
18 their location, where they were at,  
19 but it was --- as you turn in to go  
20 into the section, wherever the phone  
21 was, it was right around 112, 113,  
22 right there somewhere.

23 Q. Okay.

24 ATTORNEY RAJKOVICH:

25 Would it help if ---?

1                   MR. GATES:

2                   Yes, that's what I was  
3                   going to ask.

4                   BY MR. GATES:

5                   Q.            Would it help any if you had  
6                   an opportunity to look at a map?

7                   A.            Yeah.

8                   Q.            Maybe we'll bring a  
9                   larger-scale map over here.   And  
10                  we've got a marker.   And maybe, if  
11                  you could, as you can see where the  
12                  map starts, just kind of draw where  
13                  --- if you want to take one of the  
14                  markers and just kind of draw where  
15                  you were --- how you traveled and  
16                  where you were.

17                  ATTORNEY RAJKOVICH:

18                  Are you going to mark  
19                  this as an exhibit?

20                  MR. GATES:

21                  Yes, we will.   Mark  
22                  that exhibit Curtis Exhibit  
23                  Number One.

24                  (Curtis Exhibit One  
25                  marked for

1 identification.)

2 A. Basically we come in --- let's  
3 see.

4 BY MR. GATES:

5 Q. We got the crosscuts marked at  
6 the top and bottom, if that will ---  
7 if that helps you.

8 A. We're coming in on the main  
9 intake right here, actually coming  
10 down this way and coming in like  
11 this. The main intake travel  
12 escapeway is this way, indicated with  
13 the arrows here.

14 Q. Okay.

15 A. We come in this way. I don't  
16 --- what --- is this an overcast?  
17 What is this? I don't understand  
18 what this is. There's one there and  
19 one here.

20 Q. Yeah, I'm not sure either.  
21 Let's just disregard that symbol and  
22 if you can, like I say, just kind of  
23 outline --- because initially we were  
24 talking about where you had phoned  
25 that. As you're coming into the

1 section, then is it still just you  
2 and Brent or do you ---?

3 A. Right. Yeah, just me and  
4 Brent.

5 Q. Okay.

6 A. We're coming in on the main  
7 intake. The phone should have been  
8 approximately right here, at 112. So  
9 we would have met them ---.

10 Q. Maybe just put an X at 112 and  
11 label it phone.

12 WITNESS COMPLIES

13 A. And then we would have met  
14 them --- I believe we were two  
15 crosscuts inby the phone because we  
16 had to ---.

17 BY MR. GATES:

18 Q. Okay. If you could, Tim,  
19 maybe just go ahead and make a  
20 continuous line there in that Number  
21 One entry, where you were traveling,  
22 as your route of travel.

23 A. And then we went to about 114,  
24 because I remember we were about  
25 approximately two crosscuts from the

1 phone, where we met up with those  
2 guys.

3 Q. Did you stop at the phone at  
4 112?

5 A. Yes. We called in to tell  
6 them that we were headed into the  
7 section.

8 Q. Who did you ---?

9 A. Conspect.

10 Q. And that was the extent of the  
11 conversation?

12 A. Yeah. We just told them that  
13 --- basically, it's a zone phone,  
14 which would be Zone Five or the  
15 section going in --- the head of the  
16 section phone. And you have to do  
17 that at every one of the zones. You  
18 have to call them and tell them  
19 you're in, for example, Zone One or  
20 Zone Two or Zone Three or Zone Four.

21 Q. Do you remember what time ---  
22 about what time this may have been  
23 that you got to that phone?

24 A. No, I don't.

25 Q. Did those --- when you called

1 to say that you were going in, that  
2 you were changing zones, did a  
3 Conspect person give you --- give any  
4 information to you or ---?

5 A. Actually, if I could --- when  
6 we called in on this phone, I didn't  
7 actually talk to him on this phone.  
8 It was my --- the driver, Brent, he  
9 called us in and said, we're going  
10 --- me and him were going into this  
11 --- you know, going into the Zone  
12 Five. So I didn't actually talk to  
13 him when we got to this location.

14 Q. Is this one of the phones that  
15 Brent could talk to from inside the  
16 truck or did he have ---

17 A. Yeah.

18 Q. --- to get outside?

19 A. No. We'd just drive up, roll  
20 the window down. You can talk ---  
21 it's right in the main roadway there,  
22 so ---.

23 Q. Okay. So Brent calls in.  
24 You're sitting at the phone at 112.  
25 You get the okay. You ---.

1 A. Well, we really don't have to  
2 wait for an okay to go in because  
3 they don't know, you know, what's  
4 going on or anything like that. It's  
5 --- we're going in under our own ---  
6 you know, basically at will, with us,  
7 you know.

8 Q. At this particular time then,  
9 as far --- I mean, there's an event  
10 that's taken place ---

11 A. Right.

12 Q. --- somewhere in by where  
13 you're at. And I mean, you weren't  
14 on the phone, so Brent didn't relay  
15 any information that he may have got  
16 from Conspect at ---

17 A. No.

18 Q. --- that particular time?

19 A. No.

20 Q. Okay.

21 A. He didn't have any  
22 information.

23 Q. Okay. So you're in the truck  
24 with Brent at the phone, you --- then  
25 what? Then what happens?

1 A. We met up right here with the  
2 other three people that were on  
3 shift.

4 Q. Okay. Right here is ---.

5 A. 114.

6 Q. Okay.

7 A. I'm sorry.

8 Q. And who were those three  
9 people that you met there?

10 A. Tim Harper and Jameson Ward  
11 and Brian Pritt.

12 Q. Okay. As you're traveling  
13 inby, you mentioned that you had  
14 observed some damage to an overcast?

15 A. Yeah. It's not on this map.

16 Q. Okay. But as you're  
17 continuing to drive inby, are you  
18 seeing more damage or what ---  
19 describe what you're experiencing as  
20 you continue.

21 A. When we got to Crosscut 93, we  
22 noticed that the belt line stopping  
23 was --- it wasn't completely down,  
24 but it had been folded. One corner  
25 of it had been folded over. We

1 noticed that one, and then basically  
2 from then on --- therein, every  
3 Kennedy panel stopping that we come  
4 to was pretty much leveled. I mean,  
5 it was --- they were pretty much laid  
6 over flat.

7 Q. When you say laid over flat,  
8 so the crosscut was ---?

9 A. They had been knocked down.

10 Q. Okay.

11 A. I guess, you know, like if you  
12 just pushed the walls over. So it  
13 was laying on the ground.

14 Q. Okay. Could you tell --- were  
15 they laying pushed from the belt to  
16 the intake or ---?

17 A. Yes.

18 Q. They were ---?

19 A. I guess if you were walking  
20 in, they would be pushed over to the  
21 left side, both return and intake  
22 ones.

23 Q. So you could see the return  
24 stopping ---

25 A. Yeah, you could see ---.

1 Q. --- line as well?

2 A. On a few of them, where you  
3 could actually --- we have side  
4 lights on our trucks to allow us to  
5 see, you know, into the crosscuts and  
6 stuff like that. And some of them we  
7 could --- we were able to see that  
8 they were also knocked out.

9 Q. As you were driving inby in  
10 the truck, was there any dust or  
11 could you see through the lights or  
12 what --- aside from the stoppings,  
13 what else did you see or feel out of  
14 the ordinary, I guess, that wasn't  
15 normal?

16 A. There was just minor dust  
17 until we got to about 109, where we  
18 turned to go up into the section.  
19 You could still see driving and stuff  
20 like that. I don't know how far the  
21 visibility was, but it was enough  
22 that we could see through the belt  
23 line to the return side stoppings,  
24 and we could see some of those going  
25 out from 93 to 109. And then when we

1       turned to go --- I guess it would be  
2       east. Or is that north? I'm not  
3       sure.

4       Q.       I think that's south.

5       A.       Okay. Yeah, south. To go  
6       south, the dust started getting  
7       thicker. And then once we turned up  
8       into the section, you could --- you  
9       basically could see about maybe a  
10      crosscut in front of you is all  
11      through the dust, and it was pretty  
12      thick. We couldn't even see these  
13      stoppings on the belt line side from  
14      109 in --- or actually 110. Excuse  
15      me.

16     Q.       Okay. So you've stopped at  
17     the phone. You've made the call.  
18     You've come into 114 and met --- who  
19     did you meet again? I'm sorry.

20     A.       Jameson and Tim and Brian.

21     Q.       The last names?

22     A.       Jameson Ward, Tim Harper and  
23     Brian Pritt.

24     Q.       Okay. And what happened then?

25     A.       We got in there. We just kind

1 of looked around for a minute. We  
2 noticed our meters. We were losing  
3 O2 on our meters. My meter was  
4 already at alarm, which it alarms at  
5 --- I think it's 19.5 on O2. So at  
6 that point, me and Brian actually put  
7 on the --- I'm losing my train of  
8 thought here.

9 Q. That's okay. Take your time.

10 A. Put on the Draeger  
11 apparatuses, which are a firefighting  
12 apparatus, full-face mask and  
13 everything like that.

14 Q. You mentioned that your meter  
15 was alarming at that time?

16 A. Uh-huh (yes).

17 Q. Do you use Solaris detectors  
18 or what kind of meter do you use?

19 A. I don't know the exact brand  
20 name of it. It's a 311. I don't  
21 know what it's actually called. It's  
22 --- you know, I can show you what it  
23 is if you had one, but ---.

24 Q. Does it --- you mentioned that  
25 it gave a low oxygen alarm. Does it

1 detect any other gases?

2 A. CO it does. CO and oxygen and  
3 methane.

4 Q. And did you see any other ---  
5 any of the readings?

6 A. Methane, there was zero. And  
7 CO --- I don't know exactly what the  
8 CO level was at that time, but I  
9 don't think it was very high.

10 Q. You mentioned that the  
11 instrument was at alarm and your  
12 alarm was set at 19 and a half. So  
13 we know that it was below  
14 19 and a half. Did you happen to  
15 look at the detector or see what the  
16 reading actually was?

17 A. I don't recall the exact  
18 number on it, but I know it wasn't  
19 below 19 percent, because I figured  
20 that --- in some of the training that  
21 we had, you know, if it was below 19  
22 percent, that, you know, we wouldn't  
23 have went in. Basically we would  
24 have got back out to where our meter  
25 was out of alarm, basically to more

1 stable air, basically.

2 Q. Okay. When you first ran up  
3 to Jameson and Tim and ---

4 A. Brian.

5 Q. --- Brian, what did they say  
6 to you or do?

7 A. It was so chaotic that I --- I  
8 know they said some stuff, but I  
9 can't even remember what even  
10 transpired there. We basically ---  
11 we made a plan that we were going to  
12 have one person stay at the phone and  
13 try to get ahold of Gary because he  
14 was on the way to the mine. He had  
15 already been notified. He was on his  
16 way up there to the mine. And he was  
17 going to wait to hear from Gary so we  
18 could let him know what we had found.  
19 And then me and Brian had put on the  
20 apparatus because we only had two  
21 apparatuses there.

22 Q. Do you know where --- did  
23 these guys say where they had been or  
24 what they had been doing and how ---  
25 what they had seen or heard and how

1 they ended up back at Crosscut 114?

2 A. I don't know --- I don't know  
3 exactly where they were when all  
4 of --- when they headed up there, you  
5 know, but I know Brian, he was my  
6 preshift partner, and he was going to  
7 go to One tail piece and start  
8 preshifting there. And he never even  
9 started his preshift. He had already  
10 --- had must have already got word of  
11 what was going on and headed into the  
12 section.

13 Jameson was headed outby, I  
14 know from just talking with him. I  
15 don't know from what went on that  
16 night, but just from talking with him  
17 he said that he was on his way to  
18 pick up Tim Harper, because his truck  
19 had broke down in Third North.

20 Q. This is not --- he didn't tell  
21 you this ---

22 A. No.

23 Q. --- at that time?

24 A. No.

25 Q. This is something that you

1 guys have talked about ---

2 A. Yeah.

3 Q. --- since then?

4 A. Since then.

5 Q. Okay.

6 A. And so I don't know where they  
7 all met or anything like that. And  
8 then we just met them in the section.

9 Q. You mentioned that you had the  
10 Draeger ---

11 A. Apparatus.

12 Q. --- apparatus. Where did  
13 these --- where did they come from?

14 A. Brent Hardee actually brought  
15 this in with him from outside. I  
16 guess --- I don't know if somebody  
17 had told him to bring them in or he  
18 just --- from his years of  
19 experience, just grabbed them anyways  
20 to bring them in.

21 Q. So when you had met up with  
22 Brent then, he had already been  
23 outside or he was out ---?

24 A. Yeah, he was outside, headed  
25 in. I think --- I'm not positive,

1 but he was in South Crandall, the  
2 other mine, doing the preshift over  
3 there, when --- or he --- he was  
4 outside for some reason when all this  
5 started, you know, taking place.

6 Q. Did he have any other --- did  
7 he have any other emergency equipment  
8 in the truck with him, or do you  
9 know?

10 A. No, just those ---. He had  
11 some other --- some other units in  
12 there that were older. He wasn't  
13 aware that we had switched out and  
14 went from these older units to the  
15 Draeger units. And so he had --- I  
16 don't know how many other units he  
17 had with him. I don't even know what  
18 they're called. But we knew that the  
19 Draeger ones were good. And the  
20 other ones weren't even in effect  
21 anymore. They were outdated, you  
22 know --- I don't know if they were  
23 outdated or not, but we just weren't  
24 using those units anymore.

25 Q. Okay.

1 A. And I didn't know how to even  
2 put that unit on, so I didn't  
3 even --- we just went to the ones we  
4 were familiar with, and we only had  
5 two of the Draeger ones.

6 Q. So in the truck then with  
7 Brent you had two ---

8 A. Draeger units.

9 Q. --- Draeger units that the  
10 mine was actually using at that time  
11 or that the teams were trained on,  
12 and there were other --- were they  
13 Draeger or other ---?

14 A. I don't know what they were  
15 called.

16 Q. Okay.

17 A. All I know, they were in a  
18 blue box. I don't know what brand  
19 they were or how many there was  
20 there.

21 Q. Okay.

22 A. I know we had a few more  
23 units, but they weren't --- we opened  
24 them up and they didn't even have  
25 oxygen bottles in them or anything

1 like that, so ---.

2 Q. So you had mentioned earlier  
3 about the --- that you were in  
4 training to become ---?

5 A. I was on the fire brigade  
6 team, which they basically train you  
7 on level I firefighting, train you  
8 how to use the apparatus, all this  
9 other, you know, firefighting stuff,  
10 first aid, stuff like that.

11 Q. Okay. So the five of you are  
12 at Crosscut 114, and you said that  
13 you've come up with a plan.

14 A. Yeah. Basically me and Brian  
15 decided that we were the only two  
16 there that were trained on the units,  
17 that we were going to put the units  
18 on and that we were going to head in  
19 and see how far we would get to go  
20 in. Because the farther we walked  
21 in, the lower the oxygen level  
22 actually had become. And so we went  
23 in about maybe one crosscut. I'm not  
24 sure. Before we put the apparatus  
25 on, we had walked in about one

1 crosscut, maybe to 115. And  
2 somewhere up in here there was a  
3 truck. I can't remember --- I can't  
4 remember where it was at.

5 ATTORNEY CRAWFORD:

6 When you say somewhere  
7 up in here, what do you mean?

8 A. Somewhere inby 114, but I  
9 can't remember where I was even at.

10 BY MR. GATES:

11 Q. So the plan was for you and  
12 Brent to don the apparatus ---?

13 A. Me and Brian.

14 Q. Brian, excuse me. And what  
15 about the other three gentlemen, what  
16 were they to do?

17 A. One of them was supposed to go  
18 back to the phone. And as soon as  
19 Gary got there, we were going to  
20 relay a message to him so that he  
21 knew what was going on and what we  
22 could see and stuff like that.

23 Jameson actually had put his --- he  
24 wanted to go in with us. I advised  
25 him that you probably shouldn't

1       because you don't have, you know, an  
2       apparatus. But at that time, he  
3       donned his SCSR and proceeded to go  
4       in with us. And Brent Hardee also  
5       decided to go in with us, but he was  
6       only going to go --- I don't know how  
7       far he had planned on going, but he  
8       didn't have any kind of apparatus or  
9       anything like that with him. But,  
10      you know, the oxygen wasn't so low  
11      that, you know, he couldn't walk in  
12      with us, you know. I just --- when  
13      it comes to gas, I'm real nervous, so  
14      I put mine on, you know. I had it  
15      on, but I wasn't under air yet. I  
16      wasn't under oxygen yet.

17      Q.       Did Brent have an SCSR?

18      A.       He had one with him, but he  
19      didn't have it on. He didn't don it.

20      Q.       Okay. So you got one --- out  
21      of the five, then you've got one  
22      person at the phone?

23      A.       Which was Tim Harper. He was  
24      going to stay at the phone.

25      Q.       Okay. You and Brian have

1       donned the ---?

2       A.       The apparatus, the Draeger  
3       apparatuses. Jameson had his SCSR  
4       on. And Brent was just open-faced.  
5       He was just walking like normal.

6       Q.       Okay. So if you could, maybe  
7       just use the marker and continue with  
8       your route of travel.

9       A.       I believe we left the truck  
10      right here, at 114, and then we  
11      walked in and --- let's see. I'm  
12      trying to think where ---. There was  
13      another truck, I don't know what  
14      crosscut it was at, it was inby 114,  
15      that was broke down. It was actually  
16      Jameson's truck. But anyways, me,  
17      Brian and Brent and Jameson had  
18      walked in and we walked in  
19      approximately --- I believe it was to  
20      122. And this is where --- I think  
21      this is where we stopped because the  
22      top --- basically the ground was  
23      still working in there. It was still  
24      bouncing. It was --- to me, it was  
25      very unstable. We felt one more big

1 bounce. I don't know what time it  
2 was at. We noticed that all of these  
3 stoppings --- you couldn't even see  
4 the stoppings. They were just  
5 leveled. They were covered in  
6 debris.

7 Q. Now, when you say all of  
8 these, you're talking about the stop  
9 --- which stoppings are you referring  
10 to?

11 A. The section stoppings from  
12 basically --- I know from 118 to 122.

13 Q. Between entries?

14 A. Yeah, between return and belt  
15 line. Because we basically --- we  
16 walked up to 122 and we walked over  
17 to the belt line and we could see  
18 that these stoppings were also  
19 leveled also.

20 Q. So the stopping line between  
21 One and Two is intact or all those  
22 are ---?

23 A. They're not intact.  
24 They're ---.

25 Q. Okay. Those are all out.

1 A. They're all out. They're  
2 basically buried. We can't even see  
3 the stoppings.

4 Q. And when you say buried,  
5 there's material on top of them?

6 A. Basically coal from it blowing  
7 off the ribs and stuff like that. It  
8 would --- I guess it just leveled  
9 them down and it covered them. I  
10 don't know.

11 Q. At that time, could you tell  
12 where that coal may have come from  
13 that was on top of the stoppings?

14 A. It didn't come from the top  
15 because it was still meshed. The  
16 screen was still up. So it had to  
17 have come off of the ribs, you know,  
18 because it couldn't have come off the  
19 floor because it wouldn't have buried  
20 the stoppings if it come off the  
21 floor. So it had to have come off  
22 the ribs.

23 Q. Where was the --- between  
24 entries One and Two, where was the  
25 first stopping that was buried with

1 this material, the first one that you  
2 observed on your way in?

3 A. I don't know. I want to say  
4 that the first one that we actually  
5 noticed that was buried was at 122.  
6 We just noticed that these stoppings  
7 were out, you know, but we noticed  
8 that this one had been buried.

9 Q. They were out, but you could  
10 still see the Kennedy panels or you  
11 could ---

12 A. Yeah.

13 Q. --- still see some of the  
14 construction?

15 A. And, you know, when I say  
16 buried, they weren't completely  
17 buried to where, you know, you  
18 couldn't see actually no part of the  
19 stopping at all. You could see parts  
20 of it still.

21 Q. At this point, when you're  
22 looking into the crosscuts and you're  
23 seeing that material on top of the  
24 stoppings, is there any material  
25 along the --- in the entry that

1       you're walking over or ---?

2       A.       Yeah.    There was enough  
3       material in the roadway that you  
4       could not get a truck through there  
5       without, you know --- I mean, that's  
6       why the truck was back, you know,  
7       outby 122 somewhere, but I just can't  
8       remember where that was at.

9       Q.       Do you remember where you  
10      first noticed this rubble or material  
11      in the entry --- in the Number One  
12      entry or the entry that you were  
13      traveling?

14      A.       I don't, because all the  
15      stoppings had been knocked out, so we  
16      didn't know --- I didn't know exactly  
17      what stopping we were actually at.  
18      That's why it's hard for me to  
19      determine, you know, what crosscut we  
20      were actually at, because I'm just  
21      trying to remember how many ---.

22      Q.       You're doing a very good job,  
23      too.    And I certainly appreciate it.  
24      When you were at the phone at 112 and  
25      you made the call, was there any

1 material --- had you noticed any  
2 material?

3 A. There was a little bit, but  
4 not so much that you couldn't drive  
5 through there, you know. It wasn't  
6 bad at all.

7 Q. Okay. And then when you get  
8 to 114 and you get out of the truck  
9 and you're talking with the other  
10 three guys, is there more or  
11 less ---?

12 A. Yeah. We basically met  
13 them --- I want to say that the truck  
14 was at 115, but I'm not sure.  
15 Because that's as far as they could  
16 go in their truck because there was  
17 too much rubble on the ground there.  
18 And then they tried to move their  
19 truck and the truck wouldn't start.  
20 So I want to say it was right there  
21 somewhere, but I'm not sure.

22 Q. Okay. When you're traveling  
23 --- you're walking inby and you're  
24 seeing this material in the Number  
25 One entry, does it appear that it's

1 coming from both directions or is it  
2 just down the center, or how would  
3 you describe where that material was?

4 A. Actually, it looked like it  
5 was coming from inby, like if it had  
6 shot down the center of the entry, is  
7 what it looked like to me. It didn't  
8 look like it had come off the ribs.  
9 It looked like it had just come from  
10 inby out down the --- you know, just  
11 right down the middle of the entry.

12 Q. So if you --- would you  
13 describe it then as being --- the  
14 depth would be --- it would be the  
15 deepest in the center and then ---

16 A. Right.

17 Q. --- just branching off  
18 from ---?

19 A. Well, it was just basically  
20 kind of covering the whole entry.  
21 There wasn't no rollover, you know.  
22 It was the same depth kind of all the  
23 way through. But it just didn't look  
24 like it had come off the ribs, you  
25 know. It looked like it just shot

1 down the center of the entry.

2 Q. And when you say the depth,  
3 was it over your boots or ---?

4 A. No, I wouldn't --- it was just  
5 chunks, just big --- you know, big  
6 pieces. It wasn't, you know, small  
7 stuff. You know, it was, you know,  
8 probably, you know, five-pound chunks  
9 of coal, basically, you know, which  
10 they can range anywhere from, you  
11 know, 10 to 20 inches, you know.

12 Q. Was it all coal or did there  
13 appear to be any other type of  
14 material?

15 A. Yeah, we did see a few ---  
16 some debris. We seen some buckets,  
17 like oil can buckets. We did notice  
18 a sign. I can't --- I can't remember  
19 what that sign said, but I knew it  
20 was a sign that come from inby  
21 because I remember seeing it up in  
22 here somewhere, and I don't remember  
23 what that sign said. But I knew it  
24 was from one of the --- it was either  
25 from the oil station or one of the CO

1        folds or --- the CO monitors or  
2        something like that. It was like a  
3        ten-by-eight sign, but I can't  
4        remember --- and it was clear outby  
5        --- it was right in between 122 and  
6        120, right in there somewhere.

7        Q.        Do you remember where the oil  
8        station was?

9        A.        I think that the oil station  
10       was either at 120 or 122, because we  
11       made it to that oil station, and it  
12       was completely --- almost completely  
13       buried. And, you know, it sits about  
14       three feet, four feet off the ground,  
15       and it was completely buried. And  
16       that's when we knew that we had some  
17       serious stuff going on.

18       Q.        That was your first ---?

19       A.        That was when --- when we got  
20       to that point and it was still  
21       working in there, we had felt one  
22       more bounce in there, one significant  
23       bounce. I mean, it was pretty, you  
24       know --- I want to say that, you  
25       know, it made me say, that's enough,

1 we're not going any farther, you  
2 know.

3 Q. You mentioned some signs that  
4 you came across.

5 A. Yeah. Like I said, they were  
6 --- if I can remember what they said  
7 on the signs, I could tell you where  
8 they came from, but I can't remember.  
9 But we seen them. It was between 120  
10 and 122, right there somewhere.

11 Q. Okay.

12 A. And we knew that the reason  
13 why that sign was out there --- we  
14 knew that it had come by from inby  
15 somewhere in here, and we couldn't  
16 believe that that sign was all the  
17 way back there.

18 ATTORNEY CRAWFORD:

19 When you say inby  
20 somewhere in here, where do  
21 you mean?

22 A. Somewhere inby 122, you know.  
23 Gosh, if I could remember what that  
24 sign said. I just can't remember  
25 what it said.

1 BY MR. GATES:

2 Q. That's fine. I'm going to  
3 take you back again to when you're at  
4 112 on the phone. Are you feeling or  
5 are you hearing anything moving then  
6 or sensing that something is  
7 happening or ---?

8 A. You could still feel --- you  
9 could hear --- there wasn't --- you  
10 couldn't really feel anything, but  
11 you could hear the top cracking. You  
12 could feel the ground, you know, just  
13 --- that noise that you hear when the  
14 top is still working. It's popping.  
15 It's cracking, you know. We could  
16 still hear that. And we heard that  
17 almost the whole time we were in  
18 there.

19 Q. But it was getting worse as  
20 you ---

21 A. Yeah.

22 Q. --- traveled further in  
23 or ---?

24 A. Yeah. When we were --- when  
25 we were traveling in and --- it

1 started getting real deep around 122,  
2 the debris in the roadway. I would  
3 say upwards around two feet, maybe.

4 Q. In the middle?

5 A. In the Number One intake ---  
6 or Number One entry.

7 Q. It was two-foot deep in the  
8 middle or in the middle of the entry  
9 or all the way?

10 A. No, just the whole entry.

11 Q. All the way across, okay.

12 A. Because it was hard to walk  
13 through there.

14 Q. Right.

15 A. And then we felt one more big  
16 bounce right there. And when it ---  
17 I don't know if it was prior to the  
18 bounce or before the bounce, we had  
19 been monitoring our meters quite  
20 regularly, and for some reason me and  
21 Brent had switched meters, because I  
22 think that he wasn't going to go in  
23 any farther. And his had more  
24 battery life on his than what mine  
25 had, so we figured his would last

1 longer. And if I remember correctly,  
2 his meter dropped down to like 17.9  
3 or 17.8, somewhere right in there,  
4 and then we felt the next --- one  
5 more big bounce.

6 Q. He's still --- excuse me.  
7 He's still bare-faced ---

8 A. Yes.

9 Q. --- at that time?

10 A. And we hadn't gone under  
11 oxygen yet either.

12 Q. Okay.

13 A. We have the mask on, but we  
14 haven't gone under oxygen yet.

15 Q. Okay.

16 A. At that time, after we felt  
17 that bounce, we decided we wasn't  
18 going any further because it was just  
19 --- I mean, basically it was too  
20 scary, you know. We didn't know if  
21 it was going to cave again. But we  
22 did walk up into the belt line and we  
23 seen that we couldn't go in through  
24 the belt line, and we couldn't go any  
25 farther up the main intake.

1 Q. Could you see the belt?

2 A. You could see where it was at,  
3 but a lot of it was buried by that  
4 --- I mean, you could see that it had  
5 coal and rubble on it, but you could  
6 see the belt. You know, you could  
7 still see the structure and stuff  
8 like that. It wasn't completely  
9 buried.

10 Q. When you heard this bigger  
11 sound, did you hear any material  
12 moving, or after you heard it or felt  
13 it, did you hear any material being  
14 moved or hear any sounds after that?

15 A. I don't remember. I don't  
16 recall that anything had fallen or  
17 anything like that.

18 Q. Do you, by chance --- and I  
19 know you got a lot going on right  
20 now. Did you, by chance, ever look  
21 at your watch or I'm not sure if you  
22 even wear a watch or any idea what  
23 time it is now?

24 A. I didn't. I don't know what  
25 time it was at this time. I know

1 that when we decided to go back and  
2 start establishing ventilation, it  
3 was right around four o'clock. It  
4 was, you know, give or take maybe  
5 five or ten minutes, plus or minus  
6 four o'clock.

7 Q. How long do you think it took  
8 you from the time you called in at  
9 112, saying you're going into the  
10 next zone, how long after that do you  
11 think it was until you heard this  
12 large ---

13 A. Big sound?

14 Q. --- big sound? Yes.

15 A. I would say maybe 20, 30  
16 minutes is all. We weren't in there  
17 very long.

18 Q. Okay. Could you feel --- as  
19 far as ventilation, could you feel  
20 any air movement at that time or ---?

21 A. Very little. Me and Brent had  
22 talked about this when we were going  
23 in. We had talked about the air. It  
24 felt like --- when we were coming in  
25 on the intake, it felt like the air

1 was coming in our face. As we were  
2 traveling inby, it felt like the air  
3 was ---.

4 Q. Was going the wrong way?

5 A. Right. And so that's why we  
6 --- I mean, I don't know for sure,  
7 because we didn't --- you know, we  
8 didn't check it with an anemometer or  
9 anything like that. It just --- it  
10 felt different. And then --- you  
11 know, there is basically no  
12 ventilation at all established in  
13 there, so, you know, the ventilation  
14 could have been coming in the return  
15 and out the -- you know.

16 Q. But you felt like if the dust  
17 or --- was coming ---?

18 A. Yeah. It felt like it was  
19 traveling outby, basically.

20 Q. It was back in your face, ---

21 A. Right.

22 Q. --- coming into your face? Do  
23 you remember what any of the roof  
24 conditions were as you were moving  
25 inby?

1       A.       Everything looked okay from  
2       where we got out of the truck at 114  
3       to 122.  Everything looked okay.  But  
4       you could see --- by the time we got  
5       up to here, the dust started to  
6       settle.  And you could actually see  
7       probably a couple crosscuts inby, and  
8       you could see a little bit of the  
9       mesh that had come down.  But it  
10      wasn't, you know, the whole entry.  
11      It was maybe just like a three or  
12      four-foot piece of mesh on the sides  
13      of the ribs and stuff like that.

14      Q.       When you say mesh, could you  
15      describe exactly what you mean by  
16      that?

17      A.       The roof screen that when they  
18      bolt and it holds the top up.  It's  
19      --- I believe it's 18 or 20 foot by  
20      five-foot piece of wire mesh that  
21      they use in --- you know, for roof  
22      control, basically.

23      Q.       Did any of that mesh come down  
24      over the rib or ribs or did it just  
25      extend ---?

1 A. No. It just stayed in the  
2 intake on the top. It didn't fold  
3 over or anything like that.

4 Q. And as you had come --- well,  
5 let me back up. The first mesh that  
6 you saw that looked like it had been  
7 disturbed then was as you were  
8 looking inby?

9 A. Just from looking inby. And  
10 like I said, I don't know if it was  
11 actually 122 that we --- I know ---  
12 if I knew where the oil station was,  
13 we were one crosscut past the oil  
14 station. So we could have stopped at  
15 122 or 123. I want to say that the  
16 oil station was at 122, ---

17 Q. Okay.

18 A. --- but I'm not sure.

19 Q. You mentioned that by the time  
20 you got to 122, or that's where you  
21 think you were, that the dust had  
22 died down to some ---?

23 A. Yeah. It was still dusty in  
24 there, but it wasn't as bad as when  
25 we first come in. When we first come

1 in, you know, you couldn't see  
2 through the crosscut, you know. And  
3 then by the time we got up there, you  
4 could see out there maybe a crosscut,  
5 crosscut-and-a-half. And you could  
6 --- we could see upwards around 124,  
7 I would say. Just basically from ---  
8 when we went back in, after we were  
9 establishing ventilation, working our  
10 way in, when we got up to --- before  
11 mine rescue got in there, we had  
12 ventilation established to 122. And  
13 when we had walked up earlier --- or  
14 later that morning, basically, we had  
15 walked in there and I think that oil  
16 station was at 122, and we could see  
17 that.

18 Q. When you were at 122, or you  
19 think you were, on your initial  
20 advance and you heard this bump, the  
21 big bump that you referred to, did  
22 the dust get any worse after that  
23 or ---

24 A. No.

25 Q. --- did you notice anything

1        --- other than just hearing it, did  
2        you notice anything different?

3        A.            There was a little bit of dust  
4        just from, you know, the --- but it  
5        wasn't nothing like what we had  
6        encountered when we first went in  
7        there.

8        Q.            Okay.

9        A.            And I don't know if that's  
10       just because there was no  
11       ventilation, you know, so there was  
12       no way, you know, to carry the dust,  
13       you know, from wherever the bounce  
14       occurred to us, you know. But it was  
15       enough to tell us that --- well, to  
16       tell me --- Brian still wanted to go  
17       in, but I told him I wasn't going.  
18       It was far enough for me, you know.

19       Q.            Were you kind of leading  
20       this ---

21       A.            No. It was ---

22       Q.            --- exploration?

23       A.            --- it was all pretty much ---  
24       it was kind of like me, Brian and  
25       Jameson kind of as a team effort

1       there, saying, okay, we're going to  
2       go in here. But when --- after that  
3       bounce hit, I told them that I wasn't  
4       going to go any farther. And I  
5       advised them, I says, you know, if it  
6       was me --- or if I was you, I  
7       wouldn't go either, you know. And so  
8       just out of my, you know, gut  
9       feeling, I said, I'm not going in  
10      there. And then me and Brent had  
11      backed out. I don't know

12      --- I know that they had come back  
13      with us a little ways, but I don't  
14      know if they went in farther or not.

15                Me and Brent had went back to  
16      the truck. At that time, I think  
17      that Gary had gotten there by now,  
18      and Tim had told him that we couldn't  
19      travel inby and that they needed to  
20      contact mine rescue and get them up  
21      here. And we started back at  
22      Crosscut 93 working inby, hanging rag  
23      for ventilation.

24      Q.        Before that, though, you're  
25      back --- when did you all get back

1 together again? I mean, you said you  
2 --- two of you started retreating  
3 back. You don't know ---

4 A. We never ---.

5 Q. --- what the other two were  
6 doing or how far ---.

7 A. We never grouped back up until  
8 we actually come out of the mine.  
9 They --- Jameson and Brian started  
10 doing stuff, I know that --- when me  
11 and Brent had went down to 93 to  
12 start ventilation.

13 Q. Okay. Were you instructed to  
14 --- I mean, you guys are up at 122.  
15 You say, guys, I don't think it's  
16 safe to go any farther. I'm not  
17 going any farther. You start going  
18 back outby. You get to the phone.  
19 You understand that there's been some  
20 contact with Gary. Now, how did you  
21 get to the --- how did you arrive at  
22 the decision or who told you to start  
23 putting the ventilation in?

24 A. That was just on our own. You  
25 know, we knew that there wasn't any

1 air coming in, and we had, you know,  
2 the low oxygen where we went to. And  
3 so just out of our own, you know, own  
4 knowledge, I guess, we decided that  
5 we needed to get some air coming back  
6 up into this section.

7 Q. So the three of you ---?

8 A. There was just two of us.

9 Q. Just two of you?

10 A. Me and Brent got in the truck  
11 and headed back to 93 to start with  
12 ventilation.

13 Q. Was the other guy still at the  
14 phone?

15 A. Yeah. Tim was still at the  
16 phone. And I don't know what Brian  
17 and Jameson were doing. I know when  
18 we started establishing ventilation,  
19 he had dropped me off. Brent had  
20 dropped me off at 93 and he went to  
21 103. And I was going to walk up the  
22 belt line just to make a note of what  
23 stoppings actually were down on the  
24 return and intake side. And we seen  
25 Jameson in a truck headed outby and

1 told him --- he was headed out. And  
2 we told him to get as much brattice  
3 and pogo sticks as he could find and  
4 bring them back in, because we didn't  
5 have enough.

6 Q. He was headed to the --- he  
7 was headed outside or ---?

8 A. He was headed outby. I don't  
9 know if he was headed for the surface  
10 or he was --- I don't know where he  
11 was going.

12 Q. So you go back --- you get  
13 dropped off at 93?

14 A. And start walking inby, ---

15 Q. And the ---?

16 A. --- in the belt line.

17 Q. What are you seeing?

18 A. Basically every Kennedy panel  
19 that we had from '93 to where I  
20 walked had been knocked over and been  
21 either, you know, I guess blown over  
22 from the air. Some of them were all  
23 the way on the ground, and some of  
24 them were just kind of leaning over.

25 Q. Is your detector still going

1 off?

2 A. No. No. We had good oxygen  
3 there.

4 Q. Do you remember where the  
5 detector quit alarming at?

6 A. When we headed into the  
7 section, we didn't have an alarm at  
8 the truck, so we had good oxygen  
9 there, I believe, or at the phone.  
10 Excuse me, at the phone we had good  
11 oxygen.

12 Q. You still got your Draeger on?

13 A. I still have my pack on. I've  
14 taken my mask off and everything at  
15 this time. I actually didn't even  
16 think about taking my apparatus off,  
17 you know, until --- it was several  
18 hours later. You know, I still had  
19 it on just because it was, you know,  
20 it was mad panic and we were trying  
21 to get ventilation, you know.

22 Q. But up until now, you've never  
23 gone under ---

24 A. No.

25 Q. --- oxygen?

1 A. I mean, I went under a couple  
2 times to make sure that, you know, I  
3 had an airtight seal and stuff like  
4 that on my mask, but that was about  
5 it.

6 Q. Okay. When you're at 103  
7 walking inby then, is there dust ---

8 A. No.

9 Q. --- still over everything?

10 A. At this time there was no dust  
11 at all.

12 Q. You proceed in. You start at  
13 103 ---?

14 A. We --- when we got to 103, I  
15 called on the phone and tried to talk  
16 to Gary, but I never did get to talk  
17 to him.

18 Q. Did you meet ---?

19 A. Me and Brent.

20 Q. Brent there?

21 A. Yeah.

22 Q. So Brent's --- you're going  
23 inby, Brent's coming outby, and you  
24 meet at 103?

25 A. No. We actually met at a

1 couple crosscuts outby, probably  
2 around 97, 99, somewheres right in  
3 there. From about midway.

4 Q. Okay.

5 A. And I told him that I was  
6 going to go call and let them know  
7 what stoppings we had found so far  
8 that were down, and that if anybody  
9 was coming in, to bring as much rag  
10 and stuff like that as they could  
11 find.

12 Q. You mentioned the rag and the  
13 curtain and the pogo stick. Is  
14 that ---?

15 A. Yeah.

16 Q. What do you mean? What kind  
17 of materials would you describe that  
18 you were going to use?

19 A. It's brattice curtain with PVC  
20 pipe that, you know, you unscrew for  
21 --- you wedge them in the top in the  
22 floor, which will hold the curtain up  
23 to keep them from, you know, falling  
24 over and stuff like that.

25 Q. Are you okay? Do you want to

1 take a break or do we want to ---?

2 ATTORNEY RAJKOVICH:

3 Do you want to

4 take ---?

5 MR. GATES:

6 Why don't we take ten

7 minutes? Is that fine?

8 ATTORNEY RAJKOVICH:

9 Why don't you just ---

10 for the record, this map, is

11 this one that was obtained

12 from the company?

13 MR. GATES:

14 That was --- let's ---.

15 ATTORNEY RAJKOVICH:

16 The only thing is, has

17 it been modified in any way is

18 all I was going to say?

19 MR. GATES:

20 I believe this map came

21 off of one of the CAD files

22 that you had provided to us,

23 but I'll confirm that here

24 during the break. Go off the

25 record.

1       SHORT BREAK TAKEN

2                               MR. GATES:

3                               Go back on the record.  
4                               There had been some questions  
5                               as to the source of Exhibit  
6                               One. The exhibit is, in fact,  
7                               produced from a CAD file that  
8                               was provided by the mine  
9                               operator. There were some  
10                              layers of the CAD file that  
11                              have been turned off for  
12                              clarity purposes.

13       BY MR. GATES:

14       Q.           Tim, I want to ask one  
15       question. When you were at Crosscut  
16       122 or at your furthest point inby,  
17       maybe even while you were working  
18       your way in to Crosscut 122, did you  
19       ever smell anything out of the  
20       ordinary?

21       A.           No. No, I didn't. I didn't  
22       notice it if there was.

23       Q.           No sulfur smell, no smoke  
24       smell, nothing?

25       A.           Nothing.

1 Q. Okay. Thank you.

2 A. Just a lot of dust.

3 Q. So now, if we could, you had  
4 been to --- outby to 93. You had  
5 worked your way inby, determining  
6 what the status of the ventilation  
7 controls were. When you're coming  
8 back in, can you see the stopping  
9 line between the belt and the return?

10 A. Coming back in when?

11 Q. When you're walking back in  
12 the belt from Crosscut ---.

13 A. Yeah.

14 Q. You're in the belt entry, ---

15 A. Right.

16 Q. --- looking both ways as you  
17 proceed inby. All of the stoppings  
18 are out?

19 A. All of the Kennedy panel  
20 stoppings. The Omega Block and some  
21 cinderblock stoppings had stayed up.

22 Q. They were intact?

23 A. They were intact, yeah. I  
24 don't know if they were airtight, you  
25 know, because there's really no

1       ventilation, but there was no like  
2       visible signs of it being broke or  
3       anything like that.

4       Q.       So you walked from 103 inby in  
5       the belt entry to ---?

6       A.       We went to 103. And at that  
7       time, I believe I called outside to  
8       let them know what we had found so  
9       far, up to that point.

10      Q.       Do you remember who you talked  
11      to?

12      A.       That's --- I think it was  
13      Jesse Gordon, but that I don't know.  
14      I'm not sure. I'm pretty sure it  
15      might have been him. It might have  
16      been either him or Laine.

17      Q.       Okay.

18      A.       But I can't remember for sure.

19      Q.       Again, do you, by chance,  
20      remember what time you may have  
21      called --- made this call?

22      A.       No, I don't --- I don't know  
23      what time it was.

24      Q.       And effectively, you told ---  
25      when you had him on the phone, you

1       said what?

2       A.       I told him that both intake  
3       and return stoppings --- and I gave  
4       him a list of the ones that I had  
5       written down. I had them written on  
6       my hand of the ones that I had seen  
7       down. And I told him that all of  
8       these stoppings were out that I had  
9       written down, but I can't remember  
10      what those numbers were off the top  
11      of my head.

12      Q.       Did you ever --- and I know  
13      you've made note a couple times as  
14      we've --- during the questions about  
15      taking notes or jotting some notes  
16      down. Did you have a notebook with  
17      you that you were making entries in  
18      or ---?

19      A.       No. I had a notebook with me,  
20      but I didn't write none of this stuff  
21      down, you know. The only thing that  
22      I had written down was on my hand, it  
23      was actually on my glove, that ---  
24      these stoppings that I had seen out  
25      from 93 to 103.

1 Q. Okay.

2 A. And when I talked to him on  
3 the phone --- or whoever it was that  
4 I talked to, I can't even remember, I  
5 told them that this is what we found  
6 so far and that we needed more rag  
7 and more pogo sticks because we  
8 didn't have enough.

9 Q. Are you by yourself then?

10 A. Me and Brent.

11 Q. Brent is with you when you ---

12 A. Yeah.

13 Q. --- make the call? I don't  
14 know if he was standing right there,  
15 right next to me, or if he was trying  
16 to get ventilation going at that  
17 time. But whoever I talked to on the  
18 phone told us --- at that point told  
19 us to go ahead and get all the  
20 ventilation established as much as we  
21 can and that they were sending in  
22 some other guys to help us. I think  
23 it was dayshift that was coming in to  
24 help us.

25 Q. Have you seen or heard

1 anything from the other three guys  
2 who were with you?

3 A. Like I said, we had seen  
4 Jameson and we told him that if he  
5 was headed outside, to bring in some  
6 more rag or whatever. And that was  
7 it. That was the last time we had  
8 --- he was the only other person we  
9 had seen up until that point.

10 Q. When you're making this call  
11 outside, reporting your findings, do  
12 you hear any other conversations that  
13 are going on, on the phone?

14 A. There was, but I don't know  
15 what they were saying because I  
16 actually had to wait to talk to  
17 somebody, you know, because I didn't  
18 want to interrupt what was going ---  
19 what --- you know, they were talking  
20 to somebody. I don't know --- I  
21 can't remember what they were saying.

22 Q. You don't remember who it was  
23 or ---?

24 A. Uh-uh (no).

25 Q. What type of phone system do

1 you have in the mine?

2 A. I don't know the exact name  
3 for it. They're a two-way  
4 communication phone, you know. Just  
5 a pager-style phone.

6 Q. You got pager phones. You  
7 mentioned you stopped from the truck  
8 and made the call --- or you didn't  
9 make the call, but you stopped at  
10 112. Are there phones in the belt  
11 line that you can call from?

12 A. Yeah. Pretty much about every  
13 drive there is a phone, which at 103  
14 is Number Five drive --- Five belt  
15 line drive.

16 Q. And when you asked the  
17 question earlier, I believe the two  
18 symbols on the map that are ---.

19 A. Transfer points, is that  
20 what ---?

21 Q. Right. Right.

22 A. Because I thought that was the  
23 symbol for an overcast. That's why  
24 --- that's what was throwing me off  
25 there.

1 Q. I did, too, and that's why I  
2 didn't answer you at the time. Okay.  
3 What happened after you made the  
4 call?

5 A. Whoever I talked to said that  
6 they were sending some guys in to  
7 help us and to keep establishing  
8 ventilation, to do --- you know, to  
9 start at the bottom, at 93, and work  
10 inby and get ventilation established  
11 as far as we could go.

12 Q. Did you have any materials to  
13 do that with at this point?

14 A. Yeah, we did. We did have a  
15 couple rolls of rag that we had found  
16 just in various places. We had ---  
17 in the belt lines there's usually  
18 pieces of rag and stuff like that,  
19 pogo sticks usually laying around.  
20 And we just gathered everything that  
21 we could find at the time and just  
22 used what we had.

23 Q. So you're staying together ---

24 A. Yeah.

25 Q. --- at this point?

1 A. Me and Brent were together  
2 pretty much up until we come out of  
3 the mine.

4 Q. So you and Brent --- you get  
5 the word on the telephone to restore  
6 ventilation. You go back, back to  
7 93?

8 A. Uh-huh (yes).

9 Q. Maybe just go from there.

10 A. I think we actually started at  
11 right around --- let's see, 103 is  
12 solid. I'm not exactly sure what  
13 crosscut. It was 98, 97, somewhere  
14 right in there. We started right  
15 there just because that's where we  
16 met. And we actually worked to 93,  
17 and then we come back up, because we  
18 had everything right there to do that  
19 one. For some reason we just started  
20 right there.

21 Q. Okay. Which crosscuts did you  
22 install ---

23 A. Altogether, we did ---

24 Q. --- rag in?

25 A. --- from 93 and then --- we

1 did from 93 to 103, and then some  
2 other help come in at that time. And  
3 then there was --- we just helped all  
4 the way going into --- I don't know  
5 which one we stopped at. It was 122  
6 or 123, somewhere like that. We had  
7 everybody working on it.

8 Q. Working on the stopping line  
9 between One and Two ---

10 A. Uh-huh (yes).

11 Q. --- or the intake and the  
12 belt?

13 A. Just --- basically just the  
14 return. They just wanted to  
15 establish the return stoppings. We  
16 didn't worry about the belt line, the  
17 intake belt line stoppings.

18 Q. Okay. Did you have to move  
19 any material to put the stoppings up  
20 or were these crosscuts still fairly  
21 clean back at 90 ---?

22 A. Yeah, they were still --- they  
23 were ---.

24 Q. I mean, other than the  
25 material --- the stopping material, I

1 guess?

2 A. Yeah. Most of the ones that  
3 we could actually physically push  
4 back up the walls, we pushed them  
5 back up and just kind of, you know,  
6 steadied them so they wouldn't fall  
7 over to help the rag, you know, hold  
8 a little bit better. But there  
9 wasn't any rubble or anything on the  
10 ground, as far as that goes.

11 Q. What is the air quality and  
12 quantity like as you're doing this?

13 A. As far as the quality goes, as  
14 far as our O2 and CO, we had good ---  
15 I don't know exactly what it was, but  
16 it was, you know, good air. But as  
17 far as like the air movement, we  
18 could feel air because it was coming  
19 into the belt line, you know, from  
20 the intake, but it was just --- I  
21 don't know which way it was going or  
22 anything like that because we hadn't  
23 got ventilation all established, you  
24 know.

25 Q. So you never --- did you, at

1 any time, take an air reading?

2 A. No.

3 Q. You mentioned you and Brent  
4 are together. And I think you also  
5 said that there were other people who  
6 were coming in the mine to assist.

7 A. Yeah. The first couple people  
8 I seen was Brian Allen, Phillip Cox  
9 and Lance Hurst. And Phillip and  
10 Lance had brought us in extra lights.  
11 Somebody had --- I guess somebody had  
12 called and said that they needed some  
13 lights because ours were going dead.  
14 Mine was fine, and I think Brent's  
15 was fine, but --- I don't know why  
16 they had give us the lights, but they  
17 give us the lights for some reason.  
18 And he left Brian Allen with us.

19 Q. Where did you meet them at?

20 A. It was --- let's see, Crosscut  
21 --- it was either 100 or 101,  
22 somewheres right there. It's where  
23 they had a --- they had a stopping up  
24 that had been knocked over. And then  
25 on the other side of that they had a

1 Kennedy panel stopping in, but I  
2 can't remember what crosscut that is.

3 Q. So they left Mr. Allen with  
4 you. Do you know where the --- do  
5 you know where they went or what they  
6 were doing after that?

7 A. They were headed inby. I  
8 don't know what they were going to do  
9 or anything like that.

10 Q. So now it's you and Brent  
11 and ---?

12 A. And Brian.

13 Q. Brian.

14 A. And we had finished all of the  
15 return stoppings from 103 to 93. We  
16 had all those set and foamed. We had  
17 all of the rag up, and then we foamed  
18 all the perimeters on them to make  
19 them as airtight as possible.

20 Q. So you had foam with you, ---

21 A. Yes.

22 Q. --- too, then?

23 A. Yeah. After --- they had  
24 actually brought us in some foam.

25 Q. Okay.

1       A.       Phillip and Lance had brought  
2       in some foam. And then from there  
3       and then on out we just went to ---  
4       other people had already --- were  
5       inby us, working on these other  
6       stoppings. They had started from  
7       103, working in. And we went back  
8       from 103 and made sure all of the  
9       other stoppings were foamed. So we  
10      walked back down and foamed them when  
11      they brought us in the foam packs.

12     Q.       While you're doing this, do  
13      you continue to --- I mean, are you  
14      feeling anything? Are you hearing  
15      anything?

16     A.       I'm not feeling any bounces or  
17      anything like that, if that's what  
18      you're getting at. You know, I  
19      wasn't feeling anything like that.

20     Q.       Okay. So effectively then,  
21      after --- did you feel much after you  
22      heard the big --- you felt the big  
23      --- something big at 122 that made  
24      you decide, we're not going any  
25      further? Did you continue to feel or

1 hear things after that?

2 A. You could still hear the top  
3 cracking and stuff like that while we  
4 were in there, you know, but we  
5 couldn't hear anything back around  
6 103 and stuff like that where we were  
7 at. We couldn't hear anything in  
8 there.

9 Q. So where did you go next?

10 A. Basically we just --- after we  
11 got all the stoppings foamed at ---  
12 you know, from 103 to 93, we just  
13 started working in, going up the belt  
14 line. And if they had a couple guys  
15 working on one stopping, we went to  
16 the next one, you know, and we  
17 started working on it. And we did  
18 that all the way into the section.  
19 And by this time we had --- shoot,  
20 there was probably 15, 20 guys in  
21 there trying to get the ventilation  
22 established, you know.

23 Q. And when you say you went all  
24 the way in to the section, what do  
25 you mean?

1 A. As far as --- you know, as far  
2 as we could go to where it was caved  
3 off. We worked in, you know, going  
4 inby towards the section, I should  
5 say.

6 Q. Do you remember --- you  
7 mentioned a few names earlier. Are  
8 you seeing more people now as you're  
9 working in?

10 A. Yeah. We had --- basically  
11 all of dayshift, the crew that was  
12 coming on dayshift, we had --- I had  
13 seen off and on pretty much all of  
14 those guys. And also when I got to  
15 109 --- or 110, I guess it would be,  
16 I did talk to Tim again there. He  
17 was actually foaming some of the  
18 stoppings.

19 Q. If you're seeing the dayshift,  
20 do you think is it after 7:00 ---

21 A. Yeah, it's ---.

22 Q. --- it's after 7:00 by  
23 this ---?

24 A. Yeah, it's after 7:00. I'm  
25 pretty much for sure of that, because

1       when --- I know it was after 7:00  
2       when I called on that phone because  
3       Brent had --- I don't know if it was  
4       right before then or right after  
5       then, had went up and called our  
6       shift foreman, Gale, and wanted him  
7       to call our wives and let them know  
8       that we were okay because it would  
9       have been after the time that we were  
10      supposed to have been home, you know.

11      Q.       Okay. So what then?

12      A.       Like I said, we just kept  
13      establishing ventilation. And then  
14      we had walked in the belt line,  
15      putting all the rag up on the return  
16      stoppings. We didn't actually put  
17      --- we didn't put these ones up that  
18      are between the Three and Four entry.  
19      We just put up a rag line between Two  
20      and Three, coming in here. We didn't  
21      actually go to these stoppings back  
22      here.

23      Q.       And when you say these back  
24      here, you're pointing to ---?

25      A.       Between Three and Four entry,

1 from 118 to --- I don't know how far  
2 we went in. From 118 inby. We just  
3 --- the stopping line from 118 in is  
4 between Three and Four, and we just  
5 put the rag up between Two and Three,  
6 from 118 in.

7 Q. Were you able to get any  
8 farther inby in a belt entry or when  
9 you're doing this than you were able  
10 to get initially when ---?

11 A. Yes. Yeah. We were --- in  
12 fact, if I remember right, when we  
13 went in --- when we were doing this  
14 rag, we got to a point in the belt  
15 line, and I think it was right around  
16 between 123 and 124, that you  
17 actually had to crawl on the belt  
18 because you couldn't walk down either  
19 side of the belt line because it was  
20 --- there was too much rubble to  
21 actually cross, even crawl through  
22 there.

23 Q. Where did you --- where was  
24 that?

25 A. I think it was between 123 and

1 124, but I --- like I said, without  
2 having any numbers on the stoppings  
3 or anything, I can't remember. I  
4 don't know for sure.

5 Q. So the material was up ---?

6 A. Higher than the belt.

7 Q. Higher than the belt?

8 A. Yeah. Basically it come in on  
9 the belt. And even the belt had some  
10 on top of it, but you could still  
11 walk. There was still enough room  
12 that you could walk on top of the  
13 belt, going inby.

14 Q. Where did it --- I think you  
15 had mentioned when you were in Number  
16 One entry that it appeared that the  
17 material had come from inby in an  
18 outby direction.

19 A. Yeah, that's what ---.

20 Q. Is that still what it appears  
21 here or is it different?

22 A. No. In the belt line it  
23 didn't look that way. It looked like  
24 it had come off of the ribs and come  
25 in, both sides into the center.

1 Q. So you noticed that --- I  
2 mean, just the way the material was  
3 laying that it appeared to be  
4 different in the belt ---

5 A. Yeah.

6 Q. --- than it was in ---?

7 A. In Number One it looked like  
8 it just shot out down the center of  
9 the entry. It didn't look like it  
10 had come in off the ribs. It just  
11 looked like it had shot out. But in  
12 the belt line entry it looked like it  
13 had come in off the ribs, you know,  
14 into the center.

15 Q. When you're in at 124, in the  
16 belt line, can you see over into  
17 Number One entry then or ---?

18 A. I can't remember. I mean, you  
19 could see over there in a few spots,  
20 you know, but the crosscuts were  
21 pretty --- the crosscuts had the most  
22 stuff in them, you know, the must  
23 rubble and stuff.

24 Q. So there was more --- the  
25 material was higher in the

1 crosscuts ---

2 A. Yeah.

3 Q. --- than it was in the  
4 entries?

5 A. Yeah. I know that, for  
6 example, that oil station, wherever  
7 it was at, I know --- it's marked on  
8 one of the maps, like maybe on our  
9 section map or something like that,  
10 that it tells us where that oil  
11 station was at. Wherever that oil  
12 station was, it's --- like I said  
13 before, it's three or four feet  
14 higher, and it was completely buried.  
15 And we --- when we crawled --- we  
16 actually walked through that crosscut  
17 back into the intake, when we were  
18 establishing ventilation, me and one  
19 other person had walked down through  
20 there to go around because we didn't  
21 want to crawl on top of the belt down  
22 through there. So we went into the  
23 intake to see if we could get around  
24 the pillar. And when we got up to  
25 --- I don't know if it was Crosscut

1 124 or if it was 125, we actually had  
2 to crawl through the intake back into  
3 the belt line, and then that's as far  
4 as we went. We didn't go any farther  
5 than that.

6 Q. Did you crawl through the  
7 center of the crosscut? I mean, was  
8 it roofed in any of the areas or ---?

9 A. We just kind of zigged --- the  
10 roof was still stable. There was a  
11 couple spots that we seen in there  
12 that the mesh was hanging down on the  
13 side, you know, on the rib side. But  
14 we just kind of zigzagged our way  
15 through there, you know, back and  
16 forth to whichever was the easiest  
17 route to get through. You know, I  
18 don't know if it was right down dead  
19 center or if we went from one side to  
20 the next.

21 Q. Was the material ever all the  
22 way to the roof in any of the areas?

23 A. At the farthest point where we  
24 went in, I want to say, but I'm not  
25 for sure, it was 125. You could see

1 down the entry and you could see  
2 where it looked like it was solid,  
3 just there was --- it looked like  
4 where you can --- you couldn't go any  
5 farther. You know, it looked like  
6 there was no --- just looked like a  
7 wall, you know, basically, of rubble.

8 Q. Who's with you now when you're  
9 crawling, still the three of you  
10 together or do you then separate?

11 A. I believe it was Josh Fielder  
12 that was with me when we walked  
13 around. He was the dayshift person  
14 that come in to help us. He was  
15 actually a section foreman. And we  
16 had walked around because we didn't  
17 want to crawl on the belt to go down  
18 the belt line, we just --- so we went  
19 into the intake and walked around ---  
20 or, you know, we just didn't walk  
21 through there. It was easier to go  
22 that way than it was on the belt  
23 line, put it that way, because we  
24 were packing rags and pogo sticks and  
25 stuff like that. So it was easier to

1 bring that material around than it  
2 was to try and crawl down the belt  
3 line with this stuff.

4 Q. Right. Josh is the  
5 dayshift ---

6 A. Section ---.

7 Q. --- foreman for this west main  
8 section?

9 A. Yeah. He's one of them. I  
10 don't know if he was the one that was  
11 coming on shift or not.

12 Q. Okay. You've still got your  
13 Draeger on your back?

14 A. No. At this time I had taken  
15 it off. In fact, I think I took it  
16 off when we got done with these ---  
17 from 93 to 103, because we actually  
18 got back in the truck and drove up  
19 the intake a little ways to see where  
20 the next stopping was. And at that  
21 time, I had taken mine back off.

22 Q. The air was ---?

23 A. Yeah, the air was good up  
24 here. We didn't --- my meter --- I  
25 don't know what --- exactly what it

1 was, but I wasn't in alarm or  
2 anything like that, so ---.

3 Q. Do you remember when it was  
4 --- earlier you said that you thought  
5 when you were in the Number One entry  
6 that the air was going in the wrong  
7 direction, that it was coming outby?

8 A. Yeah.

9 Q. Do you remember when that  
10 changed or when you first ---?

11 A. I don't know. Because when we  
12 --- basically when we were coming  
13 back in, we were walking --- we drove  
14 the truck back up to, I think it was  
15 107. Because Phillip wanted me to go  
16 check this seal over here to make  
17 sure it wasn't --- you know, there  
18 wasn't any gas at this seal. So I  
19 walked back, checked this seal, and  
20 it was okay. And we had left the  
21 truck --- I think it was right at  
22 107. And then we walked between, you  
23 know, where we were doing this rag  
24 line coming all the way in from 107.  
25 And so --- and at that time, the air

1 felt like it was going the right way.

2 Q. That seal that you looked at,  
3 does it have a gas pipe in it then?

4 A. Yeah, it does. And I opened  
5 it, and I didn't have anything on my  
6 meter there. It was zero. I had  
7 20.9 oxygen and ---.

8 Q. Could you tell whether air was  
9 coming out the pipe or whether it was  
10 going in?

11 A. I don't remember if it was or  
12 not. I remember just opening it and  
13 putting my meter up there. I didn't  
14 listen or anything. I didn't even  
15 pay attention to that, ---

16 Q. Okay.

17 A. --- to see if it was sucking  
18 or anything like that.

19 Q. I guess could you describe the  
20 location of the seal that we're  
21 talking about here?

22 A. It's at Crosscut 107. I'm not  
23 sure exactly which roadway this is.  
24 It's --- I guess it would be Number  
25 One roadway. Yeah, because this is

1 the main intake. And that was Number  
2 Two, the belt line, yeah, so it would  
3 be Number One.

4 Q. Okay. Thank you. So what  
5 happened next then?

6 A. Like I said, we left the truck  
7 there, and then I --- we just walked  
8 up this belt line. Basically, if  
9 there was a couple guys working on  
10 one stopping, we went to the next.  
11 And like I said, we come up all the  
12 way up to here and we were packing  
13 some rag and pogo sticks. I think we  
14 were also packing a spad gun at this  
15 time. We found that the spad gun was  
16 working better, you know, keeping it  
17 more tight.

18 Q. If you don't mind, could you  
19 use the red colored marker and maybe  
20 outline where you think you traveled  
21 coming back inby in the belt entry?  
22 And I realize the map doesn't go all  
23 the way to 93, but when you were  
24 working your way back in, putting the  
25 rag back up, the best that you

1 recall.

2 A. Yeah. I know we did all the  
3 ones from 93 out. From 103 to 93 we  
4 were in the belt line and we were  
5 working in. Basically we were  
6 bouncing back and forth, but ---.  
7 Our truck was parked at 103, and we  
8 brought the truck up to 107. We left  
9 the truck right there, at 107. And  
10 then we did these --- let's see. So  
11 we did all of these stoppings --- or  
12 helped work on them all, I can't say  
13 that we did them all, from 107 in.

14 And then all these on the 110  
15 heading south, we did all of these  
16 return stoppings here. And we ---  
17 actually, there's not --- it doesn't  
18 show a stopping in this --- I don't  
19 even know what crosscut that would  
20 be. I guess it would be Four. But  
21 we actually hung a rag here, too,  
22 also. It doesn't show a stopping  
23 there, but we did hang a rag there.

24 Q. Okay.

25 A. And then we came in and we did

1 all of these, heading into the --- in  
2 towards the section. We put a rag up  
3 between the belt line. I guess it  
4 would be between Two and Three  
5 entries. Just like this. Walking in  
6 the belt line on the off-walkway side  
7 of the belt line we were walking in.  
8 And then once we got in here, I mean,  
9 there was so many people in this  
10 section or in there going towards the  
11 section, I guess --- this was our new  
12 section, I guess you can call it,  
13 that --- I mean, sometimes we were  
14 going back into the intake and back  
15 around, you know, because if we were  
16 packing stuff, it was easier to walk  
17 in the intake than it was in the belt  
18 line. So that's basically the way we  
19 traveled back in. Do you want it to  
20 where I ---?

21 Q. Yes. Just go on up as far  
22 inby as you made it.

23 A. I know we did all the rags  
24 just like this, but I don't know how  
25 far it is that we actually stopped

1 hanging the rags, so I'm just going  
2 to stop right there.

3 Q. Right there, is that 120 ---?

4 A. I'm sorry, at 122. And then  
5 right in here, it was either --- like  
6 I said, I don't know what crosscut it  
7 was. It was either 23, 24 or 25. Me  
8 and Josh had walked out into the  
9 intake and around the pillar and back  
10 in, and --- because we were packing  
11 the stuff for that last rag that we  
12 had hung. And by the time we got up  
13 into here is when I got the PED that  
14 said that we needed to come outside,  
15 too, also that I needed to get ---  
16 find everybody that was on our crew,  
17 Brian and Brent and Jameson and  
18 Tim, ---

19 Q. The original five?

20 A. --- right, and head out. Now,  
21 one thing I didn't mention that I  
22 don't know if it matters, our  
23 material hauler, he usually starts  
24 around midnight. He was there that  
25 night, but I don't know where he was

1 at. I don't know if that matters or  
2 anything.

3 Q. Do you remember his name? Who  
4 is that?

5 A. Richard. Richard Maxwell.

6 Q. Okay. So you got the PED that  
7 says to get everybody --- get your  
8 crew together?

9 A. Right.

10 Q. Did all the other guys who  
11 were with you --- does everybody have  
12 the capability of getting this  
13 message or ---?

14 A. Only the people that carry a  
15 PED light. Mostly all your bosses  
16 have them. Anybody that's traveling  
17 alone, for example, like if you're  
18 hauling material or something like  
19 that, then you're supposed to have  
20 one. Firebosses, shift foremen, you  
21 know, stuff --- anybody that's going  
22 to be by themselves is supposed to  
23 have a PED light.

24 Q. Did any of the other four  
25 people that were in your crew have

1 the ability to receive a PED?

2 A. All five of us all had PED  
3 lights.

4 Q. All five, okay. Okay. So  
5 everybody is getting the same  
6 message, get together?

7 A. Yeah. Should have been, you  
8 know. A lot of times, you know, some  
9 guys don't get signal as good as  
10 other guys, I guess, on their PEDs or  
11 sometimes they don't work. I don't  
12 know for sure, but he had sent all of  
13 us a PED. I know that much.

14 Q. So you were in at 120 or  
15 around 124 when you got the PED?

16 A. Yeah. And it said to get  
17 Brian --- I remember what the PED  
18 said. It said, get Brian and Brent  
19 and come outside, is what it said.  
20 It didn't say anything about Tim or  
21 Jameson, but it did say to get Brent  
22 and Brian and head outside.

23 Q. So what did you do after you  
24 got the PED?

25 A. I went and found Brent, which

1 I believe he was working just one  
2 stopping back, because he wasn't that  
3 far from me. And then Brian --- I  
4 can't remember where he was at. It  
5 took me a minute to find him, but I  
6 can't --- I can't remember exactly  
7 where he was at, and told him, I  
8 said, hey, we got to go outside, you  
9 know. Brad wants us to go outside.  
10 And he said that he wasn't going  
11 outside, he was going to stay in  
12 there with --- at this time, Gary is  
13 in there, too, Gary Peacock.

14 Q. Is in --- he's in the  
15 section ---

16 A. Yeah, he's in ---.

17 Q. --- or in the area there?

18 A. Where everybody is working.  
19 And also mine rescue is there also.  
20 So he said he was going to stay in  
21 there and help them. And I told him,  
22 you know, well, my PED says you're  
23 supposed to come with me, you know.  
24 We're supposed to head out. And so  
25 at that time, me and Brent headed

1 back towards the phone, and we just  
2 let him stay there, you know. He  
3 wasn't coming, so I wasn't going to  
4 argue with him. But we headed out.

5 And on our way out, mine  
6 rescue was actually coming back in.  
7 And they were coming in the belt  
8 line, down the belt line entry. And  
9 that's where we passed them was when  
10 they were headed in the belt line, we  
11 passed them going out. But I don't  
12 know what --- I don't know what  
13 crosscut it was.

14 Q. Was it a full team?

15 A. Yeah. It was a full mine  
16 rescue team. There was probably six  
17 or seven guys there.

18 Q. Do you know what team --- I  
19 mean, was it the mine --- Crandall  
20 Canyon's ---?

21 A. It was --- yeah, it was our  
22 --- it was --- it's like --- when you  
23 say our team, it's --- our team  
24 consisted of all three mines. You  
25 know, we have a team for all three

1 mines. I don't know if there was  
2 actually anybody from Crandall Canyon  
3 on that team, but, you know, I knew a  
4 lot of the guys on the team.

5 Q. Did you talk with them?

6 A. No. I mean, I said hi. That  
7 was about it.

8 Q. Okay. You say you were in the  
9 belt entry?

10 A. Yeah. We were actually ---  
11 when we walked back --- we come  
12 through this way, through 123 or 124,  
13 around the pillar into Number One,  
14 into Number Two. When we walked back  
15 --- when we were headed outby, after  
16 we got the PED, we just walked on the  
17 belt going out, just stayed ---.

18 Q. Walked on top of the belt?

19 A. On top of the belt, yeah, and  
20 we walked out. And mine rescue, they  
21 were walking on the walkway side to  
22 where you actually couldn't walk no  
23 more. That's where we met them at.  
24 And I think they were waiting for us  
25 to get off the belt so they could

1 travel inby there.

2 Q. Did it look like it did ---  
3 did it look any differently than when  
4 you were walking in the belt? Had  
5 things changed? Any more material or  
6 did it look ---?

7 A. No. It all looked about the  
8 same.

9 Q. So you're not hearing ---?

10 A. You could still hear the top  
11 cracking and popping a little bit,  
12 but there wasn't any bounces or  
13 anything like that.

14 Q. Okay. So you pass the mine  
15 rescue teams?

16 A. I don't know what crosscut it  
17 was that we passed them.

18 Q. And you keep going outby?

19 A. Yeah, we headed outby. And  
20 wherever --- they established a fresh  
21 air base. I don't know if it was at  
22 --- they had moved the phone up from  
23 112, where it originally was. They  
24 moved it up. I don't know how many  
25 crosscuts it was. And that's when I

1        --- somebody had called me on the  
2        phone. I think it was Gale who  
3        called me on the phone. I believe  
4        that's what --- I know I talked to  
5        somebody on the phone right then, and  
6        he wanted to know if we was headed  
7        out. And I told him that Brian was  
8        staying, that he wasn't coming with  
9        us. And he said, no, that's not an  
10       option, to go get him.

11                So then I turned around and  
12        headed back in. And this time I  
13        walked down the intake. And he was  
14        standing in the intake with Gary and  
15        a bunch of other guys because I think  
16        they were letting mine rescue do  
17        their thing, you know. And told him,  
18        Brian, you got to come. Gale says  
19        it's not an option. You got to come  
20        outside. And he said, no, I'm  
21        staying. And I says, then you need  
22        to go call him and let him know that,  
23        you know.

24                And so he walked back with us  
25        and called. And I guess Gale told

1 him, you know, you come outside. You  
2 can't be in there. You got to come  
3 out. So then we headed outby, you  
4 know, headed for the surface.

5 Q. You're in the truck --- got  
6 back in the truck?

7 A. Yeah. There was me and Brent  
8 and there was one other guy that was  
9 on dayshift that he didn't want to be  
10 in there. He was a new hire, and he  
11 didn't want no part of it and he  
12 wanted outside.

13 Q. Do you remember who that was?

14 A. His first name is Mike. I  
15 don't know his last name. No. It's  
16 Mort --- I'm trying to remember how  
17 to pronounce his last name. Mortson  
18 or Morton, something like that,  
19 Mortensen.

20 Q. Okay.

21 A. He rode out with us. So there  
22 was four of us in the truck that went  
23 outside to the surface.

24 Q. Do you remember what time you  
25 got there?

1       A.       It was after 9:00 because Gale  
2       had told us that they wanted to talk  
3       to us before we left. And we never  
4       even left the mine site. We talked  
5       to --- I don't even know who we  
6       talked to. We talked to some MSHA  
7       people in the shop there, wherever  
8       they were meeting, upstairs. And we  
9       never even got home until it was like  
10      ten o'clock.

11      Q.       Do you remember which MSHA ---  
12      what MSHA people you spoke to?

13      A.       I know what he looks like. I  
14      don't remember his name.

15      Q.       Do you remember what you told  
16      him?

17      A.       He basically just wanted to  
18      know if we had been in the section  
19      that night and where we thought they  
20      were mining, where the miner was at,  
21      what activity had we felt on that  
22      night in --- you know, in the  
23      section.

24      Q.       And do you remember into how  
25      much detail you went with any of that

1 or ---?

2 A. No, I don't. Jameson and the  
3 other guy that was with Tim was  
4 already in there when I got up there,  
5 and they had told him basically, you  
6 know, where the miner was at and what  
7 they had been doing. I had only been  
8 in the section maybe five minutes  
9 total the whole entire night, so I  
10 didn't have really any information  
11 for them.

12 Q. Did you talk with your --- I  
13 mean, you mentioned Gale had been the  
14 person who gave you the order to  
15 evacuate or to come to the surface.  
16 Did you speak with him?

17 A. I just told him that, yeah,  
18 that we were coming outside and that  
19 Brian wanted to stay in there. You  
20 know, that's basically it.

21 Q. Okay. After you talked with  
22 the folks on the surface, where do  
23 you go?

24 A. They told us we could go home,  
25 you know, and they would contact us

1 if they wanted us to come back up,  
2 you know, for our nightshift, you  
3 know.

4 Q. That was Gale that was telling  
5 you that?

6 A. No. That was actually Bodee  
7 that was telling us that, that if he  
8 wanted us --- you know, they would  
9 call us if we were supposed to come  
10 back to work that night and whatnot.

11 Q. I think I had already asked  
12 you once, but --- about any notes  
13 that you may have taken from your  
14 time underground?

15 A. I don't have any.

16 Q. Okay. So you leave the  
17 property then about what time?

18 A. It was probably quarter to  
19 10:00, you know, maybe 9:40, 9:45,  
20 somewhere right in there.

21 Q. Did Bodee call you to come  
22 back to work on the ---?

23 A. Yeah, he did. He called  
24 probably --- it was around three or  
25 four o'clock that afternoon and said,

1 you know, we need you to come back up  
2 for --- you know, they'd let us know  
3 what we had to do when we got up  
4 there.

5 Q. So you came back to work on  
6 --- now we're on the ---?

7 A. On the 6th, the night of the  
8 6th, Monday, I guess. And I'm trying  
9 to remember what we --- I can't even  
10 remember what we did that first night  
11 when we got there. I know we had to  
12 redo ventilation when we got there.  
13 I can't even remember --- we probably  
14 preshifted that night. I know ---  
15 it's pretty vague.

16 Q. Well, you've had very good  
17 recall of the earlier events. I  
18 certainly appreciate that. Working  
19 then from --- you come back in on the  
20 evening of the 6th and you're not so  
21 sure what went on, maybe worked on  
22 ventilation. What was your work  
23 schedule from then on through the  
24 next --- we'll say the next --- up  
25 until the accident on the 16th?

1       A.       We had worked --- they were  
2       still --- we were still on a 12-hour  
3       shift. And they just kept us ---  
4       instead of rotating, we just stayed  
5       on the nightshift. We worked 6:00  
6       p.m. to 6:00 a.m. And we worked that  
7       shift up until --- I can't remember  
8       exactly what day it was, but we had  
9       Monday night --- the Monday right  
10      before the 16th, I don't know what  
11      day --- whether it would be the 13th.  
12      I'm not sure. But anyways, the  
13      Monday before the second accident, we  
14      had that night off and Tuesday night  
15      off. They had give us those two  
16      nights off because they figured we  
17      needed a break. And then we come  
18      back to work Wednesday night, which  
19      would, I guess, have been the 15th.

20     Q.       During that time frame, were  
21     you working up in the section where  
22     the recovery efforts were ongoing?

23     A.       No. I was --- the farthest  
24     point that I ever went in would be to  
25     where they put the new tail piece in,

1       which would have been at 119.  Up  
2       until then, I was basically still  
3       firebossing.  I had to, you know,  
4       walk the belts.  And then we were  
5       working on compliance stuff as far as  
6       cleaning all the belts, you know,  
7       making sure everything was okay, I  
8       guess, just doing normal  
9       everyday ---.

10      Q.        So outby?

11      A.        Outby 119, basically.  We had  
12      a whole bunch of different guys, and  
13      each guy had their own belt to work  
14      on.  And my belt was belt number  
15      three, so that's where I would  
16      fireboss, go to belt three and work,  
17      until it was time for me to fireboss  
18      again, and then --- or preshift  
19      again, I guess.

20      Q.        Were you familiar that the  
21      initial --- do you know where the  
22      initial recovery efforts began or  
23      what the plans were and where to  
24      start moving materials?

25      A.        Right off --- right --- the

1 first initial one that they had, I  
2 didn't even know what they were  
3 doing. I didn't know what entry ---  
4 I heard hearsay that they were going  
5 to go up --- and I think it was the  
6 Number Three entry. They were going  
7 to try and go in that way. And then  
8 after they had that cave --- or that  
9 bounce, I guess it would have been  
10 Monday night, then they decided to go  
11 back in to the Number One roadway and  
12 go up that way.

13 Q. But you weren't in the section  
14 when any of that was going on or you  
15 weren't ---?

16 A. The night --- and like I said,  
17 I don't know if it was Monday night  
18 or if it was Tuesday night when we  
19 had that --- when we had one more big  
20 bounce. I was actually at Crosscut  
21 --- let's see, I think it was Four,  
22 Crosscut Four, where a belt  
23 transformer was. I'm not sure what  
24 --- do they show the electricals on  
25 that map?

1 Q. No.

2 A. It was either --- I think it  
3 was Crosscut Four. That's where the  
4 belt transformer --- we were actually  
5 trying to get Seven belt to run, me  
6 and --- it was actually me and  
7 Jameson, is who it was, when that  
8 second bounce or I don't know if it  
9 was second or third, but that bounce  
10 that hit that night, when we had the  
11 cave up in --- when we were working  
12 in the Number Three entry.

13 And at that time, MSHA pulled  
14 us all out. I think we were right  
15 between Number Four and Number Five  
16 at Crosscut 109. I guess --- I don't  
17 even know what they call this, the  
18 south roadway for --- you know, and  
19 the crosscut is what, six crosscuts  
20 long there. But we were right here,  
21 and then they decided that we were  
22 going to go back and redo ventilation  
23 again.

24 Q. Did you feel anything  
25 when ---?

1       A.       When that one hit, we were  
2       actually at the transformer, plugging  
3       the nip in or the drive. We just  
4       unnipped it or unlocked it and we  
5       were nipping it in. And when that  
6       cave hit, it --- we were both  
7       kneeling down. And I was on the inby  
8       side of Jameson, and it almost  
9       knocked me over. You know, I had to  
10      actually grab him or else I would  
11      have knocked him over, too, because  
12      the air come out --- it was just so  
13      much that it just kind of blew you  
14      over.

15     Q.       How did that compare with what  
16     you heard at Crosscut 122 on your  
17     first time ---?

18     A.       This one, to me, felt a lot  
19     worse just because I felt a lot of  
20     the air. And when we heard that one  
21     at 120, we just heard the sound. We  
22     didn't even --- you know, we didn't  
23     feel nothing as a percussion of it.  
24     But that one, we had felt the air.  
25     You know, it come right over the top

1 of us. It come right out this return  
2 rag that we had up and basically felt  
3 like it just went --- all the air  
4 just right over the top of us.

5 Q. Any material with it or  
6 just ---?

7 A. Just dust and a lot of like  
8 little fine --- almost like --- you  
9 know, like if you were sandblasting,  
10 just a lot of little fine particles  
11 of, I guess, coal. You know, there  
12 was a lot of stuff like that.

13 Q. Did you ever have the  
14 opportunity to go inby where you were  
15 at and see what --- see any other  
16 effects of that bump or bounce?

17 A. No, I --- the only other  
18 thing, it was a couple --- I think it  
19 was the next night they decided  
20 instead of just putting up the rags  
21 for stoppings, they were going to put  
22 permanent ventilation. So we started  
23 putting Kennedy panels back up that  
24 night and all the next day. And then  
25 that night when we --- the next

1 night, which would be --- I guess it  
2 would be Tuesday night, we come back  
3 in and they were still working on  
4 these stoppings headed into the  
5 section. I don't even know what  
6 crosscut it was where we started. It  
7 seems like it was around 117, because  
8 I had to fix a water leak in the belt  
9 line at --- between 117 and 118. And  
10 they were working on these stoppings  
11 between Number Two and Number Three  
12 entry.

13 Q. When you said you were trying  
14 to get the belt running then on the  
15 7th, did you get it running?

16 A. No, we never did get it to go.

17 Q. Never did. At any time were  
18 you --- after the recovery was moved  
19 over into --- recovery efforts were  
20 moved over into the Number One entry,  
21 were you involved in any of those  
22 activities?

23 A. Up in the face or ---?

24 Q. Yes. Yes.

25 A. No.

1 Q. You never did?

2 A. No.

3 Q. You weren't involved?

4 A. I stayed outby.

5 Q. You weren't involved with  
6 putting any of the support ---  
7 additional support or anything?

8 A. No.

9 Q. Were you in the mine on the  
10 16th, when ---?

11 A. I don't know if we were  
12 actually in the mine when the actual  
13 accident occurred, but, yeah, we were  
14 headed in when we heard that there  
15 was an accident up there. And we met  
16 --- we were at the zone phone at  
17 Number One, Number One to Two phone.  
18 We were actually getting ready to  
19 preshift, me and Brent Hardee.

20 He had overheard on the phone  
21 that there was an accident in the  
22 section and that they needed all  
23 first aid people, anybody with ---  
24 you know, that had any training or  
25 whatever to head in there. So me and

1 him headed into the section. And we  
2 met Gary, and he had somebody with  
3 him. I don't know if he had Bob with  
4 him or who he just had --- he had a  
5 few people with him.

6 Q. By Gary, ---?

7 A. Peacock.

8 Q. Peacock.

9 A. We met him at Crosscut 89 in  
10 West, and he told us to check the  
11 ventilation and make sure all the  
12 ventilation was still established  
13 going in to where they were working.  
14 And I believe the only stopping that  
15 we found that was damaged was at 114,  
16 and all the rest were still intact.  
17 And we put up a rag right there and  
18 then headed into the section.

19 Q. How far inby did you go?

20 A. We went all the way to the  
21 accident, where --- whatever crosscut  
22 that --- I don't even know what  
23 crosscut it was.

24 Q. Okay. I'll grab another map  
25 here for you.

1 (Curtis Exhibit Two  
2 marked for  
3 identification.)

4 MR. GATES:

5 We've marked this as  
6 Curtis Exhibit Two.

7 ATTORNEY RAJKOVICH:

8 I guess the same  
9 question. Is this one that  
10 was supplied by the company or  
11 one produced by MSHA, or where  
12 did it come from?

13 MR. GATES:

14 This is a map that was  
15 produced by MSHA.

16 ATTORNEY RAJKOVICH:

17 Okay.

18 MR. GATES:

19 The supports that are  
20 marked on there, it was  
21 created by us based on our  
22 visits to the mine this past  
23 week.

24 ATTORNEY RAJKOVICH:

25 Thanks.

1 BY MR. GATES:

2 Q. You said you proceeded inby to  
3 the accident scene. Does that ---?

4 A. Yeah.

5 Q. I mean, do you recognize the  
6 map in front of you?

7 A. Yeah. I don't --- are these  
8 props? I guess. I didn't know that  
9 those were set like that.

10 Q. Those were effectively behind  
11 a curtain that was up, so they may  
12 not have been apparent. Do you  
13 remember how far ---?

14 A. What is this? Is this ---?

15 Q. That's a spad.

16 A. Oh, okay.

17 ATTORNEY CRAWFORD:

18 You're referring to  
19 what area? I'm looking at it  
20 upside down.

21 MR. GATES:

22 That's fine. Just off  
23 of Crosscut 126.

24 BY MR. GATES:

25 Q. Do you remember where you

1       went, Tim?

2       A.       I basically --- everybody was  
3       up here on the coal pile, and we had  
4       walked in to see if we could help  
5       with whatever we needed. They told  
6       us to go back to the transformer,  
7       which was at --- I think it was at  
8       119, and see if there was any  
9       First aid --- anything first-aid-wise  
10      and bring it back up there. So we  
11      went back. We did find some medical  
12      oxygen, odds-and-end first-aid stuff,  
13      triangular bandages, splints, stuff  
14      like that.

15     Q.       Who's with you now?

16     A.       I don't --- it was --- there  
17     was a few of us. I don't know. I  
18     don't know who was with me. And then  
19     we just --- we come back in. And we  
20     basically had a line on both sides  
21     for if they were needing stuff. We  
22     were --- did like a chain, you know,  
23     like a Chinese fire drill. We handed  
24     it up and they --- you know, they  
25     would hand stuff back.

1 Q. Where were you at in the  
2 chain?

3 A. I was just right here, just  
4 right outside --- I guess this is  
5 where all the coal was, where  
6 everybody was buried.

7 Q. Well, the line you're pointing  
8 to there is where --- kind of the toe  
9 of the coal pile. That was the outby  
10 edge, if you will.

11 A. Yeah. I would have been right  
12 here ---

13 Q. Okay.

14 A. --- and just maybe five, ten  
15 feet from the edge of that coal pile.

16 Q. Okay. Who was kind of  
17 directing the activities here at the  
18 accident scene?

19 A. I don't know exactly who was  
20 in charge when I went in there. I  
21 know Gary Peacock was in there. Gale  
22 Anderson was in there. And also Bob  
23 Murray was in there. But as far as  
24 --- there was one MSHA official in  
25 there, but I don't know --- I don't

1 even know who it was. I didn't ---  
2 but it didn't seem like he was  
3 directing any kind of workforce or  
4 anything like that.

5 Q. Okay.

6 A. I mean, everybody was just  
7 trying to get the guys. I don't  
8 think that it was --- I mean, Gale  
9 was the one that was telling us, go  
10 get this, see if you can find this,  
11 you know. So if I was being directed  
12 by somebody, I guess it would have  
13 been him.

14 Q. Was there a lot of dust in the  
15 air or did you still have your  
16 detector with you?

17 A. Yeah. I had my meter with me.  
18 I never really even looked at it. I  
19 didn't think it was that big of a  
20 concern because there was already a  
21 bunch of people up there, you know.

22 Q. It never --- no alarm ever ---

23 A. No.

24 Q. --- went off?

25 A. Not while I was in there

1       anyways .

2       Q.       Okay.  Was there still dust in  
3       the air or was it clear or did you  
4       notice?

5       A.       When I got in there, I don't  
6       remember there being any dust, you  
7       know.  I mean ---.

8       Q.       Were you directly involved in  
9       recovering the injured ---?

10      A.       As far as --- actually,  
11      unburying them?  No, I --- when they  
12      got --- by the time we got in there,  
13      we had heard and then I had thought  
14      that I had seen somebody already head  
15      out, one of the miners head out in  
16      the back of a truck.  And then when  
17      we got in there, they were in the  
18      process of digging out Casey and  
19      Carl.  And when they got Casey out,  
20      they had --- I was holding his leg on  
21      --- when they got him off the coal  
22      pile.  We had to back him up to the  
23      truck, and I was actually helping  
24      support his leg.  And then I got in  
25      the truck and, you know, being as I

1 was still helping support his leg, I  
2 rode out with one other gentleman and  
3 one of the EMT ladies that was there,  
4 you know, outside.

5 Q. So at this time there are a  
6 lot of medical --- rescue personnel,  
7 medical personnel, ---

8 A. Yeah.

9 Q. --- there's a lot of people on  
10 the scene, if you will?

11 A. Yeah. As far as the only one  
12 that I actually seen in the section  
13 when I got in there, there was only  
14 this one female that was in there.  
15 That's the only one that I had seen  
16 that was actually outside EMS.

17 Q. But I mean, there were a lot  
18 of EMTs, there were medical  
19 professionals, or were there ---?

20 A. On the surface.

21 Q. On the surface, okay.

22 A. Yeah. There was only one in  
23 that I had seen when I was in there.

24 Q. I'm sorry. Were you close  
25 enough to the scene? I mean, do you

1 think you could mark on the map where  
2 the injured individuals and the  
3 victims of this accident were located  
4 at?

5 A. Yeah. I don't know --- let me  
6 think. This being a barrier --- this  
7 is the barrier side, right,  
8 because ---?

9 Q. Yes.

10 A. Dale was right here on the  
11 edge. If I remember, I don't know if  
12 it was this prop or this prop, but he  
13 was (b) (7)(C)

14 (b) (7)(C) one of these first two props  
15 right here.

16 Q. (b) (7)(C)

17 A. ~~(b) (7)(C)~~st it, like had  
18 and --- I don't know. It's kind of  
19 hard to explain. He was --- (b) (7)(C)

20 (b) (7)(C)

21 this with the coal.

22 Q. Okay. (b) (7)(C)

23 (b) (7)(C) ---?

24 A. Yeah.

25 Q. It was coal (b) (7)(C) ---?

1 A. (b) (7)(C) .

2 There was also another prop that was  
3 leaning over. I don't know which ---  
4 I can't remember which way it was  
5 leaning, but it wasn't --- to me, it  
6 didn't look like it was one of these  
7 props on the barrier side. It was  
8 --- because these ones were all still  
9 set. And if I was to guess, I would  
10 say it came from this other side. I  
11 don't know. It was a prop that  
12 wasn't supposed to be there, put it  
13 that way.

14 Q. Okay.

15 A. And then Casey was just to the  
16 left of him, I guess you could say,  
17 right in this area right here.

18 Q. If you don't mind, could you  
19 maybe put some initial or some way to  
20 identify the marks?

21 WITNESS COMPLIES

22 A. And then as far as where Carl  
23 was actually at, I could see them ---  
24 see other people working on him, but  
25 I don't know --- he was inby Casey

1 and Dale, but I don't know how far.  
2 I couldn't actually physically see  
3 him.

4 BY MR. GATES:

5 Q. Okay.

6 A. But I know he was in this area  
7 right here somewheres. But I was  
8 already out or headed out with Casey  
9 when they were still trying to get  
10 Carl out, so I don't know where he  
11 was at.

12 Q. Did you see any of the other  
13 individuals involved in the accident  
14 then, any of the folks who may have  
15 been inby there, any of the other  
16 injured ---

17 A. No.

18 Q. --- victims?

19 A. The only three people that I  
20 seen total that night was Dale, Casey  
21 and Carl.

22 Q. Okay. All right. Did you  
23 know what their conditions were at  
24 the time? Was anybody communicating,  
25 or could you tell?

1 A. Nobody had said anything, but  
2 I mean, you could --- sorry.

3 MR. GATES:

4 We can take a minute.

5 ATTORNEY RAJKOVICH:

6 Take a minute break?

7 MR. GATES:

8 Want to take a break?

9 ATTORNEY RAJKOVICH:

10 Yes.

11 MR. GATES:

12 Okay. That's good.

13 Let's go off the record.

14 SHORT BREAK TAKEN

15 BY MR. GATES:

16 Q. Tim, could you --- I know it  
17 may be difficult, but could you take  
18 the ink pen and maybe go over the  
19 initials that you had in pink there  
20 so that it will be a little easier to  
21 read?

22 A. Okay. I don't know Carl's  
23 last name off the top of my head.

24 Q. That's fine. Just put Carl.  
25 Put Carl, that would be fine.

1 WITNESS COMPLIES

2 A. Okay.

3 BY MR. GATES:

4 Q. Did you notice many of the  
5 supports that had been dislodged  
6 either on the pillar side or on the  
7 off pillar side?

8 A. It was hard to tell on these  
9 ones on the pillar side because they  
10 had a curtain. I guess that curtain  
11 was --- maybe ran from this crosscut  
12 up, and so it was hard to tell if  
13 these supports were even in or not.  
14 I couldn't tell.

15 Q. Okay.

16 A. I don't remember seeing any of  
17 these supports, though, in this area.

18 Q. You don't remember seeing any  
19 on the --- I guess it would be the  
20 right hand, ---

21 A. Yeah.

22 Q. --- the right-hand side of the  
23 entry?

24 A. Yeah, on the pillar side.

25 Q. On the pillar side, or the off

1 barrier side, I guess?

2 A. Yeah, off barrier side.

3 Q. Okay. Okay. So you were  
4 helping with Casey?

5 A. Yeah. They were actually ---  
6 Dale was (b) (7)(C)

7 (b) (7)(C) with the coal and  
8 was folded over, folded over  
9 forwards. And when I got there,  
10 nobody was even trying to do anything  
11 with him. I just assumed, I don't  
12 know for sure, that he had passed  
13 away. They were trying to --- they  
14 were actually working over Dale to  
15 try to get Casey out, and that's the  
16 reason why I think that he was gone.  
17 They got a blanket --- we got a  
18 blanket and actually put it over Dale  
19 when we were trying to get him out,  
20 so I figured that he was already ---  
21 you know, already gone.

22 Q. How many people were up on the  
23 coal pile at this time?

24 A. There was Gary. Bob was  
25 sitting over here.

1 Q. That's Bob?

2 A. Murray.

3 Q. Okay.

4 A. Gary Peacock. Lance Hurst was  
5 up in here. I don't know if he was  
6 helping with trying to get Carl out  
7 or if he was trying to get Casey out.

8 Q. Okay. If you don't mind,  
9 could you just go ahead and put some  
10 initials by that as well?

11 WITNESS COMPLIES

12 A. And Gale, he was --- Gale  
13 Anderson, he was up like basically  
14 right on the edge of where it was all  
15 at. There was somebody else up here,  
16 but I can't remember who was up here.  
17 I don't know who that was that was up  
18 here by Bob, monitoring the air.  
19 They were taking readings and stuff  
20 like that. And those --- let's see.  
21 There was some other --- there was  
22 other people there, I know for a  
23 fact, but I don't know --- I can't  
24 remember who they were or anything  
25 like that. Those were the ones I

1 knew for sure that were in there.

2 BY MR. GATES:

3 Q. Okay. Was Casey the first ---  
4 was Casey the first person who was  
5 removed out of the mine of the  
6 persons who were injured or killed?

7 A. No.

8 Q. No?

9 A. No. In fact, as far as I  
10 know, these were the only three left  
11 in there. Everybody else had already  
12 been taken out, Brandon, Kerry and  
13 whoever else was involved in there.  
14 You know, they had already been taken  
15 out. These were the only three left  
16 in there.

17 Q. Did you see the other ---

18 A. No.

19 Q. --- persons being removed from  
20 the mine or ---?

21 A. No, I didn't.

22 Q. No?

23 A. But when we were at --- like I  
24 said, when we were at the phone, we  
25 had called at the tail piece down at

1 119, wherever the tail piece is,  
2 between 119 and 120. We called the  
3 phone and actually talked to Wayne.  
4 I actually talked to him and told him  
5 that we had hung a rag at 114. And  
6 we had overheard on the phone that  
7 they were bringing Brandon outside.  
8 So I knew that he was headed out, but  
9 I didn't know of anybody else at that  
10 time.

11 Q. So by the time you got up to  
12 the accident scene, six of the  
13 injured or --- there were only three  
14 left, three persons left?

15 A. At this time I didn't know  
16 that ---

17 Q. Okay.

18 A. --- that's all that was left  
19 in there.

20 Q. Okay.

21 A. When I got outside, they were  
22 asking me when I was outside if I  
23 knew of anybody else in there. And  
24 that's when I told them that I knew  
25 of Dale was in there and one other

1 person.

2 Q. Okay.

3 A. And that's all I knew at that  
4 time.

5 Q. Okay. Do you remember what  
6 time it was when you got outside in  
7 the truck with Casey?

8 A. I don't --- it seems like it  
9 was just a little after 8:00, but I  
10 --- I know I looked at my watch, but  
11 I don't remember what time it was or  
12 anything like that.

13 Q. Again, did you meet with any  
14 people on the surface or were you  
15 debriefed by any company or ---

16 A. Yeah. There was ---

17 Q. --- MSHA officials then?

18 A. --- one --- the one official  
19 from MSHA asked --- he had asked me,  
20 but I don't know who it was, asked me  
21 if I knew of anybody else that was in  
22 there. And then I had told him that  
23 I knew that Dale was in there, but  
24 --- and then that was it. I didn't  
25 know of anybody else.

1 Q. What did you do after you  
2 talked with a few of the folks on the  
3 surface?

4 A. We just --- I went and --- I  
5 think it was Darrell Leonard asked  
6 them if we needed to go back in, you  
7 know, to help. And he said, no, just  
8 stay outside. We just all met in the  
9 shop right there, and we had to wait  
10 --- wait until everybody was out.  
11 And they had EMS there to check all  
12 of our --- everybody that was there,  
13 to check our, you know, vital signs  
14 and stuff like that. I don't know  
15 what they call that, but checked us  
16 to make sure we were okay.

17 And then they did --- I think  
18 it was Mr. Stickler had them hang up  
19 a big board on the wall in the shop  
20 there to try --- basically it looked  
21 a lot like this, a drawing of --- you  
22 know, they tried to establish what  
23 was going on there, where the miner  
24 was at and how far back the props  
25 were set, stuff like that. And had

1 individuals that were actually in  
2 there helping them figure out where  
3 everything was in there.

4 Q. When you said you were checked  
5 for your --- I guess for your vitals,  
6 did you --- were you injured in any  
7 way?

8 A. No, they just --- all the  
9 employees that were underground, they  
10 --- it was just a --- they checked  
11 everybody there.

12 Q. You said when you got to the  
13 surface you talked with one MSHA  
14 person. Was there anybody else there  
15 that I guess kind of debriefed you,  
16 if you will, before you got over to  
17 the --- well, let me ask this. Did  
18 you mark on any of the board that Mr.  
19 Stickler had put up?

20 A. No.

21 Q. Okay.

22 A. No. He asked us if anybody  
23 had knew --- had any information or  
24 knew anything. And everything that I  
25 knew, everybody else had already ---

1 you know, had already said.

2 Q. So there were other --- some  
3 of the other individuals who had  
4 exited the mine prior to you ---?

5 A. Actually had more knowledge.  
6 This is after everybody had already  
7 been out of the mine, all the --- you  
8 know, everybody --- all the bodies  
9 and everything were out. And this is  
10 after the mine had been totally  
11 evacuated. Everybody had their  
12 vitals checked, and then they put up  
13 the board to try and figure out  
14 what's going on.

15 Q. Okay. What did you do on the  
16 surface after that?

17 A. They just had a meeting and  
18 they basically sent us home, you  
19 know, and told us that they would  
20 contact us, you know. Take the next  
21 couple days off, you know, and then  
22 they would let us know what's going  
23 on.

24 Q. Okay.

25 A. But there was other --- you

1 know, there was other people that  
2 were actually in the section at the  
3 time that all this happened that had  
4 give all this information, you know,  
5 on the board, so ---.

6 Q. Okay.

7 A. You know, they had more  
8 knowledge of it than I did.

9 Q. So, again, by the time you got  
10 up to the section or even got up to  
11 the accident scene, there had already  
12 been a lot of activity there?

13 A. Yeah. Yeah, I would say by  
14 the time I got in there, if I had to  
15 put it in a time frame, I would say  
16 it was probably all --- halfway done  
17 with, you know, just --- that's the  
18 way I would see it.

19 Q. Okay. I'm going to back up a  
20 little bit and ask you a couple  
21 clarifying questions. The route that  
22 you marked in pink or red when you  
23 were coming back in, earlier you had  
24 told me that one of the faces was ---  
25 that it just looked like a solid ---

1 just looked solid. Was that --- were  
2 you referring to Number One entry or  
3 the Number Two entry?

4 A. Number One entry.

5 Q. Number One?

6 A. The intake entry, yeah.

7 Q. Okay.

8 A. Yeah, you could see --- like I  
9 said, you could see a couple  
10 crosscuts up. And I mean, you could  
11 see maybe, you know, a six-inch void  
12 between the rubble and the top. But  
13 I don't know, it was hard to say how  
14 far inby that was from where we were  
15 at.

16 Q. Okay. Just in general, I  
17 guess, for the Crandall Canyon Mine,  
18 how would you describe the roof, rib  
19 and bottom conditions at the mine?

20 A. It all depends on what part of  
21 the mine you're talking about. You  
22 know, some parts of the mine looked  
23 real good and some of the other  
24 parts, you know, not so good, you  
25 know. It all depends on what

1 location you're actually talking  
2 about.

3 Q. Which parts of the mine would  
4 you --- if you're classifying them as  
5 maybe not so good, which parts of the  
6 mine would you say weren't so good?

7 A. Well, as far as, you know,  
8 just --- like both --- I don't know  
9 what --- what would they call this,  
10 this --- the northwest section, I  
11 guess. I don't even know what they  
12 called it. It was ---.

13 Q. I think you're --- I don't  
14 know. It's what we've been referring  
15 to as the north barrier section, but  
16 I mean, I'm not sure what you're  
17 referring to at that ---.

18 A. Well, we called it west mains  
19 and west mains, so ---.

20 Q. Okay. But you're pointing to  
21 the north barrier ---

22 A. Yeah, the north.

23 Q. --- that was developed?

24 A. You know, you could see as far  
25 as like the ribs go, you know.

1     Anybody that has a lot of, you know,  
2     mining experience or whatever, when  
3     you have a lot of rib sloughage and  
4     stuff like that, you know, it  
5     indicates a lot of weight or a lot of  
6     pressure. All these ribs up in this  
7     section in the north --- this  
8     northwest section and in this  
9     southwest section were almost  
10    identical, you know. All the ribs  
11    were sloughed way --- you know, the  
12    tops of the ribs were ate out quite a  
13    bit.

14                 We didn't see any --- the  
15    floor didn't heave at all up in this  
16    north --- that I had seen, up in this  
17    northwest section. But in the bottom  
18    one, in the south, you did see some  
19    floor heave, you know, in this one.

20    Q.            So were you responsible for  
21    examining in both of these areas  
22    then?

23    A.            Yeah, I had. I did some  
24    preshifting in both sections.

25    Q.            Okay. I guess just maybe

1 talking more about the --- you  
2 mentioned that there were some ---  
3 I'll just say some adverse conditions  
4 in both the north and the south  
5 barrier. Any places outby in the  
6 mines that may be ---

7 A. No.

8 Q. --- any better or worse than  
9 others?

10 A. The south mains section, which  
11 is this lower pillar, ---

12 Q. Right.

13 A. --- had the same conditions in  
14 it also. You know, the ribs were ate  
15 out, you know, which is, you know, to  
16 me, being a pillar section, is ---  
17 you know, to me it seems normal that  
18 you would have that because, you  
19 know, you're taking the pillars.  
20 You're going to have the extra weight  
21 and stuff like that.

22 But as far as, you know, if  
23 you compare it from this section to  
24 like the main north section, I mean,  
25 it's night and day. You know, the

1 ribs are straight up and down up  
2 there. There's no signs of --- you  
3 know, there's no signs of weight or  
4 anything like that like there is in  
5 the section, which to me would be  
6 just normal, the way it, you know,  
7 normally would look in a pillar  
8 section.

9 Q. As far as any bumps or bounces  
10 that may have occurred, let's say  
11 over the past few months, anything of  
12 significance there or were there any  
13 or ---?

14 A. You know, I always felt  
15 bounces. But as far as any of them  
16 that were any different from any of  
17 the others, we never really felt  
18 anything, you know, that would, you  
19 know, raise an eyebrow or anything  
20 like that. You know, you always have  
21 bounces in the section, you know. It  
22 was part of just --- I want to say  
23 part of everyday mining.

24 Q. Were you involved in the  
25 development of the south --- I'll

1 just say the south barrier?

2 A. The bottom one, ---

3 Q. Yes.

4 A. --- basically? As far as  
5 actually working in the section?

6 Q. Yes.

7 A. No.

8 Q. Okay. But you were  
9 responsible for examining the belt in  
10 the area?

11 A. The intake and the belt line  
12 areas.

13 Q. The intake and the belt?

14 A. Yeah.

15 Q. And in general, what were the  
16 roof conditions, rib conditions like  
17 in the south barrier?

18 A. The roof --- other than right  
19 around the top of the pillars, you  
20 know, where it wasn't meshed, right  
21 where the pillar and the top meet was  
22 the only parts around --- you know,  
23 around the pillars that had any signs  
24 of, you know, sloughage or any ---  
25 you know, the caprock basically

1 falling. But then, you know, just  
2 the pillars would eat out, you know,  
3 from the top.

4 Q. That hourglass ---

5 A. Uh-huh (yes).

6 Q. --- shape?

7 A. Exactly.

8 Q. Okay. What was the typical  
9 mining height during the development  
10 of that south barrier?

11 A. I think it was right around  
12 eight to nine feet.

13 Q. And do you know if there was  
14 any top coal --- were they mining the  
15 entire seam?

16 A. They were leaving bottom coal,  
17 but I think they were taking the top  
18 of the seam to the rock.

19 Q. Okay.

20 A. I don't know that for sure  
21 because I wasn't in the section, but  
22 that's just the way it looked, you  
23 know, to me.

24 Q. What was the average width of  
25 the --- what was the width of the

1 entries and the crosscuts during that  
2 development?

3 A. That I don't know. To me, it  
4 looked legal, you know. You have  
5 your roof mats up and you were ---  
6 you know, it looked like to me that  
7 they stayed within their 18-foot  
8 mark, but I don't --- I never  
9 actually got a tape measure out and  
10 measured it or anything like that.

11 Q. Okay. During the development  
12 or the advance work in the south  
13 barrier, did --- was there any  
14 evidence of any pillars taking weight  
15 or any noises, roof or rib noises  
16 or ---?

17 A. The only thing that I had seen  
18 in there, Crosscut 131, and I can't  
19 remember if it was 27 or 26, the  
20 stoppings I noticed were squeezing  
21 and, you know, the Kennedy panels  
22 were squeezing like an accordion or  
23 they weren't taking weight, but they  
24 were squeezing in.

25 Q. So there would be some

1 horizontal ---?

2 A. Yeah, some pressure  
3 horizontal. That's the only other  
4 --- that's the only thing. None of  
5 the roof bolts --- I noticed none of  
6 the plates or anything were taking  
7 weight, nothing like that. But that  
8 was the only two stoppings that I  
9 actually noticed was those two, on  
10 the intake to belt line side.

11 Q. Were all of those Kennedy  
12 stoppings --- were any of those Omega  
13 Block stoppings or was it all  
14 Kennedies?

15 A. No, all Kennedies.

16 Q. All Kennedies. What was the  
17 bottom like, the floor? Any ---?

18 A. There was a roll right in here  
19 somewhere that we went off, and it  
20 was broken up a little bit.

21 ATTORNEY CRAWFORD:

22 What location was that?

23 A. I don't remember. I --- it's  
24 right in this --- right in the area  
25 of 129 and 133, right in that area

1        somewhere, because we --- there was a  
2        big dip right here in the belt line  
3        that you had --- but I don't remember  
4        exactly what crosscut it is.

5        BY MR. GATES:

6        Q.        Okay. Was there any water  
7        during the development of ---?

8        A.        Yeah. We had one big water  
9        hole at 140 that was making water  
10       that we had to --- you know, we had  
11       to basically pump it about every  
12       other day.

13       Q.        Were you also involved with  
14       preshifting or with any kind of work  
15       in the south barrier when the retreat  
16       began?

17       A.        Yes.

18       Q.        Okay. From the start or were  
19       you ---?

20       A.        Yeah.

21       Q.        Were you ever at the deepest  
22       penetration of the south barrier?

23       A.        I never actually went clear to  
24       the face, where I guess you could say  
25       they started. Every day I was always

1        --- you know, I always had to ---  
2        every time I was on shift had to  
3        travel the intake in and walk the  
4        belt line out.

5        Q.        Okay. Did you observe --- was  
6        there mining going on or were you  
7        making this during --- making your  
8        preshift during off-mining times  
9        or ---?

10       A.        No, it was during mining.

11       Q.        Okay.

12       A.        It was just our normal  
13       preshift, our normal three-hour ---  
14       eight-hour-interval preshift.

15       Q.        Did you observe --- did you  
16       have the opportunity to observe much  
17       of the cutting and loading while you  
18       were making your exams?

19       A.        No. No. I never got into any  
20       of that up on this side. On the  
21       north side I would go in every now  
22       and then and help out. But as far as  
23       on the south side, no.

24       Q.        Are you familiar with how the  
25       pillars were being mined, how the

1 particular cuts were being made?

2 A. Just on what they had told us  
3 outside. I never actually went in  
4 and seen how they were doing each ---  
5 you know, how they were pulling each  
6 pillar. Just from what their plan  
7 was out --- you know, we had a  
8 meeting on when we started pulling  
9 pillars, this is the way we're going  
10 to do it. This is, you know, where  
11 we need to be. We don't need to be  
12 in here, you know, going --- kind of  
13 going over their plan on how they do  
14 things.

15 Q. That was the MSHA-approved ---

16 A. Yeah.

17 Q. --- or the plan that  
18 ultimately had been approved by MSHA  
19 that was ---?

20 A. I don't know if it was  
21 approved by MSHA or --- it was their  
22 plan on how we were going to do it.  
23 I don't know how that plan --- if it  
24 was the company plan or if it was the  
25 MSHA plan or both or ---.

1 Q. Okay. Were you familiar with  
2 any of the roof support system or how  
3 roof supports were being installed  
4 during the pillar retreat mining?

5 A. As far as the breaker rows  
6 go ---?

7 Q. The breaker rows or if the  
8 pillars were being split or any  
9 supports installed or any of the  
10 additional support that ---?

11 A. I wasn't involved in any of  
12 that, so I can't say.

13 Q. Are you familiar with any of  
14 the MRSs that were used or how they  
15 were positioned during any of the  
16 cuts or --- I guess did you observe  
17 any of it or you're just familiar  
18 with what the plan ---?

19 A. Just on what the plan --- I  
20 never actually --- like I said, I did  
21 some of that up on the top part, but  
22 I didn't ---

23 Q. Okay.

24 A. --- I didn't get into any of  
25 it on the bottom.

1 Q. Okay. Do you know if there  
2 was any --- you mentioned that there  
3 was bottom coal, what was left during  
4 the development of the south barrier.  
5 Do you know if any of that bottom  
6 coal was being mined during the  
7 retreat of the south barrier?

8 A. Not from actually seeing it  
9 being mined, just from talking with  
10 the miner operator in there, you  
11 know, just kind of asking him how it  
12 was going in there and stuff like  
13 that and asking him how much --- you  
14 know, how much they were taking and  
15 stuff like that. And he just told me  
16 that they were taking, you know, some  
17 bottom coal, but I don't know how  
18 much it was, you know.

19 Q. Do you know --- did you go  
20 into any discussions as to how that  
21 was actually being mined, what ---  
22 how the miner was actually moving or  
23 being positioned when that coal was  
24 being cut?

25 A. No, just ---.

1 Q. Whether it was in the entries  
2 or in the ---?

3 A. As far as I know, you know,  
4 pillar operations, you take --- if  
5 there's coal there, you take it, you  
6 know, as far as if it's bottom coal,  
7 you know, whatever is in the plan,  
8 you know. If you can take the  
9 pillar, you take that pillar and all  
10 the coal with it, you know.

11 Q. Who was that miner operator  
12 that you had some of these  
13 discussions with?

14 A. It was Manny.

15 Q. Manny?

16 A. Sanchez. He's one of the ---

17 Q. Okay.

18 A. --- you know, one of the ---

19 Q. Right.

20 A. --- guys that are in there.

21 Q. Were you familiar with or did  
22 you observe any of the barrier pillar  
23 being mined during the retreat  
24 mining?

25 A. No. I didn't actually see

1       them taking any of the barrier, you  
2       know, actually physically walked up  
3       and seen it. I know that they were  
4       taking some of the barrier, you know,  
5       which I believe was in our plan, that  
6       they could take --- I think it was 30  
7       or 40 feet. I'm not sure. But you  
8       know, I know --- so I know that they  
9       were probably taking some of it, you  
10      know, as far as what their plan ---  
11      their mining plan was.

12      Q.       Right. But you didn't  
13      actually observe any of it, ---

14      A.       No.

15      Q.       --- and weren't involved in  
16      the cutting or loading of any of it?

17      A.       No.

18      Q.       Any time that you were  
19      performing your exams when the south  
20      barrier retreat mining was going on  
21      did you ever hear or feel any bump or  
22      bounce-type ---?

23      A.       Yes, several times, really,  
24      you know. It seemed like every time  
25      they were mining in there you would

1       feel, you know, a minor bounce here  
2       and there, you know.

3       Q.       So it wasn't uncommon?

4       A.       No.    No.    I mean, it --- it  
5       was --- you know, it was more common  
6       to actually feel one in there than it  
7       was not to feel one, you know, if you  
8       know what I mean.

9       Q.       Yep.    How much time did you  
10       normally spend up on the section?

11       You would walk the belt in and the  
12       intake out normally or what ---

13       A.       No.

14       Q.       --- was your ---?

15       A.       We would drive the intake in,  
16       which I don't know exactly how long  
17       it would take, you know, maybe 10, 15  
18       minutes.    And then we would walk the  
19       belt line out, which would usually  
20       take us about a half hour, you know,  
21       to walk it out.

22       Q.       Depending on how far they  
23       had ---

24       A.       Right.

25       Q.       --- retreated or developed?

1       Okay.    And then somebody brought your  
2       truck back to you or ---?

3       A.        There was always two of us, so  
4       like whoever was driving preshifted  
5       coming in.   And then the passenger  
6       --- say I was the passenger, would  
7       get out and walk the belt out.   He  
8       would take the truck back out and  
9       drop it off at say Number Six belt.  
10      He'd leave the truck there and walk,  
11      you know, like Six or Five belt, and  
12      then I would leave the truck there  
13      and ---.

14      Q.        Excuse me if I get the names  
15      mixed up.   Brent or ---

16      A.        Brian.

17      Q.        --- Brian was your normal ---

18      A.        Yeah.

19      Q.        --- partner?

20      A.        That's who was on our shift.

21      That's ---

22      Q.        Right.

23      A.        --- who firebosses.

24      Q.        Right.   Okay.   Were you in or  
25      on the section when it was moved back

1 from Crosscut 142?

2 A. What do you --- I don't know  
3 what you mean.

4 Q. I think there were maybe some  
5 blocks that were going to be --- the  
6 section was going to stop and then  
7 move back.

8 A. Oh, move past this pillar  
9 right here ---

10 Q. Right.

11 A. --- in 140?

12 Q. Right.

13 A. Let's see. If I remember  
14 right, we went in to help them put  
15 the belt back together when they were  
16 pulling the belt back, and we helped  
17 them --- I helped them do a splice on  
18 the belt at 139, I believe.

19 Q. Is that where the --- is 139  
20 where the feeder was ---?

21 A. The feeder should have been  
22 between --- I think it was between  
23 139 and 140 or 138. I --- you know,  
24 I can't remember.

25 Q. Okay.

1 A. It's right there somewhere.

2 Q. Okay.

3 A. Between 138 and 140 is where  
4 the tail piece was.

5 Q. Do you know if there was any  
6 coal taken or any mining that went on  
7 from when the section was pulled back  
8 and when it was set up? Was there  
9 any coal taken from those barriers in  
10 between, I guess?

11 A. In between --- in this area  
12 here, between ---?

13 Q. Yes.

14 A. That I don't know. I know  
15 that night, when we went in to get  
16 --- I told you that we went in to get  
17 Benny's SCSR. I seen some lights.  
18 When we come in, we parked --- it was  
19 just outby the feeder. Because their  
20 transformer --- I can't remember  
21 where it was at. It was either  
22 between 137 and 138. Anyways, we had  
23 walked up around the feeder,  
24 basically, in the way that they  
25 travel with their buggies --- in



1 BY MR. GATES;

2 Q. That is a --- I guess just a  
3 section of the big map that you're  
4 looking at of the south barrier from  
5 142 to 137. And I guess could you  
6 --- just what you described a minute  
7 ago about where the feeder was set up  
8 at after the section moved back,  
9 could you draw that on --- draw that  
10 and label it on Exhibit Three?

11 A. Yeah. I can't remember what  
12 crosscut it was at, though. I can't  
13 remember if it was between 37 and 38  
14 or 38 and 39.

15 Q. Okay. I mean, if you can't  
16 remember, you can't remember. Do you  
17 remember where the power box ---  
18 power center was?

19 A. I know it was one crosscut  
20 outby. It had --- the power --- I'm  
21 pretty sure the power center was  
22 right here, between 37 and 38. And  
23 then the feeder would have been right  
24 here, between 38 and 39.

25 Q. Okay. Do you remember where

1 the dinner hole ---?

2 A. It would have been with the  
3 power center.

4 Q. With the power center.

5 A. I don't know. Maybe that ---  
6 was it the first --- I don't know if  
7 you know. The first bore hole that  
8 they drilled, was it at 137?

9 Q. I don't remember exactly where  
10 the first bore hole --- I don't  
11 remember exactly.

12 A. Because that would tell me  
13 where the feeder was at.

14 ATTORNEY RAJKOVICH:

15 Can you say in relation  
16 to that bore hole?

17 BY MR. GATES:

18 Q. Yes.

19 A. Because I know when they ---  
20 that crosscut that they drilled that  
21 hole, the feeder was right here.

22 MR. GATES:

23 We'll go off the record  
24 one second.

25 SHORT BREAK TAKEN

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MR. GATES:

Back on the record.

BY MR. GATES:

Q. That's right, yeah. If you don't remember, you don't remember.

A. I'm trying ---.

Q. You remembered a lot here today. And I certainly appreciate your efforts in trying to remember. When was the last time that you had preshifted this particular retreat section?

A. I preshifted the belt line the night of --- I guess that would be the 5th. And it was on that preshift from Seven to Ten.

Q. And there was mining ---

A. Yeah.

Q. --- activity?

A. Yeah, they were loading coal.

Q. Loading coal, okay. You had also mentioned, Tim, that you were involved in the development --- when I say involved in, that you were familiar with development in the

1 north pillar or north barrier block  
2 as well.

3 A. Number One?

4 Q. Yes. What were the conditions  
5 like there?

6 A. They were pretty much similar  
7 to the south. They looked about the  
8 same. The only difference that I had  
9 personally never seen was that we  
10 have the floor heave in the south  
11 barrier versus the north. I never  
12 --- we never did --- to my knowledge,  
13 I've never seen any floor heave in  
14 the north barrier.

15 Q. Was the coal height or the  
16 mining height the same?

17 A. Yeah. It was all pretty much  
18 the same. As far as --- it seemed  
19 like to me that they had a --- they  
20 had a lot more water up in the north,  
21 and so their top conditions were a  
22 lot worse than they were in the  
23 south. I guess that's just because  
24 of the water. They were always  
25 losing the top up here, and we had to

1 catch the top.

2 Q. Did you observe any of that  
3 water in the north?

4 A. Yeah. It was a lot.

5 Q. It come from the roof?

6 A. From the roof. Most of it ---  
7 I would say 75 percent of the water  
8 was coming from the top.

9 Q. Do you know why the  
10 development of the north barrier was  
11 stopped?

12 A. I think it was due --- because  
13 of the water. We were making way too  
14 much water. Production was slowing  
15 down. Because of the water, the top  
16 --- they couldn't --- they could only  
17 mine so far in before they would lose  
18 the top, you know. They weren't  
19 getting a full cut, and they --- the  
20 top was trying to come in. So they  
21 backed out because it was --- I want  
22 to say that it slowed production down  
23 way too much, you know. We went from  
24 averaging our --- you know, our --- I  
25 don't know how you would word it, but

1     like our coal production per shift.  
2     You know, we stayed in what their  
3     budget was for to really dropping off  
4     up in this area up here just because  
5     their footage, I guess you could say,  
6     was less than half of what we were  
7     getting before we got to the water.

8     Q.        Is that how things were ---  
9     you discussed in terms of footage,  
10    footage of advance?

11    A.        Advancement, yeah.

12    Q.        Do you remember where that ---  
13    did that slowdown take place all of a  
14    sudden or was it gradual?

15    A.        It was gradual, you know, when  
16    they started getting into the water.  
17    The further that we went in it seemed  
18    like the more water we were getting,  
19    you know.

20    Q.        Did you examine the north  
21    barrier during the retreat mining of  
22    it?

23    A.        Yeah. Yeah, I --- yeah, I  
24    did.

25    Q.        And, again, I'm going to ask

1       some of the same things that I asked  
2       you on the south barrier, so bear  
3       with me. Were you familiar with how  
4       the particular cuts were taking place  
5       on the north?

6       A.       Pretty much just according to  
7       what their plan --- you know, we went  
8       in. I did go in there and help in  
9       the section a couple different times.  
10      When guys were off, I went in there  
11      and did their faceman duties, which  
12      basically is set the breaker rows,  
13      you know, make sure everything ---  
14      made sure the feeder stayed clean,  
15      stuff like that. But I did watch  
16      them do --- I did watch them pull one  
17      pillar. And basically they do it  
18      just like a Christmas tree cut, go in  
19      and --- I watched them --- you know,  
20      I watched them maybe for 20, 30  
21      minutes.

22      Q.       Do you remember where you were  
23      at when --- where the section was at  
24      when that --- when you went in and  
25      helped?

1 A. I don't. No, that's been too  
2 long ago.

3 Q. Okay. Was there any slab of  
4 coal left in between the cuts that  
5 were being made in the pillar or was  
6 it all taken when these --- you  
7 mentioned the Christmas tree cuts  
8 were being taken.

9 A. That I don't know. I --- I  
10 never really paid that close  
11 attention.

12 Q. Are you familiar with any of  
13 the caving, how the roof caved when  
14 the section was coming out or did  
15 you ---?

16 A. No, I never really knew. I  
17 never got into any of that kind of  
18 stuff. The couple times that I was  
19 in there it never caved while I was  
20 in there.

21 Q. Were you familiar with the  
22 bump incident that occurred in March  
23 of '07 during the retreat of the  
24 north barrier?

25 A. I wasn't on the shift when it

1       happened, but I just heard from  
2       hearsay, you know, that it was pretty  
3       bad, you know, it was a pretty bad  
4       bounce and, you know, a lot of stuff  
5       on the ground or whatever and not  
6       necessarily the top, but the ribs,  
7       you know.

8       Q.       Did you ever actually  
9       observe ---?

10      A.       No, I never --- they had it  
11      all cleaned up by the time we come  
12      back on shift. It was --- we were  
13      off --- it was on our weekend that it  
14      happened, so we didn't --- I didn't  
15      have anything to do with it.

16      Q.       Did you hear of any --- did  
17      you hear that there were any  
18      ventilation controls that were  
19      damaged or what --- I guess what did  
20      you hear about the March event,  
21      March ---?

22      A.       The only thing I had heard,  
23      that it covered --- you know, buried  
24      the miner and buried the scoop, stuff  
25      like that. I shouldn't say that it

1 buried it totally, you know, it just  
2 covered it up a little bit. And it  
3 was --- that it had --- I guess it  
4 registered on the Richter scale, I  
5 don't know what that number was. And  
6 that it didn't really do any damage  
7 to any of the equipment or anything  
8 like that, you know, but it just  
9 bounced pretty hard and blew the  
10 pillars out a little bit in there.

11 Q. Was there anything --- was any  
12 of the mining method changed as a  
13 result of that or --- that you're  
14 aware of?

15 A. Not that I'm aware of. I know  
16 that shortly after that happened, we  
17 left those pillars. I don't know  
18 exactly how many. I mean, looking in  
19 here, it looks like they left maybe  
20 four. And we moved back and started  
21 mining again, and it was still  
22 bouncing pretty good in there. And I  
23 think --- to my knowledge, that's the  
24 reason why we pulled out of there.

25 Q. Okay. So you did actually

1 mine more coal after the bump  
2 event ---?

3 A. I'm not sure. I think we did,  
4 though, but I'm not positive. I  
5 think we did.

6 Q. Do you know if anybody was  
7 injured during that March event?

8 A. No, I don't think anybody was.

9 Q. Anybody knocked down or ---?

10 A. I don't know if ---.

11 Q. Don't know.

12 A. I wasn't there, so --- I  
13 didn't hear of anybody, though.

14 Q. You weren't at the mine in  
15 1995, when the west mains were  
16 initially developed; is that correct?

17 A. No, I didn't --- no, I wasn't.  
18 I think I started in there in '04.

19 ATTORNEY RAJKOVICH:

20 Can I ask something for  
21 clarification? So you're  
22 talking about the March bump  
23 and they skipped. I guess  
24 what I'm wondering, we're  
25 talking about one bump, and I

1           don't know if there were two  
2           when he's talking about when  
3           mining occurred. Do you see  
4           where I'm driving?

5           BY MR. GATES:

6           Q.           How many bumps were there?  
7           How many bumps are you familiar with  
8           in the March --- or excuse me, in the  
9           north barrier ---?

10          A.           Well, they --- I mean, they  
11          had several, you know. It just ---  
12          it depends on how --- which --- I  
13          mean, the one that I'm guessing that  
14          you're talking about is the one that  
15          when we left these four barriers, the  
16          one that was pretty severe. We moved  
17          back. I ---.

18          Q.           So it's your understanding  
19          that the section was moved back  
20          because of the March --- because of  
21          the bump incident?

22          A.           Yeah, that it --- because they  
23          would --- the cleanup process ---  
24          let's see. From what I understood is  
25          they figured that if we moved back

1 and left these four barriers, that it  
2 would stabilize things, I guess is  
3 what --- and they started mining  
4 again.

5 Q. Were you familiar with any  
6 changes in the roof conditions around  
7 137, where the section was moved back  
8 from?

9 A. No. I think everything stayed  
10 good as far as the top went in there.

11 Q. Okay.

12 ATTORNEY RAJKOVICH:

13 I'm just wondering,  
14 after they left here, I  
15 thought you were saying was  
16 there any more mining here  
17 that wasn't shown, is what I  
18 was concerned about.

19 ATTORNEY CRAWFORD:

20 Just to clarify again,  
21 you said after that happened  
22 there were further bounces, I  
23 thought you said. I thought  
24 you said that's the reason  
25 they pulled out.



1 mining to be up there, so they came  
2 back and decided to develop the  
3 bottom.

4 BY MR. GATES:

5 Q. Just so I'm clear, when you  
6 talked about --- you compared the  
7 bumps in the north to the bumps in  
8 the south. Which ones did you say  
9 were more severe?

10 A. I would say the ones in the  
11 north were way worse than anything  
12 that we felt in the south ---

13 Q. Okay.

14 A. --- while --- you know, while  
15 they were mining.

16 Q. Right. Any other way that you  
17 could compare or contrast the retreat  
18 mining in the north as compared to  
19 the south?

20 A. No. I mean, as far as their  
21 practices go, they were doing the  
22 same --- the mining was the same in  
23 both sections. It's just that it  
24 seemed like that we had the bigger  
25 bounces on the top side than we did

1 the bottom, you know.

2 Q. Did you ever examine any of  
3 the seals, permanent seals in the  
4 mine, as a part of your duties?

5 A. Yeah. I pretty much have ---  
6 I think I've done pretty much all of  
7 them, yeah. And these ones at 118,  
8 in this old west section, that was  
9 our everyday --- we had to examine  
10 those every single day. And then  
11 after they --- when they did these  
12 ones for this north section, I never  
13 did examine any of those ones. Those  
14 were done on a weekly ---.

15 Q. But you did examine, I guess  
16 I'll just say the west main ---

17 A. Yeah.

18 Q. --- west main seals? Did you  
19 take --- ever take any gas samples  
20 from the gas pipe?

21 A. No. No. That was done by  
22 another gentleman that --- I guess he  
23 did that on his week --- I don't  
24 know. I never had to.

25 Q. Okay. Did you ever observe

1 the water trap --- or was there a  
2 water trap in one of the --- any of  
3 those seals?

4 A. There was one that had a pipe  
5 come out, but --- yeah, I'm pretty  
6 sure that I --- I know there was one  
7 there, but I can't remember which one  
8 it was at.

9 Q. Did you ever see water --- any  
10 water coming out of it?

11 A. No. No, because they had a  
12 dewatering line coming out of one of  
13 the seals that went down and actually  
14 dumped down into the south.

15 Q. Did you ever examine ---  
16 during any of the retreat of the  
17 north or south barrier, were you ever  
18 responsible for examining the  
19 bleeder?

20 A. No. No, I never did any of  
21 the bleeder.

22 Q. Never traveled or did the ---?

23 A. The only time I ever traveled  
24 it was on our escapeway walks, ---

25 Q. Okay.

1 A. --- you know, when we had to  
2 do our secondary escapeways.

3 Q. Okay. We're getting close to  
4 being done here, so ---. When was  
5 the last retraining --- annual  
6 retraining that you participated in?

7 A. It was December of '06.

8 Q. December of '06. And do you  
9 remember who did the training?

10 A. We did it at the college, so  
11 each --- we had so many different ---  
12 you know, I mean, each section of the  
13 thing, we had a different instructor.

14 Q. Did you go over the mine's ERP  
15 or emergency response plan during  
16 that retraining?

17 A. Yeah, I believe so. I can't  
18 remember for sure, but I'm pretty  
19 sure we did.

20 Q. Are you familiar with the  
21 evacuation procedures that are  
22 outlined in the plan?

23 A. As far as what I know. I  
24 mean, if there was a situation, yeah.  
25 I mean, go out the --- you know, your

1 primary escapeway.

2 Q. Do you remember when the last  
3 escapeway drill was that you --- when  
4 you last traveled the escapeway as a  
5 part of the drill?

6 A. I don't. I don't remember.

7 Q. Okay. During the retraining,  
8 did you receive hands-on training for  
9 your SCSR?

10 A. Yeah. We also --- every time  
11 we did our --- I think every time we  
12 did our secondary escapeway training,  
13 you know, our drill, we also had to  
14 don, you know, --- they had the  
15 training units. We had to actually  
16 don and transfer those units at that  
17 time, too.

18 Q. What type of units do you use  
19 at the mine?

20 A. They're the SCSRs, the --- I  
21 don't know exactly what they're  
22 called, but the big ones.

23 Q. CSC?

24 A. Yeah, the CSCs.

25 Q. Is that the only ---?

1 A. Yeah, that's the only one we  
2 have.

3 Q. That you got in the mine?  
4 Okay. Did you go over the roof plan,  
5 roof control plan, at the training?

6 A. Yeah.

7 Q. Vent plan?

8 A. Yeah, ventilation plan.

9 Q. Any other --- are there any  
10 things that weren't covered in the  
11 training that you think would be  
12 beneficial to you or to anybody else?

13 A. No. I think they --- I think  
14 they covered it pretty well where ---  
15 you know, they do it at the college  
16 there, and so each section --- they  
17 have it divided up into I think eight  
18 or nine sections. And they have a  
19 trainer for each one of those  
20 sections. So I think it's actually  
21 pretty thorough in their training.

22 Q. Do you think eight hours is  
23 enough time to do it all?

24 A. Personally, yeah. That's all  
25 I can stand is eight hours.

1 Q. Okay. Have you given a  
2 written statement or interview to any  
3 management official or outside  
4 organization before this interview  
5 regarding the August 6th or August  
6 16th accident?

7 A. No, nothing --- I talked to  
8 one of the press on just what they  
9 thought, but I didn't tell them  
10 anything about like what we're  
11 talking about or anything like that.

12 ATTORNEY RAJKOVICH:

13 We have talked, yes.

14 A. I guess with Marco.

15 ATTORNEY RAJKOVICH:

16 We have talked.

17 MR. GATES:

18 Okay.

19 A. Does he count?

20 ATTORNEY CRAWFORD:

21 We're not going to  
22 answer that.

23 ATTORNEY RAJKOVICH:

24 Jim's got an answer,  
25 but he's not going to tell

1                   you.

2     BY MR. GATES:

3     Q.           Has anyone offered you  
4           anything or made any promise to you  
5           in exchange for you to appear or not  
6           to appear here today?

7     A.           No.

8     Q.           And do you have anything that  
9           you would like to add that may be  
10          relevant to our investigation?

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

12                           MR. GATES:

13                           Okay. If we could take  
14                           just --- and I promise it will  
15                           be very short, just a five-  
16                           minute --- short five-minute  
17                           break, and we'll come back and  
18                           wrap up.

19    A.           Okay.

20    SHORT BREAK TAKEN

21    BY MR. GATES:

22    Q.           Okay, Tim. Just a couple,  
23           three, kind of clarification  
24           questions just to make sure I  
25           understand. When we were talking a

1 little bit ago and you mentioned that  
2 the bumps in the south were not as  
3 severe as in the north, you were, in  
4 fact, talking about the north barrier  
5 and the south barrier; is that  
6 correct?

7 A. Yeah.

8 Q. I just want to clarify.

9 A. In the sections, the north ---  
10 I guess that's what you would call  
11 it, the north section and the south  
12 section.

13 Q. Right. I just wanted to  
14 clarify that you weren't referring to  
15 those south mains.

16 A. Oh, no. It was the west,  
17 north and south sections.

18 Q. Okay. Thank you. You also  
19 mentioned that there was some floor  
20 heave that was more noticeable in the  
21 south barrier. Do you recall if that  
22 was prevalent in any one entry or all  
23 of the entries or where ---?

24 A. It was in the beltway.

25 Q. Pardon?

1 A. It was in the beltway that it  
2 was --- the floor was heaved up.  
3 That's the only place I know that it  
4 was actually heaved was in the  
5 beltway.

6 Q. In the belt entry?

7 A. Yeah. It was at Crosscut 141.  
8 Between 140 to 142 is where it was  
9 at.

10 Q. Okay. And was there any time  
11 since you've been employed at the  
12 Crandall Canyon Mine that you  
13 personally felt uncomfortable with  
14 the ground or roof or pillar  
15 conditions?

16 A. The only time that I actually  
17 felt like there could be a problem is  
18 when I seen those stoppings  
19 squeezing, just because I've never  
20 seen that before and I didn't know  
21 why it was doing that, you know.

22 Q. Again, that was when you saw  
23 what appeared to be the  
24 horizontal ---?

25 A. Yeah, the horizontal, when it

1 was squeezing the stoppings together.

2 Q. And just for clarification  
3 again, where was that?

4 A. 131 was the most visible one,  
5 and then also --- it was either 126  
6 or 127. I can't remember exactly  
7 which crosscut that was.

8 Q. Was that only in the stopping  
9 between One and Two?

10 A. At 131 it was, but I think at  
11 127 you could actually see it on the  
12 return side, too.

13 Q. Okay.

14 A. But I can't remember at 131 if  
15 it was that way over there, too.

16 Q. Okay. Was there anybody else  
17 employed at the mine that ever shared  
18 any roof, rib or ground control  
19 concerns with you?

20 A. I don't --- as far as like  
21 other employees or ---?

22 Q. Right. I mean, you just  
23 indicated some --- I guess some  
24 conditions or some situations that  
25 you personally observed that ---

1 A. I mean, I didn't ---.

2 Q. --- caused concern or ---.

3 A. I --- you know, I brought it  
4 to my supervisor's knowledge, and I  
5 told him, I said, you know, I had  
6 never seen that before. You know,  
7 how does it look to you? What do you  
8 think about it? And also some of the  
9 other guys that, you know, I just  
10 work with, we talked about it. And  
11 you know, nobody really said, hey, we  
12 better do something with it, you  
13 know. But me, personally, I had  
14 never seen it, so I just had concern.  
15 Some of the other guys had seen it  
16 before, so I guess they weren't  
17 concerned about it, so ---.

18 Q. Were there any times, though,  
19 when any of the other guys may have  
20 come to you and said, hey, we've got  
21 --- we're concerned about a situation  
22 here or there or anywhere else in the  
23 mine?

24 A. No, not while we were --- not  
25 in there.

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MR. GATES:

Okay. On behalf of MSHA, I want to thank you for appearing and answering questions today. Your cooperation is very important to the investigation as we work to determine the cause of the accident.

We ask that you not discuss your testimony with any person who may have already been interviewed or who may be interviewed in the future. This will ensure that we obtain everyone's independent recollection of events surrounding the accident.

After questioning of other witnesses, we may call you if we have any follow-up questions that we feel we may need to ask you. If at any time you have additional

1 information regarding the  
2 accident that you would like  
3 to provide to us, please  
4 contact us at the contact  
5 information I previously  
6 provided to you.

7 The Mine Act provides  
8 certain protections to miners  
9 who provide information to  
10 MSHA and, as a result, are  
11 treated adversely. If at any  
12 time you believe that you have  
13 been treated unfairly because  
14 of your cooperation in this  
15 investigation, you should  
16 immediately notify MSHA.

17 If you wish, you may  
18 now go back over any answer  
19 that you have given during  
20 this interview and you may  
21 also make any statement that  
22 you would like to make.

23 A. I'm good.

24 MR. GATES:

25 Again, I want to thank

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you for your cooperation in  
this matter.

\* \* \* \* \*

STATEMENT CONCLUDED AT 12:07 P.M.

\* \* \* \* \*