

STATEMENT UNDER OATH  
OF  
VIRGIL BROWN, JR.

Taken pursuant to Notice by Richard  
J. Lipuma, CCR, a Court Reporter and  
Notary Public in and for the  
Commonwealth of Pennsylvania, at MSHA  
Mining Academy, 1301 Airport Road,  
Beaver, West Virginia, on Friday,  
December 14, 2007, beginning at  
10:04 a.m.

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

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

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3           T I M   W A T K I N S

4           M i n e   S a f e t y   &amp;   H e a l t h   A d m i n i s t r a t i o n

5           1 0 0   F a e   R a m s e y   L a n e

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8           T H O M A S   M O R L E Y

9           M i n e   S a f e t y   &amp;   H e a l t h   A d m i n i s t r a t i o n

10          I n d u s t r i a l   P a r k   D r i v e

11          T r i a d e l p h i a ,   W V   2 6 0 5 9

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13          M I C H A E L   G A U N A

14          M i n e   S a f e t y   a n d   H e a l t h   A d m i n i s t r a t i o n

15          I n d u s t r i a l   P a r k   D r i v e

16          T r i a d e l p h i a ,   W V   2 6 0 5 9

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18          A L S O   P R E S E N T :

19          S t a c y   D .   M e l v i n ,   N o t a r y   P u b l i c

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

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MR. WATKINS:

Virgil, my name is Tim Watkins. I'm an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the United States Department of Labor. With me today is Derek Baxter, from the Solicitor's Office. We'll be conducting the questioning today.

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

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

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

19 Your statement is  
20 completely voluntary. You may  
21 refuse to answer any question  
22 and you may terminate your  
23 interview at any time. If you  
24 need a break, just let me know  
25 and we'll take one.

1                   A court reporter will  
2                   record your interview. If you  
3                   do not understand a question,  
4                   please ask me to rephrase it  
5                   or repeat it. And please  
6                   answer each question as  
7                   clearly as you can, including  
8                   any information that you may  
9                   have learned from someone  
10                  else.

11                  I'd like to thank you  
12                  in advance for your appearance  
13                  here. We appreciate your  
14                  assistance in this  
15                  investigation. Your  
16                  cooperation is critical to  
17                  making the nation's mines  
18                  safer.

19                  After we have finished  
20                  the questioning, you will have  
21                  an opportunity to make a  
22                  statement and provide us with  
23                  any other information which  
24                  you believe to be important.  
25                  If at any time after the

1 interview you recall any  
2 information that you believe  
3 may be relevant, please  
4 contact Richard Gates.

5 Ms. Melvin, will you  
6 swear in the witness, please?

7 MS. MELVIN:

8 Could you raise your  
9 right hand, please?

10 -----  
11 VIRGIL BROWN, JR., HAVING FIRST BEEN  
12 DULY SWORN, TESTIFIED AS FOLLOWS:  
13 -----

14 MR. WATKINS:

15 Ms. Melvin, are you  
16 empowered as a notary in the  
17 State of West Virginia?

18 MS. MELVIN:

19 Yes.

20 MR. WATKINS:

21 And when does your  
22 commission expire?

23 MS. MELVIN:

24 August 2012.

25 MR. WATKINS:

1                   And have you sworn in  
2                   Mr. Brown?

3                   MS. MELVIN:

4                   Yes, I have.

5                   BY MR. WATKINS:

6                   Q.           Virgil, can you please state  
7                   your full name and address for the  
8                   record?

9                   A.           Virgil F. Brown, Jr. I work  
10                  here at the Mine Academy at 1301  
11                  Airport Road, Beaver, West Virginia.

12                  Q.           And are you appearing here  
13                  today voluntarily?

14                  A.           I am.

15                  Q.           What is your current position?

16                  A.           Mine Emergency Unit specialist  
17                  for Tech Support.

18                  Q.           And how long have you been in  
19                  that position?

20                  A.           I've been in that about 10  
21                  years, 10 or 12.

22                  Q.           Who's your current supervisor?

23                  A.           My current supervisor is John  
24                  Urosek. It had just changed from  
25                  Jeff Kravitz. He was at --- I think

1 it was being --- might have changed  
2 right then.

3 Q. Since I've been on the team,  
4 the structure has changed a little  
5 bit. Would you mind just going over  
6 that structure for me so I'll have an  
7 understanding of how things  
8 correlate?

9 A. Well, when I came into the  
10 position, I worked for Coal. And  
11 Tech Support took it over two or  
12 three years later, and Jeff Kravitz  
13 off of Jesse Cole. And then in the  
14 past few months, there's been a move  
15 to upgrade Jeff Kravitz and John  
16 Urosek to new positions, and --- so  
17 I'll be answering to John Urosek now.  
18 And that happened right at the time  
19 that this occurred. It was being  
20 changed from Jeff to John. So  
21 actually, I answered to both of them,  
22 you know, at the time this occurred,  
23 whoever was on site.

24 Q. So this is the first accident,  
25 if you will, under the new structure?

1 A. Yeah. And I think it's still  
2 ongoing. They haven't really made  
3 the thing definite right now, so ---.  
4 And either one of them work for Tech  
5 Support, so it's okay.

6 Q. What are your primary areas of  
7 responsibility?

8 A. I'm mostly involved with the  
9 deployment of the equipment and with  
10 the Mine Emergency Unit, which is the  
11 apparatus wares for MSHA, both coal  
12 and metal and nonmetal. So I'm  
13 involved in the equipment and the  
14 rescue operations that involve mine  
15 rescue team members.

16 Q. How many stations do you have,  
17 deep stations?

18 A. Currently, there's three coal  
19 and one metal/nonmetal station. And  
20 the one out west hasn't been  
21 completely set up yet. The one in  
22 Beckley here is, of course, located  
23 in this building. And the one in  
24 Pittsburgh's in Building 13  
25 currently. And there's one out west

1       being set up in Price, Utah,  
2       currently being set up there. We  
3       already had some equipment out there  
4       when this occurred and some team  
5       members. And then there's a  
6       metal/nonmetal one, but it's right  
7       here in Beckley, too.

8       Q.       So you have responsibility  
9       over all four stations then?

10      A.       Yes. I'm involved with all of  
11      them with the equipment for sure.

12      Q.       And you're involved with  
13      training also?

14      A.       Yeah. Yeah. I assist the  
15      unit leader, who is currently Chuck  
16      Barton, and the --- for the training.  
17      When we trained the guys out west, it  
18      was Charlie Pogue. We had went out  
19      there and got the initial team  
20      members. And since they've actually  
21      added --- and some people dropped off  
22      and added on out there, which ---  
23      just constant --- you know, with  
24      people changing positions and jobs.  
25      So we constantly get new team members

1 and old team members leave.

2 Q. What was Chuck's title, if you  
3 will, Chuck Barton?

4 A. Chuck didn't --- I don't think  
5 Chuck went out.

6 Q. What was his title, though?

7 A. his title would be MEU ---  
8 Mine Emergency Unit leader. It's an  
9 elected position from the team  
10 members.

11 Q. Is that over all three coal  
12 stations or ---?

13 A. That's over the two that we  
14 currently have, the one in  
15 Pittsburgh. And here, we haven't  
16 been involved in the one out there,  
17 you know, greatly. Actually,  
18 District Nine was taking care of that  
19 station. And then Larry Ramey would  
20 have been sort of supervisor in that  
21 unit out there, so ---.

22 Q. Okay.

23 A. He was more involved than we  
24 were with the --- what we'll call the  
25 western station.

1 Q. Okay. How were you notified  
2 of the accident on the 6th, that  
3 occurred on the 6th?

4 A. I was called. I was up in  
5 Pittsburgh. And I went up on Sunday.  
6 And on Monday we were practicing in  
7 the --- getting ready to go into the  
8 mine. In fact, already had been  
9 there. And --- underground at  
10 Bruceton facility, with NIOSH and  
11 Pittsburgh. And we were notified of  
12 it then, on that Monday. That's  
13 right, it was a Monday.

14 We were notified that it  
15 occurred. And we were told that we  
16 were on call in this. And with  
17 another call we were told to go ahead  
18 and deploy, you know, some of the  
19 stuff. And the discussion was, well,  
20 what do we have out in Utah already?  
21 And I said, we got actually 12  
22 apparatus. And, you know, we haven't  
23 set up everything, but the apparatus  
24 were there. We had crew members  
25 there. And the discussion was who do

1 we need to send. And we got with  
2 District Nine personnel and decided  
3 how many people we were going to send  
4 from --- you know, out on the Eastern  
5 United States out there.

6 Q. Who was it who called you?

7 A. It was either John Urosek or  
8 Jeff. I think it was Jeff because  
9 John was on vacation, if I'm correct.  
10 I think I'm correct on that, that  
11 John was on vacation, so Jeff stood  
12 in for him.

13 Q. What did Jeff tell you about  
14 the events or circumstances?

15 A. Well, just, you know, what he  
16 had learned, that, you know, there  
17 was a bump and there was people  
18 trapped. And, you know, that we  
19 needed to respond and get --- that he  
20 was going to deploy the seismic  
21 location unit and we needed to get  
22 some apparatus wares out there, you  
23 know, because we knew that there was  
24 some low oxygen and --- you know.  
25 And there were some teams that was

1 going to go and, you know, probably  
2 break a seal and try to go around the  
3 backside.

4 So we knew a little bit, after  
5 talking to the district. And I  
6 called --- of course, I called them  
7 and got a little more information so  
8 I know what we needed, okay?

9 And at that point, I went  
10 ahead and got --- Jeff said he was  
11 going to take the seismic and he was  
12 trying to get it shipped out there  
13 and somebody drive part of it or  
14 however they were going to transport  
15 it. So I went up to the Building  
16 151, where he was located, and picked  
17 up the mini seismic. And I said,  
18 Jeff, why don't I take this on the  
19 plane with me to Utah so that, you  
20 know, it will get out there pretty  
21 quick. And that was the discussion.

22 And I don't think it ---. I  
23 had called down Beckley to Jerry  
24 Taylor and told him to ship some  
25 radios and some stuff that was down

1 here in this station. So we FedExed  
2 it out, and I found out where we were  
3 going, and I FedExed, I think,  
4 everything to the hotel right there  
5 in Price, at that Holiday Inn.

6 Q. So when Jeff called you and  
7 Jeff said he was going to deploy that  
8 big, large seismic system?

9 A. That's right.

10 Q. And you were going to take the  
11 mini with you?

12 A. Which I did.

13 Q. Was there any other equipment  
14 that was deployed or sent out or ---?

15 A. From up there?

16 Q. Yeah.

17 A. Well, I'm sure up there that  
18 the people with the gas  
19 chromatographs and ventilation were  
20 deploying their stuff, because that's  
21 standard for us to do when we have a  
22 --- you know, an incident. And so I  
23 know that, you know, from down here I  
24 think I probably shipped the thermal  
25 imager and radios, some high-range

1 detectors, you know, things like that  
2 that I know that you need. And,  
3 let's see, a couple caravan units for  
4 resuscitation if we end up on people  
5 in low oxygen or had to bring  
6 somebody out. So some of that was  
7 shipped from here. And like I say,  
8 just --- you know, I just made a  
9 quick list and started calling and  
10 saying, listen, let's get this stuff  
11 on the way.

12 Q. How was the seismic system ---  
13 the large seismic system, how was it  
14 transported out west?

15 A. I know that there was a  
16 trucking outfit that delivered that  
17 unit, so it was put on a truck and  
18 shipped out. Because I don't think  
19 --- I think it's pretty slow for that  
20 unit to be driven. In fact, I drove  
21 it back, so I know how slow it was.  
22 But I'm sure that they loaded that on  
23 lowboys and sent most of it.

24 I think the one truck was too  
25 high for a tractor-trailer to haul,

1 so they drove it out. So one truck  
2 was drove out. The one I drove back  
3 was probably drove out because of the  
4 --- you know, going through those  
5 tunnels out in Denver. And I'm sure  
6 that --- you know, I feel that it was  
7 drove out.

8 Q. Do you remember how many  
9 people from the eastern unit that you  
10 sent out?

11 A. I think it was about a half a  
12 dozen from here. You know, I don't  
13 have their names in front of me. I  
14 don't think I've --- I can get my old  
15 notes and find them, but there was  
16 probably a half a dozen of us.

17 Q. And were you responsible for  
18 calling all those people and having  
19 those --- getting them ---

20 A. Yeah.

21 Q. --- deployed?

22 A. Yeah. In fact, we ran into a  
23 couple problem --- issues on, you  
24 know, getting them flights out, you  
25 know, because of different issues. I

1 don't want to go into that, but some  
2 of them didn't have a government  
3 credit card and they had a hard time  
4 getting them on the plane. But since  
5 he's got one, he declined it. And, I  
6 said, no, you need to get that card,  
7 you know, and keep it, so ---. But  
8 for the most part, all of them got  
9 out there pretty quick. I think they  
10 probably lagged one day behind the  
11 people in Pittsburgh that went.

12 Scott Johnson, he was up there  
13 at --- myself. I don't even know who  
14 else went from up there, but it was  
15 two or three from Pittsburgh that  
16 were at the site. I know one of them  
17 --- a couple of them had things that  
18 they had to do, personal reasons, and  
19 they could go see Chuck. You know,  
20 when you think back on it, you just  
21 do the best you can to get the people  
22 moving, you know.

23 Q. When was it you actually got  
24 to leave Pennsylvania, Pittsburgh?

25 A. Yeah. I think it was the

1 following day, the 7th, I think I  
2 flew out to Price. I actually flew  
3 into Salt Lake City and went to Price  
4 in a rental car from Salt Lake.

5 Q. Do you remember what time you  
6 got to Price?

7 A. We went to Price late that  
8 night. And the next morning I went  
9 to the mine.

10 Q. Was anybody traveling with you  
11 when you went?

12 A. I think there was somebody on  
13 the plane there with that trip, but  
14 I'm not sure who it was.

15 Q. In the rental car when you  
16 went down, was anybody riding with  
17 you or were you by yourself?

18 A. You know, you don't look back  
19 at it and you don't remember. I  
20 think, though, somebody was with me  
21 there.

22 Q. Okay. So you got to the hotel  
23 the evening of the 7th; is that  
24 correct?

25 A. Yes. That's correct.

1 Q. What did you do upon getting  
2 to the hotel? Were there any  
3 meetings or anything?

4 A. I made a couple phone calls to  
5 see what the status was and what they  
6 were doing at the mine site. And I  
7 think I lined up, you know, for ---  
8 to show up the next morning because  
9 they had those people underground  
10 doing ----. I thought it was Gary  
11 --- I'm trying to think of the  
12 Twentymile team. Gary Christensen  
13 and his group were I think a mine  
14 rescue team that had went in and  
15 looked behind some seals, trying to  
16 circumvent the area, to go around  
17 into it. And they were doing  
18 everything they could at the mine  
19 site, you know, at that time.

20 And, you know, by the time we  
21 got there, and we traveled all day,  
22 12, 14 hours, there was no use for us  
23 to go show up at the mine site being  
24 tired. I know that me and Ron Hixson  
25 --- Ron was with me. That's who I

1 rode the --- because me and Ron that  
2 evening as soon as we unload the  
3 stuff, I said, Ron, let's go ahead  
4 and get that mini seismic on charge  
5 in my room. Make sure that, you  
6 know, it's operational so it  
7 goes ---. I think that's probably  
8 the initial thing we try to do from  
9 the underground to locate to see if  
10 there was somebody there. Because we  
11 knew what --- a little bit what had  
12 transpired, you know, with them  
13 trying to locate the missing miners.

14 So come to find out TSA had  
15 tore our mini seismic all to pieces  
16 at the airport, and we had to  
17 reconstruct it or actually hook  
18 everything back up because they  
19 didn't know what that thing--- if you  
20 look at it, you'd see why. There's  
21 some Tech Support guys here that  
22 realize what some of that looks like  
23 when you tear it apart. So they had  
24 disconnected the batteries on it, and  
25 they disconnected some connectors on

1 it, so it --- it was good that we  
2 looked at it that night because it  
3 would have been embarrassing to take  
4 it underground and it did not work  
5 the next day, which it was not  
6 operational when we had to work on  
7 it.

8 In fact, me and Ron got the  
9 headphones unit working on it. And  
10 then the strip recorder was still out  
11 of commission the night we took it to  
12 the mine. But, you know, I felt,  
13 okay, if I've got --- and I'm doing a  
14 mini-seismic test, all I really need  
15 to know, if I get the headsets ---  
16 two of the headsets working, then I  
17 was satisfied with that, which we  
18 did.

19 Q. When you got to the hotel on  
20 the 7th, ---

21 A. Uh-huh (yes).

22 Q. --- and you and Ron worked on  
23 the mini-seismic system ---

24 A. And charged it up.

25 Q. --- and charged it up, did you

1 meet with anybody that night?

2 A. You know, I think that there  
3 was probably some people there. And  
4 I'm not --- you know, there was  
5 people there from the mine site. I'm  
6 off one day on that, Richard, with  
7 the dates because I mistyped it.

8 MR. BAXTER:

9 Are you talking about  
10 your notes right now?

11 A. Yeah. That's everything. And  
12 I talked about my notes here that I  
13 submitted. It was off one day due to  
14 me going up on Sunday. And I had,  
15 you know, scrambled and wrote this  
16 stuff down. And then when I typed it  
17 off, it was one day off. This day is  
18 correct.

19 MR. GATES:

20 You got to the hotel on  
21 the date of the accident;  
22 right, ---

23 A. Yeah.

24 MR. GATES:

25 --- the 6th? Did you

1 fly out the same day that you  
2 heard of the accident? So you  
3 got to the hotel the night of  
4 the 6th?

5 MR. WATKINS:

6 The night of the  
7 day ---.

8 A. Yeah.

9 MR. WATKINS:

10 I was off a day.

11 A. Yeah.

12 MR. WATKINS:

13 I thought he said he  
14 got there on the 7th.

15 MR. GATES:

16 Got to the mine on the  
17 7th.

18 MR. WATKINS:

19 Got to the mine on the  
20 7th, okay.

21 A. Yeah. From the 7th on, that's  
22 right. Yeah, my notes, with the  
23 first couple notations that I wrote  
24 on it, yeah.

25 MR. WATKINS:

1                   Let's go ahead and put  
2                   this in as Exhibit One.

3                   (Brown Exhibit One  
4                   marked for  
5                   identification.)

6       A.        So, yeah, the next day I  
7       showed up at the mine. And they had  
8       already been in to check seals. But,  
9       yeah, the next day we got a --- there  
10      was a few people there at the hotel  
11      that had --- you know, inspectors and  
12      what have you, that I did meet. And  
13      I can't remember who I did talk to,  
14      but I got a little bit of an update  
15      and made sure that I had directions  
16      to get to the mine the next day,  
17      things like that, you know.

18      BY MR. WATKINS:

19      Q.        The MEU members that were  
20      there, did you meet with them, the  
21      ones that were there, that night?

22      A.        Right. What we normally do  
23      --- and here's what we did. I needed  
24      to meet with Larry Ramey and some of  
25      them to see what shifts their people

1        were on that they had and to mesh our  
2        guys in with them so that we would do  
3        it around the clock. Okay? So the  
4        next thing we did, we actually took  
5        all our members there and then  
6        divided up into our shifts, the two  
7        --- so that we intermingled with them  
8        and had members of his team with our  
9        team, okay, so that we'd have people  
10       familiar with that area on each  
11       shift.

12       Q.            So by the time you went to the  
13       mine on the morning of the 7th, you  
14       had --- everyone from your team was  
15       there?

16       A.            I think --- I'm not sure that  
17       --- I think we still had a couple  
18       that didn't get a flight out and were  
19       going to come the next day. But  
20       everybody that got there that night,  
21       we took the next day to show them  
22       where the mine was and to give them  
23       an orientation and briefing of what  
24       we were going to do and where they  
25       were at and what shift we wanted them

1 on.

2 Q. Just take me through the next  
3 day when you arrive at the mine site,  
4 what you did that day.

5 A. Well, actually --- yeah. We  
6 went down and had that meeting the  
7 next morning. So it was pretty early  
8 when we went to the mine. And we  
9 went underground to the fresh air  
10 base at one point there and did a  
11 mini-seismic location and, of course,  
12 had everybody briefed. And we set up  
13 arrays and tested about a half hour  
14 up in the Number One entry, headed up  
15 in there. And then somebody said  
16 something about, okay, there's an  
17 airline --- there's a waterline that  
18 they were putting the air through  
19 with a compressor over in the Number  
20 Two entry, and so ---.

21 To let you know what was  
22 happening then, when we got there,  
23 they had pulled back because they had  
24 had another bump, okay? And it  
25 covered up part of the power center.

1 And they were trying to clean up one  
2 of the other entries and --- this was  
3 before they actually started cleaning  
4 up Number One. They were in one of  
5 the other entries over there, Number  
6 Two, I think, and working up that one  
7 and they were over in Number Three.  
8 So One, Two and Three were --- you  
9 know, they were deciding which one  
10 was the best one to go up and try to  
11 work their way in and see how far  
12 they could get.

13 This was about --- I don't  
14 even know whether I wrote a crosscut.  
15 I was thinking 21. Somewhere around  
16 19 or 21 crosscut. That's all I have  
17 in my notes here, but ---. Anyway,  
18 we went there, where they previously  
19 had --- first had the first air base  
20 --- I mean, the fresh air base, what  
21 they were calling it, and they had  
22 pulled back. And they had put red  
23 ribbons across to danger the place  
24 off. And I said, well, how far did  
25 they get up in there? And we

1 actually went in by those ribbons up  
2 into that area as far as we could so  
3 that we'd get a good test away from  
4 the other work that was going on  
5 out by us, okay? So we went in by  
6 those ribbons.

7 And of course the outside knew  
8 that I was going in there as far as  
9 possible, you know, that we felt safe  
10 to go at that point and set up arrays  
11 and get a call back. So we went in,  
12 set up the arrays in Number One. We  
13 put the arrays on the roof bolts and  
14 --- for the mini seismic and tried  
15 pounding and tried listening back.  
16 We got so much communication we would  
17 hear from the bumps actually  
18 occurring, that it was really hard to  
19 figure out, well, is this somebody  
20 pounding or somebody --- or just the  
21 bumps. So that's why we didn't rush  
22 it at all. We took our time and we  
23 listened, in fact, even passed the  
24 headphones, you know, back and forth  
25 to some of them that were there with

1 us, you know, company people that  
2 were with us, and listened.

3 And then I said, well, we're  
4 not finding anything out. There was  
5 no pattern to it, and we tried for  
6 like a half hour. And then we had a  
7 discussion and said, well, you know,  
8 about the pipe over in Number Two  
9 entry. I said, well, that --- if it  
10 goes on up in there, then maybe  
11 somebody would sound back if we hit  
12 on that pipe.

13 And so at that point we went  
14 over in the Number Two entry, where  
15 that pipe was, across the miner. It  
16 was mostly covered up from stuff, so  
17 was the power center in Number One.  
18 And we went over to Number Two entry,  
19 set those arrays right on --- we set  
20 two arrays right on the pipe, okay?  
21 And then we tried pounding on the  
22 pipe and back and took about a half  
23 hour there on that. And there was  
24 definitely --- you know, you could  
25 hear --- if somebody would have been

1       pounding on that pipe, we would have  
2       heard it, okay? So we felt assured  
3       that nobody was up in there pounding  
4       on that pipe back when we hit it.

5       And at that point, we, you know,  
6       packed that up and went outside.

7       That was Number One and Number Two.

8       Q.       Before we get too far, let me  
9       back up there just a little bit.

10      When you first arrived at the mine  
11      and had your meeting, do you know who  
12      was --- who was there from MSHA, who  
13      was in charge from MSHA?

14      A.       I remember seeing --- and, you  
15      know, I'm trying to think back of who  
16      was actually in the command. It  
17      seems like I saw Bob Cornett. I know  
18      that I saw the supervisor, Bill  
19      Taylor, out of the Price, Utah  
20      office, because I'm familiar with  
21      Bill, and I've been out there with  
22      some of those.

23              Bob Cornett, at one time --- I  
24      talked to him several times. And Al  
25      Davis, I don't know what time I ran

1       into him. Those three I can  
2       remember. And Larry Ramey. So those  
3       three. And then, wait a minute,  
4       there's another supervi --- what was  
5       the guy --- I borrowed his cell  
6       phones. Anyway, there was another  
7       field office supervisor, and I can't  
8       --- Farmer, Ted Farmer. So Ted  
9       Farmer was there also. So I can  
10      remember Ted and Bob and Al and Larry  
11      Ramey and Ted Farmer and Bill Taylor.  
12      Now, I don't know which time ---  
13      which ones were there, because I know  
14      they were on shift ---. Well, Al was  
15      on dayshift for the most part, but I  
16      know that the other ones, you know,  
17      swing into different shifts. Most of  
18      the time I worked day and afternoon.

19      Q.       Was anyone from the  
20      company ---?

21      A.       In the command vehicle is  
22      where I worked mostly from. And it  
23      seemed like that the people --- their  
24      people were up on the second floor  
25      above the shop area, in an area

1       there, trying to coordinate with the  
2       engineering department or whatever  
3       was up there. And, in fact, I moved  
4       some of our equipment up there later  
5       and, you know, used one of those  
6       rooms for apparatus and stuff, moved  
7       them into the shop and then took some  
8       stuff up there and set up. And then  
9       I interacted with some of the safety  
10      department who was over there next to  
11      the Conspect system, okay? But  
12      actually to be saying that, you know,  
13      I interfaced with the command, I was  
14      in the command vehicle, but I don't  
15      think I interfaced with the command.

16      Q.       I guess the discussions or  
17      briefing that you had the morning  
18      when you first got there, did they  
19      bring you up to speed on what had  
20      already transpired at the mine,  
21      anything that had already taken place  
22      and already happened by the time you  
23      got there?

24      A.       Yeah, pretty much, just an  
25      overall view of it. I can remember

1 when I first looked at this map that  
2 you've got up or a similar map to it  
3 and saw where these guys were.

4 Q. Uh-huh (yes).

5 A. And I was sort of shocked  
6 because, you know, they were up in no  
7 man's land as far as I was concerned.  
8 That was up between a gob area and a  
9 --- mostly gob areas. You know, what  
10 are you going to say? It was bad.

11 Q. I guess I was kind of thinking  
12 more on the lines of the rescue  
13 operations that might have already  
14 taken place.

15 A. Yeah. You know, there were  
16 some things that happened with them  
17 trying to find a way up in there and  
18 how the entries would close off. In  
19 fact, when I went underground I saw  
20 that, you know, that --- and that  
21 they tried to go around into the  
22 sealed area. And Lyle --- and Gary  
23 Christensen and his group at Number  
24 One seal and couldn't get very far up  
25 in there because they'd run into

1 falls from what have you, bad top.  
2 So I had been briefed somewhat about  
3 that and that it was, you know,  
4 closed back off and that there was  
5 some low oxygen and some ---. And I  
6 probably even got the readings here  
7 of what some of those were. And that  
8 they were going to put down bore  
9 holes because they were already  
10 putting down bore holes by the time  
11 we got there and where the locations  
12 of those were.

13 So those were up in the  
14 command vehicle, you know, that we  
15 keep out in Price. And they were ---  
16 that was on site.

17 Q. I guess after the briefing you  
18 decided to go underground?

19 A. Yes, sir. Yeah. Because that  
20 was my intent. I said, well, if we  
21 can locate these guys and know that  
22 they're there, that would be even  
23 better than a bore hole if we knew  
24 underground where they were because  
25 it was such a long distance, about

1 1,600, 1,700 foot of cover to drill a  
2 hole down and get a --- of course,  
3 now we had already tried to ship a  
4 line up for the capsule to come out,  
5 too, okay? So it was in progress.

6 Jerry Taylor, we had called  
7 him and he was working it out. And I  
8 actually called back to Red Wing here  
9 in Beckley and got the sling  
10 recertified that day, before it got  
11 shipped, FedExed over --- well, not  
12 overnight, but it was like a team of  
13 drivers to get it out as soon as  
14 possible. And I said, well, you're  
15 not going to have a problem because  
16 it's going to take four or five days  
17 to get a bore hole down to accept the  
18 thing if you got it out there. So I  
19 didn't see quite the rush that ---  
20 you know, to get it out there as they  
21 did, but that's okay, they shipped it  
22 as fast as possible and had team  
23 drivers bring it out.

24 And when they got there, of  
25 course it was delivered to the hotel.

1 And I arranged for it to be put in  
2 over near the seismic truck, in the  
3 supply truck. So we decided to  
4 actually store it there until we  
5 decided whether we had a, you know,  
6 location of the bore hole down  
7 because we didn't want to put that in  
8 front of all the families and, you  
9 know, bring it up there to the mine  
10 site, so we took it over there when  
11 it did arrive. I think it was a  
12 couple days later.

13 Q. So the intent or purpose, if  
14 you will, for your first trip  
15 underground was to employ the mini-  
16 seismic system?

17 A. That's what --- yeah, talking  
18 to the people in the command, the  
19 vehicle there and --- you know, they  
20 had people on site, and the company.

21 Q. There were company people  
22 involved in that ---

23 A. Yes, ---

24 Q. --- discussion?

25 A. Yes, there were. Yeah. Bodee

1        --- was his name Bodee out there?

2        Q.        Bodee Allred.

3        A.        Okay.    Anyway, Bodee knew  
4        about it.    And so like I say --- and  
5        a couple other people there with the  
6        company and they went with me.    I  
7        mean, so it wasn't like, you know, we  
8        were going to do something without  
9        the company's consent and without  
10       agreement and command knowing that we  
11       were going and what have you.    So I  
12       know that they were informed of it.  
13       And they agreed, yeah, well, if  
14       you've got that, get it on  
15       underground and go try to find them,  
16       you know.

17       Q.        Is this the first time that  
18       this many seismics have been used  
19       underground in a rescue effort?

20       A.        Actually, no.    That's the  
21       system that we set up at QueCreek  
22       when we actually located the people  
23       who pounded on the pipe.    Actually,  
24       there it picked it up and --- on the  
25       script recorder on it and the

1 headphones. But you didn't need them  
2 because you could hear them on the  
3 pipe. So that's where I come up with  
4 the idea that if you've got a pipe  
5 going in there, let's pound on it  
6 because you'll get a lot more of the  
7 waves. They're called P waves, you  
8 know. They're not aware that they're  
9 moving and displacing a signal  
10 through the vibration. Okay. So  
11 they're vibration P waves, not sound  
12 waves, okay, and that's what we pick  
13 up.

14 Q. So you used it at QueCreek and  
15 here. Did you use it any other time,  
16 do you remember?

17 A. That was used, and I know  
18 successfully, at the Mexico City  
19 earthquake, to find five survivors at  
20 the Mexico City earthquake, back  
21 years before.

22 Q. Okay.

23 A. So I know it was used there  
24 and actually did a good job there, so  
25 there was no reason not to think

1 that, listen, we can get a lot closer  
2 on the ground with these people than  
3 we can get up on the surface. You  
4 know, hopefully they were, what, a  
5 thousand feet, 1,800 foot inby. Why  
6 shouldn't we be able to hear it, you  
7 know, or get the P waves back?

8 Q. What's the limitations of the  
9 mini seismic as far as distance goes  
10 or anything?

11 A. I'm not sure. But I'm sure  
12 through that pipe it would have been  
13 a whole lot farther than what it  
14 would have been through the rock.  
15 So, you know, you try for everything  
16 that you've got. And even --- you  
17 know, I hadn't heard of limitations  
18 on the mini seismic. I've heard  
19 people discuss the limitations on the  
20 big one, you know, the Astro-Med  
21 system, but, you know --- and I'm  
22 sure there's limitations on  
23 everything, but you've got what  
24 you've got.

25 Q. Virgil, before I get too far

1 along, I'm going to bring out a map  
2 of that area. It might help us as we  
3 go along. It will help me anyway. I  
4 don't know about you, but it will  
5 help me.

6 MR. WATKINS:

7 Just make it Exhibit  
8 Two, please.

9 (Brown Exhibit Two  
10 marked for  
11 identification.)

12 BY MR. GATES:

13 Q. I'll just ask you one little  
14 thing on that mini seismic. Can you  
15 actually locate where the --- if you  
16 hear something coming back, can you  
17 locate where it's coming from or do  
18 you just hear it? Can you tell where  
19 it's coming from?

20 A. John Gibson would know more  
21 about that than I would, and he was  
22 still on his way out with the other  
23 stuff. But if I would have heard or  
24 saw anything on that to indicate  
25 somebody, then we would have brought

1 a lot more people in. So, yeah, I  
2 think --- I think what you'd have to  
3 do is relocate the arrays, because  
4 you don't put as many arrays out to  
5 triangulate with it as you do on the  
6 big seismic, like a double diamond.  
7 So a mini seismic, you use a set of  
8 arrays there.

9 Q. What is an array?

10 A. An array is when you put  
11 actually a unit and put it into the  
12 strata where that you get the P wave  
13 back or the seismic playback from a  
14 movement of vibration. It's to pick  
15 up vibration. Now, if you're talking  
16 --- when we talk double-diamond  
17 array, then what that is, if you set  
18 a whole array up, then what you're  
19 doing is you map it where the arrays  
20 are so that when you do get a  
21 vibration back, you can triangulate  
22 on that.

23 Q. The array then is just the  
24 configuration ---

25 A. The configuration ---.

1 Q. --- of the receivers ---

2 A. Exactly.

3 Q. --- that you ---?

4 A. That you set.

5 Q. Okay.

6 A. That's what it is.

7 Q. Okay.

8 A. That's we --- when you're  
9 talking about arrays.

10 Q. Okay.

11 BY MR. WATKINS:

12 Q. So underground, when you set  
13 an array on a pipe, you're actually  
14 talking about two sensors on a pipe?

15 A. I just put two sensors on a  
16 pipe. So when I was setting arrays  
17 out, I was just --- and, you know,  
18 I'm not sure how many --- what's the  
19 max sensors you can put on the mini  
20 seismic, but I put a couple out, two  
21 or three out. I put two on the pipe.  
22 I probably put three when I put ---  
23 was trying the bolts on the bottom,  
24 okay? So I tried the top and the  
25 bottom.

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MR. GATES:

Could you hear the ---  
was there equipment running  
underground?

A. Yeah. You know, you can tell  
a steady --- like when you get a  
vibration that's steady, you can ---  
with the headphones you can probably  
--- you can differentiate between  
---. I thought that we were going to  
have to stop that compressor to do  
that on the pipe. But, no, you could  
--- when I heard --- when we pounded,  
it was totally a different thing. I  
mean, you could tell the difference,  
the difference between somebody  
walking across the floor and somebody  
knocking on the wall. I mean, you  
could tell the difference with the  
headphone. So I didn't have a  
problem with that.

BY MR. WATKINS:

Q. When you went underground to  
deploy the mini seismic, if you will,  
who went with you? Did you take

1 anybody with you from MSHA, from the  
2 company ---?

3 A. You know, I don't even know  
4 that I wrote the names down of who  
5 did go with me, you know, so I'm not  
6 sure.

7 Q. Okay.

8 A. I know there was at least  
9 three or four of us that went.

10 Q. And where did you go  
11 underground to set up? Here's some  
12 colored pens here. Feel free to mark  
13 on the map.

14 A. We were back here about 121,  
15 and I think that's where the first  
16 fresh air base was, was all the way  
17 back here.

18 Q. Okay.

19 A. And there was a power center  
20 over about right here, and we went  
21 inby it. There was a miner in a  
22 crosscut. We went across it to get  
23 to the pipe. And then afterwards,  
24 they, of course, set up the feeders  
25 and stuff.

1 Q. When you're talking about the  
2 map and you say right here, he's  
3 having a hard time picking that up.

4 A. Oh.

5 Q. So would you say between  
6 Crosscut 120 in the Number One entry?

7 A. Yeah, we were in the Number  
8 One entry inby --- right there at 121  
9 intersection.

10 Q. Okay.

11 A. And then we backed up and went  
12 over to Number Two entry, at about  
13 120 across, because there was a  
14 continuous miner setting, I think,  
15 right here. And right across it was  
16 the pipe going up Number Two entry.

17 Q. So you initially was going to  
18 set it up in the Number One entry  
19 using ---?

20 A. We did.

21 Q. You did?

22 A. Yeah.

23 Q. Okay.

24 A. We did set it up in Number  
25 One. We tried for a half hour there

1 at Crosscut 121, and then we backed  
2 up to 120 and set it up on the  
3 four-inch steel pipe.

4 Q. Do you remember who told you  
5 about the pipe or ---?

6 A. Well, we had discussed it when  
7 we came around the corner up here  
8 because the pressure was way up here,  
9 wherever you make a turn up here, 109  
10 or something, where you make a turn.  
11 And the compressor was setting there,  
12 and they had a station, and then  
13 there was flagging up here that they  
14 backed out, okay? And so we decided  
15 --- because whoever was with me had  
16 been up there already, so they were  
17 familiar with it, so they were --- I  
18 took people --- a couple people that  
19 were familiar with the area, you  
20 know. Because you don't want to go  
21 somewhere you hadn't been or you  
22 didn't know what went on.

23 So they had discussed that.  
24 And I said, well, no, we're not going  
25 to turn ---. And I made the decision

1 not to turn that compressor off. I  
2 mean, if they were putting air into  
3 somebody up there, we weren't going  
4 to bother with that, I mean, because  
5 I would have had to run that through  
6 command and everybody. And when I  
7 did set up on it, it didn't interfere  
8 with what I was trying to do, so I  
9 was glad of that, you know, because I  
10 would have hated the thought that I  
11 turned air off somebody.

12 Q. So you set the array up --- I  
13 mean, the seismic up on the pipe and  
14 pounded on the pipe?

15 A. Yes, sir.

16 Q. How long did you do this?

17 A. We took about a half hour at  
18 both locations. In fact, we were  
19 looking for --- you know, we looked  
20 at, you know, well, let's do it for a  
21 half hour. Let's not rush. And I  
22 mean, we weren't holding up anything  
23 else. We weren't in anybody's way.  
24 We were a little harried to be up in  
25 there, you know, because they had

1 pulled it out, so I didn't ---. And  
2 one reason, I figured, well, if we're  
3 going to do an hour in this entry or  
4 a half hour and something over here.  
5 And I told them when I went  
6 underground that they had those  
7 checkpoints where we called them, we  
8 were going in. And we told them we  
9 were going in by there, you know,  
10 where they had ribbons across. And I  
11 told them we'd be about an hour or  
12 hour-and-a-half and to go beyond  
13 that. And I'm sure they would be  
14 really upset, you know, how our  
15 call-backs are. And so we were in by  
16 communication. And I said, well,  
17 we'll do a half hour there and then  
18 we'd go over in the Number Two entry,  
19 at that pipe and try, you know, on  
20 that for a half hour.

21 And I figured that's  
22 sufficient. If we had found  
23 anything, I'm sure there would have  
24 been a lot going on, but we didn't.  
25 And if we would have spent much more

1 time than that, then we would have  
2 had to come back, call and said,  
3 listen, can we go somewhere else and  
4 test. And it really didn't occur to  
5 us, you know, to go over here to that  
6 one. We figured that was the  
7 farthest we could get, was up in  
8 here. And it was inby the sealed  
9 area, so, you know, I felt that was  
10 sufficient.

11 Q. When you said it was harried  
12 to be up in there, what do you mean?  
13 What do you mean by that?

14 A. Well, to see --- you know,  
15 when you're not used to that going  
16 on, you know, the bumping and the  
17 ribs cracking and things, you know,  
18 it took you a while for an old  
19 southern boy to get acclimated to  
20 something like that, which I have  
21 been around bumps before and  
22 outbursts and stuff, but, you know,  
23 not nearly one that had went this  
24 far. This was pretty extreme, in my  
25 opinion.

1 Q. A term we was hearing a lot  
2 through the course of the  
3 investigation has been bumps and  
4 bounces.

5 A. Bumps and bounces and  
6 outbursts ---

7 Q. Yes.

8 A. --- and rib bursts. I don't  
9 know. There's a lot of terms for it.  
10 But no matter where you go, whether  
11 you're out east or out here or out  
12 west, you know, there's different  
13 terms for the same thing.

14 Q. So in your mind a bump and a  
15 bounce is the same thing? Well, what  
16 is your definition of a bump and a  
17 bounce? We'll just go there first  
18 and it might make it easier.

19 A. Well, I think a bump is more  
20 of it relieving pressure pretty  
21 evenly, okay? And then when a bump  
22 happens --- or a bounce, when a  
23 bounce happens, then it's actually  
24 relieving, you know, extreme. I  
25 mean, it's all coming at once. And

1 that's my interpretation of a bump  
2 and a bounce.

3 A bump --- you know, we have  
4 bumps out here, out east. And I've  
5 been in, you know, around some mines  
6 that have bumps. But when a bounce  
7 occurs out there, in their terms,  
8 it's an extreme thing, where that  
9 those are really relieving, the  
10 blocks. And so that top, massive  
11 sandstone, is actually, you know,  
12 crushing pillars out on a bump.

13 Q. So when you have a bounce,  
14 would coal be displaced? Under your  
15 definition, if you had a bounce, coal  
16 would be displaced?

17 A. On a bounce, yeah. And on a  
18 bump you would just have rolling the  
19 ribs a little bit.

20 Q. Okay.

21 A. But on a bounce, it's actually  
22 blowing them out.

23 Q. So when you was underground  
24 doing the mini seismic, was it  
25 bumping or bouncing or both?

1 A. It was bumping.

2 Q. Bumping.

3 A. If it would have bounced,  
4 there would have been people coming  
5 --- you know, running out. I mean,  
6 you would have been trying to  
7 scramble on a bounce.

8 Q. Is it pretty frequent, the  
9 bumping?

10 A. Yes. And from my  
11 understanding, and, you know, correct  
12 me if I'm wrong --- we've got some  
13 roof control specialists here --- but  
14 to my understanding from the workers  
15 and the people, that if it was  
16 steady, okay, and it was making some  
17 noise steady, then that means it was  
18 relieving pretty steady so that, you  
19 know, it was relieving itself. Now,  
20 if it quieted down, the way I  
21 understood it, is you still had that  
22 stuff --- that big, massive sandstone  
23 and all that weight, but that  
24 pressure was building up and that,  
25 you know, you might expect a bump ---

1 a bounce then, which would be a  
2 greater release of pressure --- or of  
3 energy. Because that's what it is,  
4 it's energy, built-up energy. And  
5 once it relieves, that didn't mean  
6 the top was going to come down, okay?

7 I mean, I think there was a  
8 lot of people that think that they  
9 were having falls. And I never saw a  
10 fall in there, I mean, you know,  
11 except up in the gob area I saw some.  
12 But I never saw a fall of top in  
13 there, I mean, other than some local  
14 stuff had been right above coal.  
15 Because that top was still standing  
16 everywhere. So I wasn't worried  
17 about the top, I was worried about  
18 the ribs, I mean, because that's what  
19 was blowing out. We could look 30  
20 foot back over a block of coal and  
21 see, you know, nothing there where  
22 that top had strung down and bounced,  
23 okay? And that's my interpretation  
24 of a bounce. It may not be right,  
25 but that's ---.

1 Q. You mentioned when you went  
2 back over --- you had seen a  
3 separation. Do you remember where it  
4 was at?

5 A. Actually, yeah. Me and Gauna,  
6 we went back over the return areas  
7 there on the one side, in Number  
8 Three entry, up it, and we actually  
9 took pictures of it. And I was  
10 impressed how far that that coal  
11 would actually break out, you know.  
12 Wasn't used to ones that big. I  
13 mean, I've seen some, but not near to  
14 this magnitude.

15 Q. I guess you traveled to the  
16 Number One entry to get inby. What  
17 was the condition like in the Number  
18 One entry?

19 A. Coal out into the --- we were  
20 walking on coal in the middle of the  
21 entry and, you know --- it's not like  
22 ribs falling over, okay? I mean, it  
23 just --- it fractures that coal and  
24 it just blows it out and, I don't  
25 know, just disintegrates. I mean, it

1 doesn't pulverize it, but it breaks  
2 it out, you know?

3 Q. Uh-huh (yes).

4 A. And even when we were loading  
5 this out, after we finally got, you  
6 know, the miner up in there and was  
7 loading this stuff out, I was  
8 surprised at how tightly some of that  
9 coal came out. I mean, it was almost  
10 like that it just closed the entry  
11 off where that you didn't think you  
12 had an opening there. And if it  
13 wasn't for the roof bolts in the top,  
14 you would have thought you were  
15 mining --- I mean, mining virgin coal  
16 at times.

17 Q. When you were underground the  
18 first time you said there was no  
19 mining taking place at that time?

20 A. No.

21 Q. Is that what you said?

22 A. That's right.

23 Q. Okay.

24 A. Yeah, that was before we  
25 started loading everything out.

1 Q. Had they been cleaning or ---?

2 A. Well, okay, they had been  
3 cleaning somewhere over in the Number  
4 Two entry, I believe, or over that  
5 side, the right-hand side of Number  
6 One. And I think this was pulling  
7 back, you know, that little bump that  
8 had occurred before I got there.

9 Q. Okay. There was no discussion  
10 or ---?

11 A. Nobody was hurt. I don't  
12 think anybody had been hurt in that  
13 bump, the bounce or, you know, but  
14 they were scrambling to find out what  
15 they wanted to do to be able to get  
16 up in there. So they hadn't  
17 developed the plans for the rock  
18 jacks or --- and things yet.

19 Q. So after you got done with the  
20 testing in the Number Two entry, what  
21 did you then?

22 A. Went outside. Went outside  
23 and started --- we had some meetings.  
24 And of course I debriefed and told  
25 them, you know, we hadn't heard

1 anything. And then, you know, I had  
2 equipment that needed to be --- for  
3 us to get ready and stuff for, you  
4 know, whatever they were going to do.  
5 So we got some apparatus together and  
6 started checking them and started  
7 ordering some stuff that we needed,  
8 made sure the detectors were right  
9 and stuff, because the discussion was  
10 of us monitoring over here towards  
11 the seals and then mining up through  
12 Number One entry, set that belt head  
13 up and, you know, tail piece and  
14 everything and setting up the --- go  
15 up that entry. So they were going to  
16 switch over. And then there was  
17 discussion, too, also about our guys  
18 went up to the bore hole sites to  
19 check them. So all this was  
20 happening all at the same time.

21 Q. Okay. Had they already  
22 started drilling bore holes at that  
23 time?

24 A. Oh, I think so.

25 Q. Bore hole measurements. Bore

1 hole measurements, 6:30. Bore hole  
2 readings. Yeah. We already had bore  
3 hole readings on the 10th. So, yeah,  
4 there was --- you know, in with this,  
5 they already had been putting bore  
6 holes in, because there was readings.  
7 They had already put --- I don't know  
8 which bore hole it was, but they  
9 already had some.

10 Q. Did you know what those  
11 readings were before you went  
12 underground?

13 A. No. No, I didn't. In fact,  
14 the next day, we were getting that  
15 stuff ready, had a satellite system  
16 being shipped from right here. It's  
17 sitting over there in the high bay  
18 right now. And we had shipped it ---  
19 FedExed it and was going to set it up  
20 for the communication for the surface  
21 and computers. And we went up and  
22 set up the arrays. In fact, I set  
23 the first arrays with the surveyors,  
24 Casey. And what was the other one's  
25 name? Casey and somebody. Anyway,

1 Cody and Casey. So I went up with  
2 Cody and Casey and we had actually  
3 set the arrays out, along with --- I  
4 think Rodney Adamson was helping me  
5 set arrays or whatever, but we set  
6 the arrays for the big satellite ---  
7 I mean, the big system. And Jeff  
8 located his truck on the other side  
9 of the park --- on the other side of  
10 the mountain.

11 And with the terrain --- there  
12 was a big issue with the terrain up  
13 there, trying to get the bore holes  
14 down, how many drills they could get  
15 up on site. And the helicopter was  
16 flying the small rigs in and setting  
17 them up. And then he had a time  
18 setting those arrays. In fact, we  
19 tried to set them and it got dark and  
20 we finished setting those arrays the  
21 next morning, after daylight hit.

22 Q. Do you know when that was?

23 A. That was the 8th, the next  
24 day. So the day after that we were  
25 setting arrays up. Because that

1 truck had got there with stuff, so we  
2 --- at least the supply trailer stuff  
3 had already arrived, so we set the  
4 arrays up.

5 Q. How do you know where to set  
6 the arrays?

7 A. Like I say, I mentioned Casey  
8 and Cody were surveyors. They had  
9 got with Jeff Kravitz and come up  
10 with a double-diamond pattern, which  
11 is what we normally set, up on ---  
12 above the area that they suspected  
13 the miners to be trapped, okay? So  
14 that would have been up in here,  
15 about 2,000 feet inby, right up here.  
16 We were figuring 1,800, 200 --- 2,000  
17 foot inby Crosscut what, 118 to 119,  
18 of where they --- we suspected that  
19 it would be, you know, up in.

20 Q. That other side, does anyone  
21 have any connotations of it, how far  
22 down it will go, anything like that?

23 A. You know, I've heard several  
24 connotations of how far that thing  
25 would go. And I'm not sure what the

1        ---. To be honest with you, if  
2        there's a chance that he could do  
3        some good and we could pick somebody  
4        up, I have no problem working my butt  
5        off setting arrays, you know, I mean,  
6        but, yeah, I've heard limitations.  
7        I've heard anywhere from --- you  
8        know, 1,500 foot is what I've always  
9        heard. And I'm thinking boy, you're  
10       stretching it if you think we're  
11       going to get 18. I had heard that it  
12       maxed out at 15. But, you know, I  
13       think it all depended on what the  
14       strata was. So, you know, there's  
15       always a chance you can pick somebody  
16       up.

17                    And I'll be darned if I'll  
18       shortchange somebody if there's a  
19       chance to get 'em. So we set the  
20       arrays up and we checked them. You  
21       know, later on we changed the  
22       batteries in them and then they  
23       moved, and we moved them. You know,  
24       you do whatever --- you know, if  
25       somebody feels like that there's a

1 chance that we can find and rescue  
2 those guys, buddy I'll work all ---  
3 I'll work all night.

4 Q. The large seismic --- the  
5 electric shot that's set off, I  
6 guess, to initiate the ---?

7 A. Yeah. Yeah. I don't --- I've  
8 got some maps of that. Yeah, we  
9 drilled the holes and charged them so  
10 that --- with the intent of, you  
11 know, putting those shots off and  
12 listening. But I think that was put  
13 off for a while. It was finally done  
14 later on. I don't know what day it's  
15 been. I probably got it in my notes  
16 here. But that was put off because I  
17 think we were trying to load  
18 underground. And we would have had  
19 to stop then to do those shots, which  
20 we later did.

21 In fact, I was stopped. I was  
22 headed up to the mountain to do some  
23 stuff --- some bore holes and just  
24 stopped on the road, you know, by the  
25 people and they tried to listen and

1       they put off shots. And I heard the  
2       shots where I was at. And  
3       definitely, if you were underground,  
4       you would have heard those shots. I  
5       think they drilled 30 feet down and  
6       charged within 10 foot of the top and  
7       tamped 'em. They were good shots.  
8       And they were put off in a straight  
9       line up near --- above where the  
10      arrays were set.

11      Q.       Do you know how many were ---?

12      A.       I think there were six  
13      altogether.

14      Q.       Six altogether. Are those  
15      holes --- were they drilled prior to  
16      the arrays being set, or were the  
17      arrays set ---? How did the  
18      logistics work with that? I'm not  
19      sure.

20      A.       I think those holes were  
21      drilled after we did set the arrays,  
22      because I got there pretty quick  
23      setting the arrays. And it really  
24      didn't matter. I mean, they needed  
25      to be nearby. They don't have to be

1 right at the arrays. In fact, you  
2 wouldn't want them right at the  
3 arrays because they would destroy it.  
4 Yeah. So they were set above the  
5 arrays, looking at the terrain. They  
6 were set above, okay, higher up on  
7 the mountain, because I went over the  
8 mountain and set the arrays from  
9 where the drill sites were.

10 In fact, the drill sites, we  
11 were right in amongst the drill sites  
12 because the drill sites were right  
13 where they were thinking they were  
14 going to locate 'em. So the arrays  
15 were right amongst those. I mean, we  
16 were just above a few of those on the  
17 mountainside.

18 Q. Was Kravitz over the seismic  
19 system or who was over the seismic?

20 A. Yes, Jeff Kravitz and John  
21 Gibson. And I know they had Tom ---  
22 one of them went from the electrical  
23 group with them, working --- Tom ---  
24 not Tom Fircak, but Barkand. And  
25 let's see, Ed Chuta didn't come out.

1 He usually does, but he didn't. But  
2 there was Jeff and John and Barkand.

3 Q. Is Kravitz the only one that  
4 told you where to set the arrays?

5 A. He told me to get with the  
6 engineer who set the arrays, the  
7 surveyors, because they were marking  
8 the locations.

9 Q. Okay.

10 A. But Jeff, yeah, told me to go  
11 with them. And, in fact, I took  
12 Shawn Stage from --- he helped  
13 actually a couple times with the ---  
14 with the computer because he was up  
15 there, and I helped him set a  
16 satellite. He helped me set the  
17 arrays. It's like, hey, these guys  
18 are volunteering. If they thought it  
19 was going to help, you know, they'd  
20 help.

21 Q. I guess did --- as far as  
22 where to set the arrays, I mean, I  
23 know the surveyor could have surveyed  
24 in spots, but ---?

25 A. They were told and I'm sure by

1 Jeff and dealt with Jeff with the  
2 mine overlays and the surface survey  
3 and they knew exactly where those  
4 were as they correlate with my site.  
5 There was a double-diamond setup  
6 there of seven arrays, seven ---  
7 yeah, seven.

8 MR. GATES:

9 Let's make this Exhibit  
10 Three then.

11 (Brown Exhibit Three  
12 marked for  
13 identification.)

14 A. Yeah. There they are.  
15 They're on this exhibit.

16 BY MR. GATES:

17 Q. Do you know if that's where  
18 they were initially set up? I think  
19 you said they were set up and then  
20 they were moved and then they were  
21 moved again. Do you know what was  
22 --- what's plotted on that map there?  
23 Because I don't know, I have a  
24 difficult time seeing a double  
25 diamond there, but maybe I'm just not



1       A.           Yeah. Gary Christensen ---  
2       I've been out there on a couple other  
3       disasters, and I guess I associated  
4       him with Twentymile, but he's  
5       actually the Deer Creek team that had  
6       went in there. And the seismic ---  
7       the trailer --- this supply trailer  
8       that, you know, we usually have the  
9       arrays in, it was drove out, but the  
10      seismic itself was flown out with the  
11      Air Force Reserve out of the 911th  
12      Air Force Division. So I stand  
13      corrected on part of that.

14     Q.           I think when we took a break  
15     we were discussing arrays and the  
16     shot configuration on the surface.

17     A.           Yeah. And I did find the maps  
18     and --- that I had when I was up  
19     there setting the initial arrays, and  
20     I had those points. And, you know,  
21     you're welcome to these maps here  
22     that we had wrote the information for  
23     the survey. So we've got the initial  
24     arrays set up and the location for  
25     the shot holes.

1 Q. Just leave those out there for  
2 a second. When you talk about the  
3 initial arrays, is that the  
4 configuration and the location of the  
5 arrays at the time the shots were put  
6 off?

7 A. No. No. This was the initial  
8 arrays that we had been listening at.  
9 And then I think by the time they put  
10 the shots off they had been moved to  
11 the other location on your all's  
12 map ---

13 Q. Okay.

14 A. --- that --- but this was the  
15 initial ---. Because it was later on  
16 when they put the shots out. So I  
17 think these arrays had been reset to  
18 the other locations on that map.

19 Q. The Exhibit Three map.

20 A. Okay.

21 Q. Okay.

22 A. But this was the initial setup  
23 and the locations from the surveyor.  
24 And they --- it actually even shows  
25 where we moved the blast holes.

1 Q. Do you remember when those  
2 arrays were moved?

3 A. We did some other things in  
4 between them, but I will have it in  
5 my notes here because --- no. No. I  
6 don't have that because I'll tell  
7 you, that was John Gibson and the  
8 electrical guy, ---

9 Q. Barkand.

10 A. --- yeah, Barkand, that moved  
11 those arrays. I didn't move any  
12 arrays. We showed them --- I went  
13 with them one day with Barkand,  
14 showed him where the arrays were,  
15 changed the batteries with him one  
16 day and then they moved the arrays,  
17 okay? Because the next thing we did,  
18 we got those bore hole measurements  
19 and --- of course, we put a speaker  
20 and listening mic in the speaker down  
21 one of the bore holes to listen, you  
22 know, to see if there was anybody in  
23 there. And it actually ended up  
24 going down the pipe. We put it down  
25 the drill pipe, drill steel, because

1 they decided not to pull that drill  
2 steel out of that hole. So we  
3 lowered the mic and the speaker in it  
4 and ---.

5 Q. Do you know which hole that  
6 was, Virgil?

7 A. It was a small hole. I don't  
8 know what number they called it, but  
9 the map ---.

10 Q. The two-and-a-half-inch hole?

11 A. Two-and-a-half-inch hole. It  
12 was the first hole we went through,  
13 two-and-a-half-inch, because the  
14 eight and seven-eighths hole went  
15 down at the 137 south. And the other  
16 one was --- I'm trying to think of  
17 which one it was. It was one inby.

18 Q. So you put it down the first  
19 hole then, the two-and-a-half-inch  
20 hole?

21 A. Yeah.

22 Q. Okay.

23 A. And then they'd --- actually,  
24 when they started to pull the mic and  
25 the speaker out, the cable broke at

1 the joint when they did that. There  
2 was a coupler and we had to fish it  
3 out.

4 Q. How much involvement did you  
5 have with the bore holes?

6 A. Well, when they were  
7 monitoring that, there was a lot of  
8 discussion about being able to get  
9 the call-outs into the command  
10 vehicle down off the hill, because  
11 there was a problem with  
12 communication up there. So what we  
13 did, there was quite a big  
14 involvement with our group because my  
15 MEU guys from out here were the first  
16 ones that we decided to put up there  
17 on the hill to make the call-outs.  
18 And so I split that shift with the  
19 travel time that was up there. I put  
20 Otis Matthews up there and Rodney  
21 Adamson, okay?

22 So initially I had them on 12-  
23 hour shift rotation, on a hot seat  
24 change-out up at the bore hole sites,  
25 and they were to call out the

1 progress of all those bore holes as  
2 they were doing them, plus take  
3 samples and readings and call them  
4 down the hill. So our guys were  
5 responsible for making all those  
6 calls down. And they were supposed  
7 to call like once every hour with  
8 those readings of what the status was  
9 of all the bore holes, drill holes  
10 and what those readings were from  
11 those holes.

12 Q. As far as the location of the  
13 hole, did you have any involvement in  
14 the location of the holes?

15 A. No. They were having meetings  
16 in wherever the command was, I guess,  
17 with Richard Stickler and Kevin  
18 Stricklin and the company, okay? And  
19 I'm sure that Al Davis had input into  
20 it, but I'm sure it was between the  
21 company and MSHA, you know, and  
22 command. And they decided where  
23 those holes were going to go and  
24 which ones would be drilled first and  
25 what size they were going to be. And

1       then discussions where they went  
2       through, listen, how are we going to  
3       get the samples out and what are we  
4       going to do first? Are we going to  
5       listen first or are we going to do  
6       the sample first and --- you know,  
7       there was quite a bit of discussion  
8       about that. And, you know, even  
9       tried to be secure because I guess  
10      from the past disasters we had, then  
11      the issues come up of, listen, who  
12      hears about it. And how --- you  
13      know, and how are we going to release  
14      that information. So, you know, it  
15      gets a little bit touchy when you  
16      call the call-outs and when, you  
17      know, exactly what the readings are  
18      and exactly what the progress is  
19      because you don't want misinformation  
20      getting to the public, okay, or the  
21      families. You want the facts and the  
22      correct information getting there.  
23      So it gets a little touchy there.

24                 And our guys were involved in  
25      some of that. In fact, you know, I

1 actually called one of my guys up one  
2 time, to show you, and he was told  
3 not to tell anyone but make that  
4 call-out on the certain phone and  
5 that, you know, if I leave that, you  
6 know, maybe I'll go get it from them.  
7 Anyway, it gets a little touchy  
8 there, the communications.

9 Q. You had a separate phone that  
10 you called the readings and stuff out  
11 with?

12 A. Finally, we put up a satellite  
13 phone up there and we got one from  
14 the district and then we mounted it  
15 in a vehicle. Because we used Ted  
16 Farmer's personal phone, the way I  
17 heard it, for a while, and we were  
18 doing it on a cellular phone. Well,  
19 cellular systems, you can pick those  
20 up. If it hits a tower, then there's  
21 equipment that you can pick it up.  
22 So finally we went over to a  
23 satellite phone and was calling down  
24 on the satellite phones, which we  
25 felt was a lot more secure.

1 Q. You mentioned earlier you put  
2 a microphone down the first bore  
3 hole.

4 A. That's when ---.

5 Q. Was you involved in any other  
6 bore holes that microphones was  
7 dropped down?

8 A. Not really. We got it out.  
9 And when they --- they actually ended  
10 up with a lot better equipment up  
11 there. They ended up with some  
12 really good video equipment or  
13 down-hole cameras, okay, from the  
14 company, and so they did that. There  
15 was actually --- the first couple  
16 holes there I was involved in  
17 surveying one of them to locate ---  
18 to see where it hit in the mine site.  
19 Because one of the holes went over to  
20 the other entry. In fact, that two  
21 and three-quarter --- or the small  
22 hole veered 80 feet and over to the  
23 next intersection from where it was  
24 projected to be put in.

25 And from that --- I was up

1       there when they performed that  
2       survey, and the guy brought equipment  
3       in to survey that hole, see where it  
4       was. And of course, we found out  
5       that it was --- you know, thankfully,  
6       that it hit in an intersection, but  
7       it was the next intersection over.

8               And then the other eight-inch  
9       hole was almost --- I mean, it was  
10      real good. So I know I was involved  
11      in surveying those two holes. And  
12      trying to get that cable out because  
13      they didn't think they were going to  
14      be able to get it out to be able  
15      to ---. And then they started  
16      compressure up there in one of the  
17      holes and put oxygen down the hole.

18              And of course, when they do  
19      that, you know, the issues are, isn't  
20      the reading from the hole, what  
21      you've got is from what you put in.  
22      So, you know, everything you do in a  
23      situation that's somewhere where you  
24      don't know exactly what is communing  
25      with another area or you don't know,

1 you know, what they have in that  
2 area, any time you get a piece of  
3 information you hope it's right.

4 I know that there was a  
5 miscommunication --- probably not a  
6 miscommunication, when they pulled  
7 the sample out of one of the holes,  
8 the first readings that they called  
9 out ---. And I guess they were  
10 excited to get the hole down and they  
11 wanted to give that reading out. And  
12 it was good air. But that was what  
13 was in the bore hole and was from the  
14 surface, not from what was  
15 underground. They didn't wait long  
16 enough to get that purged where that  
17 they got the new reading of what was  
18 underground. Because I know the  
19 first reading was a respirable  
20 atmosphere, and the next reading was  
21 --- so that's very --- you know, you  
22 got to be really methodic when you do  
23 something and make sure that, listen,  
24 I've thought this through. This is  
25 what you've got, and that you don't

1       make a mistake.

2                   Who's going to think that ---  
3       that hurt a little bit. And if you  
4       call something out and then you have  
5       to recall it, it --- you wonder where  
6       your credibility goes, okay? If you  
7       call something out and then you find  
8       out it's wrong, then you've got, you  
9       know, something in the back of the  
10      mind for the people is, listen, this  
11      is what they called out, is that  
12      really what they got, or are we going  
13      to find out something different  
14      later? So you want to be careful  
15      about that.

16      Q.           Is that the only instance of  
17      an erroneous air reading that you're  
18      aware of?

19      A.           Yes, that's the only one that  
20      I was aware of. There might have  
21      been some other ones, but I think  
22      from that point on that they waited  
23      and they made sure that there was ---  
24      you know, the proper readings were  
25      taken there. If there was, I'd like

1 to be made aware of it because I  
2 wasn't ---.

3 Q. You mentioned a bore hole  
4 camera was brought up and used. Were  
5 you involved in the implant of the  
6 bore hole camera?

7 A. No. No. I did not --- I saw  
8 the videos from them and, you know, I  
9 saw the openings, you know, when ---  
10 and the drillers wouldn't actually  
11 --- would actually know how much  
12 opening that there was when they  
13 dropped the drill down from --- you  
14 know, the returns from the drills and  
15 what have you. And they would give  
16 us a good instrument. They were  
17 pretty well on. I mean, I was  
18 surprised at the drillers to be ---  
19 have 1,600, 1,700 foot of steel  
20 hanging there and they would know  
21 when they hit, when they broke  
22 through and they would know when they  
23 hit rubble.

24 Q. How would they know that?

25 A. You know, it was from the ---

1 they would look at their dials. And  
2 as they dropped that steel down they  
3 would see the change in the pressure,  
4 okay, what their hydraulics were.  
5 And I was impressed by those  
6 drillers. They were really  
7 conscientious people, you know,  
8 putting holes down, and they did a  
9 good job.

10 He actually brought the  
11 cameras back up. I think they, you  
12 know, showed pretty much what the  
13 drillers were hitting. And they hit  
14 pretty much on their holes, too. Of  
15 course, that small one, they tried to  
16 rush it, and it --- the result, the  
17 bigger the hole, the less drift  
18 they ---. And I guess they call it  
19 drift.

20 Q. Any other involvement with the  
21 bore holes that you were involved  
22 with?

23 A. The only other involvement  
24 that I was --- was that, you know, I  
25 questioned why they wouldn't try to

1 drill more at a time. And it was due  
2 to the --- when they had to open up  
3 and set a drill pad, you know, to  
4 clear out for the drill, there wasn't  
5 much room on the mountain so the  
6 roads were, you know --- with the  
7 terrain, it was hard to put roads in  
8 and get those drill pads set. And  
9 the only thing I questioned is why  
10 aren't we getting some more drills up  
11 there, you know. And then toward the  
12 end it was, you know, questioned and  
13 I raised it to a couple people as why  
14 --- you know, why we're not drilling  
15 a couple other locations. And, you  
16 know, they were progressing along  
17 with drilling them, but, you know,  
18 you always wish they would put more  
19 down.

20 Q. Do you remember who you had  
21 discussions with?

22 A. Yeah. Murray's boy, his son.  
23 Bob Murray's son. Because I think I  
24 hurt his feelings a little bit. He  
25 was in the shop area and then he went

1 down. And I said, well, if you  
2 really want to do these, drill all  
3 the holes you can and get more drills  
4 here. I says, it's a matter of  
5 money. I'm sorry, you know, I'm  
6 pretty open with it, you know. If  
7 you pay enough money, you can get  
8 some more drills here and set them  
9 up.

10 Q. That's the only discussion you  
11 had with anyone?

12 A. Yeah. I thought that was  
13 pretty open.

14 Q. How about the ---?

15 MR. GATES:

16 What did he say once  
17 you said that to him?

18 A. He just looked at me. He  
19 didn't disagree. He didn't disagree.  
20 I don't even think he really took  
21 offense to it. I mean, you know, it  
22 was like he acknowledged it. You  
23 know, he heard me.

24 Why would I press it anymore?

25 I made my statement, whether I should

1 have or not.

2 BY MR. WATKINS:

3 Q. How about the ---? Since  
4 we're on the surface, we're going to  
5 stay on the surface for a minute.  
6 What about the robots that were  
7 brought in, what was your involvement  
8 with those?

9 A. Yeah. Which --- you mean the  
10 big one or the small one?

11 Q. I'm talking about the one they  
12 put down the hole.

13 A. Oh, the one they put down the  
14 hole. Yeah, I knew about it. And me  
15 and Jeff --- I looked at a couple of  
16 the brochures that were from the  
17 companies that had them. And my  
18 question to him is if it's that big,  
19 how are you going to get it back out  
20 of the bore hole? You're going to  
21 lose it. And of course, we found out  
22 the answer to that. We lost it.

23 That didn't surprise me a lot.  
24 I know --- we finally got down the  
25 mines with it one time in a bore hole

1 after I had left and took a look  
2 around and finally got it up and then  
3 got it hung. Yeah.

4 Q. Do you remember which hole?

5 A. No, I couldn't tell you. I  
6 remember it was an uncased hole. And  
7 if they encased it, it was too big to  
8 go, so they put it down an uncased  
9 hole. I mean, that's where it went.  
10 And I think Robin Murphy was there  
11 with him from that group out of  
12 Florida. She got a Ph.D. in robots  
13 or something, and I think she was  
14 involved with that.

15 Q. Do you know what company owned  
16 the robot or ---?

17 A. I thought it was a company out  
18 of Canada or something, where it came  
19 from, you know. I asked Jeff, I  
20 said, are you buying this or are you  
21 leasing it. And he said, yeah, I'm  
22 leasing it with the option to buy it.  
23 I said, what do you mean, if you lose  
24 it? He says, yeah. I said, well,  
25 get that money ready. Because it was

1 just too tight. A little rock could  
2 stop that thing without --- you know,  
3 as big as it was going down that  
4 hole. And then we had the big one  
5 there, too, but never did deploy it.

6 In fact, you were out there,  
7 weren't you, Richard, when the  
8 discussion came up after the Roof  
9 Control Committee was there for  
10 another better word. I don't know  
11 what you call these people. But that  
12 we were going to deploy it to take a  
13 look inby after the second incident  
14 that killed some miners.

15 Q. Did you use that?

16 A. No.

17 Q. Okay. I guess we'll go back  
18 underground now. Getting back to the  
19 --- your first trip underground was  
20 on the 7th, and that was to set the  
21 mini seismic.

22 A. Uh-huh (yes).

23 Q. What activity was taking place  
24 at that time underground? Were they  
25 cleaning up anywhere or doing any

1 type of work?

2 A. They were doing some --- they  
3 were scrambling outside to figure out  
4 which entry they were going to clean  
5 up. And I think they pretty much  
6 decided in command --- of course, I  
7 wasn't involved in that, which entry  
8 they were going to clean up, how they  
9 were going to set their belt drives  
10 and, you know, their tail piece and  
11 where it was going to set, and so  
12 they were in the process of doing  
13 that. I think the next thing that  
14 came up on what we were doing, the  
15 capsule arrived on 8/11. There was a  
16 camera up at the top of the coal seam  
17 at 8:41 a.m. on the 11th, so we put a  
18 cable down where the bore hole was  
19 at, and that was in Crosscut 124.

20 Q. The capsule, what was the  
21 discussion about the --- with the  
22 capsule?

23 A. Well, just to have it on site.  
24 And if they would have gotten ---  
25 they thought even drilling a 30-inch

1 hole down might be quicker than going  
2 through the rubble because we were  
3 going so --- by then we were going  
4 real slow. I mean, that loadout is  
5 going really slow. And I don't know  
6 what ---. I'm sure you all  
7 progressed through and have a  
8 timeline of that, but I mean, it was  
9 --- it was tedious going through  
10 there. And so the cameras saw the  
11 mesh and --- let's see. We were  
12 getting readings at that time when  
13 were loading and doing stuff for  
14 that. So by the 11th we were loading  
15 that rubble out. I don't know what  
16 day they started loading it with the  
17 miner.

18 BY MR. GATES:

19 Q. When you were underground the  
20 first day, you mentioned that you had  
21 seen --- I think you had said you  
22 seen where they --- or heard that  
23 they had previously been working over  
24 in one of the other entries ---

25 A. Uh-huh (yes).

1 Q. --- and a bounce had occurred  
2 and ---

3 A. Yeah.

4 Q. --- they were in the process  
5 of moving. Did you see the miner?

6 A. The miner was in the crosscut.

7 Q. Did it have coal around it?

8 A. Yeah. Yeah. Yeah, it wasn't  
9 in an entry, filled-up area, it was  
10 in a crosscut. Because I went across  
11 it to set the array for the pipe.

12 Q. And I guess when I say did it  
13 have coal around it ---?

14 A. There was a power center in  
15 the Number One entry, okay.

16 Q. When I say did it have coal  
17 around it, was it ---?

18 A. It had been covered by a bump.

19 Q. Okay. Were people ---?

20 A. The people that were  
21 around --- I think there --- there  
22 was no significant injuries to the  
23 people, and they pulled them back.

24 Q. So nobody was trying to clean  
25 that material out? Did the miner

1 move or could it move?

2 A. I don't think --- no, it  
3 wouldn't have moved there. I think  
4 it would have been pretty much --- it  
5 may have backed out, but it couldn't  
6 have went forward there. It had  
7 quite a bit on one side of it, and  
8 the other ---.

9 Q. Were there any shuttle cars on  
10 the section?

11 A. They weren't up there where I  
12 was. I don't know what they were  
13 moving with. They may have been  
14 moving scoops over there in the One  
15 entry. I'm not sure. Like I said, I  
16 can't --- all I can speak for is what  
17 I saw.

18 Q. Right. But did you know --- I  
19 guess you mentioned the timeline a  
20 little bit ago. Do you know what  
21 time it was you were underground and  
22 that you were doing those --- doing  
23 the seismic ---?

24 A. The seismic?

25 Q. Uh-huh (yes).

1       A.           6:00 a.m. to 1:00 a.m.,  
2       somewhere in there. That's all I  
3       have in my notes. And I don't know  
4       whether that was exactly when I did  
5       it.

6       Q.           You got more notes?

7       A.           These are a copy of those  
8       notes, but you might not be able to  
9       read them. That's all I had, 6:00  
10      a.m. to 1:00 a.m. --- p.m. So it was  
11      that morning that I was up there.  
12      And that's all I have. The same  
13      thing I have in these notes.

14      BY MR. BAXTER:

15      Q.           Virgil, just a question about  
16      your notes. Did you type up --- the  
17      notes that we have as Exhibit One,  
18      did you type those up later when you  
19      got back here to ---

20      A.           Right.

21      Q.           --- Beckley?

22      A.           But my notes --- I mean,  
23      they've got little schematics on them  
24      of where the bore hole went down and  
25      little things, you know, like that

1 and calculations that I did on how  
2 much was sticking up and how much was  
3 in the earth and the depth and ---  
4 well, there's that one. That  
5 was ---. That two-and-a-half inch  
6 was 138 north.

7 Q. So when you ---?

8 A. Eighty-five (85) south and 138  
9 north. So, yeah, I'm just typing  
10 from these because it's hard to  
11 decipher what I wrote here, if you  
12 look at it.

13 Q. So you relied on those  
14 handwritten ones when you typed it  
15 up?

16 A. Yeah, to type this up.

17 Q. Do you think we could get a  
18 copy --- maybe that's what you were  
19 saying. Can we get a copy of the  
20 handwritten notes at some point?

21 A. Sure. It should be the same  
22 as this, ---

23 Q. Yeah.

24 A. --- except you'll see  
25 calculations in there. And sometimes

1 I'd try to figure something out that  
2 I wouldn't put over here because I'm  
3 not sure if it was my --- me just  
4 guessing, then it's not fact, you  
5 know. It's like here's what I was  
6 thinking, so there's some thoughts in  
7 those notes that might not be  
8 reflected as fact, okay? And  
9 sometimes you try to, you know, ---.

10 MR. BAXTER:

11 I think we'll have to  
12 mark this as ---.

13 MR. WATKINS:

14 Four and Five.

15 MR. BAXTER:

16 We'll mark the map with  
17 the seismic arrays as Four.

18 MR. WATKINS:

19 There's actually two  
20 --- Four and Five or Four or  
21 however you want to do that.  
22 4A and B.

23 MR. BAXTER:

24 Yeah, 4A and B would  
25 work.

1 (Brown Exhibits 4A and  
2 4B marked for  
3 identification.)

4 A. Yeah. Sometimes in your notes  
5 or something you put memory joggers  
6 in, but then there's things in here  
7 of my notes of who I'm calling to  
8 order products off of. And I don't  
9 think that that's, you know, anything  
10 you need relevant to what these notes  
11 are. So any time that I was ordering  
12 parts or ordering apparatus parts or  
13 something like that or phone numbers  
14 for somebody ---. And I know I went  
15 in to --- there was a --- actually,  
16 when the seismic --- or a capsule  
17 came, I actually tracked down some  
18 people up in New York and another  
19 place that had a drill that could put  
20 a 30-inch --- 36-inch drill down.  
21 And, you know, I didn't see where  
22 that was relevant, but, you know, in  
23 my notes it's going to reflect that,  
24 you know, I tracked down a driller  
25 that could put a 36-inch and actually

1 had them go out and check and make  
2 sure they'd work and they ---. And I  
3 handed that over to the company and  
4 said, listen, if that goes down,  
5 here's your driller that you could  
6 contact.

7 BY MR. GATES:

8 Q. Where was that capsule stored  
9 at?

10 A. Right here.

11 Q. That's where it's at? I  
12 assume it's back here now?

13 A. No. It's over at MCI, getting  
14 modifications so that I can enter a  
15 mine with it. We're going to  
16 redesign the top of it and make it a  
17 second section back because we give  
18 one section away to QueCreek in their  
19 museum, so we're going to make  
20 another section. And we're going to  
21 modify the top of it so it's not just  
22 an escape capsule, it's an entry  
23 capsule.

24 Q. So when it was at the mine  
25 site, could anybody have gone --- I

1 mean, had the decision been made to  
2 use it?

3 A. I had been asked.

4 Q. Pardon?

5 A. I had been asked if I would go  
6 in on it.

7 Q. So somebody could go in on it?

8 A. Yeah. Yeah. But we needed to  
9 do a little modification there. But  
10 I would have went in on it. If we  
11 would have been assisting somebody to  
12 get in that we knew that they were  
13 there, there was no question I would  
14 have went in. I mean, that's --- in  
15 fact, Richard Stickler asked me  
16 personally, and I said not a problem.  
17 I said, we need to fix a way. And we  
18 are going to do a modification on the  
19 top of that so that if that thing got  
20 hung in a hole, that we could get out  
21 of it, okay?

22 Now, there is a way to get out  
23 of it, but it's to go on down, which  
24 is not a good place to go in this  
25 situation. So we're rethinking the

1 design of the capsule. And MCI and  
2 AIE, I've already give them a new  
3 design on the top of it, and they're  
4 going to remachine it so that, you  
5 know, we can go down and be able to  
6 take the top off and flip it and come  
7 back out. So if somebody got hung in  
8 the hole, we'd be able to get them  
9 out of the capsule. So that's where  
10 it is right now.

11 BY MR. WATKINS:

12 Q. I think we covered the first  
13 trip underground. Did you make any  
14 other trips underground?

15 A. Oh, yeah. Almost about every  
16 other day or so I'd try to make a  
17 trip underground, because we had MEU  
18 members doing the sampling. We put  
19 in sample lines over on the --- what  
20 I would call the return side of that  
21 section to monitor what was at the  
22 sealed area because it had been  
23 breached, and inby the seal in Number  
24 One and outby some of the other ones.

25 And then also we made a --- I

1 think the last one we put in was down  
2 to another sealed area on the south  
3 side, okay, 107 I think it is.

4 There's a seal down there if you look  
5 at that. And we actually started  
6 mining from the interior.

7           And we pulled all those --- we  
8 had a couple of Thomas pumps set just  
9 to the north of the feeder, and our  
10 guys were stationed over there. And  
11 they'd make sure they'd take the  
12 readings, quantity, quality,  
13 direction and pull those samples.  
14 And the reason we'd put those Tygons  
15 over there and pulled the samples is  
16 there was an area over there that if  
17 you went inby that or over in beyond  
18 a certain point, that you had to wear  
19 an apparatus because behind the  
20 sealed area you knew there was low  
21 oxygen and we didn't want to expose  
22 any of our guys, if that bumped and  
23 breached, to that atmosphere, okay?  
24 So now our guys were given the task  
25 of doing that and of monitoring what

1 the progress of the advancement was  
2 of the loadout.

3 Q. Your guys pulled the samples  
4 from that remote location then?

5 A. Yes. And then they took air  
6 readings for the return air readings  
7 for the quantity of air.

8 Q. How many sample locations did  
9 you have?

10 A. Over in there, there's a map.  
11 Do you want to submit it, too?  
12 Where'd it go? It was laying here. I  
13 had a map here. One through that  
14 one, two, three --- I had three  
15 locations here. This one was on the  
16 other side of the Number One seal.

17 Q. Okay.

18 A. Okay? And these other two,  
19 one was out in Five and Nine. Then  
20 we pulled out of 108 from the south,  
21 come across and up to this location,  
22 because we had pump locations right  
23 here. And we built an airlock so  
24 that we wouldn't monitor ---.

25 In fact, we set these up. I

1 was told by Rich --- by Kevin  
2 Stricklin, when on --- I'm thinking  
3 what day it was. Okay, to do an SF6  
4 survey on 8/11. The discussion came  
5 up and --- that we needed to do an  
6 SF6 survey with sulfur hexafluoride  
7 gas Vacutainer. We used Vacutainers.  
8 And to go ahead and set up so that we  
9 could figure out where the air paths  
10 were in the mines, okay?

11 Q. Uh-huh (yes).

12 A. And in fact, at that point, I  
13 called Rich Stoltz, Chuck Campbell,  
14 some of those up in Pittsburgh, and  
15 we started getting the SF6 gas and  
16 the Vacutainers, had them shipped.  
17 And they arrived earlier than we  
18 thought they would. We had them the  
19 next day. I mean, those boys got on  
20 the stick. And the next thing you  
21 know we had the gas and the  
22 Vacutainer to do an SF6. So we  
23 started implementing these  
24 locations ---. I was trying to think  
25 of the boy's name. He's a

1 ventilation guy that I got with. He  
2 was there on site. Diederich, Kim  
3 Diederich. Me and him got together  
4 and put up these sample locations,  
5 and he started --- the company  
6 actually put in a --- after we  
7 drilled up and got in there with the  
8 company and their other trailer that  
9 they had set up, actually we tried to  
10 type up a place for these second  
11 locations, how we were going to  
12 segregate it and keep those from  
13 being contaminated. That's why the  
14 airlock here, to put those pumps in  
15 between so that we wouldn't  
16 contaminate our samples when we  
17 pulled those SF6 bottles or  
18 Vacutainers so that we could  
19 determine ---. And I think it was a  
20 good idea from Kevin Stricklin, that  
21 we could determine how the airflows  
22 were and air patterns were in that  
23 mine and see, okay, is it breached  
24 into that gob area on the north,  
25 which was a big concern or where that

1 low oxygen and high CO was coming  
2 from --- CO2.

3 Q. Was that test ever performed?

4 A. No. No. We set up for that.  
5 In fact --- and we set up locations  
6 and set up all the Tygon lines, and  
7 we never did perform it.

8 Q. Do you know why it wasn't?

9 A. No.

10 Q. Okay.

11 A. I know the best we could do is  
12 me and Kevin --- or Kim got together  
13 and we were looking at some of the  
14 gases. And to my best knowledge and  
15 me and him talking, that the nitrogen  
16 content would have probably told us  
17 that that was common, reaching over  
18 in the gob. Because normal nitrogen  
19 in air is 80 --- 80 percent. And of  
20 course, the nitrogen over there was  
21 higher in the gob area, and so that  
22 meant that the readings we were  
23 getting here was common with the gob.

24 Q. Readings you were getting at  
25 what location?

1 A. At the bore hole location.

2 Q. At the bore hole?

3 A. Yes. And behind the seal,  
4 where we put the sample in, okay.

5 Q. So the sample line --- the  
6 readings you were getting in the  
7 sample line and the readings you were  
8 getting in the bore hole were  
9 similar?

10 A. Similar in the nitrogen, yes.

11 Q. Similar in the nitrogen?

12 A. Yeah. And the only way to get  
13 that similar reading was probably  
14 that that was common.

15 Q. Did you have this discussion  
16 with anyone else besides Kim?

17 A. No. And one reason not is ---  
18 and you think, well, okay, why ---.  
19 And I know the internal review asked  
20 me, well, why didn't you, at that  
21 time, when we discovered that, why  
22 didn't I feel like, well, okay,  
23 there's not any hope for those  
24 people? Well, for one thing, inby  
25 there was areas that could have not

1       been common with that gob, okay, that  
2       was dead-end areas inby where, you  
3       know, we were getting those readings.  
4       Because those were, you know, right  
5       across from it, but there was areas  
6       up in there that could have been  
7       still, you know, dead end.

8       Q.       Was there ever a time when it  
9       was discussed going from a rescue to  
10      a recovery operation that you know  
11      of?

12      A.       Yeah.    The only time that I  
13      discussed that with anybody was  
14      Richard Stickler, when he asked me if  
15      I would go down in that capsule inby  
16      if they couldn't get there from the  
17      other end.    And I said --- and my  
18      discussion with him was, listen, you  
19      know, am I going to be assisting  
20      somebody to get in that's hurt.    I  
21      said, there's not a problem.    I said,  
22      are we trying to pass by a family  
23      member that, listen, we're getting a  
24      body or we're giving closure to them,  
25      then I feel differently about that,

1       okay?

2                   If it's just a body recovery,  
3       should I expose myself to something,  
4       you know, just for family closure or  
5       am I going to go in that hole to take  
6       a look and we don't have any  
7       indication, no visible sign of  
8       somebody, no audible sign of anybody  
9       from the bore hole, or are we going  
10      to send somebody just to take a look  
11      in an entry that you don't know that  
12      somebody survived. And that's a big  
13      issue. It's a lot different from  
14      going down a hole for that and going  
15      down a hole to help somebody.

16      Q.        What was his response?

17      A.        I think he understood where I  
18      was coming from. I think that was  
19      the only discussion I had of body  
20      recovery, okay? Because other than  
21      that, even at that point, it was, am  
22      I --- you know, are we doing a  
23      rescue, even up to that point, okay?  
24      But if you're asking me to go in and  
25      search an area for a body that I'm

1 not --- or something that I don't  
2 know, I'm not so good with that.

3 Q. Do you know what time frame  
4 this was, Virgil?

5 A. That was way toward the end of  
6 it, not very far before I left.

7 Q. Okay.

8 A. Yeah. That was way toward the  
9 end.

10 MR. BAXTER:

11 Was this after the  
12 August 16th accident?

13 A. You know, I don't even think I  
14 made a note of it. And my notes were  
15 in here, so ---. But it was pretty  
16 late in the whole thing. August  
17 16th. I left on the 22nd, so I'd say  
18 it may have been after that or right  
19 at the end.

20 BY MR. WATKINS:

21 Q. Did you ever have an occasion  
22 to wear an apparatus underground?

23 A. Oh, yeah.

24 Q. And when was that?

25 A. Which dates?

1 Q. What purpose?

2 A. Okay. Well, I was with them  
3 every time --- after Gary Christensen  
4 went, any time that they went in  
5 behind that seal in Number One. I'd  
6 have been either packing or wearing  
7 an apparatus in there, okay? And any  
8 time we went beyond even the Number  
9 One seal, over to put those sample  
10 lines, we had an apparatus on our  
11 back, you know, so that if something  
12 did happen to breach, that we'd be in  
13 that return, we'd have it with us,  
14 okay. So, yeah, I went behind Number  
15 One seal, once or twice.

16 Q. For what purpose?

17 A. To put sample lines in, change  
18 the sensor out on the Conspect  
19 system. Because not only did we put  
20 the sample lines in, the company  
21 wanted Conspect's and they put up a  
22 blew-out station between, you know,  
23 in the return and they put sensors  
24 in, which is good, you know. I mean,  
25 you get those all the time.

1           And what they did, they put a  
2           sensor in that wasn't good or high  
3           enough on the CO, so we went back in  
4           and changed that sensor, you know,  
5           like the next day or so later. So we  
6           installed the line, then we changed  
7           the sensor.

8           Q.           That's the only apparatus work  
9           that was going on behind --- or going  
10          on in that area toward the Number One  
11          seal?

12          A.           Or inby, yes.

13          Q.           Inby.

14          A.           That's correct.

15          Q.           Okay. Were there any problems  
16          with the apparatus that you  
17          encountered? Did the folks have any  
18          problems with the apparatuses?

19          A.           Not our guys.

20          Q.           Any problems with apparatuses?

21          A.           Yeah. I had heard that and I  
22          figured, you know, leave the guy  
23          alone. But that was with Gary and  
24          his group.

25

MR. GATES:

1                                   Just hearsay, you  
2                                   weren't there?

3           A.           That's right, I wasn't there.  
4           And so like, I say, I didn't even say  
5           nothing to Gary yet, but I've been  
6           wanting to.   Is it true?

7           BY MR. WATKINS:

8           Q.           But none of our guys --- when  
9           you were under there, none of our  
10          guys had problems?

11          A.           No.   No.   I was with our guys  
12          and their equipment and they didn't  
13          have a problem.   The only problem we  
14          had was getting parts and putting  
15          enough together to have.   And we  
16          bought some more stuff for Larry.

17          Q.           Did you ever have the occasion  
18          to go underground and actually go to  
19          the face area during that  
20          development?

21          A.           Yeah.   About every two or  
22          three days I'd go --- or every other  
23          day.   When I wasn't up at the holes,  
24          wasn't setting seismics, if I wasn't  
25          up there, I went underground.   So I

1       made sure that, you know --- if I was  
2       at the mine site proper, you know,  
3       down at the portals, then I went  
4       underground every day I was at the  
5       portals.

6       Q.       What was your impression of  
7       the activities taking place in the  
8       recovery area I'll call it, for lack  
9       of a better term?

10      A.       Well, you know, like I said  
11      before, it seemed slow and, you know,  
12      they had some problems. They were  
13      trying to --- when it advanced just a  
14      very few --- a couple blocks, then it  
15      seemed like the holdup was the  
16      equipment trying to haul all the  
17      stuff out to advance, okay? And I  
18      was trying to think of that mine  
19      manager's name out there.

20              Anyway, me and him had a  
21      couple discussions on, listen, why  
22      can't you piggyback with shuttle cars  
23      instead of with those ram cars, you  
24      know, the diesel cars. And so then  
25      there was issues of they would have

1 to bring another piece of equipment  
2 to be able to set the jacks. And we  
3 discussed that.

4 And they put a jack setter on  
5 the miner. They could have hooked to  
6 the miner and set the jacks, which  
7 helped, you know, facilitate it going  
8 faster, to be able to set the jacks  
9 or the rock props and the cables.

10 And then I noted that there  
11 were some issues with, listen, is one  
12 cable sufficient with that chain  
13 link, and it went from one to three  
14 at one point. And there's issues  
15 that came up in, you know --- in  
16 fact, I was up there, you know, with  
17 them, setting jacks. I said, listen,  
18 you ought to be setting these things  
19 as straight as possible, I said,  
20 because, you know, you don't want  
21 them kicking one way or the other.  
22 You want them to support and dig in  
23 as much as possible, so ---. You  
24 know, I guess they were doing the  
25 best they could with what they had.

1 Q. Did you have the opportunity  
2 to actually observe them installing  
3 the rock props?

4 A. I actually helped set a  
5 couple, yeah.

6 Q. Walk me through that process.

7 A. You mean --- they load up to a  
8 certain point. And of course, at  
9 that point, we had --- we tried to  
10 limit the amount of people that were  
11 up there working, okay? So you  
12 didn't want to spend a lot of time up  
13 there. So when they'd back out with  
14 their equipment, then the guys would  
15 --- we'd go up there and we'd dig out  
16 and you'd set your jack with the  
17 pressurizer, pressurize it up. And  
18 if it held, then, you know, it was  
19 pressurized to what, 1,800 pounds.  
20 What was the pressurizing ---?

21 MR. GAUNA:

22 Twelve (12).

23 A. 1,200. But actually --- I  
24 know a couple times we ran it up to  
25 16 or 18 because a couple of them

1 would back off, where they would be  
2 pushing into the bottom and top. But  
3 anyway, we tried to pressurize them  
4 up. And they would put a piece of  
5 --- a block of wood over top of it  
6 and set the jacks and then take it  
7 loose, hook up to another one, set it  
8 and they'd run the chain link up and  
9 then put the ropes on. And they  
10 couldn't hook up, you know, and tie  
11 those in until they got to, you know,  
12 so many jacks, like 40 feet or so.

13 BY MR. WATKINS:

14 Q. Do you remember the last time  
15 you actually helped them set the  
16 props, when that was?

17 A. I don't even think I --- 8/16.

18 Q. The day of the accident, the  
19 second accident?

20 A. Yeah. I went out twice that  
21 day, once for the --- once I was  
22 underground. I was there from 5:30  
23 a.m. to 6:00 p.m. And I went back at  
24 7:00 p.m. after the accident. So I  
25 was underground that morning.

1 Q. Okay. You were underground  
2 that morning?

3 A. Uh-huh (yes). Sometime that  
4 day. I can't say what time it was.

5 Q. How many jacks --- you said  
6 they mined a certain distance and  
7 then they stopped and set the jacks.  
8 How many jacks would you set?

9 A. Well, at the last part they'd  
10 set them in between. So that's ---  
11 you know, as soon as they'd have a  
12 break between hauling it out, they  
13 would go in and set jacks there. And  
14 at first they'd probably set --- you  
15 know, they would set --- when they  
16 had to switch out, it would be four  
17 or five jacks they'd set and they  
18 were close together. I mean, really  
19 close together.

20 Q. On the 16th, the day you were  
21 in there, how many jacks were they  
22 setting that day?

23 A. Oh, what they would do is just  
24 --- at that time, they were setting  
25 them off a miner. So they would set

1       them as soon as they advanced and  
2       while they had time in between  
3       hauling coal out.

4       Q.       Do you know how many jacks  
5       they would set?

6       A.       Usually one on each side.

7       Q.       One on each side?

8       A.       As they advanced.

9       Q.       And you'd set one side before  
10      you'd set the other one or ---?

11      A.       Didn't matter which side.

12      Q.       Didn't matter which side?

13      A.       I didn't see a system to which  
14      side they set first.

15      Q.       Okay.

16      A.       Of course, I didn't work up in  
17      the face that much. When I did, you  
18      know, I'd go right up there with them  
19      because that's the only time ---. I  
20      wouldn't stay up there while they  
21      were loading because by the plan they  
22      were supposed to, you know, stay back  
23      and not expose any more people than  
24      necessary.

25      Q.       How many people would go up

1 and set these jacks between loads?

2 A. There would be five or six  
3 people up there setting jacks when  
4 they were setting jacks.

5 Q. And what would these people be  
6 doing when you got five or six up  
7 there?

8 A. Well, you have a couple guys  
9 cleaning it out, you know, on each  
10 side, and then they'd hook up the  
11 hoses and pressurize them, and then  
12 they would try to move up the chain  
13 link and somebody would be trying to  
14 string the cables because they went  
15 from one to three by the time you got  
16 up there.

17 Q. Were they putting support in  
18 the roof like J-channels or straps or  
19 anything?

20 A. Only if they saw something  
21 that was unsupported. Because we  
22 were mostly under roof bolts. Like I  
23 said, it wasn't normally the top that  
24 we'd have a problem with, it was more  
25 the ribs that you were concerned

1 with. Because the top was --- you  
2 know, I didn't see where it come  
3 down, other than flexing.

4 Q. When they did set these straps  
5 or these J-channels, did ---?

6 A. They'd bring a roof bolter up.

7 Q. Would there be more people up  
8 there than what were normally there  
9 to assist with those or ---?

10 A. Well, that would be whoever  
11 did that. And then there would be  
12 --- they would get everything ready  
13 at the miner that they could while  
14 they were doing that, because they  
15 never backed the miner out any more  
16 than they had to. It was only a  
17 couple --- very few times they'd back  
18 the miner out, you know, after they  
19 were doing it --- setting the jacks  
20 with the miner, which helped a lot.  
21 Of course, that reminded them of ---  
22 they ran it remote, so he wasn't  
23 exposed up in the --- you know, at  
24 the miner. He'd run it from behind  
25 --- between the jacks or at the jacks

1        --- rock props.

2        Q.            So the only person, I guess,  
3        inby the crosscut would be the miner  
4        operator and ---

5        A.            Helper.

6        Q.            --- helper?

7        A.            And an MSHA person.

8        Q.            Okay.

9        A.            The district --- we keep one  
10        MEU guy around there, and the  
11        district always kept someone from  
12        that district up there with --- where  
13        that loading was taken care of ---  
14        being taken care of. So they had one  
15        guy from the district, non-MEU  
16        member, you know, in that area the  
17        whole time. Every time I went up  
18        there, there would be one from the  
19        district there.

20                    Now, the only one that I think  
21        might have done that without us is if  
22        they had an MEU member that was from  
23        a district. And you had a couple of  
24        those, Peter Saint and Gary.

25        Q.            You said they'd be up on a

1 section. Would they actually be ---  
2 when they was cutting coal, they'd be  
3 up where the miner was at?

4 A. Yeah. I think at times Peter  
5 Saint would go up there. And it  
6 wouldn't surprise me if Gary didn't  
7 sometimes --- right where they were  
8 cutting cal, because you got to know  
9 Peter Saint. He's going to be there,  
10 you know. You couldn't keep him down  
11 if you told him you were going to  
12 fire him. So I know he'd be up there  
13 when they were doing it. And I felt  
14 that Gary Christensen --- I mean,  
15 Gary Jensen would be up there a lot  
16 --- quite a bit if they were cutting  
17 coal.

18 Now, our guys, they were told  
19 --- the MEU guys that we have, we  
20 told them, listen, no more exposure  
21 than you have to have up there.  
22 That's why --- and it just so  
23 happened that Scott Johnson's  
24 rotation was with Gary that night  
25 that it happened, and Scott was in

1 the return and getting the readings  
2 and the samples while Gary was up  
3 there. And I don't know whether  
4 there was a district guy up there  
5 with Gary or not. And I'm sure you  
6 do because you all have been doing  
7 this.

8 Q. Let's go ahead on to the 16th.

9 A. Well, there was because there  
10 was no one hurt. So there you go.

11 Q. Okay. On the night of the  
12 second accident, the 16th, how were  
13 you notified of that accident?

14 A. By telephone. I was at the  
15 hotel, in my room.

16 Q. Do you know who called you and  
17 what time it was and everything?

18 A. It was before 7:00 p.m. or  
19 right at --- 6:39. 6:39. I wrote it  
20 down. I looked at the clock and it  
21 was 6:39 p.m. by the clock in the  
22 room when I got the call. And they  
23 stated rescuers were missing and get  
24 your --- whoever you can. And I  
25 started making calls to the other

1 rooms, and we headed on up there.

2 Q. Do you remember who called  
3 you?

4 A. I didn't write it down.

5 Q. Okay.

6 A. Somebody --- and I'm sure it  
7 was somebody from the command  
8 vehicle. I mean, I can almost  
9 guarantee that someone in that  
10 command vehicle called us and said  
11 you need to be up there.

12 Q. Just get me through from the  
13 time you got the call, what you did  
14 that night or that evening.

15 A. When I got up there I talked  
16 to --- geez, I don't even know who I  
17 talked to. It was mostly MSHA people  
18 that I talked to when I arrived at  
19 the mine that night. And I asked,  
20 you know, how many you had and what  
21 they were bringing out, and I was  
22 told that there was nine total, okay?  
23 And --- that had problems and that  
24 have been injured, and at that time,  
25 I guess, one was a fatality. Gary

1       was definitely not a fatality,  
2       because I talked to Gary Jensen, and  
3       I put oxygen on him when he got  
4       outside.

5               So I met them at the portal,  
6       and I came down, and they were  
7       talking, and someone, and I don't  
8       know who, from MSHA asked me to see  
9       what --- because I had already put my  
10      clothes on by the time they got those  
11      out of there. And Gary and a couple  
12      --- and they was like bringing them  
13      out on those trucks, in the back of  
14      those trucks on stretchers and what  
15      have you.

16              And I remember that someone  
17      from MSHA, the name's --- you know,  
18      on that had been working in the  
19      command had asked me, see what you  
20      can find out from Gary. And I went  
21      over to Gary and he was laying there  
22      on a stretcher. He came out of the  
23      truck. I helped --- in fact, I  
24      helped sit him down. And I asked him  
25      --- I said Gary what --- you know,

1 are you okay, and --- you know. And  
2 I'll be honest with you, I didn't ---  
3 he said, boy, it was bad, and that's  
4 about all he said about the incident,  
5 okay?

6 And I know that at that point  
7 the --- instead of asking him that, I  
8 asked him, you know, where you heard  
9 that, Gary, you know. And he was  
10 having a real hard time, you know,  
11 even talking very much. And the EMS  
12 people that were on site kept asking  
13 him --- started asking what's his  
14 medications he's on, what's his  
15 allergies, what kind of conditions he  
16 had. And I said, listen, I said, you  
17 know, this guy is a Mine Emergency  
18 Unit guy. I said he passed the  
19 physical. I said he does one every  
20 year. He's in good physical --- fit  
21 for duty. He's not on a bunch of  
22 medications or he wouldn't be on this  
23 mine rescue team. And I said what  
24 you ought to do is treat his  
25 injuries.

1                   And I looked back at Gary, and  
2                   I said, Gary, I said are you having a  
3                   hard time breathing? And he said he  
4                   was. And I looked over to the EMS  
5                   people, and I said you need to put  
6                   him back on medical oxygen. I said,  
7                   because he's having a hard time  
8                   breathing.

9                   And I walked away and I talked  
10                  to somebody else, and I looked back  
11                  over there, and they hadn't, so I  
12                  went and got one of our units and I  
13                  put him on medical oxygen. And then  
14                  they loaded him, and ---. And I went  
15                  on under there. Because I asked  
16                  them, I said, listen, I'm going to go  
17                  get --- help get the rest of them. I  
18                  said there's several more under  
19                  there.

20                 And so we got a truck. And me  
21                 and Peter Saint, and I don't know who  
22                 else, but we headed under there. I  
23                 think it was three MEU members and  
24                 one truck driver. And that boy was  
25                 so shook up he shouldn't have been

1 driving the truck, the guy that took  
2 us underground.

3 Q. Had he been underground  
4 before?

5 A. He just come out.

6 Q. He just brought one of those  
7 guys out?

8 A. And he was so shook up, I'll  
9 be honest with you, we should have  
10 drove the truck. But that's not our  
11 job.

12 Q. Do you remember who that was?

13 A. I don't know who it --- he was  
14 hurt. He was tore up. He got lost  
15 in the mud. He turned off and then  
16 --- he was like, damn, I thought we'd  
17 never find our way back. We talked  
18 to him and got it straightened out.  
19 It was sad. It's understandable, a  
20 guy that's not used to seeing that,  
21 you can get shook up.

22 Q. The truck driver, you and  
23 Peter Saint?

24 A. There's one of them ---  
25 another MEU member.

1 Q. And you proceeded underground.  
2 Did you make it all the way to the  
3 face, or ---?

4 A. We passed a couple others  
5 coming out, and by the time we got up  
6 to where you make a turn up 107 and  
7 go up to the section, Scott Johnson  
8 and the rest of them were on their  
9 way out. So we turned right there  
10 before you make that turn, that last  
11 turn, and then we all went in.

12 Q. Okay. When you went outside,  
13 was there a debriefing or anything  
14 that you participated in?

15 A. There sure was. Murray got up  
16 and they put some maps together and  
17 stuff in the shop area, and they  
18 reviewed --- you know, to try to get  
19 all the information of when the  
20 accident --- what took place, okay?  
21 And so they reviewed that on the  
22 board.

23 And that was from what they  
24 were doing at the time it occurred  
25 and where everybody was is, you know,

1 the --- because everybody --- like  
2 the people that were up there would  
3 come in and say, okay, this was the  
4 way this was. And I know that Scott  
5 had been back in the thing.

6 I know Otis --- because I  
7 asked Otis, I said --- because I  
8 talked to him up there before we got  
9 outside, and I know that he was  
10 outside, and Jensen with MEU and  
11 Scott with MEU were underground, and  
12 we'd do a rotation as normal for what  
13 we do, and so when they got the call,  
14 Otis got apparatus and immediately  
15 headed underground with apparatus,  
16 because they didn't know, you know,  
17 what they needed. And I'm sure there  
18 was a bunch of first-aid gear and the  
19 resuscitators and everything that  
20 went underground with him, and  
21 several other people went --- first  
22 responded to it.

23 And I know that Scott had been  
24 --- Gary was up at the face area with  
25 the other MSHA guy from the District,

1 Scott had been assigned --- or his  
2 rotation was at the --- he was over  
3 in the --- taking the air readings  
4 and the samples. And so Scott went  
5 up. And this is me talking with him.

6 Q. Uh-huh (yes).

7 A. Scott went up and responded to  
8 trying to get those guys help and try  
9 to get them out, and we took some air  
10 readings and saw that the oxygen was  
11 low. And we hung curtains that had  
12 been knocked out, and we established  
13 enough ventilation that it cleared  
14 the area so that nobody else would be  
15 overcome by, you know, the low oxygen  
16 and what have you. And then they  
17 proceeded to get everybody out.

18 Whether they had to dig them out or  
19 whatever, you know, I'm sure they  
20 did. They had cover --- they come up  
21 and get them out of there.

22 Q. You mentioned earlier that you  
23 had the opportunity to be in the face  
24 there several times, and actually  
25 helped them set the props and stuff.

1 A. Uh-huh (yes).

2 Q. When you were in the  
3 debriefing, if you will, following  
4 the second accident and everybody was  
5 in the shop area, was there anything  
6 that was discussed that you thought  
7 was kind of abnormal about what was  
8 going on at the time of the accident?

9 A. I don't know nothing ---  
10 anything about ---. I think it just,  
11 you know --- I think it shocked them  
12 all when it happened.

13 Q. I was thinking about when you  
14 had mentioned earlier you might have  
15 had five people setting the props,  
16 they would come back in.

17 A. Well, there's a lot of people  
18 up there, if you ask me, that were  
19 involved up there in the face there.

20 Q. Was there any discussion about  
21 why there were so many people in the  
22 area?

23 A. I don't know --- no, I don't  
24 think there was.

25 Q. Okay.

1 A. You know, I was surprised that  
2 there was that many up in that area  
3 inby, you know. And I think they  
4 were setting jacks and stuff when  
5 that happened, because that's  
6 probably why you had that many up in  
7 there. Am I correct ---?

8 Q. Yeah.

9 A. I think that's what they were  
10 doing, they were actually installing  
11 a bunch of stuff, and that's the  
12 reason they had the people up in  
13 there. And you did get more people  
14 --- if they would have been loading  
15 when that happened, I don't think you  
16 would have had that many involved and  
17 injured or killed.

18 Q. During the second accident, do  
19 you know if it was back in there  
20 during shift change, or was ---?

21 A. You know, I don't know even  
22 --- I didn't even --- let's see, that  
23 should be there. I don't know what  
24 --- that many changing ---. Because  
25 I know I had my guys on eight hours,

1 they had it on a 12-hour day for a  
2 while. They kept changing the time  
3 that they'd start and switch.

4 Q. How did that work?

5 A. Their shift started --- I  
6 think at the last part they would  
7 switch out, with Gary, and with us,  
8 And we'd have to be up there at a  
9 certain time just to be able to catch  
10 a ride in. If you missed a ride,  
11 then it was a real pain to try to  
12 catch a --- you know, unless there's  
13 someone else going on. So they were  
14 down to minimum crews, and most of  
15 them --- I think a lot of the regular  
16 miners, you know, had left already,  
17 because there was like a dozen that  
18 got transferred to another mine,  
19 other locations instead of being up  
20 there. They had foremen running  
21 equipment.

22 So they had changed their  
23 starting time a couple times during  
24 the fruition of this. If our guys  
25 were there at the right time, they'd

1 get a ride in.

2 Q. Were you on any particular  
3 shift?

4 A. Me?

5 Q. Yeah.

6 A. No. I think I worked on most  
7 of them. I mostly tried to work a  
8 day and split the afternoon with  
9 Larry --- with Larry and some other  
10 members of the crew, like a long  
11 dayshift.

12 Q. Okay. So who was actually,  
13 other than the MEU who were  
14 underground at the time, or at any  
15 given time?

16 A. Well, the ---.

17 Q. Who did they report to or  
18 respond to?

19 A. That would have been --- if I  
20 wasn't on site then Larry would be  
21 responsible, because we didn't have  
22 no setup for what we normally do with  
23 having the three guys, and three guys  
24 on the surface. Or if you had two on  
25 the surface, switch in a 12-hour day,

1 so whoever was in command ---. And  
2 you don't realize --- and so I flex  
3 from that a little bit, too, because  
4 we had a couple of discussion about  
5 that, but this wasn't normal mine  
6 rescue, okay?

7 This was more of --- if it  
8 would have been a normal mine rescue,  
9 I think you'd have had a little more  
10 supervision, you would have had a  
11 little bit of more control from the  
12 command, or what I would normally  
13 refer to as command, because this was  
14 where --- this is --- the progress in  
15 the mine was more the issue, not,  
16 listen, what was this person doing,  
17 what was your MEU guy doing? Were  
18 you getting backup from somebody,  
19 because the only time that we know  
20 --- that was the times I took care of  
21 it; okay?

22 I mean, if guys are going to  
23 go under oxygen, you can guarantee  
24 that Virgil was going to be involved  
25 in it. And I'd make sure that the

1 apparatus was there, make sure that  
2 we had man-for-man backup, the whole  
3 nine yards.

4 While this was going on, Larry  
5 let some of his guys go, because they  
6 wanted to go back to --- and limit  
7 the amount of people that had to work  
8 there and had to be exposed there,  
9 and that they needed. In fact,  
10 several times during this rescue-and-  
11 recovery operation, we were told that  
12 we had to --- I'm going to say  
13 justified, I'm going to say justify  
14 what our guys were doing and what  
15 shifts they were doing and what jobs  
16 they were doing and where they were  
17 doing it, okay?

18 Like when I had guys up on the  
19 --- at the bore holes, you know,  
20 well, we know why they were there.  
21 And what were the other guys doing,  
22 why were they there. And Larry,  
23 several times, had to send some of  
24 his guys home, because to send ours  
25 home, you'd have a hard time getting

1 back. So he tried to send his if  
2 there was a question of how many  
3 people we have, you know, on site,  
4 and he'd send his, because he knew he  
5 could get them back in a couple hours  
6 or a day, you know, so they'd go do  
7 their jobs.

8 So, yeah, it was questioned  
9 several times that we had to put a  
10 list up on the board and who's doing  
11 this, and what were they doing, and  
12 what shift were they working. And so  
13 yeah. And that's understandable.  
14 You know, use your resources so that  
15 they were being used properly, you  
16 know, and you aren't just having  
17 people that didn't have something to  
18 do.

19 But as to answer your  
20 question, this was not normal mine  
21 rescue work. This was a try to load  
22 it out to get up to where you thought  
23 they were, you know, and that was  
24 like in --- in fact, when I was --- I  
25 watched them run, you know, a little

1 bit up there. And I'm thinking, you  
2 know, if one of those guys, if we run  
3 into them, what are we going to see,  
(b) (7)(C) ? I mean,  
4 you know, how are you going to know  
5 that you got somebody, because you  
6 (b) (7)(C) . You  
7 saw a piece of a hat, a hardhat or  
8 something. And I'd hope I'd see a  
9 hardhat before I saw the rest of  
10 them, you know, because ---.

11 You know, those things cross  
12 your mind. And I'm sure it crosses  
13 the miner's minds that asked to be  
14 relocated. And it crossed their  
15 minds about, listen, you know, I know  
16 what these bumps do, am I protected?  
17 Because I know the issue came up with  
18 flak jackets, and the issue came out  
19 with shin guards, and --- you know,  
20 should we have a helmet? So you know  
21 that they all had concerns, plus ---  
22 you know, like when I was up there,  
23 we were wearing flak jackets, and  
24 they're wearing knee, shin guards and  
25

1 elbow things, why am I walking up  
2 here like I am, you know?

3 And of course, I asked for  
4 some stuff, and they actually put in  
5 a few extras for our guys if they  
6 wanted to wear them. But it was so  
7 deemed, I guess, that --- it wasn't  
8 mandatory, but it was around, though,  
9 if you wanted it. And a bunch of  
10 guys left --- to be honest with you,  
11 I would see as much protection in the  
12 performance and stuff around the  
13 equipment as what the miners that had  
14 been there had on.

15 Q. What were other miners  
16 wearing?

17 A. Oh, they'd wear shin guards  
18 the whole way up, they'd wear --- I'd  
19 see somebody with elbow protection.  
20 I'd see flak jackets, which were, you  
21 know, like Kevlar jackets for police  
22 protection, you know, bulletproof  
23 vests, whatever you want to call  
24 them, flak jackets, and they --- you  
25 know, some of those boys wore them,

1       you know.    You'd see them with  
2       goggles on.   And some of them --- I  
3       think they were concerned.

4       Q.        Did any of your guys wear them  
5       or ask for them?

6       A.        Well, I put them on one time,  
7       and I was thinking, boy, I'm glad I'm  
8       not standing up here all day.   But I  
9       put some of that on once, and, boy,  
10      I'm thinking, you know, I'll just  
11      limit my exposure, and --- not that I  
12      wouldn't go up there, but it was like  
13      no, I didn't --- I didn't care to  
14      wear that stuff either, you know.  It  
15      was hard to move around in, and the  
16      more you put on, the more restriction  
17      you got.   I'm carrying a pile of  
18      stuff under there, if you look at my  
19      belt.

20      Q.        Did you wear it because you  
21      felt unsafe, or ---?

22      A.        No, because I saw everybody  
23      else wearing it at that point, and I  
24      put it on.   And later on I didn't see  
25      them wearing it, so I didn't put it

1 on. And it was like --- that's what  
2 I did. I did what the rest of them  
3 did. And I felt like --- you know,  
4 somebody's looking at this, they're  
5 going to make a --- you know, make a  
6 decision whether or not to --- if I  
7 saw a bunch of guys wearing them, I'd  
8 put mine on, too. You do what you  
9 see, you know, and you do what you  
10 hear, you know, if you think that  
11 that's a credible source.

12 Q. And originally some --- I  
13 think some people asked to be  
14 removed?

15 A. There was --- several of the  
16 miners that were there on the initial  
17 loading asked to be reassigned to  
18 another mine, and I think they did  
19 reassign.

20 Q. You don't know who any of  
21 these people were?

22 A. No. You know, to look at  
23 those guys and try to remember their  
24 names, it's ---.

25 Q. It's hard.

1       A.        You know, unless you're  
2       staying there and working all day  
3       with the guy ---. I borrowed  
4       something off of somebody, I had to  
5       write his name down so I'd give it  
6       back to him, you know, because you  
7       meet so many people. And --- you  
8       know, what's on my mind and what's on  
9       their mission is two different  
10      things. So I've got the things that  
11      I'm worried about, and the mission  
12      that I go on, and whatever I'm doing  
13      that shift, and that's my primary  
14      goal. And the people involved is who  
15      I remember the names of that shift.  
16      The next shift, I don't know even  
17      know who they are, because it's  
18      somebody else.

19      Q.        Did you personally have any  
20      discussion with people who asked to  
21      be removed?

22      A.        No. No, I didn't.

23      Q.        Okay.

24      A.        I know that they did that,  
25      and ---.

1 Q. How do you know that?

2 A. Huh?

3 Q. How do you know that?

4 A. Because I saw the other people  
5 take their place.

6 Q. Okay.

7 A. Over in the Conspect board I  
8 saw their names come off. They  
9 changed the names on the check-in  
10 system, because you went into the  
11 zones.

12 Q. Did anyone have any concerns  
13 or express any concerns to you about  
14 the safety or the conditions  
15 underground?

16 A. Poor old Rodney Adamson, love  
17 his heart. I was with him a couple  
18 times, and when that bumped a little  
19 bit, he just --- it was all he could  
20 do not to run off like a jackrabbit,  
21 you know. And you could see it in  
22 him. It wasn't that they expressed  
23 --- you know, they're not scared, or  
24 they wouldn't volunteer for this  
25 anyways, my guys.

1           The guys that I'm involved  
2 with are pretty cool. I mean,  
3 they've been exposed to some things  
4 that you were exposed --- you know.  
5 They understand that they're not  
6 there in the best conditions. And  
7 when we go for a rescue and recovery,  
8 I tell you what, MSHA and everybody  
9 in headquarters, anybody out there  
10 needs to take their hats off to those  
11 guys, because our guys that go when  
12 everybody else is running, and so  
13 they're not scared. They want to be  
14 briefed on what the hazards are.  
15 They want to know what --- that we  
16 feel that it's safe for them. And  
17 they trusted --- and I'm thinking  
18 about Ron Costlow and Charlie Pogue  
19 and myself, and they looked at all of  
20 our team members that we put with the  
21 younger guys, that they have  
22 confidence that we are watching out  
23 in a bad situation for the best we  
24 can do for them.

25           And so I don't get very much

1 feedback that they're scared. They  
2 won't show it. Our guys are just too  
3 proud to say, listen, I'm scared to  
4 go there, you know.

5 And if they do, usually  
6 there's just --- there's just a small  
7 issue to say, well, how do we handle  
8 this? What do we do with the battery  
9 in an explosive mixture, you know.  
10 What do we do with this? And if we  
11 explain it to them, they understand.  
12 And they say, yeah, that makes sense,  
13 you know.

14 And you got to realize, all  
15 these people --- and they were  
16 depending on that what they were  
17 doing and the things that they were  
18 setting, the ropes that they were  
19 putting in, that that was enough  
20 protection for them. And they felt  
21 like then if those people made that  
22 decision that it was safe. And I am  
23 one that went right along with it.

24 I mean, if they were the ones  
25 that said this is what we normally do

1 if we have to go back into an area to  
2 make it safe, then that's what we'd  
3 do. And, you know, looking back you  
4 can say, well, you know, I would have  
5 done this, or we should have set  
6 steel sets, or we should have set  
7 arches, and --- and I had cans on my  
8 mind.

9 I would go back and throw a  
10 fit, because I saw them DVT, and I  
11 would go by all those cans, and I  
12 said boy I never saw a can kick, you  
13 know. And I'd say that --- I know  
14 Rodney Adamson probably hated to go  
15 by that, matter of fact, you know,  
16 because I'd say it every day.

17 But, you know, if you knew ---  
18 if anyone knew what was going to  
19 happen on that second event that got  
20 our guys and their guys and injured  
21 people, we would have done it  
22 different, I'm sure we would have  
23 done it different, you know. There's  
24 not a person that was there at that  
25 site that wanted to get anyone else

1 hurt, and that had any goal in mind  
2 but to get to those miners that were  
3 in there. And if they didn't feel  
4 like that those were alive to go  
5 after, you would probably have saw a  
6 bunch more leaving, you know. They'd  
7 say, listen, why am I going to dig  
8 somebody else out to put them  
9 underground again. And that's the  
10 bottom line. And when I left, and  
11 after so many days went by, you know,  
12 it was like, listen, what's the point  
13 now if I'm going to dig somebody out,  
14 get anybody out so I can bury them  
15 again.

16 Q. You mentioned two guys that  
17 expressed they want to be briefed.  
18 How did their briefings take place  
19 when they was on a split shift like  
20 that?

21 A. Written command. If they  
22 wanted samples and they had a list  
23 --- and actually, what they did, they  
24 finally after a while, we had a list  
25 of the things when you were supposed

1 to get them, when you were supposed  
2 to take samples, what you were  
3 supposed to call out when you did the  
4 call-out, because our guys were  
5 responsible to give the update  
6 call-out out to the outside. Just  
7 like if they were up on the bore  
8 holes, it was their responsibility to  
9 call out to the command and to  
10 outside to give them updates. So  
11 they were expected.

12 If they had a bump, a  
13 significant bump, then they recorded  
14 the time and they put it out. And I  
15 think the roof control people, the  
16 way I understand it, they had the  
17 equipment set up, the monitor, to  
18 listen to how much a shift there was  
19 in the strata. And I think they were  
20 --- thought they were disseminating,  
21 listened to when these initial --- or  
22 when these significant bumps were  
23 taking place that would actually  
24 knock coal off the ribs, okay? So I  
25 know we'd track that, and if one of

1 those occurred, our guys, they were  
2 in the return, knew that they had to  
3 call out and say listen, we're okay,  
4 or somebody was going to go check on  
5 them, because they were sort of over  
6 there by themselves.

7 When they did that, although  
8 they were calling out regularly, too,  
9 but if there was a bump, then they  
10 were to call. And so I don't know  
11 who --- you know, what was taking  
12 place with the information that we  
13 were sending outside, or the  
14 progression, I'm sure --- I know who  
15 was doing that, the company and us.  
16 And I'm sure that there's people out  
17 there from the vent department that  
18 were disseminating, okay, what are we  
19 doing with the gases and the readings  
20 and disseminating that.

21 And so --- you know, when you  
22 get all the pieces of the puzzle to  
23 say, listen, this is how, you know,  
24 this is progressing, this is the  
25 hazards that there are, this is

1        what's taking place, this is the  
2        movement of the ground for the roof  
3        control specialists. And I'm sure  
4        whoever was in charge, whether it was  
5        Kevin or Stickler, or whoever, and Al  
6        and whoever was out there in that  
7        group they were making the decisions  
8        with the company, they was  
9        disseminating, hopefully, all that  
10       information.

11                    I think, probably, there was a  
12       lot of focus that, listen, all this  
13       was good, and now let's focus on  
14       getting there. And I think the focus  
15       directed a lot on that, okay, of  
16       listen, let's get the bore holes down  
17       where we find somebody, or get there  
18       through this, and hopefully you get  
19       help in that area. So I --- you  
20       know, it was all directed that way.

21       Q.            Did you participate in the  
22       plan development or any of the plans  
23       with the development?

24       A.            I helped with the placement of  
25       those on that one survey that we were

1 going to do. And I thought that  
2 Kevin knew that we were --- on the  
3 SF6 survey, so that we would  
4 implement getting the --- a plan. I  
5 did help develop that one plan, and  
6 that was a plan to put those sample  
7 lines in there. The company wanted  
8 to put those additional sensors in,  
9 and I didn't see any big issue with  
10 that. Because the more sensors we  
11 get, the more information we get, the  
12 better off we are. So I did help  
13 implement that and develop it.

14 And I know there was some  
15 discussion in, you know, whether the  
16 command knew it. And I'm thinking,  
17 yeah, you all know that --- Bill  
18 Taylor walked in there with us that  
19 time on that. And finally, it got  
20 approve. We were standing there  
21 waiting to implement it with our  
22 apparatus there, and finally it got  
23 approved, and we went and did it.  
24 And not only that, we did one the  
25 next day to add some more.

1           So I'm thinking, well, okay,  
2           that's --- undoubtedly the plan was  
3           okay. But the rest of those, you  
4           know --- you know, what I did there  
5           was implemented what it came down to.

6                           MR. WATKINS:

7                           Off the record just a  
8                           moment, please.

9           OFF RECORD DISCUSSION

10                           MR. WATKINS:

11                           Back on the record. On  
12                           behalf of MSHA and the  
13                           investigation team, I want to  
14                           thank you for your appearance  
15                           here today and answering these  
16                           questions. Your cooperation  
17                           is very important to the  
18                           investigation as we work to  
19                           determine the cause of the  
20                           accident.

21                           We do ask that you not  
22                           discuss your testimony with  
23                           any persons who may have  
24                           already been interviewed or  
25                           may be interviewed in the

1 future. I just want to ensure  
2 that we obtain everyone's  
3 independent recollection of  
4 the events during the  
5 accident.

6 And after questioning  
7 of the witnesses, we may call  
8 you if we have any follow-up  
9 questions we need to ask of  
10 you. If at any time, you have  
11 additional information  
12 regarding the accident that  
13 you would like to provide us,  
14 please contact Mr. Gates.

15 If you wish, you may  
16 now go back over any answers  
17 you have given, and you may  
18 also make any statement that  
19 you'd like to make at this  
20 time.

21 A. I just feel like, you know,  
22 that it was a different type rescue  
23 and recovery and whatever you want to  
24 call it than we normally go on. And  
25 I think everybody's full intent was

1 to, you know, do a rescue, okay? And  
2 --- you know, sometimes things just  
3 don't go the way you think they will.  
4 And I think everybody's intent was to  
5 do the best they could. And anything  
6 they ask of us or any of the other  
7 members, I mean --- you know, they  
8 would do it. And I think the rest of  
9 the MSHA people did just what they  
10 thought was the best that they could  
11 do. So did most of the company guys.

12 MR. WATKINS:

13 Anything else you would  
14 like to add? All right.  
15 Again, I want to thank you for  
16 your cooperation.

17 \* \* \* \* \*

18 STATEMENT CONCLUDED AT 12:46 P.M.

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