

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
BARRY GROSELY

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
DECEMBER 3, 2007

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MR. PAVLOVICH:

To let you know my background and Ernie's background, basically, and how we got involved in this, and the reason we're involved is because Richard Stickler and Kevin were both at the mine during the rescue operation and, subsequently, when the second accident occurred. And so the Secretary of Labor decided not to do a typical internal review using internal MSHA team. But it was fully staffed by MSHA, because they would basically be working for Mr. Stickler and Kevin, also.

And so they felt like you can't do an evaluation with them on site, so they asked Ernie and I to do it, and we've been going three years, five years, and we need assistance on what we're going to do, too. So our team has been selected. These are people that we knew that have worked with us on internal reviews before or we've worked with them in the past.

Ex. (b)(6) and Ex. (b)(7)(C)

Ex. (b)(6) and Ex. (b)(7)(C)

Okay?

is --- usually what happens when you have a team like this, or any kind of internal review team even, they always assign an Attorney from the Solicitor's Office to participate, just in case there's any legal issues. Like, if you came in and said, well I'm bringing an attorney with me or something, then we've got an attorney on our team, too. I mean, so that's kind of ---.

But the reason they were selected, is because their expertise in roof control, expertise and inspection work, and the fact that, most of them, I guess,

1 or several of them, had done internal reviews before, so they kind of understand the
2 system. Okay?

3 BY MR. PAVOVICH:

4 Q. I'll read a brief statement to you, Barry, to start out, before we start with the
5 questions. The Secretary of Labor has assigned this group the task of evaluating
6 MSHA's performance during the period preceding the August 6, 2007 coal bounce at
7 the Crandall Canyon Mine, and the subsequent rescue effort. We will also be
8 evaluating issues that were raised during this time period, regarding Bob Murray and
9 his interaction with MSHA. This is not an investigation review of any individual person.
10 It's an administrative review of MSHA's actions as an agency. This evaluation will be
11 presented to the Secretary in the near future, and it's intended that the results of the
12 evaluation will be made public. The interview is being conducted to gather information
13 for this assignment. We also intend to interview a number of other MSHA employees.
14 So that we may obtain unbiased information from all persons to be interviewed, we ask
15 that you not discuss this interview with anyone until all the interviews have been
16 completed.

17 A. Okay.

18 Q. And you've already stated you are a bargaining unit person, and you've elected
19 not to have a representative here with you today.

20 A. That's correct.

21 Q. Okay. What we plan on doing with this is, once --- they've given Ernie and I
22 180 days, I guess there's some leeway in that, but primarily, that's our goal, to conduct
23 all our interviews and formulate a report and which would be maybe sometime in April.
24 And what we plan on doing at that time is, when we write the report, instead of giving it
25 to MSHA to review and comment on, we'll give it directly to the Secretary's Office.

1 Okay?

2 A. Okay.

3 Q. So that's --- that's kind of --- which is pretty significantly different than what
4 other internal reviews have been. Can you state your full name for us?

5 A. I can.

6 Q. Okay. Would you, please?

7 A. Sure. My name is Barry George Grosely.

8 Q. Okay. And what is your present job title, Barry?

9 A. It's CMI.

10 Q. CMI? How long have you worked for MSHA?

11 A. As I said earlier, I think it was somewhere around March of '99.

12 Q. Okay. And have you always worked in the Price office with MSHA?

13 A. Castle Dale office was my first ---.

14 Q. Okay. Castle Dale? All right.

15 A. And then Castle Dale was closed down and everything was brought into Price.

16 Q. Okay. Who's your present supervisor?

17 A. Bill Taylor.

18 Q. Bill Taylor? Okay.

19 A. William Taylor.

20 Q. Okay. Could you give us briefly a little bit of your mining history prior to coming
21 with MSHA?

22 A. As I talked earlier with you, I went to school. I have a degree in Mining
23 Engineering and an Associate degree in Geology. I started working for Keiser Steel.
24 Worked for Industry about 15 years, in the capacity as of an Engineer and did some
25 boss spell work underground. After about 15 years, I went to work for the B.L.M. At

1 the B.L.M. we would inspect the coal mines. Our assignment was to compare what the
2 operator was telling us they mined, against the reserves that were there. And it was,
3 more or less, the responsibility to determine whether they were paying their fair share
4 of royalties on the coal. I worked with the B.L.M. for about six years, and applied for a
5 job with MSHA and was hired.

6 Q. Okay. Were you responsible for any inspection activities at mines owned by
7 Bob Murray?

8 A. Yes, I am.

9 Q. Okay. And which mines would that be?

10 A. I inspected the West Ridge Mine and the Tower mine which --- well Tower
11 Resource, which is the Aberdeen mine.

12 Q. Okay.

13 A. And I did, also was assigned the Genwal mine, the quarter in which the
14 accident occurred.

15 Q. Okay. So the Crandall Canyon mine?

16 A. The Crandall Canyon mine.

17 Q. Okay.

18 A. And prior to the accident, I think three and a half days at the Crandall Canyon
19 mine.

20 Q. Okay. Did you ever inspect any of those same mines prior to Murray taking
21 over them?

22 A. No. Well, I take that back. The Genwal, or the Crandall Canyon mine when I
23 was CMI in training, I traveled to that mine with Court Kristano, who was a supervisor
24 down in New Mexico.

25 Q. Uh-huh (yes).

1 A. Bob Baker who is a retired inspector, and Calvin Brown who came up on an
2 assignment, and I think ---

3 Q. Calvert Browning?

4 A. Browning, Browning, excuse me, from down in Texas.

5 Q. Okay.

6 A. And I spent probably four or five days when I first hired on with MSHA.

7 Q. Okay. But you never made a complete inspection there?

8 A. No.

9 Q. You were there in a trainee capacity.

10 A. Sure.

11 Q. Okay. Can you give us a brief overview of the compliance record of these
12 Murray mines? I mean, how did --- how did you feel in your inspections at West Ridge,
13 Aberdeen and Crandall? Were they good compliance, or ---?

14 A. No. In fact, it got to a point where inspecting --- I first inspected the Aberdeen
15 mine, which is Tower Resources. I think they refer to it as Tower. That was the first
16 gassy mine that I had experience with out here. At that point, it --- compliance, it was
17 like never ending. If you issued paperwork in a particular section, the next day you
18 were going back to terminate the citations or whenever they were due to terminate. It
19 seemed like before you got to that particular section, you were issuing more paper. It
20 was endless, as far as the amount of paper that could be written. I think you could take
21 the book and say, I want to write particular citations in any particular standard, and
22 probably fulfill that ---.

23 Q. Okay. So they were not very attentive toward compliance with the law, would
24 be your view?

25 A. My personal feeling? No.

1 Q. Did you have to end up writing a lot of strong paper there, like orders, or things
2 like that?

3 A. I believe I did. I feel you guys should probably have access to that every day,
4 so you could see what I write.

5 Q. Okay. How did the mines compare with the other mines in your work group?

6 A. Well, particularly, SUFCO (phonetic) is a arch mine.

7 Q. Uh-huh (yes).

8 A. It was, even though it was three times the size of, say, the Aberdeen mine, I'd
9 much rather be at SUFCO ---

10 Q. Okay.

11 A. --- from the standpoint, SUFCO was much more proactive on safety issues.
12 The conditions were much better at the SUFCO mine. The Aberdeen mine, severe
13 conditions, very deep cover, a very gassy mine, and it had some problems associated
14 with the mine. I believe in the end --- in the beginning, the Aberdeen mine was
15 probably designed for a room and pillar mine. And some years after that, they decided
16 to put a longwall in, but I think some of the problems started, particularly, with the gas
17 problem they had, started showing up then.

18 Q. Okay. I know you hadn't inspected these mines, prior to Murray taking over,
19 but I guess, knowing the people in the field office and knowing some history, did --- had
20 the mines gotten worse after his taking them over, or were they pretty much that way
21 before in your opinion? And I realize it's an opinion.

22 A. Okay. Being in the Castle Dale office ---

23 Q. Right.

24 A. --- I was not familiar with any of the Murray mines.

25 Q. Oh, okay.

1 A. It was a short --- in fact, I was probably here less, in Price, less than a year,
2 and for some reason, they assigned all the Murray mines to Bill Taylor's office.

3 Q. Okay.

4 A. And that's when we --- I actually started inspecting West Ridge and ---.

5 Q. Did you know why that reason was?

6 A. I don't know.

7 Q. Do you have any ideas why it would've been?

8 **Ex. (b)(6) and Ex. (b)(7)(C)**
9

10 Q. Do you think that Mr. Murray may have had some involvement in requesting a
11 change of work groups, or ever heard anything to that effect?

12 A. You can, I guess, you can probably hear whatever you want to hear. I don't ---
13 I'm not one for gossip. I can honestly say how those types of situations have affected
14 my --- where I go to the mine to inspect. For instance, when Dave Lorrisky (phonetic)
15 was in charge of MSHA, and I was inspecting Deer Creek, I believe Lester Coleman
16 was also inspecting Deer Creek with me, and complaints about writing too many tickets
17 from the union and the union official decided to call the office and say look, that he was
18 going to tattle, for whatever reason. At that time, Deer Creek was taken from our office
19 and given to the other office. So do things like that happen? I would imagine they do.
20 So that's my ---.

21 Q. So you can --- you do know a specific instance ---

22 A. I identify ---.

23 Q. --- that assignments were changed because of outside pressure?

24 A. I believe so, to my knowledge, yes I do.

25 Q. Okay.

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MR. TEASTER:

You said the union was complaining about too many citations?

A. Yeah. Yes. Oh, you could probably ask Lester Coleman about it. He'd be happy to tell you.

BY MR. PAVLOVICH:

Q. I know Lester pretty good. Okay. If a company here, submits a mining plan or an Addendum to a mining plan, do you, as an inspector in Price, ever get to review or comment on that plan, prior to its approval?

A. No. I haven't yet.

Q. Never? You never have?

A. The only part that I --- the only, I guess, or maybe after the fact, after the plan has been approved, if there was some inadequacies, I might cite that, and ---.

Q. Okay. And if you do that, if you're talking about on like a 204 form or one that says, have you reviewed the --- or I reviewed the vent and the roof and I have deficiencies or no deficiencies. You have in the past written deficiencies?

A. Yes.

Q. And what's been the result of that?

A. Boy, it's been so long.

Q. Did you ever get any response?

A. Yeah, Sid Hanson did respond to it, but I can't --- I don't recall the issue, but I would imagine it's part of the record. You could probably be able to find it.

Q. Okay. So did anyone call you, maybe on that?

A. Sid Hanson.

Q. Who is Sid Hanson?

A. He's your Roof Control --- was a Roof Control Specialist in the District office.

1 Q. Okay. So that being quite a few years ago then when that happened?

2 A. Yeah, it's been awhile.

3 Q. Normally, would you write any deficiencies on those forms today if you had
4 any?

5 A. Do I use that form when I have it? Yes. In fact, I was anticipating on writing
6 one at the West Ridge mine.

7 Q. Okay. So you're anticipating, right now on your present inspection, writing a
8 deficiency, a plant deficiency?

9 A. Yes, dealing with ventilation.

10 Q. Do you think you ever get any satisfaction from those? I mean, has there been
11 plan changes because of that, or do they call you back and say, why bother?

12 A. That's the feeling that you get most of the time, unless you have paper that
13 backs up what --- substantiates what you're saying. Then with that, you have more
14 credibility.

15 Q. Okay. Most of the time, though, you ---.

16 A. When you make a suggestion, it is, in my opinion it's probably just --- it's an
17 opinion that I have and that's where it ends.

18 Q. Okay. Have you ever had any controversy with the District personnel,
19 concerning enforcement actions? Okay. Have you ever been asked to vacate a
20 violation?

21 A. I've been asked, I guess in a round-about way, not to write a particular --- and it
22 had to do with the Aberdeen mine. It had to do with someone from back in Arlington
23 and the District office.

24 Q. And they asked you, specifically, not to write a violation?

25 A. I wanted to write an Order.

1 Q. Okay.

2 A. And they told me, at that time, that I didn't have grounds for an Order, but I felt
3 that I did, in fact, in my opinion.

4 Q. Why would you have asked them before you wrote the Order?

5 A. We were all in the same general area, probably within a thousand feet of each
6 other and, as I went off to check the return in or the bleeder and seals, and what I
7 found and what Sid Hanson and Charlie Thomas found, there was definitely violations.

8 Q. Oh, so Sid Hanson and Charlie Thomas, from Headquarters, were in the mine
9 with you?

10 A. Yes.

11 Q. And so they saw the same conditions you did?

12 A. Sid did not see all the conditions that I saw. Charlie, I believe --- well Charlie
13 saw exactly what I saw.

14 Q. Okay. And they both discouraged you from writing ---.

15 A. Charlie did.

16 Q. Charlie did.

17 A. He asked. I complied.

18 Q. What, and what was his reasoning for that?

19 A. I don't know what his reasoning was, but I felt that it probably was generated
20 from his lack of understanding of the mine, the history of the mine.

21 Q. What were the conditions that you saw that day?

22 A. The return was greater than two percent methane. The seals that I inspected,
23 in excess of five percent. Some of the other seals, I think, Sid, the measuring points
24 where he looked at, I think they were over possibly the limits of what was established in
25 the roof control.

1 Q. And so this was the air quality behind the seals was over five percent? No, in
2 front of the seals?

3 A. Coming in front of the seals and up the return. Not the entire return. In the
4 immediate area of the seal, it was greater than five percent. As you come out into the
5 return, it was two percent, plus.

6 Q. And so you told them you were going to write an imminent danger order?

7 A. I said I --- no, I said that I was going to write an Order. The five percent was
8 right at the seal. Probably, as you approach the seal, within 20 feet of the seal, you
9 started picking up high methane. When you got to the seal, it went into the over range.

10 Q. Okay.

11 A. And ---.

12 Q. And so you were going to write an Order.

13 A. I wasn't, because I had, previously issued a --- I'd have to check my notes, but I
14 had issued an Order. There were other Orders issued.

15 Q. Okay.

16 A. And I was looking at the history of the --- the company was aware of the
17 problem.

18 Q. Okay.

19 A. That was where I was hanging my hat, plus they had a problem today.

20 Q. Did you write a violation, but not an Order?

21 A. I did write a violation, yeah.

22 Q. Just a citation ---

23 A. Yes.

24 Q. --- and gave reasonable time?

25 A. Yes.

1 Q. And did Charlie tell you why you should only write a violation, or did he explain
2 that to you, adequately to satisfy you, or not?

3 A. No, I ---

4 Q. Not?

5 A. --- I didn't, and I didn't want to exacerbate the situation.

6 Q. Okay.

7 MR. TEASTER:

8 How much of the mine would have been affected by the
9 Order?

10 A. The entire mine.

11 MR. TEASTER:

12 So you would have shut the mine down?

13 A. Would have, yes. Previously, I believe I wrote a similar ticket that did do the
14 same.

15 BY MR. PAVLOVICH:

16 Q. Okay. Ever any other times that you'd written an enforcement action and
17 someone from the District or the field office told you you need to vacate this or change
18 it?

19 A. No, but I'm aware of, just recently, one that had taken place.

20 Q. What is that?

21 A. Pardon me?

22 Q. Could you elaborate for us on what it was?

23 A. It had to do with accumulations at the, I believe the West Ridge mine.

24 Q. Okay.

25 A. And an Order was issued. I honestly believe it was a violation. The Order was

1 issued, and I --- well I probably would have done the same thing, but it was vacated.

2 Q. Who vacated? You?

3 A. No, Mr. Davis did. Ron Paletta (phonetic) vacated at the direction of Alan
4 Davis.

5 Q. At the direction of Alan Davis?

6 A. At least that's the impression. I have the ticket here if you'd like to see it.

7 Q. We would. You had it right on top. Boy, if I hadn't asked you that question.

8 A. Yeah, I wouldn't have given you that particular information.

9 Q. Okay.

10 MR. TEASTER:

11 Was that an Order you wrote, Barry?

12 A. No. It was written on a yield to event.

13 BY MR. PAVLOVICH:

14 Q. Okay. So this was written by Ron Paletta?

15 A. Ron Paletta, yes.

16 Q. Okay. Were you also making the mine at this time, or ---?

17 A. No, I was at ---

18 Q. You were at another mine, you just ---?

19 A. --- Crandall Canyon mine, but I'm working at the West Ridge mine, now,
20 helping Ron.

21 Q. Okay. So that's how you knew of this?

22 A. Yes.

23 UNIDENTIFIED SPEAKER:

24 Well very quickly then, Barry, what was Charlie Thomas doing
25 at the mines?

1 A. Because there was --- the Aberdeen mine has been plagued with a gas
2 problem and a lack of air. And basically they were mining coal, pending on the weather
3 condition, if the high or low pressure systems, the gas would come out to a point where
4 they'd have to shut down. So Charlie, because there was a number of citations --- at
5 least my opinion is, there was a number of citations that was issued, it got the attention
6 of somebody back at Arlington, and it's my understanding, Charlie came out to,
7 specifically, look at the bleeder system and how it was functioning.

8 Ex. (b)(6) and Ex. (b)(7)(C)

9 So Barry, when he said that he didn't want you to do that
10 Order, did he check with anybody else at Arlington, at Headquarters, or did he just
11 make that decision on his own?

12 A. He just made that decision. It wasn't one that was --- I don't want you to write
13 the Order. He said that he wants Sid Hanson to take care of the situation. And I told
14 Charlie and Sid that I was going to issue a --- would have issued an Order.

15 Ex. (b)(6) and Ex. (b)(7)(C)

16 Do you remember when that was?

17 A. The 28th of September, I believe.

18 BY MR. PAVLOVICH:

19 Q. Do you remember what time ---

20 A. I've got that ticket here.

21 Q. --- approximately?

22 UNIDENTIFIED SPEAKER:

23 So you're telling me Charlie was there because of a ventilation
24 problem and he found that it's what you said ---?

25 A. I don't know exactly what. I mean, I didn't discuss that with him, but ---.

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UNIDENTIFIED SPEAKER:

Hey, Barry, can I ask you a question?

A. Yes.

MR. TEASTER:

I don't mean to distract you while you're looking for that. Did anybody in the district ever think to have tech support come and look at a Doppler that was ventilated by a barometer?

A. That was a big concern. They were, they were all ---.

UNIDENTIFIED SPEAKER:

The district was aware of it?

A. Yes, they were aware of it, yes, sir. Here are the notes of Charlie Thomas, our travels. I think it was the 28th of September. This is a ticket that I wrote, and this is --- well there's Sid's. One of Sid's, is it? Yeah, and some other ones of Sid's. I haven't --- for this time frame, there's about 80 citations issued and for about an 18-month period, 80 citations. There's seven Orders and 73 citations. And there were --- and that was citations on the ventilation aspect of ---.

BY MR. PAVLOVICH:

Q. And they were ventilation, of course.

A. Just, yeah, ventilation.

Q. Did you identify on that 204 form, that you felt there were deficiencies on the vent plan?

A. I believe Jeff ---

Q. Fleshman?

A. --- Fleshman had come out and, I know that he was taking care of some of the issues that were --- district was aware of it.

1 Q. Do you feel that some of these mines get some preferential treatment from the
2 district at times?

3 A. I have no idea on that.

4 Q. Okay.

5 A. I'm not privy to all the things that are asked of the district.

6 Q. Okay. Is there --- does there seem to be a pattern that at certain mines or
7 certain companies that inspectors are asked to change violations more frequently?
8 Or ---?

9 A. I can only say what I'm familiar with ---

10 Q.. What you have?

11 A. --- and I know there have been times where the operator has come in and had
12 comments about some of the issues that I had at the mine. And I recall one where I
13 believe I issued an Order on a methane monitor, and the operator came in, the safety
14 director came in and I was kind of at a loss to gain favor with my boss, and I went back
15 to the mine and got the Conspec system and brought it back and showed where the
16 operator, where they said the mine was shut down for like 12 hours. The power was off
17 for 12 hours. They showed it was off for 14 minutes. That sort of won favor with the
18 boss. But that's, you know, I think anybody might suffer those types of concerns.

19 Q. Have you seen any difference in the district's attitude toward enforcement in
20 the last few years?

21 A. Difference between Kuzar and Davis?

22 Q. Yes.

23 A. Al's a very nice guy. If I had my preference, I'd probably work for Kuzar, just
24 from the enforcement standpoint.

25 Q. Okay. So you feel that he wanted stronger enforcement?

1 A. Yes. That's my opinion.

2 Q. And what makes you feel that way, Barry?

3 A. With just meeting people, and when they, when they speak about enforcement,
4 I mean, you can tell someone that enforces the law versus someone that ---

5 Q. Okay.

6 A. --- just really doesn't ---.

7 Q. So just through discussions over, or conversations or meetings, maybe, that ---

8 A. Yes, yes, sir.

9 Q. --- just maybe emphasized enforcement more than not?

10 A. Yeah, just in meetings or outcomes of meetings and the direction you're given,
11 issues that, maybe you don't get an answer on.

12 Q. Okay.

13 A. I know sometimes being wrong might be okay, too. I mean, it will bring
14 something to the head. I mean, somebody will conference it. If you've got wrong
15 direction, that will correct it. If you go to conference and what you've done, it can very
16 easily give you direction.

17 Q. Okay. Do you feel that you've got a lot of special emphasis programs and
18 things like that going on now that maybe detract from enforcements?

19 A. It's obvious that you have 40 hours in a week ---.

20 Q. You think it is? Okay.

21 A. You have many variables, and if one of those variables keeps on increasing,
22 taking away from your time, it's obvious that's going to ---.

23 Q. So you feel like with all the special emphasis and all the other things that have
24 been had in the last couple years, that detracts from enforcement?

25 A. Yes. Yeah, sure. I feel it does.

1 Q. Okay. And does it make it more difficult for you to do your job as an inspector?

2 A. I'm always pressed for time. I'm --- I have a hard time. You'd like to get your
3 work in on a weekly basis, sometimes, six, seven days. After Friday, --- well not six,
4 seven days, but I mean, the following Monday or Tuesday when you're getting your ---

5 Q. Right, okay.

6 A. --- the rest of your paperwork done.

7 Q. How about with the district conference officer or CLR, do you get notification
8 prior to a conference if any of your violations are going to be conferenced?

9 A. In an e-mail, sometimes Ned will call. And I think Bill Stewart? Or Jimmy
10 Stewart, ---.

11 Q. Jimmy Stewart.

12 A. He, occasionally, has called.

13 Q. Okay.

14 A. I don't have any problems, company's conferences. I just, you know, do what
15 you've got to do.

16 Q. Okay.

17 A. And I think most of my stuff has been upheld.

18 Q. Okay. So you ---.

19 MR. TEASTER:

20 Going back to that interference for the special initiatives and
21 question you may be on your regular inspections, do you feel the quality of your regular
22 inspections or E.O.(1)s, has been affected by all these initiatives?

23 A. From the standpoint, you --- there are other things, in my opinion, when you
24 find something that, where they're lacking, and you want to see whether it's actually a
25 condition or whether it's a practice where the company is actually, they've been doing

1 this for a long period of time, you don't always get the time to search out the records.
2 It's the last thing. You issue the paper, and you would, honestly, like to spend a little
3 more time looking at the records. Sometimes you don't always have enough time.

4 BY MR. PAVLOVICH:

5 Q. Do you think you'd be better served to spend more time on the sections and
6 the faces where the people are, instead of in some of these out barriers, like seal
7 examinations and all this stuff?

8 A. Some place like SUFCO. I don't know whether you're familiar with it. Recently,
9 they sealed a part of the area off, but it was from the portals to the working face, with
10 17 miles. They have about 250 seals to do today, yet, to inspect. Now 17 miles, so
11 there's a lot of territory in between the portal and the --- it's just miles of returns. Of
12 course, there's the bell vine, that it's a valuable, important aspect of the mining. But
13 some of the returns and the seals, now we're going to be expected to scrutinize the
14 seals. At SUFCO, it's a non-gassy mine. You're going to run into black dam, whatever,
15 methane is just --- there's nothing happening there. So I --- yeah ---.

16 Q. So you could be better spent doing something else?

17 A. Yes, particularly, at SUFCO.

18 Q. Okay.

19 A. Also, even if the West Ridge and the Aberdeen mines, what I'm familiar with,
20 because they've had a gas problem, I'd probably say they have some of the best seals
21 that you'd want to examine. I mean, they've put a lot of effort into it. They've come
22 back and corrected situations. But whatever we've got to do, we've got to do.

23 Q. Okay. Are you aware that --- or do you understand that the mine has to keep a
24 map that has to plot roof falls?

25 A. Yes.

1 Q. Do you know if they have to plot bumps or outbursts, too?

2 A. As far as them having to?

3 Q. Yes.

4 A. It depends on how severe they are. All bumps, obviously, are not plotted. I
5 think regulation talks about if it interrupts for more than an hour.

6 Q. Okay. So if it's an outburst it meets one of those five criteria, they're supposed
7 to plot it on the map?

8 A. Yes.

9 Q. Have you ever seen anybody plot one on a map here?

10 A. I have not seen anybody actually plotting it on the map. I do inspect the map
11 every time we go to the mine. As far as the operator, what I've seen on their official
12 map, it's not.

13 Q. So you don't think they're plotting outbursts?

14 A. Not where they're keeping it on the official mine map that everyone has access
15 to it. They might have another map that they ---.

16 Q. Okay. But you're, obviously, aware there of outbursts that you think would
17 have fit those categories; right?

18 A. Well checking the U.S.G.S., if you were to look at where Deer Creek, where
19 the mine is, where the Aberdeen mine is, where West Ridge is, you would see that
20 there are bounces occurring continuously. I mean, how severe they are, they range
21 anywhere from less than one on the Richter scale, all the way up to the three, for the
22 most part. I'm aware of ---.

23 Q. Well you've worked in this area a long time. You ever been in a bounce?

24 A. Yeah.

25 Q. You ever seen one, experienced one?

1 A. A little, just at the Genwal, prior to the big one that had the --- we were mining
2 recovering, bringing the head down through the unconsolidated material, a small
3 bounce hit, it sheered off the --- tore the shafts.

4 Q. Okay.

5 A. That was an unconsolidated material, but it did that. It --- the gusts that come
6 from it, it wants to knock you around a little bit, but it wasn't that severe.

7 Q. Okay. You ever inspected a mine where the sheer was broken or damaged
8 because of a bounce?

9 A. Yeah.

10 Q. You've seen that?

11 A. Patrol mountain was --- I have --- no, I didn't experience the bounce that broke
12 the sheer in half, but it ---.

13 Q. Okay. But you knew of one.

14 A. Yes, and at the Cottonwood Mine, I think they --- the last bounce they had, and
15 it was about a 3.2 on the Richter scale, was --- I think it sheered off 11 legs or sheered
16 11 legs ---.

17 Q. Okay. Do you think those bounces would be severe enough to plot on a mine
18 map?

19 A. Oh, yes.

20 Q. Okay. But none of us knew that was required either.

21 A. Oh.

22 Q. And I'm not saying you didn't know, but ---.

23 A. With the B.L.M., also, they had a different aspect. If they had a bounce that it,
24 the chance of losing reserves, then it's reportable.

25 Q. It's reportable to B.L.M.?

1 A. Yes.

2 Q. Do you find that, maybe, they report them better to B.L.M. than they do to
3 MSHA?

4 A. It depends on the company's need. If they want to say we don't want to mine
5 the coal, then most certainly, they would be reporting those bounces and giving
6 reasons why they can't mine the coal.

7 Q. Okay. Okay. So they would, specifically, call B.L.M. if they wanted to stop
8 mining for a reason, like a bad bounce.

9 A. Yes. Yes.

10 Q. Were you ever aware of a bump that occurred in March 2007 in the North
11 Barrier, that was being mined at Crandall Canyon?

12 A. Not at the time. Obviously we all learned about it after the Crandall Canyon
13 incident, and ---

14 Q. Okay.

15 A. --- I guess --- then again, I was not inspecting that area. I don't know what the
16 inspector that was assigned to the mine then, what he knew or what he may have ---
17 what he knew or what he knew about it.

18 Q. Okay. But you never heard about it 'til after sometime after this accident,
19 maybe.

20 A. After the accident, yes.

21 Q. Did you know --- obviously, you're familiar with B.L.M. Do you know Steven
22 Falk?

23 A. Yes.

24 Q. Okay. Have you ever talked to him about bumps at any ---?

25 A. Steven and I have worked together.

1 Q. You worked together? Okay. Did you both investigate where activities --- the
2 mines had bumped and operators wanted to pull out?

3 A. Similar operations, yes.

4 Q. Was there ever any kind of agreement or information that B.L.M. had that they
5 would notify MSHA of certain things?

6 A. I don't know of any that would.

7 Q. Okay. You never knew of anything, you never had any instructions with B.L.M.
8 to --- (b)(6) and (b)(7)(C) what'd you do with my B.L.M. report?

9 UNIDENTIFIED SPEAKER:

10 It was up there.

11 MR. PAVLOVICH:

12 Yeah, I know. You took them away.

13 UNIDENTIFIED SPEAKER:

14 And Barry, while they're looking for that, just out of curiosity,
15 from your experience when you were at B.L.M., you mentioned how the company might
16 report a bump to B.L.M.

17 A. Yes.

18 UNIDENTIFIED SPEAKER:

19 Was there a form that B.L.M. maintained or an official record
20 of it?

21 A. Generally, an inspector, if he was assigned those mines, he was dispatched to
22 go look at what had occurred, and he would do up a report. There was no --- there's
23 certain types of things that you enter in the report, but a form, no. There's not a form.
24 There may be now.

25 BY MR. PAVLOVICH:

1 Q. Let me ---.

2 UNIDENTIFIED SPEAKER:

3 So would that report contain the date that he was notified that
4 a bump had occurred?

5 A. Yeah, it would be a general time when it occurred, but as I learned here, when
6 we --- when this incident was reported to MSHA, and when my boss called me, there
7 was some time differences, so you know, I don't know exactly how accurate the
8 operator would be with the B.L.M. They don't issue ---.

9 BY MR. PAVLOVICH:

10 Q. Here's a report that was done by Steve Falk and he tells on Friday, February
11 27th, he was notified of something, and he went out and did his investigation, and
12 sometime later, he writes the report, and I'll let you read it if you want to.

13 A. No, no. Thank you.

14 Q. But the thing I wanted to ask about it was, this kind of looks like a form letter of
15 some kind. I mean, form with the topic and you type in the body.

16 A. I think this is probably something --- no, this is probably something that Steve
17 has generated himself.

18 Q. Okay. And then there's a question here, was mine status reviewed with
19 MSHA? Was there any reason why that would've been in there? I mean, would it have
20 been for --- would it have normal that Steve would discuss with MSHA any of this, or is
21 there some reason they would ask that question on this form?

22 A. I don't --- I'm surprised. I haven't seen that report. In fact, I went to Steve and
23 because it was an issue, Steve didn't want to release that report to me. As I can say,
24 when I was working for the B.L.M, we did our report, and there's a format, but there
25 was not a form. Those questions weren't on those.

1 Q. Okay. So you never had a question on it that said, did you review this with
2 MSHA?

3 A. No, not that I recall, no. If I had ---.

4 Q. At no time during your tenure with B.L.M., did you know of any kind of
5 agreement or anything with MSHA that there would be some exchange of information
6 or if MSHA had a problem with a particular area, they would notify B.L.M. either?

7 A. No, they wouldn't. In fact, on two occasions that I was involved with, one had
8 to do with the Trail Mountain mine and one had to do with, I think it was the Deer Creek
9 mine.

10 Q. Okay.

11 A. One had to do with, we were requiring them to mine --- they were mining at a
12 height of about eight and a half feet on their longwall face. There was, I think, ten feet
13 of coal, and we were going to require them to mine higher. Deer Creek, Energy West,
14 at that time, they said that they couldn't mine it because they had other problems,
15 secondary spalling occurred. They gave us a number of reasons why they couldn't.
16 They said that they had been issued several citations on dust, and I --- I went to MSHA
17 to verify what Deer Creek was saying, and lo and behold, they didn't have any violations
18 and they weren't, they were --- some of the reasons why they were having secondary
19 spalling, and problems with large chunks, it was because they were mining from the
20 tailgate to the headgate, and of course, the chunk breaker didn't have the opportunity to
21 break up some of the chunks. The other time was when they were saying they needed
22 a barrier pillar of, I think, 1,200 feet to separate a block of longwall panels. We
23 contacted MSHA and asked them to review it, and I think MSHA came up --- and in
24 fact, I know there's, in the B.L.M. files, there's a report stating a barrier pillar of about
25 300 to 400 feet was necessary versus 1,200 feet. And it was on MSHA's stationery.

1 Q. So there would've been circumstances where you may verify what the
2 company's telling you through MSHA, as far as, MSHA won't let us mine this, or they
3 shut us down.

4 A. Well when they had something dealing with a safety issue, the B.L.M. would
5 contact MSHA, and if it was a safety issue, we'd yield to that.

6 Q. If you ---.

7 UNIDENTIFIED SPEAKER:

8 I'm sorry to interrupt, I just want to ask a clarifying question,
9 Barry. You said that on occasions, you thought they could've mined more coal, so you
10 went to MSHA and tech supported an analysis, and agreed with you ---

11 A. They did.

12 UNIDENTIFIED SPEAKER:

13 --- that the company could mine more coal. Have you ever
14 had instances where it went the other direction, where you guys saw something,
15 maybe, that concerned you? Did you ever take those to MSHA? Like, maybe have
16 your notes, this type of mining's never been done before? Do those instances ever go
17 to MSHA?

18 A. If there were times when they would talk about they had problems with safety,
19 there were times when we agreed with them. In this case, what size barrier pillar, we
20 didn't have any specialist who actually calculated what type of barrier pillar or size, so
21 we relied on MSHA.

22 UNIDENTIFIED SPEAKER:

23 Did you ever have any questions where they wanted to mine
24 something, but you weren't sure they could do it?

25 A No. We --- that was never, never done.

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UNIDENTIFIED SPEAKER

While we're on the subject, Barry, again, just drawing on your experience from the B.L.M. days, how about the bottom coal? If a mine had an 11-foot seam, and was mining eight foot, what would B.L.M. say about them and the three foot?

A. Vent.

UNIDENTIFIED SPEAKER:

You would ask for justification or --- did that make radar more, what you would do?

A. Once again, the answer is we would wonder why they weren't mining it. If there was a safety issue, depending on the cover and, you know, the compressor strength of the coal and, you know, that all played into it. Boy, I don't know, other than SUFCO having bottom coal and most of the companies, for the most part, say, take for example, Trail Mountain or Deer Creek, they'd actually mine all the coal in the seam, and in fact, take three, four foot of the top that was unstable, right along with the coal, just so when the longwall was retreating, they wouldn't have to deal with the roof breaking up ahead of them. I don't know whether that answered your question or not?

UNIDENTIFIED SPEAKER:

No, --- yeah.

A. Places like SUFCO. I'm not certain whether it was a federal lease, but I do know they have an issue with bottom coal. There was --- you could --- inspecting out there at the time, yeah, there was a considerable concern that I'd have when they were mining the bottom coal when they were, say, having a seam that was 15-foot high.

Yeah, the ribs were very unstable.

BY MR. PAVLOVICH:

1 Q. Barry, have you ever, in reviewing a uniform mine file or anything else,
2 identified where there are differences between what the roof control plan requires and
3 what the vent plan requires, and had to deal with those issues?

4 A. Off the top of my head, no I haven't.

5 Q. Okay. All right. Well let me ask you a question. This plan pertains strictly to
6 the mining of the South Barrier at Crandall Canyon, which is right here.

7 A. Uh-huh (yes).

8 Q. And it specifically shows because of this jog that was made here, I guess
9 because of this sump, where it shows the operator is to leave these pillars and a group
10 of eight pillars in this area ---

11 A. Uh-huh (yes).

12 Q. --- with no barrier mining as they retreat.

13 A. Okay.

14 Q. That's the roof control plan. The ventilation plan to mine the South block or
15 South Barrier, shows that there will only be five pillars left in this specific area instead of
16 eight. And it shows the continuation of slabbing the barrier, along with mining that row
17 of pillars.

18 A. Did I recognize this conflict?

19 Q. No, I'm just asking, if you saw something like this, which would you enforce?
20 Or how would you enforce that?

21 A. Well obviously, if the roof control plan is this, there's an issue there. If they're
22 not, if they're going to comply with this, I'd cite the roof control plan.

23 Q. Okay. Well would you see --- would that be a problem if you were reviewing
24 the mine file that, maybe I've got a problem here if I'm going to go out and inspect this?
25 The dates are like a week apart on approval.

- 1 A. Well the 23rd and 25th.
- 2 Q. Right, I guess that's all on the drawings, but the approval letter dates are ---.
- 3 A. Oh, yeah, 15th and ---.
- 4 Q. Yeah, one's June 1st and one's the 15th, something like that.
- 5 A. Well I --- would I have a problem with that if I --- when I was in this particular
6 section at this point, I believe they were on their number one pillar.
- 7 Q. Okay. Did you have this plan?
- 8 A. I can't say for certain. There is a lag time from the time that the district
9 approves it until we get it in our office.
- 10 Q. But do you think you would've had the pillar plan, prior to them starting the
11 pillar?
- 12 A. Okay. I was assigned the mine in July. And this says June 15th. I don't know
13 whether --- I don't recall whether it was in the map or not.
- 14 Q. You don't remember ever seeing that?
- 15 A. No.
- 16 Q. How did you assume they were going to pillar that, then, when --- I mean, as
17 far as slabbing that barrier, did you --- if you hadn't seen the plan, would you think it had
18 been approved to slab the barrier?
- 19 A. Run that question by again?
- 20 Q. Okay. If you hadn't seen the plan for pillaring this section in the South Main,
21 and you went up and they were hitting the number one block. They also would've been
22 slabbing the barrier.
- 23 A. They would have been.
- 24 Q. Okay. Would you have questioned the fact that, hey, do you have a plan to
25 slab that barrier?

- 1 A. I was understanding that they did have a plan. I just don't recall.
- 2 Q. Okay. You don't recall seeing it?
- 3 A. No. I don't recall seeing it. I could have, but ---.
- 4 Q. Okay. All right. If you had seen them and had noticed this difference ---.
- 5 A. If I would've noted the difference in that? If I would've noticed it? Yes, I would
- 6 have.
- 7 Q. Okay. Would you have contacted Ted or Bill or somebody, or Bill Taylor or
- 8 somebody in the district?
- 9 A. If I would've noticed it, I probably would've issued a piece of paper on that.
- 10 Q. Okay. In that, they didn't --- they weren't compatible?
- 11 A. With the roof control plan, weren't following it.
- 12 Q. Okay.
- 13 A. When was this one approved, a week after ---?

14 MR. TEASTER:

15 Before. That was June 1st. This one's June 15th. The

16 ventilation ---.

17 BY MR. PAVLOVICH:

18 Q. I'm thinking this one looks like it's approved June 1st? June 15th. So it looks

19 like the vent was approved first, and then about two weeks later, the roof control plan

20 was approved. I don't know would this underground mine file ---?

21 UNIDENTIFIED SPEAKER:

22 It's got the forwarding date on it. Forwarded.

23 BY MR. PAVLOVICH:

24 Q. This looks like 6/5/07 and that's 6/15/07, so ---.

25 A. I can honestly say I don't recall, and if I would've noticed it, yeah, I would have

1 issued paper on it.

2 Q. Okay. Would you usually look at addendums that come in prior to making an
3 inspection?

4 A. I normally do. Whether I retain everything, I'm not so sure.

5 Q. Okay. What day did you start your inspection Barry? Do you remember that?

6 A. I believe July 17th was the first day that I was there, 17th, 18th, and 19th, and I
7 went back on the 23rd to terminate some citations.

8 Q. Okay.

9 A. So the one would've been, probably not in our office at that time, on the 15th,
10 we would have not had it by the time I started.

11 Q. Okay. When --- what day were you on the section?

12 A. The first day, I believe on the 17th.

13 Q. Okay. And they were starting to pillar then?

14 A. They, yeah, the --- I issued a piece of paper on that particular day for the
15 warning device ---

16 Q. Okay.

17 A. --- for unsupported top, and I think I have a drawing there that ---

18 Q. Oh, okay.

19 A. --- that shows exactly what pillar they were going to attempt mining.

20 Q. Okay. I think that's in your inspection report for that day.

21 A. Either the 17th or 18th, that I issued a piece of paper.

22 Q. Okay. Were you familiar with the bleeder system on this section?

23 A. Well at the time, I mean ---

24 Q. Okay. It was just started.

25 A. It was just starting.

1 Q. Did you notice that that bleeder system, basically, had a floating evaluation
2 point?

3 A. Yeah, as far as they come out. I don't now how you discern that here.

4 Q. Well it wouldn't be on there, but as water built up, you would only inspect to the
5 toe of the water?

6 A. Boy, I --- as far as water, at the time, I don't recall any water in the section.

7 Q. Okay. Well what do you think about a floating evaluation point that says, as
8 you pull out, if water builds up, you only inspect to the toe of the water?

9 A. Well I know at the Aberdeen mine they have a point that --- evaluation point
10 that, as the longwall progresses outward, or increase, the point changes.

11 Q. And what do you think about those --- those kind of points?

12 A. At the Aberdeen mine where they have a barrier pillar between each, each
13 small wall panel, they have, generally, one entry that's travelable, and yet they have a
14 measuring point that wouldn't require you to do a weekly exam. It would be part of it
15 would --- well, it's part of the bleeder, and I think it was a way for them not to have to
16 inspect that area, particularly at the Aberdeen mine. So what do I think about it,
17 depends on what the need is. If there was a hazard that was arising, then, possibly,
18 that might be a way to take care of it. At the Aberdeen mine, I thought it was, it was
19 unnecessary, because ---.

20 Q. Especially with Aberdeen being a gassy mine.

21 A. Yeah.

22 UNIDENTIFIED SPEAKER:

23 Barry, the district plan on the bleeders, on the bleeders plan,
24 are there any statements about, like, what to do with standing water around the
25 bleeders?

1 A. Some places have standing water will be removed. Some plans have, if it
2 affects ventilation, it'll be removed. It depends. I'm not, at this point, as far as --- if I
3 was walking a bleeder system, I would have the unit amounts, the pack that I take with
4 us, I would review that before going underground.

5 BY MR. PAVLOVICH:

6 Q. On this particular one, I think the roof control said no standing water in the
7 return. The ventilation plan says, as water builds up from the gob back, you'll only
8 examine to the toe of the water.

9 A. That may be so. I'm just ---.

10 Q. Well depending, I guess, on the amount of dip.

11 A. Yeah. At this point, I didn't see where there was any water building up
12 anywhere.

13 Q. Okay. The section wasn't wet?

14 A. At this point in time, no.

15 Q. Okay.

16 MR. TEASTER:

17 Barry, are you familiar with any of the mines where you have
18 bleeders where they're pumping water back into the gobs?

19 A. In this area, I'm thinking that they, the last mine that had any problems with
20 water was the Trail Mountain mine, when if the water built up it would --- ventilation
21 would be short-circuited. SUFCO mine was also, at times, if the pump's power was off
22 for any, you know, for an hour or more, they --- of course, they have a discharge about
23 four million gallons a day, they would have problems. As far as knowing --- maybe
24 Skyline, I think, pumps water back into the gob. I'm not certain. I haven't inspected the
25 Skyline mine.

1 BY MR. PAVLOVICH:

2 Q. Do you ever have trouble with understanding or enforcing plans where you've
3 got a large number of Addendums that are not being incorporated into the plan?

4 A. When there are so many Addendums you have --- sometimes you wonder
5 which ones apply.

6 Q. Okay. So it is a problem?

7 A. Yeah.

8 Q. In your mining experience here and what you've seen with B.L.M, obviously,
9 you've probably been in most of the mines around here, do you ever remember
10 anybody retreat mining in barrier pillars?

11 A. No. In fact, it's my understanding, unless the B.L.M. has given some sort of
12 variance, that the barrier pillars weren't to be mined, from the reserve aspect.

13 Q. Okay. So if you designed this mine and submitted it to B.L.M., ---

14 A. They wouldn't expect you to ---.

15 Q. --- and you left these barrier pillars in place, they would never have been
16 expected to be mined?

17 A. No.

18 Q. That would be considered as unrecoverable recourses by B.L.M., and there
19 wouldn't be a question as though, you've got to go mine that?

20 A. Yes. That's right.

21 Q. Okay.

22 A. As far --- you know, they could pull the main entries, but the barrier pillars
23 would support that mine.

24 UNIDENTIFIED SPEAKER:

25 Barry, you said earlier in one of your other references, you did

1 call into question how wide the barrier could be.

2 A. Yes. That was --- that was at the Trail Mountain mine.

3 UNIDENTIFIED SPEAKER:

4 Okay. So there's some idea that somebody has in mind, that
5 you saw something out of the norm for a barrier, you would call that into question, but
6 something like this, you'd pass by?

7 A. Wait, I don't know what you mean, something like this?

8 UNIDENTIFIED SPEAKER:

9 Well, the barrier here, like the 450 foot barrier is separating the

10 A. Okay. Let me --- Trail Mountain, they wanted a large barrier pillar, so they
11 didn't have to mine. And they wanted ample support between this bank of panels and
12 the next bank of panels, for whatever reason. I don't know why they wanted a 1,200-
13 foot barrier pillar. We were thinking that, that was a waste of coal. In this instance
14 here, where they're wanting to mine the barrier pillars, there are a lot of things --- I
15 guess it's what you know and when you knew it. For instance, the mains, on the north
16 side of these mains, the barrier pillar ---. Oh, here.

17 MR. TEASTER:

18 Oh, the North Barrier, okay.

19 A. The main West Mains, after the fact, after the accident, we find out that they
20 sealed those mains up because they couldn't support the roof any longer. And they
21 had put something like \$400,000 worth of wood products in an attempt to keeping it
22 open. Knowing, if I would --- personally, if I would've known that, and known the
23 information about the bounce that they had in the North Barrier pillar, when they
24 attempted to mine it, hopefully, I would've been smart enough that it would've sent up
25 flags that, why would you want to do a repeat mining experience, particularly when it's

1 my understanding that even though there's longwall mining that has taken place on
2 each side of the mains and those barrier pillars that they mine, subsidence hasn't --- is
3 not significant. So there's a reason why it hasn't subsided. Something's holding it up.
4 It must be the coal that was in place, or possibly pressure on the gob that was
5 supporting the --- or the sandstones were bridging or something. It would, hopefully, it
6 would've been, if I was responsible for it, working with that, I would've, hopefully, I
7 would've been smart enough to figure it out.

8 BY MR. PAVLOVICH:

9 Q. So you think that someone said the reason they stopped mining in this North
10 Barrier was because they put so much wood in there, and they just couldn't support it
11 anymore?

12 A. In the West Mains. They couldn't hold that off anymore.

13 Q. Oh, in the West Mains, in the West Mains, okay. In the developed entry.

14 A. But what it's telling me, if they can't hold the West Mains open, they're called
15 protective barrier pillars on the north and south of that. If they weren't working, why
16 would you want to go in and mine something that was already unstable. That's my
17 thinking.

18 Q. Okay. Did you ever see any pictures of the bump that occurred in the North
19 Barrier?

20 A. No. In fact, I have just, recently learned today, that there were pictures.

21 Q. Why don't you take a quick look at them there.

22 MR. TEASTER:

23 Barry, have you ever known B.L.M. to tell a company that they
24 couldn't mine that because it was just too dangerous?

25 A. They wouldn't tell the company. The company would probably say, hey, we

1 can't mine this because it's too dangerous.

2 MR. TEASTER:

3 You support them at the ---?

4 A. We have supported the wood ---.

5 MR. TEASTER:

6 But you wouldn't ---?

7 A. We wouldn't go in and say, hey, you can't mine that. I think that's why the
8 regulations --- I'm not certain, but I think they're in the R.2.P.2. Recovery Resource
9 Protection Plan. I think there's, maybe, some statements in there that says that they
10 won't mine the barrier pillars. And I don't know whether that's true or not at this
11 particular mine or not.

12 MR. TEASTER:

13 Okay.

14 A. No, I haven't seen these, but these are of the North Barrier pillar.

15 BY MR. PAVLOVICH:

16 Q. Yes.

17 A. But they were mining it.

18 Q. Yeah, and the little drawing at the top, of course, shows the direction of the
19 photo being taken, so ---.

20 A. And the company has taken these pictures?

21 Q. Yes.

22 A. This is the first that I ---.

23 Q. It looked like pretty significant bumping activity?

24 A. Well yeah, to me it does.

25 Q. And I don't know anything about bumps, but to me it does, too.

1 A. And I'll tell you, what I had the opportunity to see in the accident, it was
2 probably, there wasn't a crawl space like you have here. It was more severe. And
3 yeah, it was, most of it was like this. This was typical of what --- leading up to the area
4 where outby Crosscut 126 is probably similar to what we viewed.

5 Q. Okay.

6 A. And the company took all these pictures?

7 Q. Yes.

8 A. Did they ever share this with MSHA, with our district?

9 Q. Well that's what we're trying to find out. Do you know if they ever have?

10 A. I've never seen them.

11 Q. You've never seen them?

12 A. I --- in fact, I didn't know that they had pictures of it until I was talking with my
13 boss this morning.

14 Q. Okay. And of course, what this map shows is all the highlighted lines are the
15 areas it bumped.

16 A. Yeah. And it's my understanding when probably several days after the incident
17 had occurred, I was --- did talk with Steve Falk and asked him for the report. I guess
18 you have a copy of it. And he declined, just because, I think, other people had been
19 asking for it. Ted Kennedy's ---.

20 Q. Oh, the report he did on this bump?

21 A. On that bump. He told me that it was about eight or nine crosscuts that were
22 affected. And obviously, those are the pictures of that.

23 UNIDENTIFIED SPEAKER:

24 Hey Barry, and as far as B.L.M., if a company feels that they
25 can't mine something, they have to get permission from, or approval from B.L.M. that

1 they agree it's not safe to mine?

2 A. Well it wouldn't be --- well, it could be on other reasons, maybe the equipment
3 that they have can't, they can't mine it, because of the equipment that --- and that
4 would, in turn, make it unsafe. But if there was a safety issue, the B.L.M. would never
5 object.

6 UNIDENTIFIED SPEAKER:

7 If you have an area that was already designated that wasn't
8 meant to be mined, like these barriers, and the company assigns two mines, do they
9 have to get permission or notify the B.L.M.?

10 A. Unfortunately, I think probably, the B.L.M. would, if the company thinks that it
11 can, they probably would go along with them, with the company wanting to mine it.

12 UNIDENTIFIED SPEAKER:

13 I mean is there a limit?

14 UNIDENTIFIED SPEAKER:

15 Are they required to give information, because originally, that
16 wasn't part of the lease?

17 A. No, it's all the coal and the lease, regardless, you know, it's part of the lease. I
18 mean, if their main entries and knowing the barrier pillars were going to leave that coal
19 behind, the company could say, hey, we want to try to mine this. I think the B.L.M.
20 would, just my experience, they probably would have never stopped anybody from
21 wanting to mine more coal, if the company says, well we feel we can mine it. Because
22 the B.L.M. does not have tech support that would get involved with safety. I mean, ---.

23 UNIDENTIFIED SPEAKER:

24 As long as they're getting --- long as they know that it's been
25 mined ---.

1 A. Because when we go out to look at an area that is, the company is saying, we
2 want to relinquish this lease back to the government, we'd go and we'd make an
3 inspection, look at the area that has been mined, the mining methods that they used.
4 We would calculate what we thought was recovered. We'd compare that number with
5 what the company is saying they recovered, and we'd also be looking at the lease of
6 when it was initially issued, there was expectations of reserves being mined. If those
7 were all comparable, we'd probably, relinquish the lease back to the government.

8 BY MR. PAVLOVICH:

9 Q. Barry, I've got a inspection report here that was done by Steve Falk on
10 November 4th of 2004.

11 A. Okay.

12 Q. And he finalized that on January 24th of 2005. But in there, he makes a
13 statement, the situation in main west is untenable for future pillar recovery. No mining
14 company in the area has ever pulled pillars in main entries with mined outsides and
15 under 1,500 plus feet of coverage. To your knowledge, in your experience, would that
16 be pretty much a true statement?

17 A. It is, and however, somewhere in this area here, is that company that was
18 supposed to --- is this the mine out here?

19 Q. Yes.

20 A. Well that, I was not aware of that. When they did that, I --- and I don't know
21 what they mined and what they didn't mine, whether they actually mined the barrier
22 pillars and the mains ---.

23 Q. It appears from this that they not only pulled the mains, but in each of the
24 barrier pillars separating the retrieval face in the longwall, they mined up to and near
25 the retrieval face. So they did mine these barriers coming out, but I'm not sure about

1 the amount of cover, if it's 1,500 feet there or not.

2 A. I don't know either. And I was not aware of that until after the fact.

3 Q. Okay. But you would think that's pretty much a true statement?

4 A. Yeah.

5 Q. I mean, it's not like he made that up; right?

6 A. No, that's ---.

7 Q. And he also goes on to say --- and I'll just let you read it in his conclusion.

8 A. Okay. And this report is applying to this? And was done by ---?

9 Q. Right. This is, this was actually in 2000 --- he makes his visit on November
10 4th, 2004, when Genwal says, we don't want to mine any of this anymore.

11 A. Yeah.

12 Q. And I think that's kind of --- maybe what this first paragraph said is they called
13 me and said, we don't want to mine any of this 'cause it's too bad. And so he also says
14 that in the original mining plan, it was never intended to mine these barriers.

15 A. To mine those. And that's why there's ---.

16 Q. And that would be consistent with what's normally in a mining plant, is you
17 would not mine those barriers?

18 A. That's true.

19 Q. Okay.

20 A. As I said, I was not aware that they mined that, and I don't know the cover
21 there.

22 Q. Okay.

23 A. And I don't know the success that they had there.

24 Q. Okay. Well we don't either.

25 A. I don't even know the inspectors that were there at the time, who were

1 inspecting.

2 Q. Okay. I'll tell you what, before we get into the risk and recovery, why don't we
3 take about a ten-minute break? Okay with you?

4 A. Fine.

5 OFF RECORD DISCUSSION

6 UNIDENTIFIED SPEAKER:

7 You may proceed.

8 MR. PAVLOVICH:

9 Thank you. I appreciate your help.

10 BY MR. PAVLOVICH:

11 Q. Okay. Barry, we'll start back. Did you ever hear of any bump history at
12 Crandall Canyon, prior to the accident on the 6th?

13 A. No. In fact, I'm completely in the dark about what had happened in the North
14 Barrier pillar.

15 Q. Okay. If, with your knowledge and experience of bump-prone areas, would you
16 consider Crandall Canyon to be a bump-prone mine?

17 A. No.

18 Q. No?

19 A. It, I think, took most everybody by surprise that this had occurred here.

20 Q. Okay.

21 A. We were, more or less, anticipating something like this at the Aberdeen mine.

22 Q. Okay. So even with mining depths of over 2,000 feet, you wouldn't have said,
23 well, Crandall Canyon is bump-prone?

24 A. Longwall mining, having the opportunity of being in the Crandall Canyon mine,
25 Genwal mine, when I first got involved with MSHA, it --- they would make a couple

1 passes, and the coal seemed to be crushing out. It seemed to be --- and I don't recall
2 what type of cover they were under at the time, but it seemed it was, it was not, it was
3 heavy cover, but it wasn't bouncing like you might experience the Trail Mountain, ---

4 Q. Okay.

5 A. --- which is just south of ---.

6 Q. Okay. Is this seam, Hiawatha seam, fairly prone for bumping?

7 A. Depends on where you were and whether you're doing multiple-seam mining at
8 the Cottonwood mine, Hiawatha, Black Canyon seam. There were times when they
9 would --- the longwall would pass under barrier pillars in the Deer Creek mine, that
10 there was a lot of action, a lot of bouncing taking place.

11 Q. Okay. How and when were you notified of the accident at Crandall Canyon on
12 the 6th?

13 A. The exact date and times, my boss and I took, I think the time that I was
14 informed, from my caller I.D. And I think it was somewhere around 4:20 in the morning
15 before I ---.

16 Q. Okay.

17 A. I would refer to my notes to have the exact time.

18 Q. Okay. But sometime around 4:20?

19 A. Yeah, I believe that was the time.

20 Q. It was on a caller I.D. you ---?

21 A. Yes. In fact, in my --- I rely on my notes, if you want me to ---.

22 Q. You can look at them, sure. Yeah, anytime you want to reference anything that
23 you have, and we may even have your notes here that you turned in, but yeah, anything
24 you need to refresh your memory, feel free.

25 A. About 4:17. That's what I had on my caller I.D.

1 Q. Okay.

2 A. And I was informed that the bounce had occurred at about 2:45. And later I
3 found that that was in error.

4 Q. Okay. And so when you found this on your caller I.D., what did you do?

5 A. Well talked with the boss. I just referred to my caller I.D. That's when he
6 reported it to me. I talked with my boss at that time.

7 Q. Okay.

8 A. And I immediately went --- I live about two miles from the field. In fact, less
9 than two miles from the ---.

10 Q. So you talked to Bill Taylor?

11 A. Bill Taylor informed me that they had a bounce and concerns about trapped
12 miners.

13 Q. Okay.

14 A. And we talked for a few minutes. My first deed was to go to the field office and
15 call the operator.

16 Q. Go to the field office to call the operator?

17 A. Yeah. The --- I mean, coal operator.

18 Q. Okay.

19 A. And get a briefing on what had occurred.

20 Q. Okay. So he didn't say get out to the mine right away? It was go to the ---?

21 A. Well, no. It was, I had to go to the field office to get my gear.

22 Q. Okay.

23 A. But he said, when I got to the office, call the operator to get a better
24 understanding.

25 Q. Okay. Okay. And so about what time did you leave to go to the mine, then?

1 A. I don't know whether I have it written down, but it took me only a couple
2 minutes to get to the office, and I think that I stated that I issued a K-order on the phone
3 and I did put a time on that. 4:41 I was talking --- I was called at 4:17, and at 4:41 I was
4 in the office, so that's ---

5 Q. It's pretty quick.

6 A. --- 23, 24 minutes.

7 Q. Okay. And you say you issued a K-order on the phone?

8 A. Over the phone, verbally.

9 Q. Okay. And what would --- I guess what would you require the operator to do or
10 not do, if you issue a K-order over the phone?

11 A. What would I require him? First ---.

12 Q. I mean, if the K-order says --- if you issue a K-order, what's the requirements of
13 the K-order?

14 A. Well one, you're preserving all of the evidence that is there. You're concerned
15 about the safety of the people.

16 Q. Okay.

17 A. How it's affecting the ventilation. It's my understanding that the ---.

18 Q. Okay. So would the K-order say, basically, no one can do anything until it was
19 approved by MSHA?

20 A. It basically, well yeah, any plan has to be ---

21 Q. Okay.

22 A. --- submitted through MSHA to get approval to do it.

23 Q. So if you call on the phone and issue a K-order and it takes you an hour to get
24 to the mine, can the operator do anything in that hour without being able to get a plan
25 approved? Because there's no one there from MSHA.

1 A. It was on the phone, the conversation that I had, miners were trapped, the
2 mine was being evacuated, and ventilation was disrupted all the way back out, I
3 think, crosscut 75.

4 Q. Okay. So then the K-order, basically says that they continue evacuating.

5 A. And the K-order --- continue evacuating the mine, and I would be there shortly,
6 and I would put it into writing when I got there, as soon as possible.

7 Q. Okay. So in essence they really can't do anything if you did that?

8 A. That's --- well, until I got to the mine, ---

9 Q. Okay.

10 A. --- or until they may have talked to ---

11 Q. Somebody.

12 A. --- possibly, Al Davis or someone else on the phone.

13 Q. Okay. When did you get to the mine?

14 A. Approximately 4:45. That's what I have in my notes.

15 Q. At 4:41 is when you issued the K-order.

16 A. Or excuse me, 5:45.

17 Q. 5:45, okay. So it took you about an hour to get there.

18 A. Yeah.

19 Q. Okay. And what happened when you got there? Can you just kind of walk us
20 through?

21 A. I was thinking that I talked with Laine Adair again. Basically, we re-hashed
22 everything that we talked about on the phone and in more detail. I talked with the
23 Conspec person that was on duty when it occurred. I got his opinion of --- or what he
24 felt happened. Whether he felt anything outside from a bounce.

25 Q. Did he feel anything?

1 A. Yeah. He said it shook the building.

2 Q. Okay. And I think that I got the names of the people that were trapped. And
3 just from memory, Laine wanted to have his mine rescue team go underground and to
4 see how far they could advance into the area. That was okayed, and I think
5 somewhere around 6:30 that took place. They were okay to --- and they were still on
6 the surface at that time.

7 MR. TEASTER:

8 Nobody was underground when you got there?

9 A. There --- I believe there were a few people underground. It was outby. I don't
10 believe it was anybody in the section --- but other than the people that were trapped.

11 BY MR. PAVLOVICH:

12 Q. Okay.

13 A. I think there was --- someone was on the beltline coming out. I'm not certain.

14 Q. Okay. But there was no work being done in the South Barrier or ---

15 A. Not to my knowledge, there wasn't.

16 Q. --- everybody was either outside or on their way out?

17 A. --- South Barrier or North Crandall.

18 Q. Okay. And so did you, then, --- you were the first person from MSHA to
19 respond? You were the first one there?

20 A. Yes, I was the first one there.

21 Q. Okay. Was it shortly after when either Bill or Ted arrived?

22 A. Bill arrived first.

23 Q. Okay.

24 A. And I honestly was thankful for that. In fact, I had called Bill and said, this is a
25 serious, serious problem. We need reinforcements. There are miners trapped.

1 Q. Okay. Okay. And so did you, pretty much, stay outside then, until Bill got
2 there?

3 A. Yeah, basically, I was outside 'til Bill came.

4 Q. Until Bill came. Okay.

5 MR. TEASTER:

6 So you approved the 6:30 plan to send rescue teams
7 underground?

8 A. Yes.

9 MR. TEASTER:

10 But they went under and you stayed on the surface?

11 A. I stayed on the surface, yes.

12 BY MR. PAVLOVICH:

13 Q. Okay. So the rescue teams went underground ---.

14 A. And I don't know the exact time when they went underground, but it was in the
15 6:30 range.

16 Q. Okay.

17 A. Probably a few minutes after that. They started underground in the mine
18 and ---.

19 Q. Then Bill got there, and did he assign you to go underground?

20 A. Not at that time. We were --- there was so much that was taking place. There
21 was a lot of confusion. I think Bill may have talked with some of the people that were
22 underground. He may have interviewed them, and I think Ted --- shortly after that, Ted
23 my have arrived. I'm not certain when Ted came. But I know they did interview some
24 people on --- the guys that were underground somewhere in the proximity of the
25 accident.

1 Q. Okay. Did you receive any reports from the rescue team that went
2 underground while you were on the surface?

3 A. It was that they could not go under apparatus. They couldn't --- the crawl
4 space was just not big enough to allow them to crawl under apparatus.

5 Q. Okay. And did they tell you about how far they got to?

6 A. Knowing where the fresh air base was and --- it wasn't much beyond the fresh
7 air base that they went and ---

8 Q. Okay.

9 A. --- I can only recall when I went underground that the mine rescue team was
10 coming --- they were around, I think, crosscut 120 where the fresh air base was.

11 Q. Okay. So they were still in there when you got in?

12 A. They were still in there.

13 Q. What time did you go in, Barry?

14 A. You know, I honestly don't recall the exact time.

15 Q. Okay. Okay. But Bill or ---

16 A. Bill was ---

17 Q. --- there had been some agreement you all decided you should go in the mine
18 and see what it is ---

19 A. Yes. Yes.

20 Q. --- and get some information. So did --- someone drove you into the mine?
21 Did someone --- management person, or ---?

22 A. No, well, gosh I'm --- I don't even recall who was driving the vehicle we were in.

23 Q. Okay. Was it, like Laine Adair, or Peacock or somebody that was a top official
24 or ---?

25 A. No, it wasn't Laine.

1 Q. Just one of the foremen, maybe?

2 A. I think it was one of the foremen that took us underground.

3 Q. Who went with you? Was there another inspector with you?

4 A. Bodee Allred was probably the guy that traveled in underground with us.

5 Q. Okay.

6 A. Randy Gunderson was with me, also.

7 Q. Okay. So you and Randy?

8 A. Yes.

9 MR. TEASTER:

10 What instructions were you given, Barry?

11 A. At that time, we knew that the mine rescue team wasn't able to go inby, I think
12 crosscut 122. I'm not certain of the crosscut. We were going to see how far we could
13 go beyond the fresh air base. We had some instructions that we had to take gas
14 readings and give some idea what the top was --- whether it was, the top was stable or
15 not. Whether the, you know, what type of crawl space there was. And we also had
16 communications that we drug along with us. And Gary Christenson, Ernie Martinez,
17 and myself, we crawled as far as we could get, and we relayed the information back to
18 the --- Randy Gunderson, and there were a number of people, with him, from the
19 company.

20 BY MR. PAVLOVICH:

21 Q. Okay. So where did you go to when you went in?

22 A. It seemed like we crawled a thousand feet or better, but we only managed to
23 get to crosscut 126, but we ---.

24 Q. Okay. So you --- where at?

25 A. From 120 ---.

1 Q. Where did you enter in --- where did you first encounter the bump material, I
2 guess?

3 A. Oh, there are minor amounts, as there was a nice sloughage ---

4 Q. Uh-huh (yes).

5 A. --- way out by crosscut 120. As you proceeded into 120, that was a point
6 where it started filling the entry pretty --- pretty heavy.

7 Q. So did you check all four entries there?

8 A. Yes, and as we progressed in, we checked each crosscut, each entry, to see
9 which one we could advance in.

10 Q. And which one did you determine to advance?

11 A. Oh boy. We ended up at crosscut 126.

12 Q. Okay.

13 A. From that point, I believe we probably traveled the belt entry for aways, or
14 awhile.

15 Q. Was it, pretty much, crawling in there?

16 A. It was crawling. As we proceeded from one crosscut to the next, you would ---
17 the material would top out at the roof. And as you got over the peak, you'd find another
18 belly to the next crosscut. As I said, I was thinking that we started out in the belt entry,
19 and we --- we tried all the crosscuts to see which was the best route to take. We got to
20 126. The crawl space was probably less than a foot. We tried all four entries. Where's
21 126 at? I was in this area here.

22 Q. Between two and three, is where Barry is pointing on the map. Okay.

23 A. Yeah. Gary Christenson and Ernie Martinez were down in this area. There
24 was a bump at that time, a small bump, and it --- what I recall, it felt like it was off in the
25 distance, up high to the north, northwest. At that point, there was a change in the

1 atmosphere. It went from somewhere around 19 percent, 19.5 percent oxygen, it
2 dropped off on my meter to the 16 percent range. And, as I said, Gary and Ernie ---
3 Gary Christenson and Ernie Martinez were in this area to see whether they could get by
4 here. Gary Christenson's meter was registering in the 15 percent range.

5 Q. Okay. So Gary actually was able to get up past 126 to number one?

6 A. Right in this area. Yes, right in this area here.

7 MR. TEASTER

8 And you zig zagged your way from ---?

9 A. We zig zagged --- we.

10 BY MR. PAVLOVICH:

11 Q. Okay. You couldn't just go straight up, then?

12 A. We didn't go straight. We --- in fact, there were times when the wire mesh had
13 come down on one side of the entry, and you went down under the wire mesh, and
14 scooted along the ribbon and back up, and out into the entry.

15 Q. Okay. So when the oxygen got down to 15, 16 percent, you elected to
16 evacuate?

17 A. I think we elected to evacuate when we had seen that we could no longer go
18 any further.

19 Q. Okay.

20 A. In fact, it was very concerning ---

21 Q. And the fact that it was still bumping ---?

22 A. --- and I'll tell you, when it did occur, and you find yourself crawling in a space
23 that's only a foot to 18 inches, my first thought was, Barry, what are you doing here?
24 It's --- then, as I said, the oxygen level, and the CO level went from, on my meter, it was
25 like 16 parts, and it showed up to 40, I think, got up to 45.

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UNIDENTIFIED SPEAKER:

And you had no apparatus with you?

A. I had my self-contained, self-rescuer.

BY MR. PAVLOVICH:

Q. Where did you think the low oxygen would be coming from?

A. Where did I think it was coming from? I thought it was coming from the gob and so on.

Q. So you felt like, at that time, you felt it was breached somewhere, and it was low oxygen up in there?

A. Yes, yes.

Q. Okay.

A. The other thing that I realized at the time, is the direction of which --- you know, you look at --- all the roof bolts were sheered. There were some that were, you know, anywhere from six inches to two feet long. They were all bent due south.

Q. All due south?

A. The belt line was pushed --- the belt was flopped over, and it made a U shape that was laying on its side, and it was --- the open end of the over-folded belt was pointing to the south. My thought then, was the force come from the north.

Q. Okay.

A. And it was the amount of coal that filled the entries --- at that moment, you thought about the men that might be trapped. You wonder if this was continuous all the way into the section, and we're 2,000 feet away. The other thought was, when the air changed drastically, as it did, my thoughts, if I'm 2,000 feet away, what were they experiencing? Something, as I said, I felt it was, you now, being contaminated by gob gas.

1 Q. Okay. Was it very dusty in there still when you got in?

2 A. No. But there was --- you know, you found anything from pulverized coal to
3 coal chunks, rock material, everything that was --- I mean, at different areas.

4 Q. Okay.

5 A. You could see, as I said, pulverized coal and chunks of coal, chunks of rock,
6 slabs of rock.

7 Q. And in one notation, in your notes, and I think it's on page ten of your notes for
8 August the 6th, you make a statement there, it says, with the amount of rubble in the
9 entries five to six foot deep, how could anyone manage to survive?

10 A. Yeah, I was thinking that if it was like this the entire way, I --- I don't know how
11 anybody would survive.

12 Q. Okay.

13 A. And then later, back when I got to my office, keeping track of the bounces that
14 they record, I knew this information was --- then you had time to think about what had
15 occurred. Initially, they said there was a bounce of 4.0 on the Richter scale.

16 Q. Uh-huh (yes).

17 A. And they talk about the epicenter and an equivalent energy release.

18 Q. The equivalent of a small atomic bomb?

19 A. Yeah. And later, you find out that this, this event lasted for four minutes. That
20 was ---.

21 Q. Had you ever seen a bump of that magnitude ever?

22 A. I haven't, haven't experienced it with the B.L.M. I think Solve A was trona mine
23 that --- a 5.2 on the Richter scale, and it, it completely collapsed the mine. I think it
24 was, dust was spewing out of the mine for, probably 24 hours.

25 Q. Really?

- 1 A. That's up in Green River?
- 2 Q. Uh-huh (yes).
- 3 A. It was, you know, that was ---.
- 4 Q. But the mine was completely collapsed?
- 5 A. Yeah. And ---.
- 6 Q. Have you ever seen one of these in the coal mine like that?
- 7 A. I read about it at Sunnyside. When I got out there, they had a lot of history on
8 bounces that occurred there. They talked about a bounce that knocked out 600 feet of
9 their main entries, where it had turned a miner on its side. My experience, 3.2, I think,
10 three point two on the Richter scale at the Cottonwood mine. That's where the
11 multiple-seam mining is taking place. And I think that sheered about eleven legs of the
12 longwall shields. And ---
- 13 Q. Oh, okay.
- 14 A. --- have I experienced one of those, being right there? No.
- 15 Q. Have you ever seen entries packed full of coal like this?
- 16 A. Yes, at ---
- 17 Q. Oh, you have? Okay.
- 18 A. --- the Deer Creek mine, when I worked for Utah Power and Light, I was in the
19 Deer Creek mine. I don't know which longwall panel, but yeah, I did, it bounced out
20 ahead of the longwall, and there was only a space of about 18 inches.
- 21 Q. Okay.
- 22 A. It filled the entry. But it was not, --- it was only for two, three crosscuts.
- 23 Q. Okay. Not for that extent?
- 24 A. Not to anything of this significance.
- 25 Q. How long did you --- when you made that notation about could anyone manage

1 to survive, did you discuss that with anybody else that you were with?

2 A. I was kind of --- I made the comment to Bill, and I felt that maybe I was
3 speaking out of turn. I said, you know, are they just planning to drill to find out whether,
4 you know, to confirm that these guys are no longer with us, with the --- you know,
5 finding what the atmosphere would be like? I did pose that question to him. I felt ---
6 and this was --- I think they decided to drill, probably three days into the project. That
7 was ---.

8 Q. Did you anticipate that they were going to go in there and try and clean that up?

9 A. I was getting quite frustrated in the beginning. I felt that we could've probably
10 got a group of guys and, possibly just to dog hole, even --- there was some small space
11 all the way through, but it wasn't enough to crawl. I think the material, we probably
12 could've pushed to the side. That was --- after, as I said, it seemed like two days had
13 gone by and there was absolutely nothing taking --- well not nothing. Equipment was
14 being shipped in. It just --- it just was frustrating.

15 Q. So you felt maybe a group of guys, as a team, could go in and shovel and
16 scrape enough away ---.

17 A. You know, and I don't --- you know, you say something, I think it possibly would
18 have worked out better than what has occurred.

19 Q. Okay.

20 A. Knowing that the material in the entry was offering some sort of support to the
21 ribs.

22 Q. Yeah, right.

23 A. I don't know what type of passage you would've had to make. It also would
24 depend on the air supply and whether you had --- if it was completely 2,000 feet of, you
25 know, 12 inches from the roof, there would have had to have been concerns about, you

1 know, people working back there, but it would've had to have been done under
2 apparatus. You would've had a speculation on my part, but --- it was, as I said,
3 frustrating in the beginning, waiting and waiting.

4 Q. How long did you guys stay up there that first day?

5 A. Probably an hour. Maybe a little longer. It was pretty tough crawling through
6 there.

7 Q. And then when you came out, did you, then, come outside, or were you given
8 some other directions from Bill, or ---?

9 A. We did, we did come outside, but it took us --- by the time we got outside, it
10 was --- a considerable time had passed, I would imagine, two hours, three hours.

11 Q. So now it would've been sometime late afternoon maybe?

12 A. Not late afternoon, early afternoon.

13 Q. Early afternoon? Was there any other work going on at the time? Was
14 there ---?

15 A. They were restoring some of the ventilation.

16 Q. Okay. About how long did you stay there that day?

17 A. At the mine?

18 Q. Yeah.

19 A. I don't know exactly, but it was late.

20 Q. Okay. Sometime up in the evening?

21 A. Yeah.

22 Q. Were you aware of the excursion into the sealed area of the ---?

23 A. Yes, yes, in fact I ---.

24 Q. So you were still there when that happened?

25 A. Yes.

1 Q. Okay. And what was your understanding of what happened there?

2 A. They breached the seal. They went in a couple crosscuts, and --- this, this is a
3 --- in a meeting, after I had the opportunity to be back here, seeing where the ---

4 Q. Uh-huh (yes).

5 A. --- where I felt the force come from, they calculated where the epicenter was,
6 the operator did. But it's my understanding that there's ten or 12 different coordinate
7 systems you can use. They had it way down here in the southwest corner.

8 Q. In the south portion?

9 A. That's where they said the epicenter was. And then, to me, seeing what I
10 seen, there's no way that, that's where it occurred. That was my thought. And then
11 why they wanted to breach the seals. This was when Bob Murray, he said, this is my
12 idea, Laine's idea, we're going to breach these seals and get back there. We'll have
13 them out of here in 24 hours. That's --- that's the comments that he was making, and I
14 realize that, you know, you want to look at all different avenues on what you may be
15 able to, you know, work out some escape route. You learn afterwards that the
16 company knew that, and you seen the number of caves. I think there's at least two
17 dozen caves on the map.

18 Q. All of these?

19 A. One of the individuals, I think --- I'm not certain, but I think it was Garth Neilson,
20 who now works for Rocky Mountain Power. He was familiar with that area, and he, he
21 didn't seem to be thinking they'd be successful. I mean, I ---.

22 Q. He knew what it had been like before they sealed it.

23 A. Yeah, he knew what it was like before.

24 Q. Okay.

25 A. And when they got in a couple crosscuts, it was my understanding that, what

1 they reported, that it was working in there. As they back tracked out, it caved there.

2 Q. Okay.

3 MR. TEASTER

4 When you went outside, Barry, Randy stayed with the other
5 miners that were underground?

6 A. You know, I don't recall. I don't know whether he did or he --- I think that he
7 may have come outside also. I'm not certain. Yeah, he was part of the, I think, maybe,
8 the rescue team that went in here. He was part of the mine rescue team. I'm not
9 certain who all was.

10 ATTORNEY CCC:

11 Did you have any communications with you, at all, when you
12 went back up in them little spaces up there around 127?

13 A. Here? Yes, we were --- we were calling back to Randy, and they were a
14 crosscut behind us with a phone.

15 BY MR. PAVLOVICH:

16 Q. Okay. So you had hand-held --- hand-held ---.

17 A. We were yelling back to them ---

18 Q. Oh, you were yelling back and they were ---.

19 A. --- and they were relaying the information back to the office, to the command
20 center.

21 Q. So someone was able to stay in touch the whole time.

22 A. Yes. Yes.

23 Q. Okay. So you say sometime that evening or night, you left the mine.

24 A. Yeah, I don't know exactly what time.

25 Q. Were they already starting to clean up in the number four entry, do you know,

1 when you left, with scoops? Do you remember anything like that?

2 A. I don't know. As I said, it was just --- they may have, but it may have --- I don't,
3 the first day, I don't think they did.

4 Q. You didn't go back into the mine, though, once you came out?

5 A. I didn't go back in, no.

6 Q. Okay. So what was your instructions? When were you to report again?

7 A. I was in the command center after that for probably a week or so.

8 Q. Okay. You were in the command center. Did you ever go back underground?

9 A. Yeah, I did, later on, when they --- whomever decided what the recovery plan
10 was to be, I was assigned.

11 Q. So for the next several days, you were in the command center?

12 A. For --- yeah.

13 Q. And what were you doing in the command center?

14 A. Basically, keeping the log, answering the phone, while Bill was also ---.

15 Q. What shift, day shift?

16 A. Day shift. Yes.

17 Q. Okay. So basically you and Bill Taylor?

18 A. Yes.

19 Q. Bill was, I guess, initially, in charge of the operation?

20 A. Yes.

21 Q. And then did Al Davis show up?

22 A. Al Davis showed up, yes.

23 Q. The same day it happened, the 6th? Or ---?

24 A. I believe it was, but I don't know exactly what time it was ---

25 Q. Okay.

1 A. --- and Al didn't appear to be around. He was more or less, when Stickler
2 showed up, he was with Stickler.

3 Q. So when you say when Stickler came and showed up, that Al was, primarily,
4 with them all the time.

5 A. Yes.

6 Q. Would you say then Stickler was running the operation?

7 A. I would say he was.

8 Q. Okay. And what would make you say that he was?

9 A. He's in charge of MSHA, that's why.

10 Q. Did he appear to take charge when he came in? I mean, did he --- was he ---?

11 A. He's a very passive person. He had questions. He generated some concerns
12 that --- there were things, all types of things. We had --- our communication with the
13 fresh air base. One phone. The entire mine was using it. There was no separate
14 communication. That, in itself, trying to get information from the recovery area was
15 very difficult. Because there were people going in and out changing zones, and the
16 phone was, for the most part, overused. We needed to get a different line.

17 Q. This was the general pager mine phone system?

18 A. Yes.

19 Q. So you were receiving your information when you were in the log book, from
20 people at the fresh air base or the guys inby, but at the same time, it would be
21 interrupted by people traveling in and out for clearance and ---

22 A. Yes, yes.

23 Q. --- Conspec people and ---?

24 A. Any types of materials that were needed. At times, it was, it was frustrating.
25 That aspect was frustrating.

1 Q. Did that continue on throughout?

2 A. Throughout.

3 Q. It never changed?

4 A. They had one, one phone. There was no dedicated line to the command
5 center.

6 MR. TEASTER

7 Do you know if it was discussed to do that? Was it ever
8 considered?

9 A. You know, to deliberately have that situation? No ---.

10 MR. TEASTER

11 No, to have another phone installed, dedicated to the fresh air
12 base and the surface?

13 A. I don't know. When they had, when Stickler and Al Davis, and I believe Bill was
14 privy to most of those meeting, we weren't --- I wasn't.

15 BY MR. PAVLOVICH:

16 Q. So it was difficult to get the required updates from the ---?

17 A. Oh, most certainly. And there was a request made by Mr. Stickler that he
18 wanted to have an update on where the advance had got to, every hour, on the hour.
19 We had a mine map that reflected --- I mean, keep in mind, the crosscuts were 130
20 foot centers. We could estimate how far they advanced. By the time they got to the
21 next crosscut, we knew we had advanced 130 feet, therefore, if we were off in
22 between, it's really, you know --- to have an exact footage, I thought, was pretty much --
23 - also, having to do a measure up, having the guys go in and measure up, put them in
24 jeopardy to go up to the last prop, the rock prop that was set. I thought that was
25 unneeded. I was asked by Mr. Stickler why Washington would tell him that they had an

1 advance that was different than what we actually had on our map and in our log. I was
2 asked, why is it different. And I, I honestly didn't know why it was different. Possibly,
3 the loss of information from the time that it went from, however it got back to Arlington
4 and until it got back to Mr. Stickler, there was a loss of information or the accuracy of it.
5 To have someone do a measure up, putting someone in jeopardy, taking a tape out
6 there and measuring it, I thought was unnecessary.

7 MR. TEASTER

8 Who gave that direction?

9 A. Mr. Stickler did. In fact, he --- I didn't see this. One of the other inspectors was
10 told that if he didn't do as requested, he wouldn't be working for MSHA. And that was
11 regarding the measure up had to be every hour, on the hour, he wanted the first note to
12 be, my understanding, when I was there, where the advance was. We were tracking
13 this continuously with a map. The map and the log go hand in hand to know in an
14 instance where you were, was very simply, to look at the map. But there had to be an
15 entry in the log book every hour on the hour.

16 BY MR. PAVLOVICH:

17 Q. Who did he tell that to, do you remember?

18 A. He told it to Ex. (b)(6) and Ex. (b)(7)(C) ---.

19 Q. To Ex. (b)(6) and Ex. (b)(7)(C)?

20 A. Yes. Later, Ex. (b)(6) and Ex. (b)(7)(C) --- had the opportunity to hear it. And then ---.

21 Q. Directed at Ex. (b)(6) and Ex. (b)(7)(C)?

22 A. Then Ex. (b)(6) and Ex. (b)(7)(C) was, in my understanding that his finger was used to
23 point at Ex. (b)(6) and Ex. (b)(7)(C) and said, if you're not going to do what I want, you won't be working
24 for MSHA.

25 Q. All over a measurement?

1 A. All over a measurement.

2 Q. And why do you think he was so concerned about having these measurements
3 every hour? Did you know?

4 A. I'm reasonably educated, but to give an intelligent answer on that, no, I don't
5 know.

6 Q. Okay.

7 A. It ---.

8 Q. Go ahead.

9 A. Having to go down there and give the measurements the following weeks, that
10 I worked, you know, prior to the accident itself, had to go under there and run out a tape
11 and measure what your footage was, not only to the last rock prop that was installed,
12 but to where the head of the liner was ---

13 Q. Uh-huh (yes).

14 A. --- in advance of the rock props. That information was also requested.

15 Q. How were you doing that?

16 A. I was taking a tape and measuring it.

17 Q. All the way to the face?

18 A. And measuring, knowing a length off the miner, took it at the last rock.

19 Q. You're measuring to a certain point on the miner and adding the extra length of
20 the miner?

21 A. Yeah.

22 Q. So ---.

23 MR. TEASTER

24 Could you take the --- excuse me, Joe. Could you take the
25 measurement? I mean, if you had it measured up to this rock prop could you just ---?

1 A. Add on, if you chose to. But you got to a point where you wanted to have an
2 accurate measurement. That was just as easy ---

3 MR. TEASTER

4 So you went back to the center line ---.

5 A. --- to measure from the spat or the previous intersection, just stretch the tape
6 out. It was the easiest thing to do.

7 BY MR. PAVLOVICH:

8 Q. So you were afraid if the last guy reported 125 feet inby X spat, and you said
9 123 feet ---?

10 A. Yeah, there was a problem.

11 Q. Okay.

12 A. That's ---

13 Q. And you knew that was critical to someone.

14 A. --- to someone.

15 Q. Okay.

16 A. Well there was a point when I was in the command center that they wanted us
17 to track a FedEx number for a camera that was being sent. I mean, we were in the
18 command center. There were --- there were so many things. I was thankful that Bill
19 was there. He did --- he was very meticulous. He did bring a lot of organization to what
20 we were doing, and being constant saying, we need this, we need this, I was just --- I
21 was thankful that Bill was there.

22 Q. When you came out of the mine that first night, first day that you were there on
23 the 6th and you crawled up on --- were you debriefed?

24 A. No.

25 Q. No?

1 A. I talked with people on what I --- In fact, I couldn't believe it when I said, we
2 were back there and you had a small thump, and the air changed from respirable to 15
3 percent and 16 on mine, and 15 on Gary's. We're 2,000 feet away from where the
4 trapped miners are, and that was like, okay. That's ---.

5 Q. And nobody seemed to pick up that there might be a problem?

6 A. I don't know whether they did or they didn't. It ---.

7 MR. TEASTER

8 Who was you talking to at that point?

9 A. Probably Bill and everybody that was in the command center, said this several
10 times. And then it was a day later or two days later when they decided that Bob Murray
11 would be drilling his --- his holes up on top of the mountain. That --- I did approach Bill
12 and I felt awkward in saying it. Is this just to verify that these miners that are trapped,
13 verify that they're dead?

14 BY MR. PAVLOVICH:

15 Q. Okay.

16 A. That was my comment.

17 Q. And when you saw the readings that came out of that hole showing seven
18 percent ---

19 A. I ---.

20 Q. --- did that, pretty much, confirm things for you?

21 A. For me, it did.

22 MR. TEASTER

23 What was Bill's response when you told him, was this to
24 confirm ---?

25 A. I didn't --- Bill's a quiet person. I --- he --- as I said, I felt after saying it, maybe I

1 may have spoke out of turn.

2 BY MR. PAVLOVICH:

3 Q. Did you know that bounces were going on continuously in there while the
4 rescue operation was going on?

5 A. Yes.

6 Q. They were being called back to you on the phone?

7 A. Anytime there was, yes.

8 Q. Was there any kind of instructions given to anyone on what guidelines, I guess,
9 to use, to clarify what they were calling a large bump, small bump, medium bump,
10 bounce, anything like that? Or was it just left up to everybody's perception?

11 A. I can recall being in there when it bounced, and it knocked out a stopping ---
12 we're, you know, a little behind the miner, and a curtain outby, and that's when it
13 sheered the --- tore the shafts.

14 Q. Murray?

15 A. He called out and said this is what occurred.

16 Q. Did anybody seem concerned?

17 A. Oh, I think we all were concerned.

18 Q. No, I mean people outside. Or did they just take ---?

19 A. I was --- to be honest with you, there were times when you were writing down
20 things, listening on the phone, there was other bits of information that you had to get. It
21 was not --- and having to wait sometimes, because somebody was requesting
22 materials, and the phone that you were using, you had to wait. In fact, it got frustrating
23 at times ---. Well I just said, hey, the fresh air base, somebody at the fresh air base.
24 You'd repeat yourself. You wanted somebody to pick up. In fact, there was a time that
25 when the person, you know, you're talking about the fresh air base, and the person that

1 was there, didn't know it was the fresh air base, so ---.

2 Q. Okay. So there was a lot of confusion ---

3 A. Yes.

4 Q. --- throughout?

5 A. At least, the first couple days when we had some idea how the recovery was
6 going to take place to mine, install the rock props. If the roof needed supported, then
7 you would bolt.

8 Q. Okay. Were you involved in any of that discussion of how the roof would be
9 supported or the ---

10 A. Ribs was my ---.

11 Q. --- ribs with rock props?

12 A. No. They gave a plan and without anybody, in my understanding --- I didn't
13 take part in it. I don't think any of the inspectors. They were --- we have some people
14 in our office that have experienced a lot of severe mining conditions, particularly
15 bounces and particularly with multiple-seam mining, to know the effects. I don't think
16 anybody there was included.

17 Q. Nobody was consulted.

18 A. No. In fact, I was very concerned when I was told the report that I would be
19 going underground and I would be looking after --- to see whether the plan was being
20 implemented with the rock props. I was very, very concerned. I didn't feel that was an
21 adequate measure to support the roof. In most part, the roof was good. The roof was
22 solid. But it was just a big chunk of rock straddling the pillars.

23 Q. Okay. And did you feel that those rock props could hold the material if you had
24 a major bump off the top?

25 A. I didn't feel --- in fact, I was very concerned, very concerned.

1 Q. Because you've seen bumps that did a lot more damage than taking out a rock
2 prop; right?

3 A. Yeah, particularly at the Aberdeen mine.

4 Q. You ever seen them taken out there?

5 A. The rock props?

6 Q. Yeah.

7 A. The after effect.

8 Q. Yeah, that's what I mean. After a bump you've seen rock props knocked out at
9 Aberdeen?

10 A. Yes. Pushed out, yes. When you see the stage loader shoved down the entry
11 four or five feet into the rock props.

12 Q. Yeah, I guess that takes them out.

13 A. I had lots of concerns.

14 Q. Okay.

15 MR. TEASTER

16 Do you know whose idea it was to use the rock props?

17 A. I really don't know. There were --- I think they were available. As I said, it was
18 getting frustrating waiting for some sort of plan to take place. I felt we could go back
19 and start throwing the rubble by hand and get --- make further advance, and probably
20 safer, minus the, you know, the atmosphere. You'd always have to concern yourself
21 about the atmosphere.

22 MR. TEASTER

23 When Mr. Stickler or any other senior MSHA officials came
24 over to the log or asked you questions about what was going on, what kind of
25 information was they after?

1 A. Mr. Stickler was after the advance. He didn't --- in fact, the comment was, he
2 didn't want a reason, he just wanted to know where it was. I guess my experience that
3 I had, I'm, I'm --- normally, I speak up. I think I was somewhat shy and reluctant to say
4 anything. If I have to do it again, I'll probably --- I don't care whether it's Mr. Stickler or
5 whoever's in the slot, I'll probably give my piece of mind, regardless of the
6 consequences.

7 MR. TEASTER

8 What about Al, Kevin, when they came over to ---?

9 A. Kevin, I --- Kevin, I can only say that I --- Kevin was one that, at least, the
10 interpretation of the plan, when it was questioned, they want to go in by the rock props
11 to bolt. I had a question. I thought Kevin, you said no one in by the rock props. Does
12 that mean the operators, when they go in to bolt the roof? He specifically said no one
13 is to go in by the rock props. That was, initially, the way it was. Not even the people
14 doing the roof bolting. The roof bolter was not to go in beyond the rock props. It was
15 the ribs that we were concerned about more than anything. So Kevin was pretty up
16 front with his concerns. As I said, Mr. Stickler, as far as giving an interpretation of the
17 plan, he didn't offer that. He wanted --- most of the time, he was just concerned about
18 where the advance was.

19 MR. TEASTER

20 Did anybody show any interest, at all, when they came to you
21 for information that was coming from underground, inquire as to how many bounces or
22 bumps that was going on?

23 A. No, they weren't --- I don't know whether they were reading the log or not.

24 MR. TEASTER

25 But if they wanted information on advance, they came to you?

1 A. Yes.

2 MR. TEASTER

3 So if they was getting it on any bounces or bumps, they
4 were ---.

5 A. Yeah, every bounce that occurred, they --- that they called out, was recorded,
6 to my knowledge.

7 BY MR. PAVLOVICH:

8 Q. But no one ever came and said, Barry, have we had any bounces in the last
9 couple hours? How bad were they?

10 A. No, hopefully, they were reading the log. But when we --- Bill did debrief the
11 oncoming shift, the supervisors that were there. He did debrief them what had
12 occurred during the day, so Bill was taking care of that. And I don't know the questions
13 that they were asking him.

14 Q. When were you assigned to go back into the mine? Do you remember what
15 day it would've been?

16 A. No, I don't. I don't remember, but my --- there were probably ---

17 Q. Some notes, maybe?

18 A. --- some notes. It was, probably the 14th ---

19 Q. Okay.

20 A. --- the night of the 14th. And I, of course, I did this just for myself just the
21 noises, bumps, and bounces, just to ---

22 Q. Okay. Just to give yourself some ---?

23 A. --- just for my own, for my own ---.

24 Q. Okay. Was it bouncing regularly?

25 A. When they were mining, they were small thumps. Those weren't too --- it was

1 like the pillar was relieving itself, somewhat. I only can recall the --- I was off the shift
2 that morning of the day the accident occurred. We had some instructions about the ---
3 talking with Black and the other young man that was performing from the company that
4 was killed. Had discussions with him about the rock props, putting them on, keeping
5 them to a two-foot center.

6 Q. Okay.

7 A. And --- because of the previous shift, when we came in, they were --- we had
8 them, you know, two and a half, three, close to four feet apart on some instances.

9 Q. Okay. I guess these are --- what we did was take the logs, the command
10 center logs and went through them, and in fact, we even started a few days earlier with
11 seismic events that got reported ---

12 A. Okay.

13 Q. --- and, see on the 3rd, they had one 1.5 on the 5th, 1.6, 1.8.

14 A. You got this from the Utah University?

15 Q. Yes. Then on --- and it's the one the Accident Investigation Team gave us.
16 And then, of course, the big one was 3.9, that they had. There was another one, 1.9.
17 There was one, I guess --- I don't know if you knew. I didn't ask you, but originally, they
18 started to clean up in the number four entry and they got a certain distance and it
19 bumped them out of there. It, like, went to 13 in the morning, with a 2.2 and ---.

20 A. I think that was the one Ron Paletta made ---

21 Q. And this is the one that ---.

22 A. --- notes on that.

23 Q. Yes, that Ron Paletta, his notes, that it actually took him out ---

24 A. Yeah.

25 Q. --- he was standing in front of the feeder. It knocked him down and filled the

1 area up with coal and all that stuff. So that's what we did throughout, and of course
2 there's, well on the 8th and 9th, probably there wasn't much going on, but there wasn't
3 many bumps.

4 A. No there wasn't. In fact, that was one of those, as I said, it was becoming ---.

5 Q. Here's, here's some from Donny Duran about some noises.

6 A. Uh-huh (yes).

7 Q. And then I think on the 13th, when you're underground, there's a notation from
8 Mike Gonna (phonetic). Okay. Here's some from Rodney Anderson talks about --- but
9 anyway, here's one, I guess at 2:26. There's a magnitude of 1.2 .

10 A. Yes.

11 Q. I think you've got a note here. The atmosphere black with dust. Appears rock
12 props have moved out tops and bottom. Question rock props ability to support.
13 Continue, miner partially covered on the right side, curtains blown out, and also a
14 couple of Kennedy panels. Both cutter motor shafts on the CM sheered, as a result of
15 the bounce.

16 A. Uh-huh (yes). I would assume that, that's --- I realize when you're cutting on
17 the solid, then that's where the thing is, not that's a --- but they were actually cutting
18 through the --- the loose material.

19 Q. Okay. So they weren't down in the bottom ---

20 A. No.

21 Q. --- they're just cutting through loose material when it bounced and broke both
22 these shafts.

23 A. Yeah. I, I don't know how consolidated that material was, but ---.

24 Q. Okay. Let me ask you a little bit about there, where you say it appears the rock
25 props have moved out tops and bottom. What did you see there, Barry? What did it

1 look like to you?

2 A. Well you know when they installed these things, they eyeballed these things, so
3 you, you --- I don't know, you look at things, and you're relying on your memory ---.

4 Q. Because they weren't using a plumb bob or anything.

5 A. Yeah, they weren't using a plumb bob, and you're saying, well, geeze, did they
6 actually set it that, at that inclination or ---?

7 Q. Okay.

8 A. And that's just, it was just a thought.

9 Q. So after the bump, I mean, were they --- how much skewed?

10 A. Yeah, they were ---.

11 Q. I mean, it was obvious they were skewed ---.

12 A. They weren't obvious. That's why I'm saying, you're questioning yourself. It
13 looks like these things have moved.

14 Q. All right.

15 A. And you weren't, weren't certain.

16 Q. Did you ever see one that was totally kicked out or dislodged at the bottom or
17 top?

18 A. Not at the time, no. Obviously, after the accident ---.

19 Q. No. Okay. Yeah, okay. But prior to that, you hadn't?

20 A. No.

21 Q. All right.

22 A. I think Donny may have made a comment, too, to the effect that he --- he may
23 have done some measurements. I don't know.

24 Q. He'd done some measurements that he --- he felt they were moving, yes.

25 Okay. Well anyway, it goes on to --- it says, I guess starting on the 16th, 12:30, 8:30,

1 8:31, 8:45, 8:50, 9:00, 10:00, 10:04, 10:05, 10:18, 10:20, 10:25, 10:33 ---

2 A. This was the day ---.

3 Q. --- the day of the accident.

4 A. Okay. And it seems it was increasing then.

5 Q. Okay. All the way up to 1838 when the bump happened that Gary was killed in.

6 And that shows it was a 1.6. And in there --- there's a lot of these in here that's 1.6.

7 You know, even like the one you saw, okay, where it broke the shafts on the miner ---.

8 A. Well it depends on how close you are when it happens.

9 Q. Well and that's my point. We're lucky in that nobody was there at the time.

10 A. Yeah, it covered three-fourths of the miner up.

11 Q. Okay. And so did it seem like we're having a lot of these where we're just lucky
12 there wasn't anybody there. Because if someone would have been there, they would've
13 been hurt or worse?

14 A. Could have been, yes.

15 Q. Did you ever express any concerns to anybody in command about continuing
16 with this operation?

17 A. As I said earlier, I wasn't --- you were given your assignments and that's the
18 way it was.

19 Q. Okay. So you didn't --- nobody asked ---.

20 A. You didn't question.

21 Q. Nobody ever asked you your concerns.

22 A. You weren't debriefed. You weren't asked about anything.

23 Q. So you weren't debriefed when you came outside ---

24 A. Nope.

25 Q. --- and somebody sat down with you and said, tell me how bad it was? What

1 do you think?

2 A. No one said that. No one asked your opinion. You told them the course of
3 events that took place.

4 MR. TEASTER

5 Was you underground on the morning of the 16th?

6 A. I got off that shift that morning. I spoke with the two guys that were killed, for
7 the company.

8 BY MR. PAVLOVICH:

9 Q. So you swapped out with them?

10 A. Yes.

11 Q. You were getting off the day shift and they were coming on for the evening?

12 A. Yes.

13 Q. Okay. And was there any discussion about concerns or ---?

14 A. We were all, initially, when we first started setting the rock props, and
15 recovering the entry, we minimized the number of people that were going in the face.
16 And then one day Bob Murray has experts, 14 of them. And that's when everything
17 seemed to be --- I don't know whether they become more complacent about it, but --- it,
18 they were just everybody and anybody that wanted to go to the face, went to the face.
19 At times, there were 10, 12 people in the face. And if, for some reason, they were
20 given the go ahead to do that. And I don't know --- it was Bob Murray's experts that
21 had to do with the diesel equipment. They were going to keep it running. I don't know
22 who gave the --- the okay.

23 Q. When they brought these experts in, were these people that were
24 knowledgeable on bumps?

25 A. I have no idea. As I said, I was concerned about the number of people that

1 were converging at the face. Initially, the only people that were up there was the miner
2 operator. And we would go up to do our measurements or to look after to see what
3 was going on. And that was --- it was limited to that. And then as the days went on
4 more and more people were ---.

5 MR. TEASTER:

6 Barry do you think the 103 K-Order limited the number of
7 people that could go underground?

8 A. It did, initially. But the number of people that could go underground, I thought it
9 was the people that were necessary to do the work. That's my thoughts what a K-
10 Order is for. From that it seemed to blossom into quite a few people going
11 underground.

12 BY MR. PAVLOVICH:

13 Q. Were you aware of Murray taking family members into the mine?

14 A. Oh yes, and you just, you cringed at the thought.

15 Q. How about when he took the news media in?

16 A. It was --- I, you know, if a bounce had occurred that the three people that lost
17 their lives, if that would've happened when the media --- it's --- you know, you don't
18 know what would've occurred then. I mean, it was quite a few people ---.

19 Q. Was there ever any reason given to you? You were on the log, I guess at that
20 time; right?

21 A. Yes.

22 Q. Was there ever any reason why we're taking these media people in?

23 A. Never given a reason. First concerns that we had about the company wanted
24 to take a camera underground. It was Donny had called out, and I was talking with
25 Donny, and there was some problems that Donny was bringing to light and requiring

1 the company to either repair something or to take care of whatever Donny specifically
2 was citing. There was --- the company was at odds with him. They, then, next said
3 that they wanted to take a camera underground. And Bill and I had concerns that they
4 were going to take a camera underground and use this in an adverse way against
5 MSHA. At that time, it was sort of surfacing that MSHA was dragging their feet and not
6 allowing Murray to do what he wanted to do. The next thing I knew that Bill Taylor was
7 going to a meeting. He got out of the meeting and I was instructed to modify the K-
8 Order. Both Bill and I sat down and changed the K-Order to allow them to take a
9 camera underground. And then days after that, the media was going underground.

10 Q. And there was no, no specific modification to the K-Order that said media
11 people can go?

12 A. The media people? No, not that I was aware of. And we were all amazed.

13 Q. No. So they did that under the guise of taking a camera in?

14 A. I don't know whether --- however that came about, I don't know, but we were
15 instructed that --- I'm sitting at the log, doing the log. Bill was told that, and I assume it
16 was told my Al Davis, instructed Bill that they had a plan intact and their UMF that
17 allowed them to go in and take pictures, and they wanted to modify that to allow them
18 to take a camera underground. Days later, we found out that they didn't have a plan in
19 their ---.

20 Q. Okay. They didn't even have a plan.

21 A. They didn't have a plan.

22 Q. A photography plan. Was there ever any controversy that anybody voiced
23 about taking the media in there?

24 A. I don't think anybody --- we were all, you know, talking amongst ourselves, I
25 believe. We didn't feel that it was a wise thing to do. And we felt that, I don't think

1 MSHA had allowed that to take place, and then the other accident. And then to take
2 individuals underground that were related to the people that were trapped, that was ---.

3 Q. You thought that was a bad idea, too?

4 A. I thought it was a bad idea.

5 Q. Did you have any dealings with Murray while you were there?

6 A. Just sitting on a couple meetings. He's a different kind of guy.

7 Q. In what way?

8 A. I don't know, maybe he --- he sees things differently. He may or may not be
9 right. He's different.

10 Q. And what was his attitude like during ---?

11 A. Initially, he was very --- thinking that this was going to be an easy situation and
12 he was going to resolve it within a day or two.

13 Q. Okay. And then as the days went on ---?

14 A. I think, I think he realized that --- that's when he started talking about it was an
15 earthquake that caused this and it wasn't the mining activity that caused it. They
16 weren't retreat mining. Those kinds of things.

17 Q. Okay.

18 A. I tried to stay out of that. It's ---.

19 Q. Did you have any dealings with the families at all?

20 A. Not at the time, but a very close friend did.

21 Q. Okay. How about with the press when they went in, did you ---?

22 A. No, I didn't have anything to do with that.

23 Q. What was the reason that you stayed out in the command center for several
24 days, but then on the 13th, they sent you back in? Was it just to relieve somebody
25 or ---

1 A. I have no idea.

2 Q. --- punishment, or what?

3 A. I don't really --- I'd do most anything. I have no problem with working.

4 Q. I mean --- okay. So there wasn't any particular reason, they just said you
5 go ---?

6 A. I never --- they told me to go, so I did.

7 Q. Did you relieve someone else that had been underground or they just needed
8 more people, or what?

9 A. I have no idea why I was slated to go underground. I ---

10 Q. Okay.

11 A. --- I didn't even question it. I mean, this was a job they needed done. I --- the
12 only thing I did, I did have a lot of concern about what they were expecting us to do,
13 and how were we going about it, and I was very concerned for my, my safety.

14 Q. Okay. So you were very concerned for your safety. The safety of other people
15 there, also?

16 A. Yes.

17 Q. Did you voice that concern outside to anyone?

18 A. I talked with guys underground. When you have a continuous miner operator,
19 little guy about five foot, four. He's only 25 years old, and he doesn't have two years of
20 mining experience, and he's a continuous miner operator. And he's asking me, well, do
21 I know when the bounce is going to occur, and what's it likely to do? And you
22 empathize with him, because he was the man that was up there running the continuous
23 miner.

24 Q. Did you know of any of the miners that withdrew themselves and ---?

25 A. I didn't know any of the ones that did. I understand that some did. There were,

1 there were people that had concerns.

2 Q. Okay. So you feel pretty confident that wasn't a rumor. There were actually
3 some guys that ---

4 A. I think there were, yes.

5 Q. --- withdrew themselves?

6 A. Yes.

7 Q. Do you know if anybody ever questioned them or talked to those guys and
8 asked what their concerns were?

9 A. I don't know. No.

10 Q. Not to your knowledge of what ---.

11 A. It was even --- coming on shift, and you were relieving --- when I was in the
12 command center, it was difficult to get information from your co-workers as to what
13 took place on the previous shift.

14 Q. Why was that, Barry?

15 A. I have no idea why it was that.

16 Q. I mean, you just didn't see them, or they, they were ---?

17 A. No, I can remember Bill and myself were asking, is there any modifications to
18 the K-Order, and I think Bill had to ask a couple times. Finally, they said, yeah. They
19 opened up the book. I don't know why they weren't forthwith with that information.

20 MR. TEASTER:

21 Who was he asking that information?

22 A. I don't ---.

23 BY MR. PAVLOVICH:

24 Q. Somebody that was in the command center that night?

25 A. Yes.

1 Q. Don Gibson, maybe or ---?

2 A. Yeah.

3 Q. Okay.

4 UNIDENTIFIED SPEAKER:

5 Barry, I don't know if I got the answer to ---.

6 A. And then Tommy Hooker, too.

7 UNIDENTIFIED SPEAKER:

8 I don't know if I got the answer that Joe --- he asked you if you
9 had discussed your safety concerns with anybody. Did you have the opportunity to do
10 that? I mean, when you went underground, you said you was concerned about your
11 safety?

12 A. The plan was in tact. Did I discuss it with someone? Yeah, a number of other
13 engineers that I feel comfortable with that --- and one of them happened to be an
14 engineer that works at the mine --- discussions about how they were going about it.
15 Yeah, I had concerns where I called Ex. (b)(6) and Ex. (b)(7) and told her what to do if things
16 happened. I had those kinds of concerns. But to speak up and tell Mr. Stickler, well I
17 have some concerns about the way they're going about it. If he's willing to point his
18 finger at somebody because they're not putting in the record book a measurement
19 every hour, on the hour --- I enjoy working for MSHA. Mr. Stickler will be gone in
20 awhile. So ---.

21 UNIDENTIFIED SPEAKER:

22 Did you, I mean, in other people, did you get the idea that
23 when some personalities were there, like Bob Murray and maybe Mr. Stickler, too, that
24 people were not --- they didn't feel like they had the opportunity to speak up without
25 being ---?

1 A. Most of the meetings that took place, I have no idea what took place. As I said,
2 I reported to my duty, and if there was any change in the plan, they handed us a little
3 sheet of paper that said, this is what we're doing for the day. This is what we want you
4 to look after.

5 BY MR. PAVLOVICH:

6 Q. Okay. So you had a small briefing paper ---?

7 A. Yes. That's when I was going underground.

8 Q. Okay. No briefing when you came out, though?

9 A. No.

10 Q. No debriefing?

11 A. No.

12 Q. Do you feel like, since you've been with MSHA since '99, that you've had any
13 training or any kind of emergency training that would help you to have dealt with a
14 situation like this, as far as command center organization, briefings, debriefings, that
15 sort of thing?

16 A. I was at a loss. The only other time that I got involved with an accident, was at
17 the --- gosh, I can't think of the name, here. It's just right up the --- Willow Creek mine,
18 when they had the fire.

19 Q. Okay.

20 A. And we had the opportunity to sit in the command center and ---.

21 Q. Did it seem to be more organized than this?

22 A. It was, but I was, when that occurred, I was with MSHA a very short period of
23 time. Still at a loss on what --- how people should conduct themselves.

24 Q. Okay. So you don't feel you've had training ---?

25 A. I --- no, I don't. In fact, right now, what I experienced with the Crandall Canyon,

1 Q. Yeah, by MSHA.

2 UNIDENTIFIED SPEAKER:

3 Yeah, they were the NIOSH people with Academia.

4 A. Oh, they were kind of closed-mouth. They didn't --- they did their thing and
5 they probably reported to Al Davis and Kevin and et cetera. I don't know whether their
6 knowledge of the area --- I think they were amazed that this did occur, and I think they
7 were --- it seemed like they were bringing themselves up to snuff. How could --- you
8 know, they were figuring it out for the first time, and I think some of the people that
9 have worked with MSHA here for awhile --- and for instance, Donny Duran's
10 experience, Frank Marksheck (phonetic), these guys, they've experienced a lot.

11 BY MR. PAVLOVICH:

12 Q. Did any of those guys ever express to you that --- boy we're really concerned
13 about being here, we think we ought to quit?

14 A. No, no.

15 Q. They never did?

16 A. Not Donny or Frank, no.

17 Q. Why wouldn't they?

18 A. Pardon me?

19 Q. Why wouldn't they?

20 A. Why wouldn't they? Well we'll generally, do the job that is required or needed
21 at the time. I, well, I --- you'd have to --- I wouldn't know why someone would or would
22 not ---.

23 Q. Okay.

24 A. I needed a job. I enjoy working for MSHA. I went to work. I had concerns.

25 Q. I mean, do you really think it was to the point where someone had gone to Mr.

1 Stricklin and said, we don't think we should be in here. This is unsafe, and we're afraid
2 we're going to get somebody else hurt, that he would've fired them?

3 A. No, I don't believe he would have fired them, but I'm not looking for any more
4 difficulties in doing my job than what they are.

5 Q. Okay.

6 A. I just --- it doesn't -- it's not inviting when you're dealing with a person like that.
7 That's all. I've ---.

8 Q. You didn't feel that information was being solicited or welcomed, I guess, is that
9 what you're saying?

10 A. Yeah. And Kevin, Kevin is different. I think Kevin Stricklin is a different type of
11 person.

12 Q. But do you think Kevin had any input to ---?

13 A. I have no idea.

14 Q. Okay. You never heard any problem there?

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

16 Q. Okay. Was the MSHA command center pretty much isolated? I mean, the
17 company had theirs, MSHA had theirs?

18 A. We had our trailer there, and it was for the longest time, we had difficulties in
19 getting communications established with the drilling that was going on in the mountain.
20 I think for several days they were getting things squared away where we could get on
21 the internet system.

22 Q. So it was really a pretty poor set-up?

23 A. Initially, it was, yeah.

24 Q. Okay.

25 A. The phone system, not having a dedicated line into the command center, it

1 was, it was difficult to work with.

2 Q. Was there information able to be exchanged with the --- between the company
3 people underground and the company people up in their command center that MSHA
4 couldn't hear?

5 A. Were they able to do that, you say?

6 Q. Yeah.

7 A. I don't have any idea.

8 Q. You don't know if could or not?

9 A. I would imagine they --- they had their own way of communicating.

10 Q. Okay.

11 MR. TEASTER:

12 Barry, as I understand it, the company and MSHA had a
13 meeting in the morning somewhere around 8:00.

14 A. Yes.

15 MR. TEASTER:

16 Who normally attended that meeting for MSHA?

17 A. When I was --- Bill Taylor. You know, I was aware that him and whoever else, I
18 don't know.

19 MR. TEASTER:

20 Bill Taylor? What monitoring did MSHA have of people going
21 in and out from underground?

22 A. We continued on their Conspec system. Generally, we had hourly reports or
23 two-hour reports that we ---.

24 MR. TEASTER:

25 Did the company have somebody at the portal that was kind of

1 checking people in and out of the mine?

2 A. Yeah, they did it all on the --- they were calling in and out on the, to the
3 Conspec person when they were going in and out.

4 MR. TEASTER:

5 So somebody could go to the portal and go in, and nobody
6 would know?

7 A. If you elected to do that, you could've probably went underground if you chose
8 to, without ---.

9 UNIDENTIFIED SPEAKER:

10 The briefings that we were talking about, when you came out
11 from underground, no one sat down and debriefed you as to what your --- what was
12 going on underground?

13 A. No. Or any conclusions that they may be drawing on what's happening.

14 MR. TEASTER:

15 And where did you normally trade out with your replacement,
16 the guy that's coming on shift?

17 A. He'd normally come underground. I think there was one day that I walked
18 away from the face and we're talking, maybe a thousand feet away, where the guy
19 relieving me was normally was in a fresh air base area.

20 MR. TEASTER:

21 On the morning of the 16th, there was a bump that took place
22 about 10:00, 10:05 or something like that. Was you aware of that bump? Was you
23 underground when that bump occurred?

24 A. Yeah, on the day shift?

25 MR. TEASTER:

1 Day shift.

2 A. No, I was leaving at 7:00 in the morning.

3 BY MR. PAVLOVICH:

4 Q. Oh, you weren't underground that day?

5 A. I was on the graveyard shift.

6 Q. Oh you were on the graveyard shift?

7 A. And they relieved ---.

8 Q. So when you talked to Dale Black, it was because he was coming on at 6:00 or
9 whatever.

10 A. Coming on, yeah.

11 Q. Okay. All right, I was thinking you were day shift and you talked to him before
12 he went in for the evening shift.

13 A. No, no, he was --- I was underground until light.

14 Q. You were on the night shift. Okay.

15 MR. TEASTER:

16 When --- I'm going to go back to the inspection, now. When
17 you were on the south main section, they had just started the --- started the pillaring?

18 A. Yeah, the citation that I wrote, I think it was, I think it said it was a Number One
19 pillar, and that's probably the first pillar in line, that they had not started to pillar yet.

20 MR. TEASTER:

21 And did you issue any other violations? You mentioned one
22 about not having a ---

23 A. Warning device.

24 MR. TEASTER:

25 ---warning device up to the last row of bolts or the second row

1 of bolts there?

2 A. Yeah. They had made one or two cuts on that pillar. I also issued on the
3 escape way. I think I may have issued on the beltline for float dust.

4 MR. TEASTER:

5 Did you notice any heaving of the mine floor?

6 A. Yes. And, in fact, that was brought to my attention by an individual that was ---
7 I can't think of his name, but he went from working at Crandall Canyon, to working at
8 Deer Creek. There was some floor heaves. I cautioned the operator that, you know, it
9 was right under the beltline. I felt, you know, typically, you get in floor heaves, it's ---
10 stress is being relieved. It wasn't, probably, maybe eight inches lift.

11 MR. TEASTER:

12 When you say an employee brought this to your attention ---

13 A. Yes.

14 MR. TEASTER:

15 --- was it brought to you underground?

16 A. Yeah. And that was when I started walking the beltline, it was obvious, but this
17 individual, I don't --- I can't recall his name. But he brought it to my attention. Yeah, I
18 was aware that there was floor heaves. But it wasn't anything significant.

19 MR. TEASTER:

20 Did you see it in any other areas other --- did you?

21 A. No, in fact, this was a little ahead of the feeder breaker, and it wasn't on the
22 way out of the beltline. There wasn't any other place where the floor was heaving.

23 UNIDENTIFIED SPEAKER:

24 How was their belt structures supported? Was it suspended
25 from the roof? How was it installed?

1 A. It had --- every so often, it had a support on the floor, a belt stand.

2 BY MR. PAVLOVICH:

3 Q. But primarily was it supported by chains ---

4 A. Yeah, and chains, yeah, also stands, yeah.

5 Q. --- from the roof, and then they'd have a stand, periodically. Okay.

6 MR. TEASTER:

7 So how far would you say the belt, bottom of the belt was from
8 the mine floor?

9 A. It varied anywhere from, in the area where the floor heaves were, there was
10 probably only about four or five inches of clearance, and made a request that they take
11 care of that, so they had more free board in there. On the way out, it --- there were a
12 number of places where I cited in one of the citations, but for the most part, there was
13 ample space between the floor and the bottom belt.

14 MR. TEASTER:

15 The people that we had talked to, thus far, that's the first I've
16 heard of any floor heaving. They said the floor was so hard that it would --- the pillar
17 would actually bump before there would be a floor heaving.

18 A. Well there was floor heaving. On the entire, as I said, I cited, I think, float coal
19 dust almost the entire length of the belt entry for that section. There was --- which is
20 typical in the mine, where you had a nice --- the sloughage was, I don't know, the angle
21 of repose, I guess. But it was, it was graceful. It was, the belt, the walkway was more
22 than adequate. But you could tell that it was fresh material.

23 BY MR. PAVLOVICH:

24 Q. Was this heave material coal bottom? Do you remember?

25 A. I don't remember. There probably was some coal on the floor ---

1 Q. Okay.

2 A. --- but it, as far as significant floor heaves, no it was ---.

3 Q. No. I mean, was it bottom coal, though, where there was heaving?

4 A. Was there coal on the floor? You know, I can't, I don't recall whether it was or
5 it wasn't. But I'm thinking that they do have, in that area of the mine, they do have
6 some floor coal.

7 Q. Okay. Do you remember seeing anybody mine any floor coal while you were in
8 --- when you looked at ---?

9 A. No. As I said, they were --- when I went in for the section the first day that I
10 was there, mining was halted. I think they had made two cuts on the pillar. The mobile
11 roof supports were in place, ventilation was good. I mean, it looked good.

12 Q. Okay.

13 MR. TEASTER:

14 Was there any indication, at all, that she was taking on a lot of
15 pressure?

16 A. No, in fact, as I said, the pillars that they were set up on, they were, the ribs
17 and everything were nice and square. It did not show any signs of what occurred. Of
18 course, that was, it was on the 17th, I believe, and now we're looking at three weeks.

19 BY MR. PAVLOVICH:

20 Q. Did anybody ever mention to you anything about the possibility that it bumped
21 while they were mining up that entry or up that area developing it?

22 A. Yeah. When they developed? No. In fact, no one, no one had said anything.

23 Q. Did you ever ask him why they pulled out of the North Barrier where they did?

24 A. At the time, I didn't. No, I didn't.

25 Q. Okay.

1 A. In fact, I, I actually was not aware of the bounce that took place.

2 Q. Okay.

3 A. In fact, the previous inspector, I, I think he was aware that there was a bounce,
4 but he had no call to go back there. I think when he got there, they were talking about
5 the seals may have been partially erected.

6 Q. Okay.

7 MR. TEASTER:

8 This miner that approached you about the, about the floor
9 heaving, was there anything else that you discussed with him?

10 A. No, not that I recall.

11 MR. TEASTER:

12 And he approached you just to discuss ---?

13 A. He --- just about a time when I was going to start walking out on the beltline, he
14 stopped and started talking, and pointed out that there was floor heaves.

15 MR. TEASTER:

16 Okay. That's all I've got.

17 UNIDENTIFIED SPEAKER:

18 Before we leave that ---.

19 MR. TEASTER:

20 Oh, go ahead.

21 UNIDENTIFIED SPEAKER:

22 I'm just curious. I mean, was his concern about the clearance
23 from the floor heave to the belt, or was it that this pressure was unexpected?

24 A. No, I think he was concerned about the clearance between the bottom belt and
25 the floor. That's, you know, that's what I thought.

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MR. PAVLOVICH:

Anything else, Ex. (b)(6) and Ex. (b)(7)(C)

UNIDENTIFIED SPEAKER:

Yeah, well I guess, jumping around a little bit, Barry, but going back to the beginning when you mentioned the wood in the mains west. And you talked about the extent of the wood, even so much so, that you had a dollar figure thrown around ---.

A. No, that's, that's, this is, you find this out after ---.

UNIDENTIFIED SPEAKER:

Right. Well that was my question. When, when did all this knowledge come out?

A. After the accident, and probably a week or so into it, being in the command center and looking at the map, seeing all the --- I think there's about two dozen areas on the map where it's caved, and I don't know how it even came about. I just started talking about that, and they said, yeah, we had to seal that up because of ---.

UNIDENTIFIED SPEAKER:

And the usage of the wood, was it in the context that they were trying to hold up the roof ---.

A. Yes.

UNIDENTIFIED SPEAKER:

Because of a button pressure overriding those barriers at that time, or ---?

A. Well they were saying they couldn't hold the top up. They didn't give any --- they didn't speculate what was causing it, they just said they couldn't hold the entries open, open, open any longer.

1 UNIDENTIFIED SPEAKER:

2 Okay. My other one was just, you got my interest there when
3 you had that reference to the small atomic bomb.

4 A. That's what --- yeah, well that ---.

5 MR. PAVLOVICH:

6 Can we get a copy of this? Because I read that. Can I show
7 this to (b)(6) Barry?

8 A. Sure can.

9 UNIDENTIFIED SPEAKER:

10 Is that from the University of Utah or ---?

11 A. No, it's, it's something that I had ---.

12 MR. TEASTER:

13 But it addresses that energy that's been released.

14 MR. PAVLOVICH:

15 Rip through magnitude.

16 UNIDENTIFIED SPEAKER:

17 Oh, okay.

18 MR. PAVLOVICH:

19 It says, if you have a magnitude of X, it's appropriate to certain
20 seismic energy. And for example for at 0.5, it says it's similar to a hand grenade,
21 whereas, 4.0 is like one kiloton.

22 A. We were told the day of the accident that it was a 4.0.

23 MR. PAVLOVICH:

24 So ---.

25 UNIDENTIFIED SPEAKER:

1 Right, right.

2 UNIDENTIFIED SPEAKER:

3 Right.

4 A. And they said the incident lasted for four minutes.

5 UNIDENTIFIED SPEAKER:

6 Can we get a copy of that?

7 A. You sure can, in fact.

8 UNIDENTIFIED SPEAKER:

9 Again, I realize I'm jumping around a little bit, but going back to
10 your comment about, about your impression Mr. Stickler ---.

11 A. That's just my thoughts. I, I --- he's ---.

12 UNIDENTIFIED SPEAKER:

13 And I understand that. I mean, that's what we're asking you
14 about, though. I mean, that's what's important, your opinion, because you were there
15 and where you were in the command center and all of that.

16 A. Okay.

17 UNIDENTIFIED SPEAKER:

18 But you contrast that to Kevin's attitude, it would seem from
19 that ---.

20 A. I felt comfortable talking with Kevin.

21 UNIDENTIFIED SPEAKER:

22 Well, and that's my question, then. Did you or anybody else
23 express the concerns that you were having to Kevin? It seemed like he would've been
24 more approachable.

25 A. Okay. I was in the command center for a week. And the week ended. I didn't

1 know what my duties would be. I come back on Monday and they have a plan on how
2 they're going to do this. The only other time --- in talking about what they initially
3 started doing, was when they said, we're going to install rock props on two-foot centers
4 and no one will go beyond that. I think there was a modification to that. I --- because I
5 said, we --- at that time, I had no reason --- you know, this is what they want to do. I
6 really hadn't been underground yet. When I got underground and seen what they were
7 doing, it was a little different. When you're reading a piece of paper, versus when
8 you're going underground and having to install the rock props. And being there,
9 watching, hearing, listening to what's going on, watching the mine, my concerns
10 developed.

11 UNIDENTIFIED SPEAKER:

12 Again, back to your inspection there, which I think was the
13 18th, when you observed the pillaring was just starting. And you said they took some
14 --- a couple cuts out, and that might have been when you wrote something up there.
15 Was this the actual beginning of the pillaring? Did they have their first roof fall there
16 with the pillaring?

17 A. I don't think they had --- I believe on my --- the ticket that issued, I think there's
18 a little schematic. It says what pillar it is. I think --- they told me it was the Number One
19 pillar. I'm assuming that was the first pillar to be completely mined.

20 UNIDENTIFIED SPEAKER:

21 And you're up there, was mining already stopped?

22 A. It had stopped. They had taken two cuts when I got there. The mining had
23 stopped.

24 UNIDENTIFIED SPEAKER:

25 So the miner operator wasn't there ---?

1 A. Wasn't there.

2 UNIDENTIFIED SPEAKER:

3 So you didn't have the opportunity to discuss any of that with
4 him?

5 A. No, I didn't. The things --- as I said, the mobile roof support units were in
6 place, mining wasn't being conducted. In fact, I --- I don't know what time was the
7 ticket issued? Maybe they were to lunch or something, or ---.

8 UNIDENTIFIED SPEAKER:

9 I think the note from 7/18, Joe, shows us the drawing that he
10 had.

11 MR. PAVLOVICH:

12 No, I didn't see that. But I have one here that says 7:18.
13 Were you asking about the readily visible warning device?

14 A Yeah, that's, that's when --- I don't know that was ---.

15 UNIDENTIFIED SPEAKER:

16 Number One pillar. He had a schematic in some of these
17 notes.

18 MR. PAVLOVICH:

19 Section cut into the Number One pillar in by crosscut 148.
20 7/18. It looks like a ---.

21 UNIDENTIFIED SPEAKER:

22 This says 17 there.

23 A. 7/18.

24 MR. PAVLOVICH:

25 Something about the water level 14 inch deep in the floor?

1 A. Oh, that was on the escape route?

2 MR. PAVLOVICH:

3 Not on the section.

4 A. Not on the section. Yeah, okay. It looks like --- crosscut 148. It's on the 7:18
5 on page eight.

6 UNIDENTIFIED SPEAKER:

7 Page what?

8 A. Page eight. There's the crosscut 148, and it --- they told me that it was the
9 Number One pillar and they were in their second cut. They had cut that corner out on
10 there.

11 BY MR. PAVLOVICH:

12 Q. They had hit that slab there. Had they hit the barrier over here in One?

13 A. I --- I couldn't from where I was, I ---.

14 Q. You didn't go around and look?

15 A. I didn't go around and look, no. I did go in all the other entries to ---.

16 Q. This looks like the same ---

17 A. It is, it's just a ---.

18 Q. --- that way and ---. Do you want to see these Ex. (b)(6) and Ex. (b)(7)(C)

19 UNIDENTIFIED SPEAKER:

20 I looked at them.

21 BY MR. PAVLOVICH:

22 Q. Okay.

23 A. But as I said, the section really looked good when I was in there.

24 UNIDENTIFIED SPEAKER:

25 In the heave in the belt, Barry, did you look in the other entries

1 in that same crosscut area to see ---?

2 A. There was nothing, as I said, it was an isolated --- the floor was heaved, and as
3 I said, it was only probably, six to eight inches, if that. It was not that significant. I didn't
4 notice any --- and I believe I walked --- I walked all the faces and I came in the intake
5 and walked to the belt entry. I didn't notice anything else in the floor.

6 MR. PAVLOVICH:

7 Ex. (b)(6) and Ex. (b)(7)(C)

8 Ex. (b)(6) and Ex. (b)(7)(C)

9 You wrote the violation on July 18th and it just started filling the
10 South Barrier. It seems like when I look at that, I see like 21 days to the 6th, and to me,
11 it don't appear like they mined very much. Is there --- do they work, were they working
12 three shifts ---?

13 A. I don't know what ---.

14 Ex. (b)(6) and Ex. (b)(7)(C)

15 Was it just that slow going?

16 MR. PAVLOVICH:

17 It looks like they mined two, four, six, eight, ten, 12, 14, belts.

18 A. One, two, three, four, five, six, seven ---.

19 Ex. (b)(6) and Ex. (b)(7)(C)

20 In 21 days, to me, that's, to me that's slow going from back
21 east.

22 MR. PAVLOVICH:

23 Well you got three foot of coal.

24 UNIDENTIFIED SPEAKER:

25 How many days did you say?

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UNIDENTIFIED SPEAKER:

It was about 21.

UNIDENTIFIED SPEAKER:

Twenty-one (21) days?

UNIDENTIFIED SPEAKER:

From July 18th to August 6th.

A. I don't know the --- whether they were working seven days a week, whether they were working three shifts. I don't recall at this time, what --- how much mining they were --- there's mining in two shifts.

UNIDENTIFIED SPEAKER:

They work two 12-hour shifts per day.

BY MR. PAVLOVICH:

Q. Seven days a week?

A. I don't know whether it was seven days a week at the time or not.

Q. Okay. You didn't know if they would've experienced any difficulties in there, break downs or ---?

A. From the first day that I was there, I was on a belt initiative, after the 23rd and ---.

Q. Belt initiative where?

A. At the Deer Creek and Horizon mine.

Q. So they took you off of this inspection ---

A. For that, yes.

Q. --- on the 23rd, to do a belt initiative at two other mines?

A. Yes.

Q. What was that in regard to, just looking at belts, or ---?

1 A. A year ago, a letter was sent out from the district, and it --- I don't know
2 whether it was tied into the Sago or the Aracoma.

3 Q. Okay. Just one of many initiatives, and they pulled you off of your inspection?

4 A. Yes. And prior to --- I think, three months prior to that, I was in Steamboat
5 Springs looking at 20-mile mine while doing something.

6 Q. Vacationing, skiing?

7 A. Well yeah, unfortunately, it was not the time of year. And MSHA doesn't pay
8 me enough to ski there, so ---.

9 MR. TEASTER:

10 I'm sorry, you stayed on that initiative from the time ---?

11 A. Yes, in fact, you know, the way things turned out, I had worked about almost
12 three weeks without a day off, and I was going to go to work that night, Sunday. I was
13 glad that I didn't. In fact, that was the 6th. Just fortunate that I chose not to go. I was
14 going to get my graveyard shift then. Luck of the draw.

15 MR. PAVLOVICH:

16 And so that was the next day you had the opportunity to get
17 back to here, because you were on a belt initiative somewhere else. Okay.

18 A. No, that's why I went back there, yeah. That's why, yeah, why there was ---.

19 BY ^{Ex. (b)(6) and Ex. (b)(7)(C)}

20 Do you have any feeling, Barry, how many pillars you could
21 mine in a shift at M.R.S. and not setting posts?

22 A. Do I have any idea how many they could mine? No, I don't.

23 BY ^{Ex. (b)(6) and Ex. (b)(7)(C)}

24 In a shift? Okay. When you modified the K-Order, to allow the
25 operator to follow the photography in, was that the same day that the media could go in

1 underground, or was that prior?

2 A. That was prior to it. I don't know exactly what day.

3 BY Ex. (b)(6) and Ex. (b)(7)(C)

4 It wasn't the same day?

5 A. The K-Order was modified, and I think the media, whenever they went
6 underground, is probably documented.

7 BY Ex. (b)(6) and Ex. (b)(7)(C)

8 Did somebody tell you how to word that K-Order, or ---?

9 A. My boss, Bill Taylor and I sat down and we wrote it out and I typed it in and
10 signed it.

11 BY Ex. (b)(6) and Ex. (b)(7)(C)

12 It seems like it's kind of vague. It don't give a lot of detail.

13 Was that intentional?

14 A. It was --- I don't recall what it exactly says, but it was an attempt to limit them in
15 --- whatever they were going to take a picture of, we wanted to limit them in what they
16 were going to use it for. We wanted --- if they were going to use it for training, that's
17 fine and dandy. But if they were going take a picture and go out to the media, they
18 need to have permission from us to do that. I think it specifies that it wouldn't be used
19 for anything other than training, the pictures that they were taking.

20 BY Ex. (b)(6) and Ex. (b)(7)(C)

21 Did District Nine normally require a special plan for taking
22 photographs outby, just not inby the last opening ---?

23 A. They have a photography plan and I recall from the Co-Op mine, I think they
24 have to give us notice of so many hours in advance, and I think that may, in their other
25 plan for West Ridge or Aberdeen, might be similar to that.

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BY Ex. (b)(6) and Ex. (b)(7)(C)

For anywhere on the mountain?

A. Yeah.

BY Ex. (b)(6) and Ex. (b)(7)(C)

It don't matter where on the mountain, if it's inby or outby?

A. That's ---.

BY Ex. (b)(6) and Ex. (b)(7)(C)

And before, you said something was an issue about you
couldn't let the roof bolter ---.

A. When they first came up with the --- we're going to support the roof with the
roof with the rock props or the ribs with the rock props, on two-foot centers, the guys
that would --- we would mine two feet, and put a rock prop in, mine two feet and put a
rock prop in. No one would go beyond that last rock prop. And the people that --- two
people setting the rock prop, would be the only people there. When the continuous
miner, when he was operating, no one else would be in the area. After several days,
that was completely disregarded. They would mine ten feet and two people would go
up on both sides, start and stop with the rock props.

BY Ex. (b)(6) and Ex. (b)(7)(C)

So if there wasn't any --- say, the roof bolts were missing and
the screen was down, how did you set the rock prop?

A. There was a judgment. If the roof looked sound, we put the rock props in. If
they wanted to bolt it, they would come in afterwards and bolt it.

BY Ex. (b)(6) and Ex. (b)(7)(C)

Were they walk through bolters? When they bolted?

A. Yeah, it was a Fletcher double door.

1 BY [REDACTED]

2 So he could bolt without being actually supported

3 A. But initially, the bolter wasn't to go beyond the --- the supporting of the roof was
4 secondary to the roof.

5 BY [REDACTED]

6 And the first day you went underground on the 6th, the mine
7 rescue team was already underground?

8 A. Yes. The company.

9 BY MR. [REDACTED]

10 The company mine rescue team. So they just kind of verified
11 that you couldn't go anywhere in all four entries, and then you and Randy went over
12 top?

13 A. Ernie Martinez and Gary Christenson. Gary Christenson works for Deer Creek
14 mine. Ernie Martinez works for the West Ridge mine.

15 BY [REDACTED]

16 Where were the rescue teams then?

17 A. They were outby. And there were, I don't know how many people, were one
18 crosscut behind us with a communication, with a phone. And Gary and Ernie were ---
19 we would go to the faces and I would stay in the entry where they were straight out by
20 us, and he would take the gas reading, and I'd take the gas readings from him and yell
21 them out to the guys at the front.

22 BY [REDACTED]

23 So you guys would just yell them back and forth?

24 A. Yeah, one crosscut away. We, for the most part, we were always in sight of
25 each other.

1 BY Ex. (b)(6) and Ex. (b)(7)(C)

2 This was way back when we first started, you said you wrote a
3 plan deficiency to Sid Hanson at one time?

4 A. Yeah.

5 BY Ex. (b)(6) and Ex. (b)(7)(C)

6 And you said he called you?

7 A. Well he called, and they may have done so, you know, it was --- I think they
8 resolved the issue, but I, you know, it's been so long ago. We're talking years ago.

9 BY Ex. (b)(6) and Ex. (b)(7)(C)

10 You don't remember if you got a response in writing?

11 A. I think there was. I would have to go back and check the records. It's ---
12 sometimes when you get through with an inspection, it's through, you know? For the
13 most part, when we --- in order to have, cite an inadequacy, it takes paper tickets
14 issued to verify what you're saying. Generally, if it's just a comment that you make, it's
15 a comment.

16 BY MR. PAVLOVICH:

17 Q. I was just going through, I guess this is a copy of the log book, Barry, but
18 periodically here, I see a box that always says, clean up advanced, rock props
19 advanced, and it lists ---.

20 A. I think that was for Mr. Stickler.

21 Q. Okay. So you know, these seem to be repetitive. Was there specific
22 instructions at any time you --- if you want to document the distance, you put it in a box
23 where it's easily retrievable?

24 A. Well he didn't want you thumbing through pages. I can recall when the main
25 pumps for the mine were down. They couldn't bolt, they couldn't mine. And for six

1 hours everything was at a standstill. He came in and asked me where the measure up
2 was, and I had to thumb through three pages to find where I made the entries at.
3 Everything had come to a screeching halt. I said they were at a certain distance. The
4 map reflected that. I tried to give an explanation. He didn't want to hear the
5 explanation. In fact, I was told he didn't want an explanation. And he didn't --- really
6 give me the impression, me thumbing through the pages irritated him.

7 Q. And so --- so from then on, or at some point ---.

8 A. They were in boxes that were also color coded and everything else.

9 Q. Okay. But there never was any color coding or circling or marks to depict
10 bumps that occurred?

11 A. No, no, no.

12 Q. Isn't that amazing?

13 A. Well you --- I don't know what all was on the map. I was there for a week, and
14 in that week, there was a minimum of activity taking place, so ---.

15 Q. Okay.

16 BY Ex. (b)(6) and Ex. (b)(7)(C)

17 Barry, you mentioned early on about when you went inside and
18 you got the low oxygen when you was up there, maybe around crosscut 126, and you
19 come out and you tried to tell people, and nobody seemed any interest in it?

20 A. Well you tell people and it was, like, yeah, they well, they heard it.

21 BY Ex. (b)(6) and Ex. (b)(7)(C)

22 Well later on that week, I mean you was in the command
23 center all week, did any --- was there any other conversations after that time, like
24 maybe when they drilled down and found the lower two in the bull hole. Did they start
25 to say, hey, you know, early on we had it?

1 A. You mean, make the comparison, well we have this? The only time they
2 mentioned when they've reached the seals on the west, they correlated the seal with
3 the seal that we --- I think they had 57 then, when they breached the seal, 57 parts per
4 million. And it was --- they identify that with some of the early stuff.

5 BY MR. PAVLOVICH:

6 Q. Okay. They really didn't correlate the oxygen, the way you remember.

7 A. Was I questioned about it? It was a tidbit of information that didn't seem to ---
8 is it important to you or anybody else?

9 Q. Okay.

10 A. So I don't know the conclusions to someone. I guess it was mainly for myself.
11 I think, though the individuals were there. We called that information out. I don't know
12 what the command center did with it at that time, or what they thought.

13 Q. Okay.

14 Ex. (b)(6) and Ex. (b)(7)(C)

15 When you was there in July on the south main barrier, or
16 whatever it's called there, South Barrier, was there any amount of turnover that you
17 know of? Did you go up there and people say, well we've had people quit or anything?

18 A. You mean before they actually started mining it?

19 Ex. (b)(6) and Ex. (b)(7)(C)

20 No, when you was up there and they started pillaring back, do
21 you know if any miners ---?

22 A. Just the one individual. And I didn't question why he was quitting. He was
23 going from a non-union mine to a union mine. There might be better benefits there for
24 some reason, but ---.

25 Ex. (b)(6) and Ex. (b)(7)(C)

1 Did anybody say anything about miners were quitting for their
2 safety? They was afraid?

3 A. At that time, no, I didn't.

4 BY Ex. (b)(6) and Ex. (b)(7)(C)

5 Okay. Just one more question. What's the relationship
6 between the two work groups, 01 and 02 at your field office?

7 A. Overall ---?

8 BY Ex. (b)(6) and Ex. (b)(7)(C)

9 Cooperation, I mean, if you needed help with mines, or they
10 needed help with mines, how was the two sort of help each other get along?

11 A. We have been. On the belt initiative, I've been going to other mines.
12 Cooperation has put ten people, 15 people together. There's always going to be some
13 sort of disgruntlement, but I ignore it and do my job. If there was a need, I think all you
14 would have to do is ask. I know I would comply if somebody asked me to go do
15 something for them. I don't have any problem doing that.

16 Ex. (b)(6) and Ex. (b)(7)(C)

17 I don't have anything else.

18 MR. PAVLOVICH:

19 Nothing? Ex. (b)(6) and Ex. (b)(7)(C)

20 UNIDENTIFIED SPEAKER:

21 Yeah, I've got a couple for Barry.

22 UNIDENTIFIED SPEAKER:

23 Just sitting back listening to you guys, it sounds like everybody
24 was trying to do what was right. You know, the guys going underground, trying to do
25 the right thing, and you know, you always do what you're told. I guess we've all been in

1 risky ---

2 A. Not always, but ---.

3 UNIDENTIFIED SPEAKER:

4 --- well, but for the most part, I mean, you know, you listen to
5 your superiors and try to do what they're asking. I guess what I'm trying to get at is, you
6 made those first observations when you went underground. You said, look, this bump
7 was massive. All this material and it was a huge area. And then you combined that
8 with oxygen readings you got on your detector. Then two days later, you get seven
9 percent oxygen at one of the portals. Did anyone ever have any discussions about,
10 there's no way these guys are alive? Or was it just kind of hidden?

11 A. I think --- I don't know whether people around just were trying to project hope.
12 What --- what you're talking about now, as I said, I have a close friend and the family, in
13 talking with them. One of the thoughts that they had was that it seemed like, for lack of
14 a better word, they were strung out, you know, given all this hope weeks into it. They
15 said they probably would've been better off if they were told that, you know, after so
16 many days, hey look, there's little hope.

17 UNIDENTIFIED SPEAKER:

18 Well what was your opinion after you heard of the gas
19 readings that were inby?

20 A. My thoughts, after the first day, second day, there was, my thinking was, with
21 the gas readings that I detected and then with, it was the third day that they had the
22 hole down, I didn't feel that there was any hope whatsoever.

23 UNIDENTIFIED SPEAKER:

24 Did anyone --- do you remember anyone asking you what
25 information they were looking for? You know, when you think, looking back now, of

1 course, it's a Monday morning quarterback thing, but you would be looking at these
2 bumps or any concerns people have underground, and no one ever seemed to really
3 make that a priority?

4 A. About the ---?

5 UNIDENTIFIED SPEAKER:

6 About the things that were happening underground, other than
7 the footage that seemed to be the pride of ---?

8 A. Oh I think there were other concerns. That's just what irritated me, talking
9 about the footage. They were --- were they drawing conclusions? I have no idea what
10 they were, what was going on in the meetings. I, I --- I don't know whether I'm
11 answering your questions or not.

12 UNIDENTIFIED SPEAKER:

13 Well do you think ---?

14 A. My opinion is, three days into it, I, I didn't feel that there was any hope that
15 there'd be any survivors. That's just the way I felt.

16 UNIDENTIFIED SPEAKER:

17 Well, maybe I'll let Joe ask at risk versus value questions,
18 because you guys did well there. Did anyone ever discuss that at all?

19 A. Whether ---?

20 UNIDENTIFIED SPEAKER:

21 What we were going to gain out of this rescue, versus the risk
22 we were taking?

23 A. Did anybody discuss that with me? No. I don't know whether that --- I don't
24 know whether that discussion took place or not, but with me it didn't, no.

25 UNIDENTIFIED SPEAKER:

1 Even after you went over in the command center? Sorry.

2 A. No. No, no, nothing of that. Sometimes you were wondering what, you know
3 --- initially, as I said, it seemed like there was no action taking place. You become
4 frustrated with no action being taken place. After we started, was there any
5 discussion? They were drilling on top of the mountain for the --- initially, it was kind of
6 on the Q.T. about the gas readings that they got.

7 UNIDENTIFIED SPEAKER:

8 Do you think, Barry, that with Mr. Stickler and Bob Murray
9 spending a lot of time with the families, do you think the families or the press, kind of
10 influenced us to continue the recovery at all costs?

11 A. I --- I can't answer that. I don't know what ---.

12 UNIDENTIFIED SPEAKER:

13 Well what about that, what you just said there, Barry, about the
14 gas readings being on the Q.T., at least initially?

15 A. Well they were, initially. I think the first hole that was tested, Bob Murray got on
16 the news and they had 20 percent oxygen. And I think he blurted that out on TV that
17 they had good air. But in further checking, I came back to the office one day, and the
18 guys that were --- that took --- that were responsible for analyzing the sample, and
19 asking him, questioning him about the first samples that they took, apparently, they're
20 to draw a certain amount of air out of the hole first, and then take a air sample. That
21 wasn't done on the first one and --- I don't know where the confusion came in, but I was
22 curious about that for myself. As I said, I spent some time talking with them and asked
23 how the reading took place. But as far as them announcing to us what the gas
24 readings were, they were --- initially, they didn't. It was for what reason, I don't know.
25 They weren't open with that information even in the command center.

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UNIDENTIFIED SPEAKER:

The correct reading you're talking about, the ---.

A. After the --- it was a day after the --- the first reading was taking place, you didn't start getting the readings on the holes that they drilled until a day or so after the --- Bob Murray was on the news and said that the air was good down there. I don't --- has anybody reviewed that or seen that? It seemed like the first readings, they didn't, they weren't very open with the first readings. After, I was coming down to the office every night and going over and watching them do the samples. That's how I found out about them. That's when I was --- I don't know whether I'm answering the question or not.

MR. PAVLOVICH:

Yes, you have. You have some inspection activities to ---?

UNIDENTIFIED SPEAKER:

We've got a few.

MR. PAVLOVICH:

Okay. Why don't we take about a five-minute break, Barry, and we'll come back and finish up here. I know it's past your quitting time, but you know we appreciate you hanging in there.

SHORT BREAK TAKEN

UNIDENTIFIED SPEAKER:

That we was here and, you know, we've not had no heave. Barry, we've just got a few questions about event Number 4474193. That's the event that started at the corner that this accident happened. What we're just kind of trying to find out, is how some policies and procedures at the Price field office and the District Nine is interpreted, and what the policies and procedures might be. So we're going to

1 ask you just a few questions on that.

2 UNIDENTIFIED SPEAKER:

3 Okay. On Number Two? That's the one you're talking about;
4 right?

5 UNIDENTIFIED SPEAKER:

6 Yeah, I guess. Do you want to start or do you want me to?

7 UNIDENTIFIED SPEAKER:

8 You go ahead, go ahead, since you've got it there.

9 UNIDENTIFIED SPEAKER:

10 Okay. I'm showing you citation Number 7287794. If you want
11 to take a minute and look at it? You issued it under 75400. It kind of appears there
12 may be another violation in that also on the 1725. Just look at it and see what
13 instruction that you'd be given on stuff like that.

14 A. I would imagine you're talking about the belt structure ---?

15 UNIDENTIFIED SPEAKER:

16 Correct.

17 A. What I was, I guess the --- you want to know why I did write another 1725-A?

18 UNIDENTIFIED SPEAKER:

19 Yeah, I mean, it appears that there's two violations in there,
20 but ---.

21 A. When I looked at the structure itself, and was it causing a hazard, no. And I
22 equated the --- what I --- I looked at that as the problem was that the roller was in
23 contact with the coal and these two bottom rollers --- as far as, if it was a rock floor. In
24 this case, it was spinning in the coal. That's --- I just looked at it as an accumulation
25 problem, the belt, two bottom rollers. The belt, apparently, probably had cut through

1 the bottom hangers.

2 UNIDENTIFIED SPEAKER:

3 You just had the extra documentation to justify an S&S?

4 A. Yes. As far as, I don't know whether it's at --- I don't know whether I ---
5 whether the rollers were heated or --- that's 17; right?

6 UNIDENTIFIED SPEAKER:

7 Uh-huh (yes). I mean, we're just asking ---

8 A. Yeah, and I, I ---.

9 UNIDENTIFIED SPEAKER:

10 --- the instructions to, did you have to really justify an S&S
11 or ---?

12 UNIDENTIFIED SPEAKER:

13 Did you, basically, feel it was in an unsafe condition, Barry? Is
14 that ---?

15 A. I didn't fill the entire beltline. I thought the unsafe condition was caused by the
16 roller spinning in the --- in the coal. If there would've been a multitude of rollers in that
17 condition, I would have cited a 1725(A). And I'm just trying to see whether the belt had
18 cut through the bottom hangers or not, and I may have looked at the belt to see
19 whether it was in train now, or ---.

20 UNIDENTIFIED SPEAKER:

21 Do you normally use those big sheets underground, Barry?

22 A. Yeah.

23 UNIDENTIFIED SPEAKER:

24 How do you take your notes?

25 A. With these big sheets.

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UNIDENTIFIED SPEAKER:

And just put them in like a metal ---?

A. I have a --- just a plastic folder that they issued.

UNIDENTIFIED SPEAKER:

Okay. Just so you can do drawings and things?

A. Yeah, yes.

UNIDENTIFIED SPEAKER:

Those engineer drawings?

A. Yeah, I try to. I'm at a loss, as I said, there were two bottom rollers dislodged. I looked at that as a more of an accumulation problem than a belt that was not functional.

UNIDENTIFIED SPEAKER:

Okay.

UNIDENTIFIED SPEAKER:

On 7/19 ---

A. One comment.

UNIDENTIFIED SPEAKER:

Yeah.

A. You're concerning curiosity about the large sheets that I use, is any ---?

UNIDENTIFIED SPEAKER:

No, it's just that everybody does it different, and you know, we've gone through these note keeping changes the last couple years. So we're trying to get a good feel for how everybody does their notes, because, you know, it may come to a point where we make some recommendations on the taking of notes.

A. Another reason, I get, I got tired of pasting, taping three pages of notes to one

1 page. And the difficulty to copy them when you're running through the machine, the
2 copying machine. A lot of times it sticks. Just for convenience, and hopefully, I can
3 save a little bit of time. I'm seeming to be pressed for time.

4 UNIDENTIFIED SPEAKER:

5 Yeah.

6 A. To not having to ---.

7 UNIDENTIFIED SPEAKER:

8 What's your, you were going to ask ---?

9 UNIDENTIFIED SPEAKER:

10 Okay. On 7/19, oh he's not --- I'm just going to him this right
11 here. You do all your notes handwritten; okay?

12 A. Yeah.

13 UNIDENTIFIED SPEAKER:

14 And it seemed like the last sheet of it of every day, you had a
15 typewritten sheet. Now you was under --- you was on the surface on the 19th. And
16 everything that is documented in this sheet is for the --- is for underground.

17 A. That's probably a habit, that I just attach it to --- was I not, the 19th?

18 UNIDENTIFIED SPEAKER:

19 On the 19th, you was just on the surface.

20 A. It's probably a habit. Just put that in there thinking that I was underground. It's
21 one of the things that I do --- get my notes ready to hand in, and I stick this piece of
22 paper in, and I probably just, thoughtlessly, put that inside it.

23 UNIDENTIFIED SPEAKER:

24 Yeah, it's written on form 7,010 (K).

25 A. This is a form that a lot of the people in the office use.

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UNIDENTIFIED SPEAKER:

Okay.

A. And it's a matter of convenience when we're underground. I'll probably have another one developed that will include no violations observed. It seems that everything that we need to inspect, we have to put no violations observed. So I'll probably be adding something like that so I ---.

MR. PAVLOVICH:

Cover everything.

A. Yes.

UNIDENTIFIED SPEAKER:

Well doing it this way, does it make it just, real easy to just put that in there and, if you forgot something, that it's automatically documented?

A. There are so many times when you take air readings. It's --- to sit down and put it every time in here in your notes it's ---

UNIDENTIFIED SPEAKER:

Okay.

A. --- just like, I'm under the understanding, as a result of the audit team coming through, you go into a section and you check the section for imminent dangers. Well, it's, specifically, we're told now, that imminent danger has to be written out. We can't put a 107 (A). That you checked for 107 (A). That's not good enough. You have to put down that you've checked for imminent dangers. And I'm just saying, it's one of those things that ---.

UNIDENTIFIED SPEAKER:

Okay.

A. I don't know whether I'm right or wrong in doing it, but it's to re-invent the wheel

1 all the time. My job is, you know, there are certain things that I think being an MSHA
2 inspector, to have to go in and say, I didn't notice any violations.

3 UNIDENTIFIED SPEAKER

4 Would that be evident by the fact that you didn't issue any?

5 A. If I --- yeah, that's the way I look at it.

6 UNIDENTIFIED SPEAKER:

7 Yeah. So if you did travel an area from point A to point B, if
8 you didn't issue anything, that should be understood.

9 A. That's correct. But that's my understanding, and that's not good enough.

10 UNIDENTIFIED SPEAKER:

11 Okay.

12 A. Did anybody else's notes have one of these? I'm kind of curious.

13 UNIDENTIFIED SPEAKER:

14 Yes. Yes, yeah, we saw all kinds.

15 A. Okay. It's a matter of convenience.

16 UNIDENTIFIED SPEAKER:

17 Just about everybody in that office, or everybody was doing
18 that. And we was just curious, again, about policies and procedures.

19 A. This was, I think ever since I've been with MSHA.

20 UNIDENTIFIED SPEAKER:

21 We notice that you was underground, like a couple days, and
22 then you started doing surface without finishing the underground. What was the reason
23 for that? Do you usually complete the underground, then go to the surface, or what's
24 the policy for doing that?

25 A. What I normally do when --- my first day on the inspection, I will go

1 underground. At SUFCO, it takes me a couple days to get all the sections, because it's
2 so spread out. This mine, you went to the one section, you get to the places where
3 they're, maybe doing some construction, or the section --- I also like to visit the surface,
4 too. I got the 17th and 18th tied up with some things underground. And checking
5 some of the records, I wasn't satisfied. I came outside and, when you find a problem,
6 you start --- you look at, well is it a bigger problem than what you see here? And --- on
7 the surface --- whatever thought I had, it led to an Order on the records. Also,
8 sometimes, because we're pressed for time and budgeting our time so at the end of the
9 work week you can get all your paperwork in. But the reason for spending time
10 underground and then going to the surface without finishing, completely finishing the
11 underground, I don't know whether we're required to complete ---?

12 UNIDENTIFIED SPEAKER:

13 I think it was just a question, Barry, it's --- yeah, it wasn't --- it's
14 not a requirement. We were just curious as to ---.

15 A. It's, as I said, I don't know exactly what provoked me into going to the surface
16 that particular day, other than, maybe, I was coming up past the draw off tunnel, and it
17 looked extremely dirty.

18 UNIDENTIFIED SPEAKER:

19 Okay.

20 A. So ---.

21 UNIDENTIFIED SPEAKER:

22 You can see over here on the mine map, that's pretty much
23 the way it was the, well, I guess when the accident happened. How many different
24 locations in here was a section set up?

25 A. How many different locations ---?

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UNIDENTIFIED SPEAKER:

Yeah, was there a spare section in the mine?

A. Here.

UNIDENTIFIED SPEAKER:

There is a spare section and that's --- well what would that, what was that called?

A. First --- is it first north, second north?

UNIDENTIFIED SPEAKER:

Third north.

A. Yeah, a spare section, but it was my understanding that they weren't anticipating any mining in there.

UNIDENTIFIED SPEAKER:

What would they have to do to start that section?

A. In the eight years that I worked for MSHA, I was three days at the mine and, maybe, as I said earlier, I --- what was needed, I haven't got around to that yet.

UNIDENTIFIED SPEAKER:

Would that be a normal part of your inspection, Barry, to go up and check that section?

A. Eventually, it would. I didn't go on the first day, because there was no activity taking place there ---

UNIDENTIFIED SPEAKER:

Okay.

A. --- and they didn't --- in talking with the operator, they didn't have any plans to mine that for quite some time. I think they run into low coal there, and they needed some low profile equipment. That's my understanding.

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UNIDENTIFIED SPEAKER:

That covers it.

UNIDENTIFIED SPEAKER:

I think you answered a whole lot of the other questions. You
--- in the rest of the interview.

A. Of course, I don't know exactly ---.

MR. PAVLOVICH:

Anybody that has any other questions? Ex. (b)(6) and Ex. (b)(7)(C)

Ex. (b)(6) and Ex. (b)(7)(C)

Uh-uh (no).

MR. PAVLOVICH:

No? Okay. Well Barry, I think that's ---.

A. Do you want copies of these? It was the one report and ---.

MR. PAVLOVICH:

Yes. Did you look at that report, by the way?

A. Yes.

UNIDENTIFIED SPEAKER:

Yeah. I think --- we're going to get a copy of that; right?

A. Okay.

Ex. (b)(6) and Ex. (b)(7)(C)

Yeah, I looked at it.

A. Okay. Where would you like me to --- are you going to be in our office? I can
make a copy and bring it down here.

Ex. (b)(6) and Ex. (b)(7)(C)

In fact, I'm probably going to be in the office tomorrow

1 morning, printing some stuff out, that I need for tomorrow.

2 A. I'll make a copy when I get back there, and --- yeah, [REDACTED] First name again?

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED] I can --- where would be a good place to leave it for you? Leave it --- I'll
6 leave it with --- on the front desk there.

7 [REDACTED]

8 [REDACTED]

9 A. I'll give it to either [REDACTED]

10 MR. PAVLOVICH:

11 Okay.

12 A. Anything else?

13 MR. PAVLOVICH:

14 Well I can't think of anything. I think, you know, we've asked
15 everything, and we certainly appreciate your comments, your responses, your bearing
16 with us all afternoon and ---.

17 A. Oh, that's fine.

18 MR. PAVLOVICH:

19 You know, like I say, if something comes up in the future, that
20 we can think of, we'll give you a call ---

21 A. Okay.

22 MR. PAVLOVICH:

23 --- and ask you, but we certainly have a --- you know, Ernie
24 and I have inspected both for a lot of years, and we have the utmost respect for
25 inspectors and do the kind of work you guys do, and we just appreciate all your help in

1 everything you tried to do during this effort. So thank you.

2 A. That's my job.

3 UNIDENTIFIED SPEAKER:

4 Is there anything else that you'd like to share with us that we
5 didn't ask you?

6 A. Not really, at this time.

7 MR. PAVLOVICH:

8 Okay.

9 A. As I said, it's nice meeting you.

10 UNIDENTIFIED SPEAKER:

11 Good luck to you.

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