

IN RE: CRANDALL CANYON  
MINE INVESTIGATION INTERVIEWS

INTERVIEW  
OF  
WILLIAM P KNEPP

INTERVIEWERS:  
JOE PAVLOVICH, ERNEST TEASTER

DATE:  
JANUARY 22, 2008

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MR. PAVLOVICH:

Now, you understand how Ernie and I became a part of this?

A. Some Congressman probably or something; right?

MR. PAVLOVICH:

No.

A. No? Davidson?

MR. PAVLOVICH:

You understand we're both retired ---

A. I understand that.

MR. PAVLOVICH:

--- from the agency. So therefore, Kevin Stricklin and Richard Stickler were both on site at Crandall Canyon. The secretary said instead of doing an internal review using subordinates of them ---

A. Oh, that's right. They did say that, yeah.

MR. PAVLOVICH:

--- to head it up, that we're going to hire some independent people to do an independent review in this particular instance. So that's how Ernie and I are here. What we are doing, Bill, if it's okay with you, we're taping the interviews for our reference later ---

A. Okay.

MR. PAVLOVICH:

--- as to, you know, if there's any discrepancies or whatever over what was said. Is that okay with you?

A. Yes.

MR. PAVLOVICH:

1                   Okay. And I have a short statement here to read before we  
2 start with some questions that we have for you. Okay? The Secretary of Labor has  
3 assigned this group the task of evaluating MSHA's performance during the period  
4 preceding the August 6th, 2007 coal bounce at the Crandall Canyon Mine and the  
5 subsequent rescue effort. We will also be evaluating issues that were raised during  
6 the time period regarding Bob Murray and his interaction with MSHA. This is not an  
7 investigation and review of any individual person. It's an administrative review of  
8 MSHA's actions as an agency.

9                   The evaluation will be presented to the Secretary in the near  
10 future and is intended that the results of the evaluation will be made public. This  
11 interview is being conducted to gather information for this assignment. We also intend  
12 to interview a number of other MSHA employees. So that we may obtain unbiased  
13 information from all persons to be interviewed, we ask that you not discuss the  
14 interview with anyone until all the interviews are completed. Since you are a  
15 management person with MSHA, you're not entitled to a union representative, and you  
16 understand that; correct?

17           A.     I do.

18           BY MR. PAVLOVICH:

19           Q.     Could you state your full name for me, Bill?

20           A.     William Paul Knepp.

21           Q.     What is your position with MSHA?

22           A.     Assistant district manager of technical services.

23           Q.     How long have you been an ADM of technical services in District Nine?

24           A.     First time, second time?

25           Q.     Both.

- 1 A. Let's see. Probably going on ten years or something.
- 2 Q. About ten years?
- 3 A. About ten years, yeah.
- 4 Q. Was there some time during that ten years that you ---?
- 5 A. There was. I went to Morgantown for five years.
- 6 Q. So five years?
- 7 A. A little less than that probably. Let's see. Late Fall '99, got back here in 2003
- 8 actually.
- 9 Q. Was that of your own volition that you ---
- 10 A. No, that was not.
- 11 Q. --- transferred to West Virginia?
- 12 A. It was not.
- 13 Q. It was not?
- 14 A. No. I was volunteered to go there by the administrator at that time, Marvin
- 15 Nichols.
- 16 Q. Marvin Nichols assigned you to ---
- 17 A. Right.
- 18 Q. --- transfer ---?
- 19 A. Directly transferred I think it's called.
- 20 Q. Did that have anything to do with ---?
- 21 A. Seth Brady left and he --- they couldn't find anybody else. They really needed
- 22 me to step in there. That was the official line I was given.
- 23 Q. And after five years they no longer needed you there?
- 24 A. Yeah.
- 25 Q. You were able to come back here?

1 A. Right.

2 Q. Was there any change of management here at the time during that five-year  
3 period?

4 A. Well, yeah. Mr. Kuzar was here when I left. He was replaced by Al Davis,  
5 and I think --- Cornett, I think switched jobs or was promoted into an EC job for awhile.  
6 Then Richard Gates was --- took my job originally. They were switched back between  
7 enforcement ---.

8 Q. Which left a place for you here after Al Davis came here as a manager?

9 A. Eventually, yeah. Right when Richard was promoted.

10 Q. So who's your supervisor now?

11 A. Allyn Davis.

12 Q. Could you kind of give us a brief description of your duties as the ADM of the  
13 plans?

14 A. Yes. Main thing is the review and approval process of the basic plans that  
15 need to be submitted to the district manager for the review, for his review and  
16 approval. We review it for the DM and recommend whether it should be approved or  
17 not, and review all amendments. The big two, of course, are roof control and  
18 ventilation, but we have --- well, now we got seals we got to deal with, firefighting  
19 evacuation plans --- or MEE plans. We got seal protocol plans, we got the emergency  
20 response plan. I look at training plans also. I don't have staff for that. We also do  
21 some investigation on complaints and review complaints and they go out. Our people  
22 do 80 percent plan work, but they do help out on 01s and spot inspections, 209. We  
23 get involved with those kind of issues, and mine fires and bounces and accidents.  
24 Sometimes we do investigations.

25 Q. So would you say you have a pretty close relationship then with the ADM over

1 enforcement?

2 A. There's a lot of, yeah, overlapping interaction there, yes.

3 Q. How about with some of the field office supervisors? Would you interact with  
4 them quite a bit?

5 A. I do. I keep a close relationship. I'll tell you, because I'm acting for Don half  
6 the time, or Bobby half the time or Allyn half the time and vice-versa, so we have to  
7 cover for each other, so there's ---.

8 Q. So you would be real familiar with Ted Farmer and Bill Taylor over in Price?

9 A. I would.

10 Q. You interact with them quite a bit?

11 A. Yes.

12 Q. Would you talk to them often about ventilation issues or roof control issues if  
13 you had any?

14 A. I would mainly leave it up to them when they're having problems. We get  
15 feedback from them usually. Otherwise it would --- again, it would be an issue usually  
16 before I'd get involved with it. We'd be worried about a plan or something, we'd go  
17 look at it and get them involved in what's going on. And a lot of times they would  
18 accompany me when I would go, and sometimes they'd accompany the specialist and  
19 the specialist would go.

20 Q. Did you ever know Bob Murray prior to ---

21 A. I did.

22 Q. --- him acquiring mines in Utah?

23 A. I knew of him and I got to meet him in Morgantown while I was there for the  
24 infamous my-best-friend-is-married-to-your-boss meeting.

25 Q. So were you in that meeting?

1 A. I was.

2 Q. Can you kind of tell us a little bit about how that meeting went?

3 A. It didn't go real well. It was --- well, basically, it started off he was staring at  
4 me and glaring at me about this far apart (indicating).

5 Q. At you?

6 A. At me for some reason. Well, he thought I was Bill Ponceroff. He said, I don't  
7 know who this Ponceroff guy is, but he cost me five --- and he slammed the table a  
8 couple times. And Ponceroff was sitting right next to me. Ponceroff quickly  
9 interrupted and leaned over and kind of went, that'd be me. Then the meeting went  
10 downhill from there, but --- and he yelled at the top of his lungs. I mean, people,  
11 secretaries came from four rooms away, kind of looking at what's going on in here.

12 Q. Was this in the MSHA office?

13 A. It was.

14 Q. So you were privy. Did you take any notes during that meeting, by any  
15 chance?

16 A. I don't think so. At least, I don't have them anymore. I burned everything  
17 when I left Morgantown. But yeah, of course, Tim Thompson, he wanted us to get up  
18 and leave. But Langton was there. That's right. Somebody from headquarters was  
19 there. Langton was there and he kind of just --- that's the only reason we hang  
20 around.

21 Q. Oh, okay. So Tim wanted everybody to get up and leave and just ---

22 A. Pretty much.

23 Q. --- the meeting was over?

24 A. Yes.

25 Q. But Langton made you all stay?

1 A. Kind of, yeah.

2 Q. So was there any threats made in that meeting about that anybody from  
3 MSHA might lose their job or get moved or anything?

4 A. Not directly stated like that, but I think it was implied that this guy was well  
5 connected. He was somewhat disappointed to have his mine shut down for five days.

6 Q. So ---.

7 A. Emphasized how much money he lost. I forgot. I think it was like \$5,000,000  
8 he claims he lost because of our actions.

9 Q. Do you know then as a result of that meeting or as a result of Murray's  
10 complaints, was anybody ever moved or ---?

11 A. My opinion, though, I don't think it --- I don't think Murray had any influence.  
12 There were some changes later on with our district manager, but I don't think that had  
13 anything to do with that.

14 Q. So you don't think that had any effect?

15 A. I don't, no.

16 Q. You were not moved because of that; were you?

17 A. No.

18 Q. Was Ponceroff ever moved because of that; do you know?

19 A. No.

20 Q. Tim Thompson that you know of?

21 A. No. Like I said, there was a change with Tim, but I don't think it was related to  
22 that situation.

23 Q. You ever have any dealings with Murray concerning his mines here in Utah  
24 after he bought those?

25 A. Not directly.

1 Q. So you never met with him again here in the District ---

2 A. No.

3 Q. --- or over at the mines?

4 A. No.

5 Q. How was the --- after he took over those mines, was there any change, Bill, in  
6 dealing with the mine management on those mines as far as plans go?

7 A. Not that I noticed.

8 Q. It was about the same as it had been?

9 A. Ex. (b)(6) and Ex. (b)(7)(C) He always stayed that way.

10 Q. When you say --- characterize Laine Adair in that manner, what would you  
11 mean by that?

12 A. Well, he was very adamant and he always had plans that were different. He  
13 had some tough conditions, I'll admit, but he dealt with Aberdeen in West Ridge  
14 mainly. That seemed like 80, 90 percent of our focus was on Aberdeen in West  
15 Ridge, my dealings, anyway, for the most part. As far as issues that we were aware  
16 of, those were both tough properties. Hell, they still are, very much so. And Laine  
17 was always, you know, wanting to try something a little bit different or push his ideas.  
18 Not that they were all bad, now. You know, I think Laine wanted to mine coal, and of  
19 course, he didn't want to hurt anybody either, because that cost him money. But he  
20 was very adamant. Discussions would go on and on and on, and he wasn't easy to  
21 say no to, so to speak, I guess, but he was just doing his job.

22 Q. When you say --- he was adamant, I mean, he would just keep coming back  
23 again and again and again with more information, overwhelm you with information, ---

24 A. Kind of like that.

25 Q. --- engineering studies, things of that nature?

1 A. Yeah. Bill, I want to try this. Bill, we're going to do this here, and he'd come  
2 up  
3 with ---.

4 Q. So would it be like a regular communication almost weekly or so with ---?

5 A. Well, maybe it wasn't quite that bad. It was kind of streaky. It depends what  
6 he had going on and where they were, if he changed his mind on something.

7 Q. In the long run, Bill, would he usually get what he wanted?

8 A. It's probably fair to say that. Once he justified it, I think, and showed it could  
9 be done and we didn't have a good reason to disapprove it.

10 Q. So you could tell him no 50 times, but in the end he'd eventually come up with  
11 some kind of answer to all your nos, so you had to say yes?

12 A. Well, pretty much, yeah. He would end up justifying things pretty well. He did  
13 his homework pretty good. Of course, he involved --- we ended up getting the district  
14 manager involved and their engineers and have a couple of meetings over here. The  
15 biggest thing was with the two entry and ground control and how they were ventilating  
16 the bleeder at Aberdeen and West Ridge were really some tough issues we were  
17 dealing with. When I got back out here, there was some numbers I came across that I  
18 didn't --- it wasn't that way when I had left as far as the amount of methane that was  
19 allowed in the bleeder entry and coming out the taps, and we had to deal with that.  
20 Finally, through very --- several meetings, we got on methane drainage. That was  
21 painful, finally get that process started, and I think that helped quite a bit. I think  
22 actually, they made improvement. What they did definitely made an improvement,  
23 because they couldn't have kept mining like they were with the methane issues.

24 Q. So you didn't see much change that Laine pushed that any more after Murray  
25 or pre-Murray; did you?

- 1 A. No, not really. Laine was always a ---
- 2 Q. It was always the same?
- 3 A. --- very intense, articulate guy that gets his point across. Yeah.
- 4 Q. Did you ever have any reasons, Bill, to look at the violation history of Crandall  
5 Canyon or any of Murray's mines prior to or after Murray's takeover?
- 6 A. You know, I don't recall ever looking --- having a reason to do that, no. Didn't  
7 know anything out of the ordinary.
- 8 Q. You ever have any of your people --- I guess they made regular inspections.  
9 They also did mine visits and I imagine they write violations, orders at times. Was  
10 there ever any issue with any of Murray's mines on vacating violations or anything that  
11 your guys had? Would that have come through you or would it have gone more  
12 through the ADM over enforcement?
- 13 A. That'd be more of an ADM issue. I don't recall --- I know we bumped heads.  
14 Some of the guys bumped heads with him, but I don't recall us having to vacate  
15 anything.
- 16 Q. So it wasn't like Murray was calling out or calling headquarters ---
- 17 A. No.
- 18 Q. --- and getting things changed, or ---?
- 19 A. Nobody influenced me in that area. Of course, I might not have even been  
20 the --- I don't recall being asked to get them vacated.
- 21 Q. Have you ever had any requests to move any specialists or anything because  
22 of enforcement in District Nine? I don't want this guy working with my plans anymore?
- 23 A. Oh, no, not from that angle. There was ---.
- 24 Q. Not from that angle?
- 25 A. We had ---

1 Q. How about from an inspection angle?

2 A. --- some changes because of not fitting in real well with the plan review  
3 process. It had nothing to do with Murray or Crandall or through that operation, no.

4 Q. But you have had to make some changes in personnel because of the plan  
5 approval process and how they fit in and did their ---?

6 A. Yeah. It was more not getting the job done, kind of like we wanted it done  
7 here. Ex. (b)(6) and Ex. (b)(7)(C)

8 Q. Oh, okay.

9 A. One specialist.

10 Q. All right. So people went back to CMI?

11 A. Yeah.

12 Q. Do you feel you had adequate staffing, Bill, to do your job as far as plans? I  
13 guess you didn't take it in ---.

14 A. No.

15 Q. I mean, within the most recent few years.

16 A. Yeah, that's a --- that is really a complex question. Right now, no, definitely  
17 no. Six months ago even, no. Ever since Sago, it seems like we just got more and  
18 more stuff poured upon us, and we never were a well staffed for roof control. We just  
19 had the one engineer that we got from District One, Kathleen Kelleher that came out  
20 here, and then we had Gary as a specialist later on. He joined us. And Ex. (b)(6) and Ex.  
21 Ex. (b)(6) and Ex. (b)(7)(C) (b)(7)(C)

22 we just never did get the roof control  
23 crew, I don't think, staffed as well as we would have liked. And then things just got  
24 worse after Sago with, my goodness, all the appeals and memorandums, the seal  
25 regulations and the ETS and the ERPs and all the stuff with self-rescuers and the  
mine emergency evacuation plans, tracking and all that stuff got laid on. A lot of the

1 ventilation people tried to keep up. We ended up falling way behind. I think what the  
2 problem was we doubled the work load and didn't increase specialists district-wide, but  
3 we were running thin to start with. We only got three people in ventilation. I think  
4 that's enough out here, but when we got all this other stuff piled on, we kind of got way  
5 behind. So roof control, now, Owens was carrying the load a lot by himself. I mean,  
6 he was --- we were counting on him big time.

7 Q. So Billy was having to basically review plans, what you normally would have  
8 your specialists do; right?

9 A. Right. He didn't have a specialist here in office, and that created problems.  
10 Ex. (b)(6) and Ex. (b)(7)(C)

11  
12 Ex. (b)(6) and Ex. (b)(7)(C)

13 We finally hired a kid, a graduate student, who  
14 has no mining experience, and it's going to be awhile. He'll be okay, I think. It's going  
15 to help us a lot from the technical standpoint with ARMPS, ALPS, LAMODEL and all  
16 that stuff. But no, Billy was really running on empty. I felt sorry for him. I saw it  
17 coming. I just didn't --- we couldn't solve the problem. We tried a couple times and  
18 our experience, engineers, it just doesn't work unless we pay some more money out  
19 and do something.

20 Q. When you say you had Kathleen, who was an engineer, and I guess, you  
21 know, some of her duties would have been to help with plan approvals, why was she  
22 located in Delta?

23 A. I think Jack Kuzar and maybe Ray McKinney were leaning that way. I think it  
24 was their decision. I think Ray --- nationwide I think was leaning that way, but I can't  
25 answer that 100 percent. I wasn't here when that move was made.

Q. So you weren't here when she was ---

- 1 A. No.
- 2 Q. --- hired into Delta? Is that where she ---
- 3 A. Right.
- 4 Q. --- was hired in that as a roof control specialist?
- 5 A. Actually, I think she told me later on she wasn't sure where she was going to
- 6 be. She kind of thought maybe she was going to be in Denver. When she got here,
- 7 she was told she was going to Delta, so ---.
- 8 Q. How about Gary? I mean, how did he get in Price? What was his --- was he
- 9 also to review plans? I mean, was that ---?
- 10 A. Oh, yeah, yeah.
- 11 Q. How would they do that in the field like that?
- 12 A. Didn't work well. It didn't work well, but the concept looks good on paper.
- 13 Hey, they're right there in the field. They can run out and look at these roof conditions
- 14 and this kind of thing. But anymore it's so technical and there's so much stuff,
- 15 particularly like in ventilation, too. I'm talking about both groups kind of when I talk
- 16 about it. There's just camaraderie in sharing ideas with the group that you really miss
- 17 when you got a specialist isolated out in the field Ex. (b)(6) and Ex. (b)(7)(C)
- 18 Ex. (b)(6) and Ex. (b)(7)(C)
- 19
- 20 Ex. (b)(6) Gary, I think, was a lot better because he did CMI work for years and was
- 21 and Ex. (b) (7)(C) one of the boys, so to speak. He was good on going to the mine, that kind of thing,
- 22 and was at home there. Maybe not as good technically. Billy had to do some things.
- 23 Q. Basically Gary worked where they did roof bolt?
- 24 A. That's actually right. He's kind of unique, make him a roof control expert
- 25 when we had to show him what a roof bolt looked like.

- 1 Q. Did you ask for additional support, Bill?
- 2 A. Yeah, we talked.
- 3 Q. You know, additional ---
- 4 A. I think Al ---.
- 5 Q. --- people?
- 6 A. I think --- yeah, we made it clear the situation with Al.
- 7 Q. And Al understood your problems and concerns and needs, he just wasn't able
- 8 to get approval to fill the jobs or you just couldn't fill it?
- 9 A. We eventually got approval about a year ago to get a couple mining
- 10 engineers. Maybe not that long ago, but then we went --- we had two almost hired, and
- 11 both times at the end, they went for another job, more money. I just talked to Kevin
- 12 like a week or so ago on a conference call. We talked about it a little bit that we need
- 13 another way, I expressed my opinion, to recruit some of these people to compete. We
- 14 just got to either start at 12s or pay them a bonus or do something. We're just ---.
- 15 Q. Who do you have in roof now?
- 16 A. Well, we got Sid Hansen moved over from vent group as the acting
- 17 supervisor, and we got the kid, Del Duca and we got Kathleen. So we got one ALR
- 18 under Sid.
- 19 Q. And Pete's in training; right, or ---?
- 20 A. Yeah.
- 21 Q. But he can't really go to a mine ---
- 22 A. The next few months are ---
- 23 Q. --- by himself?
- 24 A. --- going to be very painful because we got a lot going on with bounce issues,
- 25 SUFCO, West Ridge. Aberdeen is starting backup. We'll have to rely on tech support

1 quite a bit, I think.

2 Q. What's your involvement in the plan approval process, Bill? How does that  
3 work?

4 A. Well, the specialist supervisor, ones that do initial review, they'll do phone  
5 calls and e-mails and try to get this thing doctored up to where we can approve it,  
6 usually. Or if not, prepare either the approval or disapproval letter. And they'll talk to  
7 me if they feel that there's something they need to talk about or they have --- other  
8 than ordinary issues or something that just isn't going to be self-explanatory. But  
9 they'll develop a letter, basically, either the approval or disapproval letter, and it  
10 comes through me for either to surname and then I'll review it, either give them  
11 feedback or not --- disapprove it or approve it. If I accept it, I'll surname it and it goes  
12 on to Al Davis for final review and signature. Again, if there's some issues, I will get  
13 the specialist, we'll go down sit down with Allyn and say, listen, we're going to go  
14 ahead and approve this, but you need to be aware of this, or we're disapproving this  
15 and you're going to get some phone calls and here's why, that kind of thing. So there  
16 was some communication depending --- let the specialist use their judgment to a large  
17 degree or express to the supervisor when and how much they have to involve Allyn  
18 and myself on some issues. And sometimes it'll lead to some meetings being set up  
19 or a phone call, that kind of thing.

20 Q. Do operators normally call you personally if they're having trouble getting ---

21 A. No.

22 Q. --- a plan approved?

23 A. Me being a good manager --- if they're having trouble getting it approved?

24 Q. Yes.

25 A. Yeah, sometimes that happens, but every day back and forth stuff, the

- 1 specialists and operators are usually ---.
- 2 Q. So normally they deal with the specialists?
- 3 A. Yeah ---.
- 4 Q. The specialist keeps telling them no, though, they will call you?
- 5 A. Yeah. Joe can lay out ---.
- 6 Q. If you tell them no ---?
- 7 A. I told him no more than three phone calls a year.
- 8 Q. You give him three?
- 9 A. I give him three.
- 10 Q. Is that like three phone calls equals three approvals or just three phone calls?
- 11 A. Yeah. When it comes to review performance standards, we're talking about
- 12 only three phone calls. But no, usually it's not too bad. They do a pretty good job and
- 13 get close, but no, they're not scared to call me, the Laine Adairs of the world and other
- 14 stuff, if they got another issue with a specialist saying no and they want to know why.
- 15 Q. What usually happens when that happens?
- 16 A. Well, I'll either get the specialists in there and talk it over with them or we'll get
- 17 Allyn involved. If it's something I think they have a good argument on I'll talk to the
- 18 specialist and see if we can work it out, if we need to talk to Allyn about it.
- 19 Q. So there had been times if you thought they had a good argument, you'd tell
- 20 the specialist, let's approve this?
- 21 A. I have.
- 22 Q. Has Al ever done that with you, told you, Bill, ---
- 23 A. Yes.
- 24 Q. --- I think you're wrong, we need to approve this?
- 25 A. Yeah, that happens on occasion.

1 Q. Were you convinced that you were wrong?

2 A. Well, I usually was convinced that there's two sides to every story and there's  
3 probably leeway. It's not always black and white. There's some gray on some of  
4 these issues. If Allyn is willing to take that responsibility, I just state how I feel about it  
5 and then if he --- when he says go, we'll go whatever direction.

6 Q. Can you give us any specific instances when that's happened?

7 A. You know, nothing that really sticks in my crew.

8 Q. Any particular mine operators that it happens with more frequently than  
9 others, or companies?

10 A. Well, Aberdeen was a little bit of a sticking issue with ventilation there, but I  
11 got out here and found out how much methane we were letting go out the taps. And it  
12 took a little convincing at about five meetings, a lot of pain, and Allyn finally --- he got  
13 behind us eventually and we got some changes done. That was a little bit difficult to  
14 get to that, a little bit --- Allyn did get on board eventually with us and help in the final  
15 meetings. We got them to go to a methane drain at \$800,000 or \$600,000 a hole.  
16 That was a big step for them at Aberdeen, and their president came over a couple of  
17 times, Sam Quigley, the big money man, and we had some pretty good knock down,  
18 drag out meetings. It was tougher --- a bit hard on Allyn. He had to make the call, but  
19 eventually we got it done, so ---.

20 Q. Normally do you --- before a plan is approved, do you get the feedback on it  
21 from the field office or the inspectors? You ever send them over to the office for them  
22 to look at them and comment on prior to approval?

23 A. The field office?

24 Q. Yeah.

25 A. We have that process where --- not before the approval so much unless

1 there's some issues we have to talk about, like Aberdeen and methane, and that kind  
2 of stuff. We did talk to Taylor about some of the issues he encountered with at those  
3 methane levels. Something big like that usually, yes, but day in, day out routine stuff,  
4 probably not, I'd say. A specialist maybe ---.

5 Q. So primarily a plan comes in here to the district, your specialists review it?

6 A. Right.

7 Q. They would talk about it with your supervisor, they'd talk about it with you, it  
8 goes to AI, AI approves it. It's not really a formal process of getting feedback from the  
9 field every time?

10 A. Right.

11 Q. Now, occasionally, you say if there was some questions that arose that you  
12 need something from the field, you might call them or your supervisor might call Bill  
13 Taylor or somebody and say, Bill, tell me about this, but that would not be a normal  
14 process?

15 A. Correct.

16 Q. The inspectors would not normally provide feedback on a plan?

17 A. Correct. That would really delay the system quite a bit on the routine stuff, or  
18 if you expect them like to surname off on something ahead of time. But I think some  
19 districts probably do do that, but we don't.

20 Q. So it would be because of geography out here, distances ---

21 A. Role and ---.

22 Q. --- and time ---?

23 A. With a limited staff, also and time, and we get all these --- I swear half the  
24 things come through with big rush mark on them. I should have learned from Tim  
25 Thompson. He'd take those and throw those in the wastebasket that were marked

1 rush. I was tempted to do the same thing sometimes, but I swear half the stuff  
2 through here --- we control so much anymore, these operators, so they send  
3 amendments in for every damn thing.

4 Q. I think your vent plan states, comments regarding plan --- your vent plan SOP  
5 states, comments regarding plan adequacy are solicited from the MSHA field office  
6 representatives of miners and other MSHA personnel where appropriate. From what  
7 you're telling me, I guess you're figuring in most instances it's not appropriate?

8 A. Well, we use that review form now. They put their comments on adequate,  
9 not adequate.

10 Q. That's the 204 form?

11 A. Correct.

12 Q. But that's after the plan's approved?

13 A. That's after the fact.

14 Q. Not prior to?

15 A. Right.

16 Q. Then your last page ---?

17 A. Yeah. Yeah, you're right. I won't do that too much.

18 Q. Okay. Your last page of roof control SOP states, if comments from field or  
19 tech support are required, the reviewer will write a letter to field personnel or tech  
20 support requesting they review the plan or amendment and provide written comments.

21 You're saying that's not done very often?

22 A. It's very rare. It sounds good, but in all honesty, I don't see that happening too  
23 much.

24 Q. It's in the SOP but it's not really done very often?

25 A. Right.

1 Q. Bill, do you have any rule of thumb here, your rule of thumb for updating a  
2 base plan like where you have a whole lot of addendums, 20, 30 addendums attached  
3 to a plan now that you have a specific --- you know, we get to 15, we tell you rewrite  
4 your base plan. If you get to 20 we --- anything like that? Is it kind of just hit and  
5 miss?

6 A. You know, I don't --- what's the SOP say? At one time I thought it was like  
7 every three years or five years. Maybe it's in the ventilation, but they were going to try  
8 to do that. And they're the one that needs it probably much more than anybody.  
9 Really, the way we word plans, if you'll see, we try to change pages out as they're  
10 updated. Look at this plan, this amendment supercedes pages 15, 18 and 19, and  
11 we're going to insert those in the plan, remove the old ones. Then we have a log  
12 history thing that lists everything that ever came in here, whether it's now rescinded or  
13 still active. It takes a little work, but if they're really --- read our cover letter and make  
14 the changes, that shouldn't be that difficult to do. Now, you have the site specific ones  
15 that also are worded --- that terminates upon completion of this project or this change  
16 every year and it's done ---.

17 Q. How is that conveyed back to you? Because you wouldn't know when a  
18 ventilation change is made. I mean, they got something that says site specific. For  
19 example, we're going to mine this area on this, okay, with this much area. How do you  
20 know when that's done?

21 A. We don't.

22 Q. You would have to count on the field to provide you feedback to say, Bill,  
23 that's finished now, can we take that out of the plan?

24 A. It's supposed to be done when we do our formal six-month review.

25 Q. Yes.

1 A. Ventilation is pretty good at doing this, but we're way behind on those right  
2 now. But they would --- that's the kind of things they would look --- track down or  
3 remove from the plan.

4 Q. Okay. That would go kind of through the field offices. Are they done with  
5 this?

6 A. Yeah, field office.

7 Q. Would you expect the field office supervisor to call you and say, Bill, they've  
8 completed this site specific, we're going to take it out of the UMF?

9 A. I'd be shocked if they were watching the UMF.

10 Q. So that doesn't happen?

11 A. No.

12 Q. Okay. So ---?

13 A. No. I just hope --- again, it's a manpower situation, but I just hope their ---  
14 someone's got to put some effort in the field to keep up their UMF, to keep on top of  
15 all this stuff. You just can't get these plans in and throw in top of UMF and hope  
16 they're in chronological order and then figure it out later. Somebody has to go in there  
17 and move the pages and keep that plan updated, and that does take some work.  
18 Between me and you, I've talked to the specialists that when they do their six-month  
19 review, they need to take a look at that UMF and see if it's anywhere near orderly.  
20 And there's always issues with that. It's kind of a pain keeping up with all this stuff, but  
21 it takes some work.

22 Q. If you're gone, say, to a meeting or something for a week or on leave or  
23 whatever, you leave Reitze or Billy or somebody acting, how do you learn about what  
24 approvals have been done and what work's been done in the interim when you get  
25 back? I mean, they oftentimes would sign things for you and it goes through the

1 system. Is there some formal way that this kind of ---?

2 A. There's nothing in place in the SOPs or anything. Maybe there should be, but  
3 there's not. I know the district manager's secretary would copy all of the approvals,  
4 the face of it, and make sure Allyn or whoever was here --- this was Diane who used to  
5 do this. And I don't know if --- since we haven't had a DM secretary for quite a while  
6 until Joe Lynn just took over here awhile ago. I'm not sure if that's still being done for  
7 him. Me, I just rely on word of mouth, and again, maybe it's a mistake, but let Reitze  
8 and Owens use their judgment on things they have to update me on. Reitze's really --  
9 - Reitze does not like to be on a limb by himself, so he'll be --- he'll inform me of  
10 anything that's really any type of issue. Owens maybe not so much. And Dave Elkins  
11 is pretty good on letting me know of issues, you need to be aware of this and that kind  
12 of thing. And I do the same for Allyn when he's been gone. I'll try to let him know  
13 things that are going on because he's gone a hell of a lot, too. I finally try to bring him  
14 --- jot things down or see him and let him know what's cooking here. But nothing  
15 formal.

16 Q. Would you say then you maintain quite a bit of oversight in the plan approval  
17 process? Are you guys pretty much out there doing the reviews?

18 A. Well, we're responsible for the oversight, and I got to rely on our people. As  
19 much as we all three managers travel in this district particularly, it creates some  
20 difficulties and you got to rely on your people. And again, we don't have that many  
21 coal mines in --- we got a lot of issues, but we're pretty much aware of all the issues. I  
22 think part of the problem with Crandall Canyon, we didn't recognize that that maybe  
23 was a potential issue that it became. And we were bearing down on Aberdeen and  
24 West Ridge and Paonia Valley and some other places that we thought were much  
25 more risky and a lot higher risk.

1                   But I think I got a pretty good feel of the district and good  
2 relationship with the field office people calling me any time when they got an issue.  
3 The specialists and supervisors, we try to keep our head above water and keep  
4 everybody in the loop even though, again, it's a judgment thing a lot of times with the  
5 supervisor on how much they want to share with us and how long you're gone and if  
6 they remember to talk to you about it. There's really not a formal --- anything formal  
7 required for them to do that necessarily other than use their own judgment, what does  
8 he need to know, what's he need to be aware of.

9           Q.       Concerning the Crandall Canyon issue, I guess, when you look at that map,  
10 Bill, is it fairly common that barrier pillars would be mined in the mines out here in the  
11 west similar to the way those were being used?

12           A.       Not under that cover. That thing didn't pass the eye test right off. I remember  
13 Laine came --- I don't know when it was, late 2006, and he came mainly to talk about  
14 Aberdeen and issues. Again, we were going through a lot of issues with them, and he  
15 told me that he was going to want to go back and mine these barrier pillars. We  
16 pulled these ones over here, he said, and did a good job, and I told him --- I kind of  
17 remember saying --- and I think I used those words when I talked to Langton. You  
18 know, this thing doesn't pass the eye test right off. We need to talk about this and  
19 you're going to have justify, kind of thing, what you're going to do. Then I just kind of  
20 let it go after that. And after that I can remember --- if you want me to go on. Later on  
21 the Agapito reports.

22           Q.       Well, we can get into those. We're going to get into Agapito ---

23           A.       In late ---.

24           Q.       --- pretty deep, but okay.

25           A.       Well, the original ---.

1 Q. So just visually, I mean --- normally, it's not that everybody out there is mining  
2 barrier?

3 A. Right. That's ---.

4 Q. You would say that's uncommon?

5 A. Doesn't pass the eye test right off.

6 Q. What do you do with plan submittals that are pretty unique or unusual? I  
7 mean, I realize you get the day-to-day stuff about we want to put another miner on  
8 that's similar to this one, but things similar to, like this Crandall Canyon?

9 A. Those kind of deals we would make Allyn Davis be aware of if we felt that --- if  
10 it was questionable on a regulation or from a safety standpoint, that kind of thing.

11 Q. So you would ---?

12 A. Or if it was totally unique, I guess that, too. And again, these supervisors I  
13 had were very experienced supervisors, and they know what to make sure --- want to  
14 have a meeting over something, bring something to everybody's attention. They're  
15 pretty good at that, so yeah, I think if you --- nobody wants to get out on a limb by  
16 themselves necessarily. So as they say, Allyn makes the big money, so they like to  
17 bring that to Allyn's attention, I think, make sure he's aware of where we're going with  
18 something. Because he sees so much stuff, too, you know, just throw it on his desk ---  
19

20 Q. Right. I mean --- so yeah, you just throw it on the desk, it's just another piece  
21 of paper in the pile?

22 A. It gets signed. I mean ---.

23 Q. But if you personally come in and say, Allyn, we need to talk about this, would  
24 you try to do that on unusual things?

25 A. Right. We might make a recommendation at this time. We might say, well,

1 this is a little bit of concern, but I think if they do this and do this, I think it's worth a try.

2 We'll keep an eye on it and we'll review it. And you get issues like that.

3 Q. If the field office fills out a 2004 form saying, we think this plan is deficient,  
4 check that deficiency block and write that in, I guess a copy of it comes to your group;  
5 right?

6 A. Right.

7 Q. How are those responded to?

8 A. In writing. Direction I get ---.

9 Q. Always in writing?

10 A. Writing or an e-mail. That's the instructions we're given now. I'm not so sure  
11 of that --- get it done, because that's one thing I harped on.

12 Q. Do you ever see those when they come in?

13 A. Yeah.

14 Q. You personally see them or do they just ---

15 A. Not all of them.

16 Q. --- come to your group?

17 A. They come to the group. I'll see them when they're going out. I've told the  
18 supervisors if they take enough time to write something out, whether you just totally  
19 want to rip it and say, this is the dumbest thing I've ever heard, you make sure you get  
20 back and respond back to them.

21 Q. Now, do you think those are always done?

22 A. You know, I don't know. It may be I don't have a good follow-up for that. I  
23 probably don't have a good check system to see if that's being done, but I'll tell you  
24 what. I have harped on it.

25 Q. So if I told you there were quite a few of those that were received here in the

1 District, but there was never any response sent back, would you be surprised by that  
2 or would you say, I can see that happening?

3 A. Well, I'd be very --- how did Demashay (phonetic) say that, very disappointed,  
4 if I was aware --- very disappointed. He's told me that a few times. You know, I guess  
5 these guys can use the excuse they can't keep up with everything, but I've told them  
6 we need to answer these because ---.

7 Q. So your opinion is that's a critical thing to keep up with?

8 A. That's a smoking gun sitting up there unless we answer it, I think.

9 Q. All-right. It's something you would like to see your people address; right?

10 A. Yeah, I would.

11 Q. Do you have those numbers handy there?

12 UNIDENTIFIED SPEAKER:

13 There's some up there.

14 MR. PAVLOVICH:

15 Oh, yeah <sup>Ex. (b)(6) and Ex. (b)(7)(C)</sup> but I mean, there's a stack here as long as my  
16 arm.

17 A. Did it say the plan was inadequate and we didn't respond?

18 BY MR. PAVLOVICH:

19 Q. Yeah. I'm going to --- let's see what <sup>Ex. (b)(6) and Ex. (b)(7)(C)</sup> bulls out here.

20 MR. TEASTER:

21 Identifying some deficiency.

22 MR. PAVLOVICH:

23 Maybe not --- deficiencies in the plan. Okay? Well, can you  
24 quote the numbers to me right off, <sup>Ex. (b)(6) and Ex. (b)(7)(C)</sup> ventilation had 44 --- total was there  
25 was ---.

1 A. Does it say the plan's inadequate?

2 BY MR. PAVLOVICH:

3 Q. It says deficiencies in plan, and then it ---.

4 A. That's what we're talking about.

5 Q. I mean, that's what we're talking about. And you're saying between roof  
6 control and vent, there were --- and I know you counted them. That's why --- I'm not  
7 going to sit here and count them.

8 A. I'd like to give these to Reitze and see if he's got ---.

9 Q. There's 44 that were listed as deficient some way in the plan from an  
10 inspector, and there were two that we can find that were addressed?

11 A. Yeah, I would say.

12 Q. I just wondered if you were aware of that. I mean, you're ---.

13 A. If there's a lot of them in ventilation, I'd be very surprised, because Reitze, I  
14 thought he answered these.

15 Q. I think about half and half.

16 A. Really?

17 Q. Pretty close; weren't they?

18 A. Can I get copies of these?

19 Q. Yeah. Well, you should --- we got them from you.

20 A. You got them from our files?

21 Q. We got them from you.

22 A. How do you know they weren't answered for sure?

23 MR. TEASTER:

24 It wasn't in the files.

25 UNIDENTIFIED SPEAKER:

1                                   The answer wasn't in the file. There's two memos from Davis,  
2 you know, official memo back to the inspector. That was all that was included in all  
3 those.

4                                   MR. PAVLOVICH:

5                                   And we may not.

6                   A.       I'm not ready to give up on that 100 percent.

7                   BY MR. PAVLOVICH:

8                   Q.       There may be more. Okay? That's all we got. That's what they sent us when  
9 we asked for that.

10                                  MR. TEASTER:

11                                 In addition to the written things, I mean, that's --- we got that  
12 information a lot from some of the people we talked to.

13                   A.       Okay.

14                   BY MR. PAVLOVICH:

15                   Q.       Bill, have you ever heard anybody in the field complain that the operator gets  
16 a plan, whether it be FAXed or whatever, prior to the field office getting it, an  
17 approved copy of the plan?

18                   A.       I think that's happened on occasion by accident more than anything. Again,  
19 that's just --- of course, they may be just as bad as these. I've told these guys make  
20 sure you don't forget to fax the field office at the same time, and I think we do that for  
21 the most part.

22                   Q.       Would you ---?

23                   A.       So they'll tell me 33 more.

24                   Q.       Would you be surprised if you said --- if a lot of the people responded to that  
25 by saying, yeah, it's a common occurrence, it still happens?

1 A. I don't agree with that. I'd like to see the numbers on it, but I mean, I've  
2 pressed it.

3 Q. I mean, I don't know how you can get a number on it.

4 A. Yeah.

5 Q. Because ---.

6 A. Yeah, you're probably right, I guess.

7 Q. It's a matter of was it FAXed here or was it FAXed here, you know, who got it  
8 first, who saw it first. I don't ---.

9 A. Because it's just not that hard. The secretaries are taught to do that, too. I  
10 mean, it's just common sense. It has happened. I know sometimes it's happened  
11 more than once. Sometimes you'll get feedback, yeah, all the damn time, those sons  
12 of bitches, you know. You know how that goes. I've tried to address that, and that's  
13 another pet peeve that we've tried to correct.

14 Q. So you're aware ---

15 A. It's happened.

16 Q. --- that has happened and it is a problem? Concerning bounces or bumps, I  
17 mean, do you --- how do you characterize a bounce or a bump? Is there differences in  
18 them, in your opinion?

19 A. Well, I think it's tremendous differences, and the trouble is it's never really  
20 been quantized on. It all started with the --- you can throw outbursts in there, too,  
21 with the old Mid Continent days, bumps, bounces. It's never really been truly defined  
22 on when it's reportable, what --- it kind of is now, but bounces you can --- say you go to  
23 a mine like Mid Continent when they're cutting coal. You can go to Aberdeen right  
24 now, and if they start cutting coal, it's going to be thumping. It's going to be a little of  
25 this (indicating) almost constantly. Every five, ten minutes that weight shift, and your

1 pillar will be making noise (indicating). Every once in a while you get a chunk that'll  
2 blow off. So I think it's just a matter of degree when we become sensitized to it.

3 Q. So what would you call a bounce as opposed to a bump?

4 A. I think it's a failure, a violent, sudden failure of a pillar, release of energy.

5 Q. So that would be a bounce. What would a bump be, in your opinion?

6 A. I don't define them any differently.

7 Q. So they could be interchangeable, ---

8 A. Yeah.

9 Q. --- I mean, in your opinion?

10 A. Yeah.

11 Q. It's not a specific --- and I guess I'm looking at you. You're the expert. You've  
12 been out here 30 years, and so you've heard this term bump and bounce  
13 interchangeable for years?

14 A. Exactly right.

15 Q. So they would kind of be the same?

16 A. Again, you could almost throw in outbursts, even though that is a little  
17 different.

18 Q. Little different. Okay. More gas with an outburst, too, right?

19 A. Yeah, and it's related. Mid Continent's history is more in the face area where  
20 it would actually shoot over you, pulverize that coal in the mine. But it's related, same  
21 thing, release of energy.

22 Q. Would you say that the District has done a lot over the years to be proactive in  
23 minimizing or eliminating bounces, or have you been more along the lines of  
24 protective barriers, personal equipment to protecting miners from bounces?

25 A. Well, both. I think my design --- hell, we started with two entry systems long

1 ago. We got chastised for that for decades, even a three entry system, pillar design,  
2 yield pillars, the size of the barriers being left. Even what Aberdeen did was a big  
3 step. We convinced them, and when they went with the barrier, panel barrier, it was a  
4 big step. I mean, giving up a lot of coal to continue. We're probably going to have to  
5 look in the same thing with West Ridge. Hell, Mid Continent went to Europe, came  
6 back with the latest techniques, had all that drill in the head and went with that  
7 advancing longwalls. There have been a lot of technical things done out here over the  
8 years.

9 Q. So there wasn't --- you figure an equal effort or more effort put into prevention  
10 or minimization of these bounces, but there's also a lot of effort put into protection,  
11 barrier type protection for miners; ---

12 A. Right. And ---.

13 Q. --- is that true?

14 A. That should be the secondary, but I think it's important, too. You could easily  
15 save some lives in barrier.

16 Q. But you feel that should be a secondary issue? Prevention should be the ---?

17 A. I think we get to the point we're not controlling --- the bounce itself,  
18 tremendous energy, there comes a point where technology is not available, and  
19 between me and you, I'd like to see more help from a national basis on how far we go  
20 out here as far as risks and how much risk do we accept. I tell you, sitting here right  
21 now Aberdeen is starting up again, developing that face. I mean, we got issues there.  
22 I can't guarantee that thing is not going to bounce.

23 Q. Did you ever get any guidance or direction from headquarters on how to  
24 handle that, bounces, or how to minimize? Any expertise on their end?

25 A. Well, I don't think there's a lot of good expertise back east in that area, but on

1 the other hand, I think from a risk assessment --- I think, well, all we need is we want  
2 to have no risk of a bounce out here. We're going to --- I know that's hard for an  
3 agency to do, but we're at that point. Is this coal mineable and if it's --- there's certain  
4 risk level we got to come to. Otherwise, Nepsa (phonetic) is sitting out there, Al Davis  
5 right now as we speak, or else Al's got to make decisions, hey, that's it, you can't mine  
6 this coal anymore. Because I don't know --- like I said, the Paonia Valley has some  
7 inner seam mining that creates some real problems with the D seam, C seam and a B  
8 seam mined out above you, below you, inside of you. You get some issues there  
9 constantly that --- we work close with Sand and Phillips and just recently Bowie, and  
10 now we got a pillar  
11 --- bigger pillar design, and hopefully we'll be all right going under this area that was  
12 heaving and bouncing pretty bad.

13 Q. So even since Crandall, ---

14 A. There's still risk.

15 Q. --- you've had some pretty big bounces at SUFCO and at Valley?

16 A. Yes, we have. And at West Ridge.

17 Q. And West Ridge?

18 A. A lot of us grew up out here in the west as far as MSHA goes, and we were  
19 dealt these situations, start with Mid Continent, and you dealt with them the best you  
20 could or the company --- pillar design and that kind of thing based on the practices  
21 known at that time. But really, even though Mid Continent did bring some technology  
22 --- questions, there were some discussions held there, but that takes more, I think,  
23 than just District alone making that decision. I guess that's my only point. I mean, I  
24 think we could use some headquarters and tech support help in reaching what is an  
25 acceptable risk level, risk management. You hear that thrown around. And I don't

1 know if MSHA wants to talk about that or not, but if you're going to mine the nation's  
2 coal out here in some of this deep cover, there's either going to have to be some risks  
3 accepted or you try the best practices, do some things. But it's not easy. We could  
4 use some help in that area. And we're so thin in roof control. It's been tough. Now  
5 that Billy left --- he was ---.

6 Q. You lost your most knowledgeable man?

7 A. He dealt with that a long time, a lot of years. Two entry task force and all that  
8 stuff. He was a big loss.

9 Q. I guess when these operators --- they submit plans on minimizing bumps, but  
10 they also have in the plan the protective equipment that'll be used, like Plexiglas  
11 barriers in certain areas and chain mesh.

12 A. Pig pens and chains, yeah.

13 Q. And body armor and stuff like that. Do we provide our inspectors that have to  
14 inspect those longwalls with body armor?

15 A. That's an issue we're facing right now. No, we don't.

16 Q. So how can ---

17 A. I think maybe the operators.

18 Q. --- they safely inspect if he doesn't have the same equipment the inspectors  
19 have? Would you expect him to spend all day up there on the longwall face where  
20 it's ---?

21 A. I don't think that's right. I don't think I'd like it if I was an inspector.

22 Q. So did you ever ask the inspectors, how do you inspect that? Did they tell  
23 you, like, we run through as fast as we can and keep from getting hit?

24 A. I haven't heard that testimony.

25 Q. You never asked, though; did you?

1 A. I know that issue is out there, and it's thrown out. You're right. I think we  
2 need to address that and address that soon. I've been nervous myself a few times out  
3 there.

4 Q. Okay. Okay. When you are dealing with plans and they're unusual plans or  
5 different things do you often ask tech support for help? Do you have any guidance or  
6 anything that you give your inspectors on --- or your inspectors --- your supervisors on  
7 here's the kind of things we need to ask tech support for help on?

8 A. That would probably be a joint with the supervisors ---.

9 Q. So normally it would be someone come to you and say, Bill, we don't  
10 necessarily know how to handle this and maybe we should talk to tech support?

11 A. Right.

12 Q. Would that be pretty common for you guys to do that out here?

13 A. Not real common. I mean, we know tech support's pretty thin back east. We  
14 have our fires every year. They spend a lot of time with us. They've helped us some  
15 on SPONCOM plans just recently.

16 Q. So a lot of it would be through ventilation. How about roof control?

17 A. Well, roof control probably not so much. I left that up to Billy to a large  
18 degree, and you know, he was a P.E. and head of tech support at one time out here,  
19 and probably more experience than anybody in tech support has as far as the actual  
20 combat conditions out here, so to speak.

21 Q. So you would say with Billy's expertise, his knowledge in being in tech support  
22 with the background that he had, would you characterize him pretty much an expert in  
23 bumps and that sort of thing?

24 A. I'd say it'd be hard to beat by anybody in the country as far as experience and  
25 knowledge he had dealing with these issues out here, actual experience-wise. I know

1 tech support's well equipped with some well-educated technical people that know the  
2 program well and LAMODEL and all those things, too. But Owens went over some  
3 issues he had with me, actually, even some of the NIOSH programs, how deep cover  
4 really wasn't addressed as well. The models change a little bit, and real  
5 over-conservative for deep cover. And we've talked about some of those things.

6 Q. Bump? Was that a bump?

7 A. Did you leave that out in the middle ---?

8 UNIDENTIFIED SPEAKER:

9 No.

10 BY MR. PAVLOVICH:

11 Q. So I guess if you had a major bounce or bump in your area, Bill would be the  
12 first one you'd take out there with you; right?

13 A. Yes, it definitely would be.

14 Q. So Billy went out to Crandall then; right?

15 A. He didn't get invited.

16 Q. He didn't go?

17 A. After the bounce, no.

18 Q. Is there any reason why?

19 A. You know, I don't know why. I really don't have any insight. If I had to maybe  
20 form a judgment, it was either just a total oversight or it was that deal that, hey, this  
21 guy's the guilty guy we're going to go after, he doesn't need to be over here on this  
22 kind of thing.

23 Q. Would you really think that far ahead if you got six people trapped and you  
24 want your best guy there? Do you think, I'm going to turn him to the dogs right now? I  
25 mean, you wouldn't --- do you think that would be feasible?

1 A. He was a little upset about not being invited over. We talked about it. I talked  
2 to him about it, too. I said, well, I wasn't --- I was told to stay here and you were to  
3 stay here, and we'll hold the fort down here. I would say maybe --- I'm not sure if it  
4 was by design. I just think in the rush of everything, I think he had tech support on the  
5 scene pretty quick and had a lot of help there. Maybe it was just an oversight. That's  
6 what I'd like to think, maybe, it was just a rush and everything, but I don't know, Joe. I  
7 don't have any more insight than you do.

8 Q. Would you have had a lot of experience in bumps?

9 A. Me?

10 Q. Yeah.

11 A. Personally?

12 Q. Sure.

13 A. I've been through many in the years, yeah.

14 Q. Investigated some, been around the mines where they've had them and made  
15 suggestions to prevent them and how to --- so you were taken to Crandall Canyon,  
16 too?

17 A. No.

18 Q. You were not invited, either?

19 A. Unfortunately, I had to stay here and hold the fort down. It was pretty bad.

20 Q. So you and Billy, being maybe the two most knowledgeable people in the  
21 District on bumps, were invited to stay home? Is there a reason for that, Bill, that you  
22 know of?

23 A. I don't know why. I think Allyn just made a --- real quick and grabbed Bobby  
24 and off they went.

25 Q. You were here; weren't you?

1 A. Yeah, I was available.

2 Q. Was Billy here? Was he available?

3 A. Yeah.

4 Q. Doesn't it seem strange to you?

5 A. I think it could be second guessed, yeah.

6 Q. I didn't ask you that. I said, does that seem strange to you?

7 A. No comment.

8 Q. So I guess you said it would be helpful if headquarters or tech support would  
9 kind of give you a risk type analysis and stuff like that.

10 A. That's probably the right direction, yeah. I think what I'm saying, I'd love to be  
11 able --- if I was a district manager, I'd love to be able to sit down with the powers that  
12 be at headquarters and the powers that be at tech support, the experts, so to speak,  
13 and let's plot a course of action for the future of deep mining in the west.

14 Q. Do you know if that's being done?

15 A. I know there was a meeting on Aberdeen that Al Davis and Billy Owens were  
16 a part of, and tech support, and I think headquarters even had a person there. I think  
17 that was a little bit of a start for one specific situation. I think we need to go beyond  
18 that and --- because it gets a little old sitting out here, and that's where we're at yet  
19 right now.

20 Q. So you think that that's something that the District has requested?

21 A. I don't know if the DM has, but between me and you, I put some e-mails out  
22 long ago when I first got here and kind of asked the same thing. It had to do with  
23 SPONCOM control plans and some ground issues, and it just --- like it just never  
24 happened. I think Allyn's ---

25 Q. So you never got ---?

1 A. --- got to drive that through, I think.

2 Q. You never got any response to those memos or the response ---

3 A. No, I really thought ---.

4 Q. --- was negative, do you know, or what?

5 A. Well, I think Ray McKinney was the administrator at the time, and I remember  
6 having some big phone conversations with Urosek and Ray here at the academy.  
7 Things didn't go well on SPONCOM control issues at that time. It just never went  
8 much further after that. I know John had some disagreements on the way we were  
9 ventilating our SPONCOM control plans and I said --- I told Allyn, listen, I said, I was  
10 sitting on a limb, you got to get Urosek out here, just an example, tech support  
11 involvement. We got to sit down with Stricklin or whoever, McKinney at that time, and  
12 either yes or no on these damn plans. We're getting tired of it. We're out here holding  
13 the bag. We don't know who's operating the damn thing, and we can't do it this way.  
14 If they want to try to ventilate them, let's do that, and we're going to have a mine fire,  
15 but just as long as everybody's in agreement with the same direction. It just seems  
16 like that never --- we need to do that on the SPONCOM control plans. We need to do  
17 that on ground control issues and deep cover, I think.

18 Q. You really can't get the response out of headquarters, or the assistance that  
19 you feel you need in those specific areas that are very troubling?

20 A. Again, I pushed that hard four years ago and mentioned it to Allyn a lot of  
21 times since then. It hasn't happened. I mean, Allyn's got to drive it, I think, and I'm not  
22 sure what kind of response --- or maybe he has to some degree. I don't know. And I  
23 haven't been involved with conversations. I don't know.

24 Q. You have not gotten any answer back to your question ---

25 A. No.

1 Q. --- or your concern?

2 A. No. I just feel that the ground issues here are difficult and the agency and  
3 tech support and everybody needs to be on one heartbeat, so to speak, and either yes  
4 or no. I don't care. I don't owe Aberdeen anything, West Ridge, Bowie. I respect ---  
5 those guys, I think, tried their damndest. They don't want to kill anybody. I mean,  
6 Bob Murray didn't make any money with what happened at Crandall Canyon. Trust  
7 me, they don't want to see that happen any more than anybody else. They were trying  
8 to do what they think is right, but yet they have a budget. I realize that. And they're  
9 not going to go over that budget trying to get things done. There may come a point  
10 where they don't have enough money to mine the coal at the acceptable level, risk  
11 level, that we want them to, but I think --- I guess Allyn Davis can make that decision  
12 on his own. But if I was him, I think I would get with headquarters, tech support, and  
13 let's find out yes or no. If it's yes, what do we need to do, what do we need to require?

14 Q. Do you feel you get pretty good response out of tech support when you  
15 request it?

16 A. Yeah, for the most part. Yeah.

17 Q. They come out in a timely manner?

18 A. Yeah, when they can. I mean, there's sometimes that --- I know recently Hoch  
19 had all kind of ground issues going on, but they were pretty responsive. They had ---  
20 and Sand and Phillips came out, other people have come out in the past. Sometimes  
21 their report is a little bit longer we'd like to see it takes to get out, but a lot of times  
22 they'll get us a draft and they'll get us feedback pretty quick, pretty --- especially if it's  
23 a critical issue.

24 Q. All in all, you'd say that you get pretty good response out of ---

25 A. I do.

1 Q. --- them and the work product, something you can work with?

2 A. For how they're staffed, and they have to deal with these seal issues and a lot  
3 of things that really --- and they weren't equipped when that first hit. The seals took on  
4 a life of their own as far as timeliness. That was pretty difficult. But the rest of it,  
5 ventilation usually we want help, ground control. I would say there hadn't always been  
6 the best relationship possibly with some of my people, and some of them are at fault,  
7 particularly with <sup>Ex. (b)(6) and Ex. (b)(7)(C)</sup> [REDACTED] never hit it off very well. That causes some  
8 problems that I try to address sometimes.

9 Q. So there may have been some ---

10 A. There might have been some hesitancy.

11 Q. --- personality conflicts between some of your folks and some of their folks  
12 that maybe didn't help the situation?

13 A. Right.

14 Q. You were aware of that and tried to resolve some of those issues?

15 A. I tried to convey through them that the more people we got on the limb with  
16 us, the better, trust me. Tech support, it's good to have them on, you know, their  
17 opinion, and we're not going to go against their opinion very --- you know. So it's good  
18 ---.

19 Q. So if they came out and gave you a negative finding, say, we don't think you  
20 should approve it, you're not going to approve it?

21 A. Yeah. That's just another smoking gun right there, like one of these plan  
22 reviews when they tell us plans and that. That needs to be addressed at that point.

23 Q. How familiar are you with Agapito, Bill?

24 A. Not near as much as Billy Owens. I just know of him and a little bit of his  
25 history.

1 Q. So Billy was pretty familiar with their work and ---

2 A. Yeah.

3 Q. --- did a lot? Did they do a lot of work in District Nine with other companies  
4 other than Murray or pretty much just Murray's mines? Do you know?

5 A. Probably can't answer that real well. I know he's done some other work, but I  
6 wouldn't know about a whole lot.

7 Q. I guess you've heard of him. I mean, did you always feel they were a pretty  
8 credible engineering firm?

9 A. Yeah. They're P.E.s, you had the government background, went out on his  
10 own. I've talked to --- Billy kept me pretty well informed on those initial reports, and I  
11 had no reason to doubt them other than ---Billy looked at the reports, looked at their  
12 numbers.

13 Q. How about BLM? Do you have any interaction with BLM at all?

14 A. No. The only time I hear about the BLM was when maybe the operator  
15 bitches and says, BLM wants us to mine all this here. They won't let us leave this  
16 here, that kind of thing. But not directly, no.

17 Q. BLM may call you and say, did you really shut this mine down or something to  
18 that effect?

19 A. Yeah.

20 Q. You never had any interaction on communication of problem areas or any of  
21 that kind of stuff?

22 A. John may have rarely in the last ten years a couple times. Maybe a phone  
23 call here and there, but I can't really recall.

24 Q. No kind of procedure in place that said we'll always call BLM if something  
25 happens or --- there's no agreement that you know of in place?

- 1 A. To me, they're a non-factor. I mean, we look at a plan, yes or no.
- 2 Q. They look at getting their money on coal; right?
- 3 A. That's right. They can do what they want to do, and they haven't harassed us,  
4 I don't think, much about it.
- 5 Q. Okay. I guess you're aware of the timeline and events as far as approval of  
6 the mining in the north barrier; right, Bill?
- 7 A. Yeah.
- 8 Q. So ---?
- 9 A. In general.
- 10 Q. Well, you realize --- you said earlier ---.
- 11 A. I don't have all those dates memorized if that's what you mean.
- 12 Q. Why not?
- 13 A. I can get them for you.
- 14 Q. So somewhere along, I guess, what, September, was it, Billy was having a  
15 meeting with Laine, and Laine kind of threw out --- or said, what would you think about  
16 if we mine this barrier up here? And Billy said, we'd need some technical background  
17 on it; right?
- 18 A. Yeah.
- 19 Q. Something to that effect. Did Billy ever talk to you about that?
- 20 A. I think they had --- Agapito had their reports by that time to ---.
- 21 Q. So you think maybe they had it by September already?
- 22 A. Yeah, those original reports, because I remember when I talked to Billy later,  
23 he said that he had looked at the Agapito reports and everything was positive the way  
24 they had it presented and their numbers looked okay and that kind of thing. And I told  
25 him ---.

1 Q. Maybe September 9th? Would that have been sometime when there was an  
2 Andalex meeting?

3 A. That could be.

4 Q. Okay.

5 A. We had a lot of meetings that year with Andalex as far as --- but mostly it was  
6 Aberdeen, West Ridge.

7 MR. TEASTER:

8 I think what happened is Adair was meeting with Billy and  
9 others in April of '06. What do you think? He says, you need some justification, then  
10 he come back with this in September.

11 A. Yeah, because I'm not sure when Laine first laid that on me because --- but I  
12 remember that time, and I told him it didn't pass the eye test. I remember telling Billy  
13 that you and I need to get a look at this sometime once they start developing this. I  
14 remember two times --- both times he went --- one time I was scheduled to go with  
15 him, and one time I actually went. We were in Utah and we visited Horizon and  
16 Aberdeen, and we're going to go to Crandall Canyon, and got called to West Elk for  
17 some issues we had with an overzealous inspector to look at some ground conditions.  
18 So we got cancelled out of that trip. So I personally never did get to go to Crandall,  
19 but Billy did. Because I can remember telling him, me and you have to go, let's go  
20 look at this. He did. He did due diligence. As you well know now, he went twice,  
21 once with the kid and once with Gary. Then we got feedback from inspectors.  
22 Everything looked reasonable for the most part.

23 BY MR. PAVLOVICH:

24 Q. So you were aware that Laine kind of provided this Agapito report, although  
25 he didn't submit a plan, and Billy asked Pete Del Duca to look at it; right?

1 A. Yeah.

2 Q. You're aware of the letter that Pete, I guess, generated with five issues that  
3 said, I question these five things or we question these five things? Did you see that  
4 letter prior to it being sent out?

5 A. I think I did.

6 Q. What were your feelings about that?

7 A. I didn't give it a whole lot of thought, because I thought at that time, well,  
8 they're going to have to revise their plan, the numbers.

9 Q. So did Billy comment on that? Did he say, Bill, I agree with Pete's evaluation  
10 here?

11 A. I don't remember talking to Billy about this until afterwards.

12 Q. So when Billy had time, did he ---?

13 A. He came back and told me he resolved all this stuff with Agapito and he kind  
14 of chastised the kid for --- he said he made some wrong assumptions. He assumed  
15 this whole area was mined out and it wasn't, the area they left in there. It made sense,  
16 even the novice that I am, the old vent guy that I am. He made sense to me on the  
17 mistakes he thought the kid had made. But what bothered me a little bit was why in  
18 the hell that letter went out in the first place.

19 Q. So he sent a letter out saying, address these five issues, and would you  
20 normally expect a letter to come back addressing those five?

21 A. Yeah.

22 Q. In this case, did a letter come back addressing those issues?

23 A. No.

24 Q. So they were addressed by a phone call that Billy says he had with Laine  
25 Adair?

1 A. Right.

2 Q. His assumption was Pete made a bad review?

3 A. He said they justified everything and clarified everything for him. That's kind  
4 of what he told me.

5 MR. TEASTER:

6 Did he say with who?

7 A. I don't know if he said Laine or not.

8 BY MR. PAVLOVICH:

9 Q. So you don't really know?

10 A. No.

11 Q. You just know after the fact ---?

12 A. No. I'm just taking his word that he got it straightened out before he would  
13 approve this plan.

14 Q. So you didn't say, Billy, where's it in writing?

15 A. No.

16 Q. But normally would you expect it to be in writing, Bill?

17 A. I would.

18 Q. I mean, if he sent --- well, let me start over again. You never had ---?

19 A. You're right. It should --- that's ---.

20 Q. You never had a plan submitted. Basically, it was a report that somebody  
21 threw out there and said, what do you think of this? Would you normally write back a  
22 letter saying, we can't approve this or we wouldn't approve this because of these  
23 issues?

24 A. I don't know what Billy told you, but what he told me was he gave that --- the  
25 assignment to the kid just to practice.

1 Q. Okay. And then ---?

2 A. I mean, he downplayed it to me.

3 Q. Then the assignment come back with these five things. Would you send that  
4 letter out if it was like just an assignment?

5 A. Well, the kid is an engineer, as he points out. I was ---.

6 Q. So you wouldn't agree with his --- before you sent it out, you would say, I  
7 agree with your five concerns?

8 A. Right.

9 Q. You wouldn't have sent it out if you said, well, I don't agree with these, but let's  
10 send it out ---?

11 A. Billy said they clarified things afterwards. I'm not sure what was --- wasn't  
12 clarified in the report and what became clear to him afterwards, the only thing I know.  
13 I can't explain that.

14 Q. Would you normally take the time to do a review and come in on something  
15 that wasn't even a submittal? I mean, you're understaffed. You don't have enough  
16 people to do the ---.

17 A. Remember the kid. He said that he gave it to the kid for a training session.

18 Q. So it was a training session for Pete?

19 A. He wasn't doing that much that we could really use him for anyway at that  
20 point, even though he's proven out to be a pretty sharp kid. I think he's going to be  
21 fine. But even to this point now, I think you can go back and look at that. There's still  
22 some question on what assumptions were right and were wrong. I think it still wasn't  
23 clear, particularly at that time, on how you look at that area in the middle and how you  
24 would

25 --- because these LAMODEL programs, all of them, it's just what you put in is what

1 you're going to get out. You can play with the numbers.

2 Q. So you understand that; right?

3 A. Yeah.

4 Q. Do you know if Billy was pretty familiar with LAMODEL?

5 A. He told me he was, yeah.

6 Q. Billy told you that he was familiar with LAMODEL and could run those  
7 programs?

8 A. Well, he understood it and how they were run. We didn't have the capabilities  
9 here.

10 Q. You didn't have the capabilities to even check it?

11 A. Well, he looked at the parameters and understood.

12 Q. Okay. Could you run it under different parameters here? I mean, if they said  
13 the strength of the coal is 10,000, and you thought it was 5,000, could you run it here  
14 or would you have to go through somebody else?

15 A. Well, I think Billy used the --- ARMPS was also part of the ---.

16 Q. So you think Billy is pretty familiar with ARMPS, maybe more so than  
17 LAMODEL?

18 A. I think. Maybe I'm wrong, but I thought he was familiar with both of them, I  
19 mean, the concept of LAMODEL, but we didn't have all the software to do as much as  
20 Agapito was able to do. I know he looked at that coal value and used it --- he didn't  
21 use the default, or Agapito wasn't using the default. He felt comfortable with how they  
22 justified the strength that they used.

23 Q. That was after he talked to someone ---

24 A. Yeah.

25 Q. --- from the company that informed him that was more than correct than what

1 Pete thought?

2 A. Right. They back calculated some --- I think it was ninth west section where  
3 they had done pillar extraction under 1,500 for the cover and come out with a stability  
4 factor under the ARMPS system, did their back calculations and felt comfortable with  
5 it, that what they had done was reasonable. I mean, it's easy now to go back and say,  
6 hey, he should have assumed this or assumed that, and make it fail and say, this is  
7 what you should have used.

8 Q. So did Laine Adair come and talk to you about mining the north barrier first,  
9 Bill, before he showed that to Billy or --- that's where you said, this doesn't pass the  
10 visual test?

11 A. I don't remember.

12 Q. Okay. That's the first time you heard about it, though; right?

13 A. Yeah. It was more of --- we were here on ventilation or something first, and  
14 he told me he was going to mine that. He told me, I'll be back at you with this, and I  
15 said, okay, Laine, we'll deal with it. Then I think he and another engineer came back,  
16 presented it more formally, maybe in September. That's when I think I told Billy we're  
17 going to --- let's go, when they start developing this. I says, go take a look at it, which  
18 Billy did a couple of times.

19 Q. So did you ever have any meetings with any people from Crandall or  
20 representatives of Crandall on this plan up here in the district office?

21 A. Laine would be the only one.

22 Q. You might have sat in those meetings?

23 A. In September early on, I think I sat --- had some meetings with Laine and ---.

24 Q. How about the ---?

25 A. It might have been an Aberdeen meeting, too. I don't know if it was both

1 discussed, but hell, we had five or six Aberdeen meetings that year off and on.

2 Q. So once Billy kind of told you he was recommended to have plan B approved,  
3 did he pretty much convince you that he researched it adequately and he thought it  
4 was okay? I mean, you were convinced, or do you still have some reservations about  
5 it just looking at it?

6 A. You know what? When it finally got approved --- I guess I just felt Agapito's a  
7 professional engineering firm, and Billy looked at the numbers and thought they were  
8 okay. You know, it's still pretty deep cover, barrier pillars. That's why I said, well, let's  
9 go look at it, see how it goes and let's keep an eye on it. That's what we did. And  
10 then after January or so --- Allyn had gone up there the one time. I don't know. We  
11 had so much shit going on with ERPs and stuff I just kind of --- it was kind of on the  
12 back burner. I was more concerned a lot of times about West Ridge and Aberdeen.  
13 Actually, when that bounce occurred, I thought for sure it was Aberdeen when I heard  
14 the report personally.

15 Yeah, Billy, I relied on him. I guess you can say I'd stake my  
16 career on him. I guess in a sense I kind of do. I mean, you got --- we got so much  
17 going on and we travel different directions. Hell, you got to count on your people.  
18 That's kind of my management, especially when you got guys with that much  
19 experience like Reitze and Owens. I'm kind of blessed even with Jim Kirk in there.  
20 They got a lot of experience in their field, and you get a feel for people and how they  
21 work and what they can do, who can be trusted, kind of thing. I knew Billy was pretty  
22 meticulous on a lot of things and does due diligence. I think he did in this case.

23 Q. When you --- you know, you said Billy --- I guess you or Billy or somebody  
24 suggested maybe we approve this thing in stages. We approve the development first,  
25 then we approve the retreat in the north, then we approve the development in the

1 south, then we approve the retreat in the south, and made an effort to go look at the  
2 areas on the development.

3 A. Right.

4 Q. Could you really tell a whole lot about how a retreat's going to go when you  
5 look at the development of an area?

6 A. Oh, I think you can get some feel of how much weight pillars are taking once  
7 you start an extraction, but retreat mining, it's a different ---

8 Q. Would it be wise ---

9 A. --- avenue.

10 Q. --- to look at the area, too, while retreat was going on to see how successful it  
11 was?

12 A. Well, off the top of my head, yeah, I think it would be if you got the time and  
13 people to do that. I'm not sure if we --- we never even had a CMI up there during a  
14 retreat. I think we had one CMI up there, but ---.

15 Q. Not in the north?

16 A. Barrier in the south. Taylor went up once also. I don't know if that was on  
17 development. I mean, you got to rely on the field office a little bit. They're there a hell  
18 of a lot more.

19 Q. Bill, on roof control plans or on your plans in general, I guess, in these  
20 particular plans pertaining to this north and south barrier, there was some statements  
21 in the roof that said you kind of maintain the bleeders free of water, but in the vent  
22 plan there was a floating bleeder evaluation point to the wall. How do you deal with  
23 --- or how do you try to ensure there's not discrepancies in those plans as they come  
24 out?

25 A. Well, I think that's just --- that statement was thrown in the roof control plan

1 where it says you maintain the bleeders.

2 Q. Uh-huh (yes).

3 A. It's kind of standard in all of them, but we show how the bleeders are to be  
4 supported and everything. When there's so much water that it can't be handled  
5 adequately, if it's going to flood, it cuts off ventilation totally, we'll allow evaluation  
6 points up to that point.

7 Q. So you ---?

8 A. So that's probably something that technically should have been corrected.

9 Q. So you allow floating bleeder evaluation points?

10 A. Not very often.

11 Q. You do very often?

12 A. No, not very often.

13 Q. Oh, not very often.

14 A. But we have, yeah, when it's a down dip and you can get to the ---.

15 Q. How far down dip does it have to be?

16 A. And this is usually just in abandoned areas, not an active longwall. I want to  
17 know where they had one going here.

18 Q. Well, this is in I know at least in the south, planned to mine the south barrier.

19 A. Because we had that evaluation point all the way to the back, and that's one  
20 reason Billy insisted leaving those pillars back there, to protect it so it didn't get all the  
21 way to the back.

22 MR. PAVLOVICH:

23 Get up here, Ex. (b)(6) and Ex. (b)(7)(C)

24 BY MR. PAVLOVICH:

25 Q. This is the approval bill from the ---?

1 A. Vent plan, roof control --- ventilation plan?

2 Q. This is for the vent. And I think this paragraph here talks about the MLP be  
3 located at the deepest point of penetration on the edges --- first of all, I guess, let me  
4 ask your opinion on something, because I'm kind of confused. If this number four  
5 entry here is the bleeder entry and the bleeder system, would you call that a wrap  
6 around bleeder? I mean, would you call a single entry up and then pillars being  
7 retreated, would that be called a --- it says, the bleeder system proposes a wraparound  
8 bleeder. Would that ---?

9 A. Yes, versus ---.

10 Q. You would call that a wraparound?

11 A. If he had taps in here, that would be a flow through.

12 Q. But there's no ---?

13 A. Here it comes up and back around.

14 Q. So you call that wraparound ---

15 A. Yeah.

16 Q. --- or would you call that wraparound?

17 A. Well, you just don't have a clear entry here, but ---

18 Q. Is this a single entry?

19 A. --- what you do, you have to prove you got air flow getting all the way to the  
20 back.

21 Q. So what kind of elevations would you want to see on something like this to  
22 ensure that water is roofed here while you're evaluating back here?

23 A. Well, you wouldn't evaluate ---.

24 Q. Eight feet of --- nine feet of height; right? So you could theoretically be  
25 evaluating here, halfway back to the panel to the toe of the water with stoppings

1 knocked out, but it not be roofed anywhere if you only got like six foot of dip?

2 A. Well, ---.

3 Q. Do you know what it was in this case?

4 A. Other than they don't have any methane here.

5 Q. Yeah. Neither did South Mountain or Day Branch or Grundy 21 or any of  
6 those other places that remain in our memory.

7 A. No, I don't have a good answer for that.

8 Q. And I guess this is pretty much the same statement that was in the north plan;  
9 right?

10 UNIDENTIFIED SPEAKER:

11 Yes.

12 MR. PAVLOVICH:

13 So this is the north. Is this the north? No. This is south.

14 Okay.

15 BY MR. PAVLOVICH:

16 Q. North was the same statement, Bill, if you trust me.

17 A. I'll trust you.

18 Q. Okay. What do you guys do with travel one way in, one way out? Do you got  
19 any policy on that that you follow as far as there should be two ways in or you should  
20 be able to walk all the way around in case you had a fall or something happen that you  
21 wouldn't be trapped?

22 A. Well, I don't think it's an ideal situation.

23 Q. But ---?

24 A. Out here sometimes, I'll tell you ---.

25 Q. Well, no worse conditions as far as one way in, one way out here than in east

1 Kentucky?

2 A. Could be.

3 Q. So do you try to follow that headquarters memo that says we recommend that  
4 plans be approved with two ways?

5 A. When you're pulling barrier pillars, it's not ideal for --- you're really limited on  
6 what you can do sometimes. I mean, in this situation here, I don't know. They  
7 couldn't get around the back, they can put taps in and get back to it there. One hand,  
8 you want to take a lot of coal to get it to cave. It's just difficult. No, I don't think it's  
9 ideal by any means, but again, barriers are usually a little different.

10 Q. Well, you said it's not very common to mine a barrier?

11 A. It's not.

12 Q. So you might not even have much history of mining barriers?

13 A. Bowie just finished up with some, but yeah, it's not too often you get in a  
14 situation here. Basically that's the end of the mine in a lot of situations. It's what's  
15 left. And there's never been an easy way to do it because you never design it ahead of  
16 time. The one big factor we did have here is the lack of methane, and that is taken  
17 under consideration.

18 Q. So primarily you're looking at the bleeder here that because you don't have  
19 much methane, well, this bleeder is not really important?

20 A. I thought they put some holes. Didn't we require them to put some holes in,  
21 they drained water here?

22 Q. Well, ---.

23 A. Was that this mine?

24 Q. There was a portion of the plan that said that there will be a hole drilled from  
25 here into the mains to drain the water out, but if that's the case, why would you

1 approve a floating evaluation? Next thing is, was that hole ever drilled?

2 A. I don't know.

3 Q. So whose responsibility would it be to --- I mean, if you say I'm going to drain  
4 my water and not have a water problem, I'm going to drill a hole and I want approval  
5 to do it, they did it. Next thing they got an evaluation, floating evaluation, to check the  
6 toe of the water on your way out. Were you aware of a bump that occurred in the  
7 north barrier or a bounce that occurred in the north barrier sometime in March of ---

8 A. You know ---.

9 Q. --- last year?

10 A. Hard to explain, but I'll tell you what, it's embarrassing. I didn't know about  
11 that until I read the Agapito report on August the 7th. I didn't even know we had a  
12 second Agapito report in here --- or that final Agapito report. When I read that it talked  
13 about a severe bounce. Then I started asking questions, then Reitze told me about  
14 some of the --- he got a phone call and he called Allyn. I do remember they wanted to  
15 seal that area real quick because they couldn't get to the back of it, but I knew they  
16 were having some ground issues all along. I was told it was ground issues, roof  
17 problems, and that might include a bounce. How severe, I don't know, but I know they  
18 were in a hurry and we had a hard time. Well, actually, tech support worked pretty  
19 fast on that and we got an approval to seal that area off. We weren't going to let them  
20 start south until they got the north buttoned up.

21 Q. So to your knowledge, they called and said, we had a bump or a bounce in the  
22 north barrier and we want to seal it because we can't examine that bleeder anymore,  
23 or we want a floating evaluation, we want to move the evaluation point back?

24 A. Yeah, because Reitze wouldn't let him do that.

25 Q. Reitze said no although he had already approved a floating evaluation to the

- 1 toe of the water. What do you think about that?
- 2 A. It don't make any sense to me.
- 3 Q. Did you ever ask Reitze about it?
- 4 A. No. I have it on the ---
- 5 Q. Why not?
- 6 A. --- floating evaluation point. I don't think we ever done that before, to tell you
- 7 the truth.
- 8 Q. This is the first time ever?
- 9 A. Well, now, I know we've done it in areas that were abandoned, but not an
- 10 active wall coming back.
- 11 Q. But this wouldn't have been active; right? I mean ---?
- 12 A. Oh, yeah.
- 13 Q. So they called and told Reitze we had a bounce and we want to move our
- 14 evaluation point back outby and he said, oh, absolutely not, but you've already got a
- 15 floating evaluation point to the toe of the water? Does that sound rational?
- 16 A. That ain't water.
- 17 Q. No, maybe not, but you had already given him that. What difference did it
- 18 make? Don't know?
- 19 A. That's what surprised me. Reitze's pretty bull headed on getting to the back,
- 20 and ---.
- 21 Q. You do agree that this says you got a floating point; right?
- 22 A. Yeah.
- 23 Q. Which is somewhat --- doesn't mean you --- I want you to go to the back?
- 24 A. No.
- 25 Q. So Billy or Reitze, neither one, came and told you, you know, that barrier

1 they're pulling out there Crandall on the north barrier, they had a bounce out there and  
2 they're pulling out of it?

3 A. Correct.

4 Q. You never knew about that?

5 A. Well, no, I did not Ex. (b)(6) and Ex. (b)(7)(C)

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

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

And then I remember signing the deal on the

8 seal. I remember rushing around on the seals that week, got to hurry up and get this  
9 seal because of ground conditions.

-10 Q. To seal this ---

11 A. Yeah.

12 Q. --- north barrier down here?

13 A. Yeah.

14 Q. Did it surprise you that as bad as they wanted to mine that north barrier, they  
15 were now going to leave half of it and seal it, because they really needed that coal to  
16 blend or anything like that? That didn't ---

17 A. No.

18 Q. --- surprise you?

19 A. No. I was assuming --- all along Billy had said ---

20 Q. I mean, you know ---.

21 A. --- if ground conditions are too bad they were going to abandon it. I think that  
22 was ---.

23 Q. So you know how persistent Laine can be; right?

24 A. Yeah.

25 Q. Yet if it was just because Reitze said no, I want you to examine that bleeder

1 all the way to the back, Laine wouldn't have --- if he wanted that coal real bad, he  
2 would've have come in and continued to harass you over getting it?

3 A. Well, they had a lot of coal there and they had a lot of coal outby they could  
4 be getting on the way out, too, the rest of the way out, so ---.

5 Q. Yeah, but did they not want to make it last as long as ---?

6 A. I figured he didn't want to spend the money and make the effort to rehab, to  
7 get all ---.

8 Q. To rehab the entry. Okay. So you didn't know there was a bounce?

9 A. I did not.

10 Q. You say you found out about the bounce when you read the plan that they  
11 submitted to mine the south barrier?

12 A. Exactly right, and I'm a little bit embarrassed about that. I thought I'd have a  
13 little better communication with my ventilation supervisor. I think he was involved ---  
14 maybe I wasn't there that particular day. I think he started dealing with AI right off the  
15 bat and AI was --- he told me later, was in Beckley, I guess, and never talked on the  
16 phone to each other, getting that straightened out. I guess he talked to Billy about it.  
17 But not only that, Billy had that Agapito report that I never did see until August 7th I  
18 was reading it.

19 Q. You ever see those photos of the bump, Bill?

20 A. No.

21 MR. TEASTER:

22 Bill, you never saw the Agapito report to discuss that bump  
23 until after the accident on August the 6th?

24 A. Correct. I got to take some responsibility for that. I mean, these guys worked  
25 for me and maybe I didn't communicate with them enough or something, but surely I

1 should have saw that report somewhere along the line. I don't know. There was a  
2 breakdown there. Hell, that was months, though. I think we got it in May or  
3 something. I didn't even know it was out there until after I started reading and it talked  
4 about a severe bounce, I think, and that kind of thing.

5 BY MR. PAVLOVICH:

6 Q. April of 2007 Agapito report says, a large bump occurred at this point,  
7 resulting in heavy damage to the entries located between crosscuts 133 and 139. The  
8 remaining north panel was abandoned in favor of mining the south barrier. So six  
9 rows of crosscuts of bouncing would be pretty significant bounce; would you say, Bill?

10 A. Yeah, I'd say so.

11 Q. Because normally how many pillars might you see bounce, two or three, one?

12 A. Or even one, one corner of one ---.

13 Q. So when you look at that area right there, it shows the area that bounced, you  
14 would think that's fairly significant?

15 A. Sure is.

16 Q. Had you ever seen those before?

17 A. No, I hadn't. Where did these come from? These are the company?

18 Q. Yeah. We got them from the investigation. I mean, that's looking right over  
19 top of a pillar. Do you think something like that should have been investigated by  
20 MSHA?

21 A. Yeah, should have been. It should have been clearly reported and  
22 investigated.

23 MR. PAVLOVICH:

24 Why don't we take about a ten-minute break?

25 SHORT BREAK TAKEN

1 BY MR. PAVLOVICH:

2 Q. Bill, do you remember Kevin Stricklin gave testimony at the congressional  
3 hearings and he was asked why was mining ceased in the north barrier, and Kevin  
4 basically said because --- not because of the bump, but because they were able to  
5 travel the bleeder entry? Do you know where he got that information?

6 A. Because they weren't able to travel the bleeder?

7 Q. Yeah. I mean, that was his testimony at the congressional hearing.

8 A. Probably from Owens. I don't know. Probably from Owens.

9 Q. So you think Billy Owens told him that? Do you think that was Billy's opinion  
10 or did Billy know there was a bump in the ---?

11 A. Billy knew there were ground issues.

12 Q. You don't know if he knew if there was a severe bounce that ---?

13 A. I don't think he knew there was a severe bounce.

14 Q. He never told you about a discussion ---?

15 A. Knowing Billy, he didn't have any feeling it was to that degree as back over  
16 there. Sure.

17 Q. So you don't know if Laine Adair had a discussion with Billy in --- a detailed  
18 discussion about a bounce that occurred?

19 A. Again, this is all after the fact.

20 Q. After the fact?

21 A. Yeah. Billy told me --- I think he did discussions that week with Laine after the  
22 fact, after Bill Reitze got a phone call, and Reitze kind of triggered talking to Owens  
23 and they got Al Davis involved.

24 Q. So this is after they had the bounce in the north barrier?

25 A. Yeah.

- 1 Q. So Billy did tell you then he had a pretty detailed conversation with Laine  
2 Adair?
- 3 A. Yeah. He or Reitze did. Anyway, I'm aware of that. I know after the fact ---.
- 4 Q. So they were familiar that there was a pretty good bounce there?
- 5 A. Pretty good, I don't know. You know, like I said, there's bounces, and you  
6 know, these Kennedy stoppings get knocked out left and right. Hell, they get knocked  
7 out from roof falls.
- 8 Q. That's true. But are they reportable then if they disrupt the ventilation?
- 9 A. I guess you could look at it that way. I don't think ---.
- 10 Q. You don't think knocking out a Kennedy ---?
- 11 A. We've had some report where there's been like massive caves blowing out  
12 stuff. That has been on occasion. But I think sometimes routine day, they can throw  
13 that Kennedy back up in five minutes, probably ---.
- 14 Q. So you think they don't report those?
- 15 A. No, not an intentional roof fall that blows out stoppings.
- 16 Q. Okay.
- 17 A. Now, intentional roof falls were never meant to blow out pillars or things like  
18 that. That would be a bit out of the ordinary.
- 19 Q. Okay.
- 20 A. My personal opinion, knowing Reitze and knowing Owens, it did not sink in,  
21 nor was it properly conveyed the severity of this thing being a major bounce. I just  
22 feel that way.
- 23 Q. Okay.
- 24 A. And how in the hell Knepp got left out of things, like I said, I did ge  
25 Ex. (b)(6) and Ex. (b)(7)(C) Ex. (b)(6) and Ex. (b)(7)(C)  
But still, I don't know

1 how I missed the boat on all this kind of thing. It mean, it was kind of all news to me  
2 until I read the Agapito report and things started falling together and I kind of said, oh,  
3 shit.

4 Q. So you read the April 2007 Agapito report that says a large bump occurred?

5 A. In August the 7th, I think I did.

6 Q. Oh, okay. You read it after ---?

7 A. Yeah. I didn't even know we had it in here, in all honesty.

8 Q. How did you find out about the plan approval to mine the south barrier? I  
9 mean, what was the basis for that? I mean, Billy had to come to you and say, Bill,  
10 we're going to approve this now.

11 A. He did, huh?

12 Q. Well, I don't know. Did he?

13 A. No.

14 Q. So you never knew it was approved to mine the south barrier?

15 A. Yeah, but I never saw the approval. You know, I don't remember if I knew  
16 when they started mining that. Like I said, it was out there ---.

17 Q. Earlier you said if it's something unusual, that normally your guys would come  
18 and discuss it with your or whatever?

19 A. Normally they would.

20 Q. And you would guess that mining that south barrier there would be somewhat  
21 unusual in this District since you normally didn't mine barrier pillars over 2,000 feet of  
22 cover?

23 A. More so than that, the one thing that bothers me a lot is that Billy had them  
24 leave those pillars in there, extra pillars, which I found out after the fact. And the  
25 Agapito report says don't do that. And to me, that would have triggered --- I might

1 have went along with it anyway, but I think I would have questioned that and at least  
2 brought it to Al Davis and said, hey, Agapito is saying this and Billy thinks he ought to  
3 do this. So that never happened. So let's say I'm a little disappointed that that wasn't  
4 communicated.

5 Q. So you weren't aware of the fact that in the first Agapito report to mine the  
6 north barrier, it said basically, pillar dimensions should be 80 to 90 feet, and length in  
7 pillars is insignificant? But in the second Agapito report, after it says we had a major  
8 bounce in the north barrier, the way we've corrected it is to lengthen the pillars?

9 A. No, I wasn't aware of that.

10 Q. You wasn't aware of that? You said you weren't aware of the fact that prior to,  
11 they said, don't leave any pillars, but yet when the plans were approved, they showed  
12 leaving rows of pillars? You weren't aware of that, either?

13 A. In the south barrier?

14 Q. Yeah.

15 A. No.

16 Q. Had you ever seen those plan approvals for the south barrier prior to the  
17 bump on the 6th?

18 A. I don't specifically recall, but I did see the ventilation.

19 Q. So you remember seeing the vent plan? If you look at those two drawings,  
20 Bill, this is the vent plan approval. This is the roof plan approval. You see through  
21 this area where the offset is. Vent plan says go ahead and mine the barrier and mine  
22 these three pillars and just leave one row. But the roof plan says, don't mine the  
23 barrier and leave all eight of these pillars. Now, would that be something that  
24 normally would get out of your shop, that kind of discrepancy between the two plans?

25 A. Again, this has been discussed many times with roof control and ventilation to

1 the point where a lot of times they surname for each other, and that's not supposed to  
2 happen, but it does sometimes with people going different directions at different times  
3 and maybe that guy's not here that week or ---.

4 Q. Well, with the Agapito report that specifically stated, we recommend that no  
5 pillars be left, what would you think when you had that discrepancy between your two  
6 plans?

7 A. Well, I think it was a roof control issue decision. I think that it actually would  
8 make no difference to Reitze, probably, from a ventilation standpoint. Roof control is  
9 very significant. And I think what happened was that they had submitted this plan, like  
10 the ventilation plan, initially that upon Billy's return trip after he went to the mine. He  
11 talked to them about leaving more pillars and then they did that and he approved it ---

12 Q. They were approved pretty close together.

13 A. --- and the change wasn't made on the ventilation plan.

14 Q. This is June 15th and I think this one is ---

15 MR. TEASTER:

16 June 1st.

17 BY MR. PAVLOVICH:

18 Q. --- June 1st. So I mean, it's not like they're a couple months apart or anything  
19 where you'd forget. I mean, that's pretty close. So they never talked to you about  
20 that?

21 A. No. And I've told Reitze and I've told Owens that particularly under deep  
22 cover, we got to make sure when they're leaving bleeders we don't have conflicts, just  
23 like you saw right here on the pillar size and projections. Owens needs to be able to  
24 look at it and say, this is --- you know, from a bounce standpoint. And that gets done  
25 sometimes. It didn't get done here on this.

1 Q. And also, the Agapito report said we want to leave longer pillars to alleviate  
2 the potential for bump, but yet the plan approved by roof control still specifies 80 by  
3 90. Were you aware of that?

4 A. This is 80 by 90? No, I don't think it is. This was a longer pillar. Is that the  
5 June 15th?

6 Q. That shows projections but ---.

7 MR. PAVLOVICH:

8 Where was that **Ex. (b)(6) and**  
**Ex. (b)(7)(C)**

9 UNIDENTIFIED SPEAKER:

10 The Agapito report recommends that, but that's another  
11 discrepancy and was --- actually was never reflected in the plan. It's right on the map.

12 A. You know roof control to be to scale, the sketches.

13 MR. TEASTER:

14 I think the verbiage in there goes back to the 80 by 90 even  
15 though you may be the scale on the block.

16 A. I don't think the verbiage says that.

17 MR. PAVLOVICH:

18 I guess maybe that's what it was.

19 A. Well, this was the --- I always went to the mine after this and it was changed.  
20 You got to look at the June 15th one.

21 BY MR. PAVLOVICH:

22 Q. Is that what you're saying?

23 A. Yeah.

24 Q. You're saying it was changed?

25 A. I wanted to tell you something. One thing, they should have written in bold

1 letters on the map the numbers, and they should have probably said it in verbiage.

2 They don't say anything, as I recall, in the verbiage here, but it is on that map. I can  
3 go get you the one ---.

4 Q. So it's on this map with the scale ---?

5 A. Yeah. If you scale that out with a regular size, it'll be bigger pillars. What's  
6 the date on that? Yeah, you can see the difference in all that. See these pillars here?

7 Q. Okay.

8 A. And if you scale it out, then engineering ---.

9 Q. Same as this one?

10 A. Yeah. But there is that discrepancy with the ventilation. It didn't show those  
11 pillars being left in the roof control plan.

12 Q. So to your knowledge, until you heard the bump on the 6th of August, you  
13 didn't even know they were mining the south barrier?

14 A. I didn't know they were necessarily pillar mining at that time. I mean, it was in  
15 the back of my mind. We got a lot going on out here and, you know, I knew they were  
16 going to do that, and things were approved and they were headed that direction.

17 Q. But it wasn't anything that anybody specifically came to you and said, Bill,  
18 we're mining this. You know, we're going to give them an approval to mine this south  
19 barrier now under this deep cover and do this. I mean, that never was brought to your  
20 attention?

21 A. No. And I'll admit that leaving those pillars like that in the face of the Agapito  
22 report is something that should have been discussed at my level and Al Davis' level.

23 Q. You don't think --- to your knowledge it wasn't discussed at the Al Davis level  
24 either?

25 A. I don't think so.

1 Q. Any reason why, Bill?

2 A. You know, I don't --- it's not like Billy, other than unless he was getting pulled  
3 in 50 directions and I wasn't available at the time or Al wasn't available at the time or  
4 what happened there. I don't know.

5 Q. So Billy never said to you, Bill, here's why I did this, and gave you any  
6 rationale that said, here's a good reason why?

7 A. I'll admit to you, I talked to him afterwards about it and he just kind of looked  
8 down, and you know, shook his head a little bit. I mean, he just likes to get things  
9 going. He had a lot going on, man. He was way behind the plans all the time and he  
10 could only do so much. He was really short handed. Not that that's an excuse, but  
11 maybe --- but again, maybe I'm at fault. You know, I trust these guys. We've trained  
12 them. We give them a lot of leeway to run their --- and I got to count on them to point  
13 out things like this because like I say, we're either traveling or going to the doctor's or  
14 on annual leave a lot. All three of the managers are here and there.

15 These guys are used to being independent. Before I came  
16 out here, they were down to two managers and they told me that Cornett and Davis  
17 were gone 50 percent of time and the Reitze or Owens were acting more times than  
18 they were. That was one of their bitches. They're always acting, always having to  
19 sign stuff and they don't get paid for it. I remember them telling me that. So they're  
20 kind of used to being on their own and making cuts, signing off and moving on, you  
21 know.

22 Q. I understand that.

23 A. What it is is what it is, I guess. You know, it happened and I don't know if  
24 there's a clear cut, good reason.

25 ATTORNEY PAVLOVICH:

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Did you have any questions about the plans?

MR. TEASTER:

I did.

BY MR. TEASTER:

Q. I want to go back to that plan.

MR. PAVLOVICH:

Which one?

MR. TEASTER:

South barrier.

BY MR. TEASTER:

Q. It seems to me that the original plan was approved with just those ---.

A. Correct.

Q. And then when they got their pillar plan, the pillar plan showed those blocks.

They were developed, but the plan itself allowed them to develop it. They developed the plan under the approved development plan which was approved earlier.

A. Good point. You know what my theory is on that? Laine Adair and those people right away knew the severity of that bounce. Agapito came and told them they were going to have to lengthen their pillars, so in the meantime, that's what they started the development with, the longer pillars.

Q. They started the development with the shorter pillars and then they got the Agapito report and they went to the longer pillars?

A. Right.

MR. PAVLOVICH:

Right here was done with the shorter pillars, and then they went to the longer pillars from there.

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MR. TEASTER:

Right.

MR. PAVLOVICH:

From here inby or somewhere ---

A. Right.

MR. PAVLOVICH:

--- at some point. I'm not sure --- you can see it better.

A. Over here?

MR. PAVLOVICH:

Yeah, right there somewhere. So you think they went ahead  
and did that after Agapito recommended it?

A. Definitely.

MR. PAVLOVICH:

But they didn't submit it in the plan?

A. We didn't get a plan submittal for months.

BY MR. TEASTER:

Q. They never approved it, so they could have developed that on the shorter  
block?

A. And technically, they probably weren't in violation, because the ventilation  
gives them a range on pillar size.

Q. Well, you can probably develop them bigger unless it's going to create a ---.

A. And from a roof control standpoint, you probably can go bigger. It's like  
putting longer bolts in or something.

Q. Okay. Let me back up to get some of the things that Joe had raised earlier.  
You talked about Kathleen being over in Delta. Was there ever consideration of

1 moving her to Denver if that's where you needed her?

2 A. We've asked for that to get done and it hasn't happened yet.

3 Q. Why?

4 A. I can't make that call myself. I'd like to do it.

5 Q. I mean, have you tried to do it and Al said no or does somebody --- she don't  
6 want to do it?

7 A. Al won't say no, but I think he just --- I don't know what kind of pressure ---  
8 what the situation is between he and headquarters on that. I think there was a time  
9 when headquarters wanted specialists more in the field, it seemed like. They were  
10 just dreaming that this super specialist is going to be able to review vent plans and do  
11 all this damn paperwork we've got to do now and go do EO1s three days a week and  
12 do all this other stuff in the spare time. You know, there's that dream. It just doesn't  
13 work. They don't bond well. And it really helps to have people working as a group and  
14 as a team and knowing what the others ones are doing and trying to get some  
15 consistency and to act for each other, I kind of think, because I just --- you know, I  
16 could some of the advantages for specialists in the field, but we're so spread out  
17 anyway, the distance between field offices, you don't lose that much by adding her to  
18 Denver. You gain a lot, I think, by it.

19 Q. So you feel then that headquarters is more or less dictating ---?

20 A. I think they've influenced Allyn. I mean, we've asked for Allyn --- I know Billy's  
21 cried to Allyn a couple times and I have, too, and he doesn't say no, but it hasn't  
22 happened. And I don't know what grief he's getting or what's response he's getting at  
23 headquarters. I don't know. Hell, he may have been begging them every day for the  
24 last three years, but I don't think so. You know, I think he's got a perception that  
25 headquarters wants him in the field and that's it. And I think at one time McKinney

1 had kind of said that.

2 Q. Do you have any feel for how often Kathleen goes to the mine?

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

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8

9 Q. What about special assignments? She had been on a lot of --- on any special  
10 assignments?

11 A. She's been picked for this leadership training thing that they told me was only  
12 going to be three weeks, but then they didn't tell me about this IDP that's three more  
13 weeks, and it's just been one thing after the other. She is our blasting representative  
14 expert, and that's taken some training and meetings here and there. Then she did act  
15 up in Gillette Ex. (b)(6) and Ex. (b)(7)(C)

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

17 Ex. (b)(6) and Ex. (b)(7)(C) We don't have any backup. You know what I mean? No fat. If  
18 somebody gets sick or, you know ---.

19 Q. Was there a choice in leaving her on roof control as opposed to putting her on  
20 some of these other things that she was involved in? I mean, it seems to me like roof  
21 control is pretty important, especially when you're short on people.

22 A. Probably a mistake on my part on at least this last thing, on this leadership  
23 training, but they were sure pushing to not discourage anybody to sign up for this  
24 leadership training, so I think it got off to a slow start. They had to open it up twice an  
25 were begging for applicants for a while. I think it's kind of picked up now. But

1 originally --- hell, we ended with two of them, Hillary Smith --- one third of our vent  
2 group, same damn deal, ended up gone six damn weeks here since October. So I  
3 made a mistake there. Maybe one of them, all right, but both of them, it is stressful  
4 trying to get all these EO1s done in December, and we had a mine fire in Deserado,  
5 we had the bounce situations, we had Bowie having a problem. It was a zoo here.

6 Q. Now that Billy's gone, who have you got? If he was the only one doing them,  
7 who's doing them now?

8 A. We took a vent guy, Sid Hanson, over there. He used to be tech support/roof  
9 control guy. He works for Reitze. We're just trying to do what we can do to keep our  
10 head above water right now.

11 Q. This issue that you talked about with AI initially with these drill holes for  
12 ventilation purposes for the methane, what was AI's concern was whether there was a  
13 need for boreholes or what was the cost of the boreholes or what was his real concern  
14 with not wanting to require what you was wanting to require?

15 A. Well, I think there was some original commitments made even before I got  
16 back out here on letting them go up to I think like 4.3 percent or some kind of deal out  
17 of the bleeder tap. And of course, their argument, we based our mine on what you  
18 people told us all, and we've told you we're just going to cut slower each time. They  
19 kind of did that. Their tonnage was horrible at Aberdeen, but --- and that was their  
20 argument. We'll just keep our mining rate down and keep it below that. And so we  
21 agreed to it and we can live with that, on and on. But you know, AI wasn't --- he was  
22 just trying to listen to both sides of the story. He knew the history there and we  
23 eventually --- he did a good job, actually, I think, in the end there when we decided,  
24 you know, boy, they got to get bleeder holes or --- you know, and they come and start  
25 crying to us about the \$600,000, \$800,000 a hole.



1 he thinks it over and he makes the cut. I'm not going to criticize him too much. I  
2 mean, anybody can always second guess. Yeah, I've seen him change things and go  
3 along with the operator's argument sometimes if it made sense to him. But I've seen  
4 him go the other way, too, so I don't --- there's some rumors out here that he just  
5 caves in every damn time, and that's not true.

6 Q. Have you noticed that that was more prevalent with certain companies than  
7 others?

8 A. No. No.

9 Q. You mentioned that when you first saw these requests to mine up in the west  
10 mains, up in those barriers, it didn't pass the eye test, I believe was your words. The  
11 miners, I don't know if you'll get the opportunity to watch these oversight hearings that  
12 they had up there, but there was a lot of the miners and miners' families and some of  
13 the people from United Mine Workers and some other people said you can just look at  
14 that and tell right off that mining shouldn't be permitted in that. Is that kind of what  
15 you thought when you talked about your eye test?

16 A. Well, when you start getting over 1,500 feet, that's a big thing, I think. That  
17 cover is getting a little bit higher down through there. And it was mined out on both  
18 sides, so if you know --- if you had real good caves, you know, it's probably going to  
19 be okay, and that's the whole key. That's the trouble out here. We've got a lot of  
20 massive sandstone. SUFCO had a hell of a bounce out of the clear blue, never had  
21 one before, where the longwall just hung up. And that mass of sandstone, you know,  
22 could be 500 foot thick. And if it doesn't break, it just transfers the weight and you got  
23 real issues. And that's always a concern there in that whole Utah area. So yeah, I  
24 knew it probably wasn't going to be a piece of cake, and that's why, you know, I  
25 wanted to see how development goes. I told Owens, let's he and I go visit it. And you

1 know, you could tell --- a lot of times it'll be making a lot of noise on development.  
2 You'll even have some pillars maybe show some bursting tendencies like that. But  
3 you know, it's not like Emery Mine under 200 foot of cover down there. It's just a  
4 different ball game. Be careful.

5 Q. You mentioned also that you need to address the use of personal --- for  
6 providing personal protective equipment for our inspectors when they go into areas  
7 where the companies require their miners to wear it. You said we need to address it.  
8 Has this issue been around for quite a while?

9 A. It just really came to light here --- I heard complaints coming from Utah within  
10 the last couple months. You know, of course, I'm aware of the situation. I've been  
11 down there myself with stuff bouncing around us, and you see guys, but usually there's  
12 at least guarding for you there. And you don't have to get --- at least in my job. Now, I  
13 don't know about the inspectors. That's a different ball game over there. I could  
14 usually use the common sense and I don't need to have my nose up there beside the  
15 sheer operator up front because you're unprotected, you know. There's places you  
16 can stand.

17 Q. Is it just the last couple of months that these requirements that the company  
18 put in place, either by their own desire or by the plans?

19 A. For years you've had mines that have hung belting and chains and some other  
20 things. They've gotten a lot more complex at Aberdeen. You know, you've got a fatal  
21 accident there, and that led to what they call these pig pens, more steel guarding,  
22 more of it, particularly in certain zones. Usually the tail gate will last --- 20 shields or  
23 so is a high risk area. Aberdeen is a little different since they got the big barriers on  
24 both sides and the head gate pitches downhill. It could be on either side there. A lot  
25 of times we've had issues on the head gate side of Aberdeen. But no, I think that's

1 probably an issue where the agency --- we're remiss on. We need to look at that real  
2 hard.

3 Q. Not to be belabor, but is it the District policy that if they want this equipment,  
4 that the company requires it, that they wear the equipment provided by the company?  
5 Are you aware of any of that?

6 A. You know, nothing is prohibiting them from doing that. I know that.

7 Q. But if it's a necessity for miners, would you agree it's a necessity to protect our  
8 inspectors?

9 A. To a degree, yes, depending on where they're going and what they're doing.

10 Q. Well, I'm talking about in the same environment. In other words, ---

11 A. Oh, yeah.

12 Q. --- if a guy going across the long wall is required to wear a jacket or do  
13 something for the miners, then we should afford that same protection ---?

14 A. I think the answer may be --- I think maybe the operator should have to. And  
15 if they won't supply it, then I think we're going to have to do something.

16 Q. Well, I think, in my opinion, I think we have an obligation, but I think you have  
17 a policy that says you have to provide that equipment for the inspectors. The other  
18 thing you mentioned, that it was possibly an oversight not taking Billy Owens to the  
19 Crandall Canyon rescue effort?

20 A. I said that?

21 Q. Yes.

22 A. I think I said I kind of wondered about it. I don't know if I used the word  
23 oversight.

24 Q. Well, as a possible oversight, you know ---?

25 A. Well, yeah. I think maybe nobody really even gave it a lot of thought. I don't

1 know if it was a willful decision.

2 Q. Well, I'm saying it might have been an initial, but how much time did you have  
3 to --- I mean, oversight's something you've got to locate and correct it pretty quick, if  
4 it's oversight.

5 A. Well, I wasn't over there, but I'll bet it was a zoo, very hectic. And you had the  
6 two leaders show up and kind of take control of the situation and then you had some  
7 tech support people there, too, or ground control experts, per se. So I see where it  
8 could have happened, but I know if it did, I mean, if it was a total oversight or not. I  
9 don't know if it was a willful decision. Allyn never said anything to me about it one way  
10 or another.

11 Q. You never raised the issue with him?

12 A. No. I came close to doing that, in all honesty, but I didn't.

13 Q. Do you know why you didn't?

14 A. I don't know why. The thought crossed my mind. You know, I did wonder  
15 about it a little bit with everything going on over there, but you know, I don't want to  
16 second guess people in a situation like that. That's a tough call. I do know, and Billy  
17 knows that, you know --- sometimes we've triggered some issues at other mines.  
18 Nothing to this degree, though, but this was pretty unique. And then what did we  
19 have, ten guys refused to go underground and work there after a while. That made  
20 me wonder a little bit, too, when I heard that. I mean, that's like rats leaving the ship  
21 or something. Again, second guessing --- you got six people missing and I'm not just  
22 going to second guess too much. But Billy did have a lot of experience. He might  
23 have been able to help some over there or help somebody make a decision. I don't  
24 know.

25 Q. Another thing I wasn't quite clear on, Bill, when you --- when Del Duca raised

1 these five issues with the Agapito report and send this letter out November 21st, I  
2 believe they sent it out, and they send an approval for ---

3 A. Development.

4 Q. --- at the same time for development. But when that plan came back in for  
5 retreat mining, I think it came in in January or February, but somewhere along that  
6 time, did you see that report or that request for approval for retreat mining?

7 A. Yeah. I knew they were retreat mining. We had approved that. See, Billy  
8 and Pete went to the mine.

9 Q. They went to the mine in January?

10 A. Right. That's when I was going to go with him. I couldn't make it for some  
11 reason, and he went with him. And I think they resolved the issues that they had with  
12 Pete's review, and it came back and we eventually, I think, approved the plan in  
13 February.

14 Q. Yeah, I think that's right. But I think that that plan, the issues were resolved  
15 over the phone or somewhere. I don't know that Del Duca was privy to that  
16 discussion. But did you raise the flag about --- had all these issues been addressed  
17 when that plan went through for retreat mining?

18 A. Yeah. Billy told me that he had clarified everything. He told me --- he used  
19 the word the kid made some assumptions here. I can remember him telling me about  
20 he assumed this whole area was mined out and it's not. Hell, they left pillars here and  
21 this barrier is in place here and I went over and we worked out with --- and I forget who  
22 he said he worked --- I don't know, some mine engineers there, I guess.

23 Q. Did Billy ever indicate to you that he was aware that those were non-issues  
24 but agreed to go ahead and send them forward anyway?

25 A. That puzzles me a little bit now. Other than he told me it was a training thing

1 for Pete. He said, the only reason I gave him that was to give the kid a little training  
2 session.

3 Q. Are you aware of a NIOSH report that evaluated that same Agapito report ---

4 A. No.

5 Q. --- that was done for Senator Kennedy that essentially said that Del Duca was  
6 right ---?

7 A. I haven't seen that, but yeah, I do know about that, yeah. You can make  
8 those numbers come out however you want to. Billy told me that the original NIOSH  
9 instructions were to use mine history, too, and that's exactly what he said Agapito and  
10 the company did, and their engineers. And since then, his side of the story is NIOSH  
11 backed off of that now and are saying he should have used the default values and all  
12 this other stuff.

13 Q. But there was a thing at issue about this NIOSH ---?

14 A. He wrote a response to that. Were you guys able to get that? Okay.

15 Q. But there's a barrier, and I think that barrier was like 160 feet wide, or it was  
16 some distance thick, and then the width of the entry plus the width of that block in the  
17 old west main was all added up, and I think the total was like 210 feet of barrier that  
18 they counted all this barrier where if you'd have done it in accordance with the way  
19 NIOSH done it, it was like 160 feet. And if you'd take those numbers, it substantially  
20 reduces that stability factor from .3 down to .29 or some number down. It would be  
21 below the failure of somewhere around 3.7. But you still think that Billy's analysis of  
22 that was ---?

23 A. I think what he knew at the time and what the practice was at the time and  
24 how he read the NIOSH original reports, the way they said to do things, I think he  
25 thought that was in line of how to go about doing it. I think he firmly believed that.

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MR. PAVLOVICH:

Would the history not have changed, Bill, when the north barrier bumped?

A. Like those pictures you showed me?

MR. PAVLOVICH:

Yeah. Would that not have changed the history from --- I mean, the history they used was the bridge miner sections up on that north end that basically, they mined so much back and then they left some rows, or Billy's comment was those were very successful until failure, which I don't know what that meant. But if you were successful until you failed, you failed. But anyway ---.

A. Kind of what happened here.

MR. PAVLOVICH:

Yeah. Would this not have set a new standard for mining ---?

A. Yeah. That's why I think in my heart if Billy knew the severity of that thing, he would have been over there again immediately, because you know, he knew this was ---.

BY MR. TEASTER:

Q. Well, the Agapito report dated April the 18th was submitted to him in May.

A. And that's why he went over there right after that when he got it. Hell, he went the very next week. But he didn't know about that Agapito report until then, either.

Q. He knew about it in May. That's when the report was submitted.

A. And he went to the mine the next week and he came back and that's where the bigger pillars were left and he had them leave --- the place I see the most fault or concern that I might have questioned was when he talked me into leaving those extra pillars when Agapito said don't do that and get a cave. Hell, between me and you, we

1 shouldn't have even fooled with the damn bleeder system here and played that damn  
2 game. There's no methane here, no issues. And we should have got --- let them  
3 mine all they could to get a cave down there, but that's another story.

4 MR. PAVLOVICH:

5 Or not mined it at all?

6 A. Or not mined it at all. That's probably the best. There's about four mines like  
7 that right now the way I feel about them.

8 BY MR. TEASTER:

9 Q. Was you aware that Billy had never conducted a LAMODEL analysis of it?

10 A. Well, we don't have the --- no. He looked at what Agapito did. That's correct.

11 Q. And theirs was in LAMODEL?

12 A. That's what I said. He looked at what they did.

13 Q. Yeah. And my understanding, Del Duca done the ---

14 A. ARMPS.

15 Q. --- ARMPS program on it, and that that would have been the same number  
16 that would have been used, the 900 ---.

17 A. That's the default value for it.

18 Q. Right. But that's what they would have used in the ARMPS, and they used the  
19 1,600 plus for the LAMODEL.

20 MR. TEASTER:

21 Is that right, Billy?

22 MR. OWENS:

23 That's correct. Yeah. Agapito used the default for ARMPS  
24 just like Pete did.

25 BY MR. TEASTER:

1 Q. Yeah, they used the 900. But for the LAMODEL, they used the 1,650. You  
2 mentioned that you would not allow them to mine in the south barrier until they, I think  
3 the word you used was buttoned up the north barrier. What exactly did you mean by  
4 that?

5 A. Actually, Bill Reitze was the one that wouldn't let them do that, because he  
6 knew the difficulty we were probably going to have to get them to seal that and run  
7 into that mistake again, plus they weren't ventilating it all the way to the back, like  
8 despite this floating --- you got to ask Reitze about that. I don't talk to him about it. I  
9 don't know --- he's pretty stickler on making them get all the way to the back, and I  
10 think he told Laine that, and Laine says, well, we're not going to rehab that to do that.  
11 He said, well, then, you've got to get it sealed and you better get it sealed quick. And  
12 that's kind of how I remember it.

13 Q. What was the rush for sealing it? I mean, what's the worst case scenario? A  
14 violation?

15 A. Yeah. Laine didn't want to get the ticket. Reitze said, you'll get a ticket.

16 MR. PAVLOVICH:

17 But you also say Reitze wouldn't let him start mining in the  
18 south until he sealed the north? Is that what you said?

19 A. Yeah, pretty much.

20 MR. PAVLOVICH:

21 So Laine had an incentive to seal that north up pretty quick if  
22 he wanted to mine in the south?

23 A. They had to work diligently Well, he wasn't going to get approval to keep it  
24 ventilated. Let's put it that way. Because it wasn't being ventilated at the time.

25 UNIDENTIFIED SPEAKER:



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MR. TEASTER:

Okay.

MR. PAVLOVICH:

I think Al was in Beckley. Somebody from the company called and asked him and he got tech support to say, yeah, you can use the same plan as you used at West Ridge or something.

A. Right.

BY MR. TEASTER:

Q. And I'll just ask the same question that Joe did earlier. How can you determine on development whether a section is going to be safe for retreat?

A. You can't tell, but it'll tell you something, how much weight it might be taking, how the pillars are acting, bouncing on development even, or spitting in face. Go to Aberdeen right now and you'll see what I mean. Now, what you do about it is another good question.

MR. PAVLOVICH:

Bill, if you went up there on the development and looked around the tops of the pillars and saw red ---.

A. I'd be real nervous.

MR. PAVLOVICH:

You'd be nervous?

A. What that would have led to, John, if I --- you know, I don't know.

MR. PAVLOVICH:

Would you think that Billy would have said, I looked around the top of that pillar and I saw red and that was a good indication? Would you have bought that?

1 A. Well, he has his theory, too, about slow crushing and taking weight, settling  
2 down.

3 MR. PAVLOVICH:

4 So his philosophy would be, if I see red around the top of the  
5 pillars, good? And if yours would be, if I see red, I'm concerned?

6 A. Mid Continent used to show red a lot of times, too. So as for bouncing ---.

7 BY MR. TEASTER:

8 Q. Okay. So you and Billy maybe disagreed on that red issue? Had he told you  
9 that before that I saw red around the tops?

10 A. I talked to him a little about this, what he might be looking for when he went  
11 up there. The main thing, he said, it wasn't very noisy at all outby.

12 MR. PAVLOVICH:

13 Is that a good thing or a bad thing?

14 A. Well, you know, you hear that, too, when it gets quiet.

15 MR. PAVLOVICH:

16 Apparently it's moot. It doesn't matter, right? It could be good  
17 or it could be bad? Red around the pillar could be good or it could be ---?

18 A. Let's face it. The best thing would have been to be up there every damn week  
19 probably, but ---.

20 MR. PAVLOVICH:

21 Bill, when you were first notified of the accident that occurred  
22 on the 6th, how were you notified?

23 A. Oh, my. Bill Denny called me, I guess, that night. I just came in the office the  
24 next morning, or early that morning.

25 MR. PAVLOVICH:

1 Did you come in early then because of it?

2 A. Yeah.

3 MR. PAVLOVICH:

4 And so what were you told about what was occurring out

5 there?

6 A. They had six men trapped and it looked pretty bad.

7 MR. PAVLOVICH:

8 Looked pretty bad?

9 A. Yeah.

10 MR. PAVLOVICH:

11 Okay. And so was Al still here ---

12 A. Al was.

13 MR. PAVLOVICH:

14 --- when you came in? Was Cornett still here?

15 A. I think so.

16 MR. PAVLOVICH:

17 Was Billy here?

18 A. I think so.

19 MR. PAVLOVICH:

20 Don Gibson here?

21 A. I think. I don't remember.

22 BY MR. TEASTER:

23 Q. Did you all sit down as a group and start to brief each other as to what

24 happened and then decide, here's the plan of what we're going to do?

25 A. Well, we got together and started talking about what was coming and get the

1 plans together and that kind of thing.

2 Q. Now when you say talked about what was coming to get the plans together,  
3 were you talking about what was coming down from headquarters that they're going to  
4 be wanting all this stuff?

5 A. That might have been later even after Al Davis left. It all kind of runs  
6 together. After I was told I was staying here, maybe I got everybody together ---.

7 Q. So Al basically told you you're staying here, Bill?

8 A. Yeah.

9 Q. Specifically told you that? It wasn't that I just didn't take you, it's just you're  
10 staying here?

11 A. Well, I think that's --- usually they leave one manager here. I didn't find that  
12 unusual.

13 Q. Okay. And so as your job here what were you assigned to do other than keep  
14 the district running?

15 A. I don't think Al told me much actually. I'd be acting, he was heading over  
16 there.

17 Q. Were you getting any kind of regular from Crandall?

18 A. Yeah, for a while.

19 Q. From who?

20 A. Well, I call the mine sometimes and sometimes Bill Taylor would call,  
21 sometimes Allyn would call. Sometimes Billy Owens ---.

22 Q. Okay. So there wasn't any specific briefing that you were given or that the  
23 district received like an hourly thing or every two hours?

24 A. We eventually set it up that we would call once they got the station set up, the  
25 command center I guess and Bill Taylor seemed like he was there most of the time.

- 1 They rotated people. Arlington wanted updates every hour so we'd go through them.
- 2 Q. So Arlington wanted an update from you every hour?
- 3 A. Originally, yeah.
- 4 Q. And also from the mine every hour?
- 5 A. No. I think eventually then they bypassed us and went straight to the mine.
- 6 Yeah.
- 7 Q. Was that pretty quick after things started that they bypassed you?
- 8 A. Seems like it.
- 9 Q. And so ---.
- 10 A. They were more after us to start getting these files and that files and all of this
- 11 stuff.
- 12 Q. So they started to contact you concerning getting files of plans and inspection
- 13 histories?
- 14 A. There were some logistic things, too, going on. I was just trying to get people
- 15 --- scheduling people and that kind of thing. We tried to help with that.
- 16 Q. So did you and Billy pull the plans out and look at them and talk about them?
- 17 Get the map out and talk about it?
- 18 A. Yeah. Like I said, he showed me that Agapito report and I read it and I said
- 19 oh shit. Reading what they said they had a severe bounce or something.
- 20 Q. What did Billy say about that?
- 21 A. He said basically that they talked about ground conditions and they pointed
- 22 out that it was a severe bounce to him.
- 23 Q. Okay. But he read that plan too; right? I mean, he read that Agapito report
- 24 when it was submitted and that was prior to the pillar plan being approved?
- 25 A. Yeah. Well, then after he read it they had already made the changes at

- 1 Agapito. It's kind of after the fact.
- 2 Q. The pillar length. Extending the pillar length?
- 3 A. Yeah.
- 4 Q. And Billy said that would have made a difference? Would the longest  
5 dimension of the pillars or the shortest dimension of the pillars kind of determine the  
6 pillar strength?
- 7 A. Shortest.
- 8 Q. So what difference did it make extending the length of them? They're still  
9 narrow.
- 10 A. Well, I think it helps overall on the amount exposed ---.
- 11 Q. When you start pillaring them, they eventually come right back to size.
- 12 A. Well, you're hoping you'll get a cave, too.
- 13 Q. That's true. But caves are a rather immediate group.
- 14 A. Probably so because of those massive sandstone ---.
- 15 Q. Did anybody from D9 roof control group participate in the rescue?
- 16 A. Gary.
- 17 Q. But Gary was really now SI; right?
- 18 A. Yeah.
- 19 Q. He was switched over to SI a few months before?
- 20 A. Yes, sir.
- 21 Q. Had he been doing lateral duty prior to that?
- 22 A. He'd been doing a lot of special work.
- 23 Q. Did he do a lot of SI work?
- 24 A. I think too much. I don't know. I can't remember.
- 25 Q. Was there a lot of SI cases well, do you know, at Crandall Canyon?

- 1 A. I know of one. I think maybe Gary was involved in it. I'm not sure.
- 2 Q. Just one? So while you were --- I guess you were getting some regular  
3 updates but not very regular and you kind of having to call over to Crandall Canyon to  
4 get information about what was going on did anybody express concerns to you about  
5 what was happening there?
- 6 A. Not till after the fact.
- 7 Q. When did you first hear that there were 10 or 12 miners that asked to be  
8 withdrawn? Was that ---?
- 9 A. Hell it might have been the news, Joe. I don't know. It all runs together.
- 10 Q. Okay. So it might have been maybe nobody told you that. Did you assume  
11 that 10 or 12 miners elected to withdrawal, somebody's probably talking to them about  
12 what their concerns are?
- 13 A. Yeah, I would think. Again, I hate to second guess but that's a tough situation.
- 14 Q. You would think that would be somebody you'd go and say ---?
- 15 A. I would think our people would be going underground and making  
16 assessments which I'm assuming we did.
- 17 Q. But you never really heard what all was going on there?
- 18 A. No.
- 19 Q. Did anybody ever talk to you about the full extent of the bounce or at least  
20 how far outby the face it started or it ended up? Like at Crosscut 118, 119 sometimes  
21 in that ---?
- 22 A. Yeah.
- 23 Q. And that mining was actually going on like 140 or 139 or something like that?  
24 What did you think about that with your experience with bounces?
- 25 A. I think we probably lost a whole bunch of pillars.

1 Q. Have you ever seen that many pillars lost in a bounce before?

2 A. Never have.

3 Q. Ever heard of entries being back to the top before?

4 A. Not to that degree.

5 Q. And so they told you about it in this case; right? You ever see anybody try  
6 and load or clean up something like that, Bill?

7 A. We had some issues with MidCon sometimes on the floor heave or where  
8 they'd go back and you'd have to be careful. Sometimes they would bounce.

9 Q. With floor heave, but not where they'd fill up for ---?

10 A. Yeah, but not like this.

11 Q. So with that knowledge in hand, I mean, is anybody's prior experience worth  
12 much when nobody has ever seen anything like this before?

13 A. Probably not. I think --- Billy talked to me after the second accident  
14 somewhat. He expressed --- you know, he just felt that stuff had bonded in there to  
15 the point where it's locked tight again, and you know, he thought for sure that potential  
16 to bounce was always probably there.

17 Q. So you removed material out of the middle after it's --- that material is kind of  
18 providing support for the pillars; right?

19 A. I'm pretty sure this was after the ---.

20 Q. Afterwards? He wasn't surprised. Were you being updated on bumps that  
21 were occurring on a dally basis?

22 A. Yeah. I mean, I would find that out. We'd call the mine. We still had some  
23 communications here with the command center there. We had a couple numbers.

24 Q. But were they mostly interested in reporting footage to you or were they  
25 interested in reporting what was going on safety wise?

- 1 A. Probably 50/50 I think. I never did get to talk to many of the regular troopers  
2 that were down there day in and day out.
- 3 Q. So you were talking mostly to ---.
- 4 A. Until after the fact Peter Saint had some discussions with me after the fact.
- 5 Q. So you were talking mostly to Bill Taylor and he was telling you what was in  
6 the log?
- 7 A. Right. Larry Ramey a little bit. Taylor and the guys also.  
8 Q. Did he ever tell you he had been [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C)
- 9 A. He was stressed.
- 10 Q. It was stress?
- 11 A. Yeah. He told me the situation.
- 12 Q. What did he tell you?  
13 A. [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C)
- 14 Taylor, yeah, I don't know. I guess there was a lot of stress in that command center.
- 15 Q. Concerning writing stuff down properly ---
- 16 A. Right.
- 17 Q. --- as opposed to what was going on underground there?
- 18 A. Could be. I didn't get into that much detail with that issue.
- 19 Q. When you saw the extent of the bounce or heard about it originally and then I  
20 would assume that somebody told you about the low oxygen readings in the number  
21 borehole?
- 22 A. Yeah. That was very disappointing news.
- 23 Q. With that knowledge, did you feel like that maybe there was very little chance  
24 if any that these six men may have survived?
- 25 A. I said that was very disappointing news, yeah.

1 Q. And so did you then think that maybe this was a recovery as opposed to a  
2 rescue operation?

3 A. It crossed my mind, but --- you know.

4 Q. Did you talk to AI or anybody about that?

5 A. No.

6 Q. Never mentioned it to him that I think maybe AI, are we risking these guys?

7 A. It wasn't in my --- no.

8 Q. Is wasn't in your realm of ---?

9 A. I didn't get to talk to AI very much at all. AI's really tied up with a lot of issues.

10 Q. Did you get to talk to AI at all ---

11 A. No, very little.

12 Q. --- while he was over there?

13 A. Very little. I can't even remember a specific conversation. I think we touched  
14 base a few times, but ---.

15 Q. AI was still in charge of the rescue or did you figure Stickler and Kevin were?

16 A. I figured Stickler and Kevin were. I don't know that. I just assumed the chain  
17 of command. I personally think that's a big mistake if you ever get to be the  
18 administrator. I think you better stay away from situations like that in all honesty. Let  
19 your people up front handle it and make cuts. That's a tough call when you got men  
20 missing. Just like at Sago, you know we're criticized not getting in there fast enough  
21 on one hand.

22 Q. So you were aware that tech support had people on board; right?

23 A. Yeah.

24 Q. Did anybody ever say here's the folks' and we're allowing tech support to go in  
25 every day and they're making decisions?

- 1 A. No, I didn't really --- anything would be an assumption by me of what their role  
2 was.
- 3 Q. Okay. Did anybody talk to you about the support that was being used, Bill?
- 4 A. No.
- 5 Q. So you never heard about ---
- 6 A. I heard some after the fact.
- 7 Q. --- using rock props?
- 8 A. Yeah.
- 9 Q. But during the event?
- 10 A. Cables.
- 11 Q. They didn't say, Bill, here's what we're using, why don't you and Billy evaluate  
12 and tell us your opinion?
- 13 A. No.
- 14 Q. So you didn't see any of the plans that were approved to use rock props and  
15 use ---?
- 16 A. No, we weren't involved in that proves.
- 17 Q. Nothing? You never got any of that information here?
- 18 A. After the fact I saw some things.
- 19 Q. After the fact but Billy never said hey they called me and asked my opinion  
20 about rock props and wire rope and chain length or anything like that?
- 21 A. I don't think that happened, no.
- 22 Q. Have you ever seen or heard of any of that being used, Bill?
- 23 A. I have seen that but not necessarily to try to control a bounce.
- 24 Q. More to control rib sloughage or something?
- 25 A. Yeah.

1 Q. You think the rock props and chain link and all that would be substantial in  
2 controlling a bounce in your opinion of what you see ---?

3 A. At the magnitude that we're aware of here, it's pretty damn unlikely. Of course  
4 I don't know if there were many good answers other than leave it alone and get the  
5 hell out of the there and that would be a hard cut to make. Like I said, you know,  
6 you're hoping there's survivors but I don't know how bad the signs were down there. It  
7 must have been fairly bad if those guys bailed out because their comrades are down  
8 there, too.

9 Q. Had anybody ever told you about rock props being knocked out by bumps at  
10 Aberdeen? Have you ever heard that?

11 A. No, not specifically. I could see where that would happen.

12 Q. Do you have anything in your San Juan Control plan about using a rock prop  
13 device that kind of has one of the 90 and one of the 45 mounted in the frame at the  
14 bottom?

15 A. No, I don't recall.

16 Q. You don't remember anything like that?

17 A. No.

18 Q. Maybe used to control on the longwall face where they're pulling the shields  
19 off or something like that? Do you remember that?

20 A. Well, a lot of mines use rock prop when they have shield recovery and then  
21 they'll throw cribs in then to replace the rock props that come out and get the shield  
22 and put in another rock prop. So they're good for real strong quick roof support.

23 Q. I guess you probably watched the news. You weren't getting much  
24 information first hand?

25 A. I did watch the news on occasion.

1 Q. All right. What did you think when Murray stood up there waving the papers  
2 saying this was an earthquake?

3 A. I thought he was a [Ex. (b)(6) and Ex. (b)  
(7)(C)]

4 Q. What did you think when he said we're not doing retreat mining here?

5 A. I thought he was a [Ex. (b)(6) and Ex. (b)  
(7)(C)]

6 Q. Did you ever question why didn't somebody from membership correct these  
7 erroneous statements?

8 A. Yeah. I knew Murray is really a dominant type person but it seems like to me  
9 --- we MSHA should have had their own news conference and not invite him on one  
10 hand. I mean, there's probably a lot of operators you probably could have had a joint  
11 news conference and it would have went well. Unfortunately Murray's not one of them  
12 I guess. Again, I hate to second guess. I guess at the time it maybe sounded like a  
13 good idea. Let's have a joint conference but he was so damn dominant it just wasn't  
14 working.

15 Q. So MSHA wasn't really getting their opinion out? They just wanted to hear  
16 Murray and switched away from ---?

17 A. It put poor Allyn in a hell of a no win position there and made us look kind of  
18 ridiculous I think.

19 Q. Bill, you talked earlier about after Sago of course you probably were short  
20 handed for the last several years but kind of getting by on plans but after Sago when  
21 they come out with this CSRs and COs and ERPs and breathable air and tracking and  
22 everything else, what did that do to your ability to ---?

23 A. We can't do six month reviews anymore. We can't keep up with those. We  
24 have to rely on those inspector reviews. I told Reitze forget it and do that because he  
25 was just stressing out. I said, what we got to do is deal with the amendments which

1 we get every day, the current plan issues, stay in contact with the field offices. We got  
2 issues and we need to address them but we'll just go under this mode until things  
3 change. He claims that he's got numbers that I think that he's doubled his workload.

4 Q. His workload has doubled. So that information that was required now doubled  
5 his workload so he's got less people than he ever had?

6 A. He claims that. I haven't looked in great detail but he is usually pretty  
7 meticulous and pretty accurate on things like that. He showed me a bunch of numbers  
8 he had there. I didn't get into it in detail. Seals alone even in the future I don't know  
9 what we're going to do. Hell, those damn approvals are this thick and they want that  
10 in a uniform --- I don't want the inspector to go around and enforce this. We have to  
11 keep that in effect for every damn seal in the mine field now until the end. Some of  
12 this stuff was not well thought up.

13 Q. And this is all this sampling protocols and seal designs?

14 A. Plus the sampling programs.

15 Q. 120s and 50s?

16 A. Well, it went from 50 to one now they're talking about going up another step.

17 Q. 640?

18 A. Then you got the cure time that you have to deal with now. Then you've got  
19 the explosive zone and extra things we've got to deal with now. We're evacuating the  
20 entire mines now. The ERPs were a big issue and the breathable air was a big issue  
21 and getting that all on track and we got these damn spreadsheets that you've got to  
22 keep up on all the time.

23 Q. Bill, how do you think all that stuff affects the district's whole ability to protect  
24 the coal miners as far as whether it be the inspections or the plan approval people, the  
25 whole group? What benefit has it ---?

1 A. For one thing it affects morale I think. Everybody's been stressed out so  
2 damn long and you hit the wall. And then I think time wise your robbing them from  
3 damn work, you know, I'll admit, I got so much crap that comes across my desk. I  
4 can't go through each one of these pages. I spend five minutes on it and I just keep --  
5 - you know, I can't do it. And Reitze's probably in the same situation. It just gets  
6 really frustrating and you can't do as good a job that you'd like to do. That's all. Does  
7 have an effect. I know a lot of this stuff --- we didn't ask --- MSHA didn't necessarily  
8 ask for these --- new MINER Act. All this stuff was kind of thrown on us. You know  
9 how MSHA is. We don't double encumber. We're just not prepared to handle  
10 something like that when it hits.

11 Q. Just got a whole bunch of work piled on with no more people ---

12 A. Exactly.

13 Q. --- where you couldn't hardly do the work before? Do you think with the way  
14 that stuff was piled on that everybody pretty much consistently understood it and were  
15 enforcing it equally or did you think it was just a hodge podge mess?

16 A. No. But you know, I think headquarters tried their best to try with memos,  
17 appeals and PIBs but yet then you needed to go beyond that and actually sit down and  
18 get to the field office as we do. We haven't even another district hadn't had enough  
19 time to be able to do that, too, properly to get down to the inspector and enforcement  
20 people. It takes a long time to digest that.

21 Q. So you don't think there's really been any real good training either to come out  
22 of headquarters on what's required and what is expected and what the policy and  
23 procedures should be?

24 A. Some effort has been made. There was a ventilation summit they called it in  
25 Beckley there and it was a good step in the right direction. They tossed around the

1 seal issued but things have changed again after that, after that thing was over but no,  
2 there's a long way to go. If a 100 percent was good, we might have got 20 to 30  
3 percent of that kind of training and in all honesty headquarters probably couldn't have  
4 done any better. I mean, they have been under the damn gun. I'll tell you what else  
5 hurt us through that three or four months is all these senator requests for information  
6 just kept coming and coming. Between me and you nobody's going to read that --- all  
7 that stuff. At least you guys have been in the damn coal mines.

8 MR. PAVLOVICH:

9 Did we get 80,000 pages and Ex. (b)(6) What did we get 80,000  
10 pages? (b)(7)(C)

11 UNIDENTIFIED SPEAKER:

12 It was a lot.

13 A. Well, see at least you guys have been in the mines. These would be senator  
14 stuff. What are they going to do with that stuff? Joe Main can't look at all that stuff.

15 BY MR. TEASTER:

16 Q. Is that our best quality we've been in the mine?

17 A. You've probably got other attributes. Being in the mine is a good one to have.

18 Q. I don't know you said that like at least you've got something. You've been in  
19 the mine.

20 A. Something is better than nothing.

21 Q. Going back to the day of the accident when Al essentially said that you would  
22 stay here. Was there ever any discussion of both of you going, both ADMs going?

23 A. You know, I can't hardly remember much discussion. I'm not sure. Let me  
24 back up. I'm not even sure you said, Al Knepp, you were staying, and Cornett, you're  
25 going. It just seemed like to me we got here and next thing I knew Cornett and Al

1 were on their way and I was acting here. You'd have to talk to Al on why he made the  
2 cut Bob and not me or vice versa. I don't know. He didn't discuss it with me.

3 Q. Have you ever had an occasion here whether it was a GS-13 or GM-13  
4 acting?

5 A. Many times.

6 Q. So that wouldn't have been a matter both of you would have decided to go?

7 A. It's been done before.

8 Q. Do you think that you've been over plans and that it would have been more  
9 appropriate for you to go as opposed to Bob?

10 A. No comment.

11 Q. Agapito's report for mining in the north barrier said longer pillars would make  
12 no difference so we'll go with the shorter pillars and then in the south barrier that was a  
13 cure for what ailed the north. Did you ever give any thought about Agapito? I mean it  
14 seems they're real credible people, but you know, what wouldn't work here seemed to  
15 fix what was wrong over there?

16 A. Yeah. I think the longer pillar has some benefits that in the total amount of  
17 exposed area versus the total amount of support is a little better but just lengthen the  
18 pillar is not great advantage from that outburst or bounce. From the little knowledge  
19 that I know about ---.

20 Q. Was you aware that they did make the statement in the north that it wouldn't  
21 help any?

22 A. No, I don't recall that. I remember they settled in and justified what they want  
23 to do.

24 Q. Are you aware of any explorations on top of this material there at Crandall  
25 Canyon?

1 A. In the north, south?

2 Q. No. This was during the mine rescue.

3 MR. PAVLOVICH:

4 During the rescue effort.

5 A. Yeah, I am aware that some people attempted to crawl back a certain  
6 distance. I got that second handed and I can't tell you who told me. It might have  
7 been Taylor or somebody ---.

8 BY MR. TEASTER:

9 Q. Do you recall specifically what you were told? Was this during the effort itself  
10 or was it afterwards?

11 A. I think it was during the effort. I think it might have been early on. Maybe one  
12 of the foreman or somebody tried to get a way back in there.

13 MR. PAVLOVICH:

14 Somebody told you during the effort though that this  
15 happened?

16 A. Yeah.

17 BY MR. TEASTER:

18 Q. Do you recall what you were told?

19 A. I just got this perception in my mind somebody found a little gap to get  
20 through and then it was open for a while and they went back even further and then  
21 they got stopped. I think it was blocked again. Their air was getting a little bit bad  
22 maybe.

23 Q. Did Billy ever share with you --- let me start over. Are you aware of the use of  
24 rock props at the Aberdeen Mine?

25 A. I think maybe on that headgate side between the headgate and the --- they put

1 chain link fence up there, yeah. They put chain link up and then I think they put rock  
2 props in and the chain link around it because they have some problems on the  
3 headgate side, the down dip side, the tight walkway where the belt tailpiece is.

4 Right. There was always a problem area they were concerned about.

5 Q. My understanding is that they'll circle that pillar with a wire rope. Are you  
6 familiar with that?

7 A. I don't specifically recall that but that might be the case.

8 Q. Are you aware of any failures of those rock props been knocked out by bumps  
9 or bounces?

10 A. Not specifically other than maybe second handed or I know they've had some  
11 minor bounces in that corner that will knock that screening loose or what not but Laine  
12 has told me that screen was pretty effective for the smaller type roof sloughage  
13 bounce, thing like that will contain it pretty good. I remember going in there one time  
14 and it was just loaded up with loose stuff that had pushed in there and it seemed like it  
15 was doing a good job of containing it. Now, if you lose the old pillar in bug --- I don't  
16 know.

17 Q. Are you aware of cans being dislodged by bounces?

18 A. I've seen might have been a bounce or floor heave or what where cans have  
19 been tipped on their sides and turned. Never seen any totally knocked over but, you  
20 know, I've seen them disoriented a little bit.

21 Q. Which would you say would be the hardest or most difficult to dislodge, a can  
22 or ---?

23 A. I think when a can tightens up it's probably as good as you can get if it  
24 tightens up good.

25 Q. Did Billy ever discuss any occasions where he was aware of cans being

1 dislodged?

2 A. Not that I recall.

3 Q. Rock props at Aberdeen, did he ever discuss any of that with you?

4 A. Not in like a violent manner or anything like that. I would just assume that  
5 sometimes that could get dislodged from next to a pillar with a localized hit or  
6 something like that. Or a can it would take a hell of lot more than that.

7 Q. Joe asked you the question was you aware of the plans that were submitted  
8 over there for the rescue effort and you said no, but did you know specifically how  
9 they were supporting using the rock props on that rescue effort?

10 A. You know where I heard most of was from that speech Bob Murray gave  
11 telling them how they were doing all that and how not to worry because it was  
12 supporting it real well. And he went through it pretty good actually.

13 Q. So it was pretty fair that you got your information from Bob Murray on  
14 television? That was a feedback with this on supports? That was your best  
15 information?

16 A. That's one specifically.

17 Q. I mean that was your best information on the support system?

18 A. Yeah. That's the only one right off the bat I can recall what they were doing.  
19 Taylor might have went over some --- I might have asked him and he might have told  
20 me basically what they were doing.

21 Q. Did you have enough information where you could make a judgment as to  
22 whether or not that would have been adequate to provide the protection that they were  
23 seeking from the bounces should they occur?

24 A. You know, I never looked at it from that aspect much on making the cut. You  
25 know without knowing how bad it was and what it was doing down there. As it turned

1 out I don't know what they could have done other than maybe arches or something  
2 might have given them a better chance, you know, a strong arch support, but that  
3 would have been very timely. And then help you cutting it right there when you're  
4 actively mining. I think they were just in an extreme situation, very difficult to address.

5 Q. To what extent were you aware of the bumps that were --- I call them bumps  
6 but the bounce that was occurring on the rescue effort?

7 A. I again, heard probably the same vehicle probably through the command  
8 center whoever was there. I might have heard on TV first and then if I was home or  
9 here that there was another bounce that occurred.

10 Q. Did you hear about bounces that were breaking shafts on the motors or  
11 knocking inspectors down?

12 A. I heard about the one I think the miner being damaged or something like that  
13 and had to pull them back out and that delayed things. I didn't hear about an inspector  
14 being knocked down.

15 Q. Did you hear anything about the entry being filled back up?

16 A. Entry being filled up from a bounce? I mean some of those other bounces I  
17 heard were pretty violent.

18 Q. Okay. Let me give you an example. Number Four entry was a first --- they  
19 started their initial rescue effort and they was using scoops and something to go up  
20 and load that and then it bumped ---.

21 A. And they got set way back and had to ---.

22 Q. Right. And it filled that entry back up and we checked up and later that 2.2 on  
23 the Richter scale.

24 A. Yeah, I did hear that.

25 Q. And that's the one that knocked the inspector and the miner down, but there

1 was others and they ranged --- and what we done we took the information when the  
2 bounce was reported either from in the log or in the notes and then we go the seismic  
3 information from the University of Utah and at the same time it was close proximity at  
4 that time. Try to figure it out and there was a lot of them at 2.2, 1.9, 1.6, 1.5, 1.2  
5 which seemed to be pretty significant and one of those would cover the miner up level  
6 with the miner. What would that indicate to you if all of this was taking place?

7 A. That would indicate very severe conditions. That would be like tickling the  
8 lines.

9 Q. Bill, when we go back to a fire and explosion you know you have gases you  
10 can look at to try to determine when it's safe to continue or you should not continue.  
11 Roof falls you can get more visual observations or you can see it falling but what  
12 could we use to determine when it's no longer safe based on the ---?

13 A. You're touching on a really tough subject because mines are different. The  
14 miners themselves will tell you a lot after experience. I think you need experience but  
15 it got to the point at MidCon that they could tell when a big one was coming. That  
16 depends on how the face might be acting, depending on that red dust, that kind of  
17 thing but it was different from seam to seam. And then in a situation like this thing  
18 here where you had that tremendous bounce already, you'd like to think it may have  
19 relieved itself but with this massive sandstone obviously it didn't and you were having  
20 more signs and more weight being transferred and not done yet. You know, that's a  
21 touch call. I think this is almost like new ground this situation but it does sound like  
22 there's some warning signs there but it would be a tough call. And you know, who has  
23 experience in this situation? The miners themselves again a good sign when they get  
24 uneasy and got a feel for it. Aberdeen I know it's always popping relieving itself and  
25 some of the miners say that's a good thing. That corner over there is going to bounce

1 a little bit here in a bit. You know, they exactly to get a feel for. Then if it gets quiet  
2 all of the sudden, tightens up, same thing at MidCon. Hey, that's when they would  
3 worry there's something coming.

4 MR. PAVLOVICH:

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

7 UNIDENTIFIED SPEAKER:

8 I got two questions, Bill. Going back to something you said a  
9 couple hours ago.

10 A. See if I can repeat it.

11 UNIDENTIFIED SPEAKER:

12 We were talking about running these models, you know,  
13 ARMPs and LAMODEL and I'm not sure what the correct pronunciation is but you  
14 talked about running these models and you kind of made a comment like you can  
15 basically put in what numbers you want and kind of get the results you want in a way.  
16 I mean you can kind of play with the numbers.

17 A. Yeah, and I'm not an expert but that's kind of the direction Billy led me to  
18 believe. I mean the little bit I know about it is what I've learned to Billy here in the  
19 last ---.

20 UNIDENTIFIED SPEAKER:

21 But that makes sense to me. I mean, the little bit that I know  
22 about it.

23 A. Well, assuming that the strength of the coal is one thing and they had proof  
24 from what Billy showed me from that other area that the 1600 PSI or whatever was  
25 conservative enough.

UNIDENTIFIED SPEAKER:

1 Well, given that I guess you hear these different comments  
2 well we looked at that map and we knew there was no way you could mine that safe  
3 and that's a --- you know, you can argue both sides of that.

4 A. Easy to do after the fact.

5 UNIDENTIFIED SPEAKER:

6 The one thing --- the one tool that we did have before it was  
7 ever mined was to use these models to see if we thought it could be done so Agapito  
8 comes in who's supposedly a respected ---.

9 A. Well, respected.

10 Q. Well, respected contractor, consultant. So they come in and get this report  
11 that says we think it can be developed and retreated safely. So they've developed this  
12 north barrier and they're retreating the north barrier and keep in mind the north and the  
13 south are basically identical pictures. You know, the dimensions of the north barrier  
14 are almost identical to the south. Now, we based the approval on these numbers and  
15 we were so concerned that we did the site visit in the north barrier and we didn't  
16 approve it all at once. We approved it in stages. So in March they get run out of the  
17 north barrier and we can kind of go back and forth well was it reported as a bounce or  
18 was it problems with the bleeder entry, whatever the case may be. The company  
19 knew it was a bounce because they took photos of it. Then in April, May we get a  
20 submittal from Agapito that clearly says that a severe bounce occurred in the north  
21 barrier causing heavy damage. Now, given that --- now, before we had unknowns,  
22 now we know we had a severe bounce in the north barrier. Why would we approve to  
23 let them do the same thing in the south?

24 A. Because Agapito report goes on to say that if you do this, this and this it would  
25 be okay.

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UNIDENTIFIED SPEAKER:

But what they said initially didn't pan out in the north barrier?

A. True.

MR. TEASTER:

But we didn't even accept what they said in the second as far as don't leave pillars. We made them leave pillars.

A. Again, that's the one area I can't explain.

UNIDENTIFIED SPEAKER:

I guess you know just cutting through all the technical stuff Bill, you look at okay we let them mine the north barrier and we've all had plans if you've got so many unknowns, you're not sure and you can argue it either way so in this case we let them develop it and then retrieve it. So they got run out of there because of ground conditions. So why did we think it would be any safer to mine the south if we did a few things differently? That's the first part of my question.

A. Well, again, I don't know how I missed the boat on that whole process but I didn't get to see that Agapito report and I know Billy went to the mine with Gary and came back, talked to him, he said things were wonderful, looked good, no issues, felt comfortable. He didn't bring up leaving the pillars.

UNIDENTIFIED SPEAKER:

I know you said you didn't get a chance to review it. Sometimes you have a lot of attachments to the plans and you can't look at every number, every calculation but ---.

A. Well, that report wasn't even included with the plan. It was a separate thing floating around, yeah.

UNIDENTIFIED SPEAKER:

1                                    Would you agree that's a pretty strong statement saying there  
2 was a severe bounce?

3       A.       Yeah, I would say that was. In Billy's defense I guess he felt in his mind that  
4 he justified what happened and with these corrections, and you know, I can see where  
5 you can criticize but I guess he assumed that they can go ahead and successfully do  
6 this.

7                                    UNIDENTIFIED SPEAKER:

8                                    Let me tie this in with my second question because you made  
9 the comment earlier that there were rumors kind of floating around here and there that  
10 maybe Mr. Dunn sometimes sided with the operator, namely Al. You know whether  
11 that's true or not, who knows? What do you think would have happened if you said  
12 we're not going to let them mine that south barrier? What would the company have  
13 said? Maybe what would the fallout have been if you had said we're not ---?

14       A.       They'd been over here big time with their people, had a big meeting. It'd be  
15 pretty hard probably for Allyn to justify us saying no without more --- you know, they  
16 had their engineers and ---.

17                                    UNIDENTIFIED SPEAKER:

18                                    What if you would have attached a denial letter to the Agapito  
19 report saying these are basically mirror images? Do you think that would have ---?

20       A.       Might had a chance. I don't know. It's hard. I don't want to speculate.

21                                    UNIDENTIFIED SPEAKER:

22                                    I know it's easy in hindsight, you know, to look at everything  
23 but it's rare that you kind of have identical situations.

24       A.       They did make a change in the pillar design. Again, I think the only thing if I  
25 would have looked at that I think I would have questioned Billy and showed Al where

1 Billy's going directly against or we went directly against the Agapito report and left  
2 pillars and that seems like it's being downplayed so that would have been a very  
3 significant thing. Billy felt that he had to try to keep that open to let the weekly  
4 examiner get back in there.

5 UNIDENTIFIED SPEAKER:

6 And I think that's a good thing. You know, you made a  
7 comment there that maybe they should have pulled it rib to rib, you know, like Joe and  
8 you mentioned a minute ago there's options. They can have sank the borehole down  
9 to ventilate. They can not mine. You know, there are other options but I know we get  
10 a lot of pressure when we take the high road.

11 A. Yeah, in retrospect there's some things I would have done different. Like I  
12 said, I think I'm most disappointed and it goes back to me. I think I should have been  
13 able to communicate with these guys better. They need to share that kind of stuff with  
14 me. Something that critical particularly going against an Agapito report which I didn't  
15 even know was out there. I mean I'm a little embarrassed about all of that. I have to  
16 find out August the 7th about all of this. About this phone call and all this stuff I don't  
17 know. Not doing a good enough job or something there because we should have  
18 communicated.

19 UNIDENTIFIED SPEAKER:

20 Would they have gone to Arlington and he had said we're  
21 denying that claim?

22 A. I don't know about that. No, I don't think they ever have.

23 MR. TEASTER:

24 Laine didn't have that good a connection with headquarters?

25 A. No, and Murray sure the hell didn't. Of course he might have been the one

1 who would have went anyway.

2 UNIDENTIFIED SPEAKER:

3 I mean, I know there's fallout when you take the high road.

4 A. Yeah, well Laine is pretty persuasive. He makes a good argument. He's an  
5 engineer and he's --- and that's the trouble with Allyn. I think Allyn's an engineer and  
6 he listens. He'll listen to both sides of the story and whoever can justify the best he'll  
7 make the cut. Sometimes I think he gets unfairly criticized about being too easy but I  
8 think he's a very intelligent guy and looks at things and makes the cut.

9 BY MR. TEASTER:

10 Q. Bill you made a statement that Agapito was well respected?

11 A. Yeah. I didn't know that history but ---.

12 Q. I mean you would agree with them that they're well respected. Looking at now  
13 what they submitted for the north barrier and what they submitted for the south barrier,  
14 do you still feel they have as much respect as you once felt that had or do you feel  
15 they kind of give you what you pay for?

16 A. Yeah. I've heard that and I'm sure there's a tendency to that but I think they're  
17 going to cover their ass by saying that we went against their recommendation and left  
18 those pillars in there.

19 Q. So you think they're going to come back and blame MSHA?

20 A. Oh, yeah.

21 Q. Were you surprised that maybe they were never on site to help with the  
22 rescue effort?

23 A. A little bit. They sure kept a low profile.

24 Q. They were your real expert. Wouldn't that be somebody you'd want to have  
25 there? Is it kind of strange that all the real experts weren't there? You, Billy, Agapito,

1 I mean there's people know a lot of stuff but nobody's here on the rescue.

2 A. Well, I thought the operator would have maybe had Agapito over there right  
3 away. I don't know. Of course, again, it gets back there's a lot going on real quick, a  
4 lot of people are on site and I don't know.

5 Q. Ten (10) days.

6 A. Yeah, it starts dragging out.

7 UNIDENTIFIED SPEAKER:

8 I just got one I want to follow up on. You said that one time  
9 that you had planned to go to Crandall Canyon with Billy Owens, but you got called  
10 away or something about going to West Elk to check on the inspector. Who was that  
11 and tell us what happened there.

12 A. Who was the inspector?

13 UNIDENTIFIED SPEAKER:

14 Yeah. And tell us what happened.

15 A. West Elk had some outby return areas that had been there for years. The  
16 inspector is --- what the hell is Brad's last name? I'll get it for you. I got a list of  
17 inspectors at --- Brad? Allen, that's it. Well, Billy and I went and that mine's having  
18 real difficult roof conditions. Then we went to Aberdeen and saw all of that and we  
19 were going to go to Crandall that trip and then we got a call maybe before --- well  
20 during that trip somewhere Allyn called and said he'd walked through this return area  
21 at West Elk and he's going to shut them down because he feels that they don't have  
22 enough support. There were some bad areas and there were in some crosscuts and  
23 he wanted Billy and I to run over there and check things out. So we cut our trip short  
24 from Price there and headed over to Colorado and went over to West Elk and checked  
25 it out. Otherwise, we probably went to Crandall then.

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UNIDENTIFIED SPEAKER:

What did you think?

A. About the roof there?

UNIDENTIFIED SPEAKER:

Yeah.

A. I'd take the kids in there and have a picnic. I came to that conclusion. We walked all through there. You know, being an old vent guy walking through a lot of bleeders this thing would probably rate 80 percent as far as 100 being the best. I mean, I thought it was in pretty good shape. I mean, there was a few cross cuts there but I didn't think it was a big issue.

UNIDENTIFIED SPEAKER:

Did an operator call --- Davis and Davis call you and ---?

A. I guess that's how it works. I just reported back to Allyn.

UNIDENTIFIED SPEAKER:

Who was the field officer?

A. Larry Ramey probably was still there then.

UNIDENTIFIED SPEAKER:

Was he involved in that in any way?

A. Not that I know of. I'm sure he's aware what Brad and I did.

UNIDENTIFIED SPEAKER:

Is there any kind of tracking system for those 2000-204 forms?

A. There is now because we put them on the MPA, miner plan approval ---.

UNIDENTIFIED SPEAKER:

If it didn't get answered about the district manager's

1 secretary?

2 A. You mean as far as answering them?

3 UNIDENTIFIED SPEAKER:

4 No.

5 A. No, I think there will be though, don't you? We got 40 you say you want  
6 answered. I'll get to the bottom of this.

7 UNIDENTIFIED SPEAKER:

8 We just don't know what information and we might not  
9 have ---.

10 A. I'd be real disappointed if we wouldn't answer some of those.

11 UNIDENTIFIED SPEAKER:

12 We only had two memos from Davis. One was talking about  
13 --- Joe was asking about the plan you approved in the north barrier. You said  
14 something about Billy went to the mine twice and got feedback from the inspectors  
15 that everything looked good. Who was the feedback from?

16 A. Well, I think we had an inspector there two different times. Been in the ---  
17 their in that section and the south barrier, too.

18 UNIDENTIFIED SPEAKER:

19 Field officer you're talking about?

20 A. Yeah, field officer.

21 UNIDENTIFIED SPEAKER:

22 And did they specifically contact the district and say that they  
23 did it or ---?

24 A. Yeah, I don't think there's anything in writing. And that might have even been  
25 after the fact I'm getting this information. Do we have any CMI's up there and what

1 did they think of it and that kind of thing. I know I talked to Taylor after the fact  
2 because I know he had been up there with the supervisor and told me everything  
3 looked fine and that was after the fact.

4 UNIDENTIFIED SPEAKER:

5 During that time you had the roof control people and the tech  
6 support out here twice. The Aberdeen Mine investigation and they had Trapper ---.  
7 Anyway you had people from the roof control tech support out here during this whole  
8 evaluation and did it seem unusual that none of these guys were involved at all since  
9 they were already here?

10 A. Not really.

11 UNIDENTIFIED SPEAKER:

12 I mean run it by them?

13 A. No, Billy felt comfortable with what he was doing. He was well qualified. I  
14 don't know if there was a little conflict there with tech support or not. I could tell. I'm  
15 not aware of that directly but he sure did seem like he felt we needed to rely on him  
16 more with these issues. Thought that he was better qualified than most of them. I  
17 think even like they have helped us out in the valley. I think they could come out any  
18 time I wanted and I could have them. Like I said, I ain't getting them by myself. I  
19 think Billy even, he said well he's a geologist. He seems like he knows his modeling  
20 real good. He helped at a meeting. He and I kind of teamed up. I know the Admiral's  
21 been out quite a bit in the last year. But in all nonesty, none of them have any --- near  
22 the experience Billy has.

23 UNIDENTIFIED SPEAKER:

24 When you inspect there roofs, like they went in and they deep  
25 cut it's ---.

1 A. Just like I told you and Tom. They both need to sign off on it.

2 UNIDENTIFIED SPEAKER:

3 Has that always been that they both sign?

4 A. Yeah, that knowledge happened, honestly.

5 UNIDENTIFIED SPEAKER:

6 But that's what --- okay.

7 A. I think might even be in the SOP. I don't know. I'll have to look at that but  
8 I've talked to Reitze. When I got back particularly the second time again we had a  
9 couple issues come up in designing these deep mines with the miles of barrier you're  
10 leaving and the size of the pillars. I've told Reitze you've got to make sure before you  
11 okay this that Owens knows what you're doing so we don't have conflicts. Again,  
12 obviously it doesn't happen all the time. But that's something I'm aware of.

13 UNIDENTIFIED SPEAKER:

14 What about the requirement for marking bumps on the map?

15 A. No, we're catching up on that now. But no, we have been remiss in that area.

16 UNIDENTIFIED SPEAKER:

17 If we had a complete map out there. You had two 101-C  
18 petitions approved for using belt air and having belt return and the whole basis of it for  
19 mining the bump problem area. We need two entries by the roof damage and all that  
20 and then right beside all these longwall panels is the old system the five entries built  
21 up for pillar. You go about five entries and then pillar the back for each system. Like  
22 here's the longwall panels and here's all these five entries where they couldn't longwall  
23 because there was a stream or something running through or something to do with the  
24 BOM. It appears that they used the bump to justify and I don't want to say petition, but  
25 then over here they just --- they've got multiple entries because it's to their benefit.

1 Has anybody ever looked at maybe pulling 101-C petitions that they don't try  
2 anymore?

3 A. Well, I think the two entries system from the ground control standpoint is  
4 always safer. Not to say the other system won't work depending on the coverage, but  
5 I think strictly from a ground control point they've proved a lot more effective in  
6 controlling bounces and that kind of thing. This obviously to get that coal that's left it,  
7 you know, it's not just going to work the entry system there.

8 UNIDENTIFIED SPEAKER:

9 Well, I mean not talking specifically about north and south. I  
10 mean there's that whole area up above. I forget what they call it but it was all five  
11 entry ---.

12 A. I was in West Virginia when that all went ---.

13 UNIDENTIFIED SPEAKER:

14 Has the 101-C petition ever been removed from District Nine  
15 as far as you know?

16 A. I think we've had some issues come up where they wanted to drive multiple  
17 entries in there but no, I don't believe any ---. But that's a good point and hell yes,  
18 some of that goes on, you know, whatever is most convenient for the operator. You're  
19 probably right.

20 UNIDENTIFIED SPEAKER:

21 You guys in District Nine when District Nine does an accident  
22 investigation they issue a K. Do they normally take the press underground?

23 A. Do I have to answer this?

24 MR. PAVLOVICH:

25 Yes.

1 A. It depends on how the AR's feeling that day. No comment on that one.

2 UNIDENTIFIED SPEAKER:

3 A lot of them have been covered but just a couple follow-up  
4 points. Something that you just mentioned when <sup>Ex. (b)(6) and Ex. (b)</sup> was asking about I guess  
5 relationship with tech support and I guess my question is in light of this approval and  
6 submittal and based on LAMODEL and ARMPS, two things, and half of that you guys  
7 didn't have the capability to run. Wouldn't that have been a reasonable thing to turn  
8 over to tech support to have them run the LAMODEL at least? I mean I understand  
9 Billy has experience out here but I guess two things. He doesn't have the time and he  
10 doesn't have the ability to run it. It just seems kind of puzzling to me that at least for  
11 that part to have tech support.

12 A. Yes, it would have been a reasonable thing to do.

13 UNIDENTIFIED SPEAKER:

14 And I guess the other thing in talking about the March bump.  
15 Again, we talked about a lot who, what, when and all that. You mentioned something  
16 early on about if Billy had known how severe it was but yet in Billy's notes from the  
17 12th conversation with Laine Adair he says started bouncing at 2,000 feet of cover.  
18 Sunday morning more bouncing, crew decided too much bouncing. I mean if you see  
19 all of that and you hear all that and you're approving this thing in four stages already  
20 because you're worried about bounces you know that much there but yet you don't go  
21 and you don't even ask the field office about sending an inspector over. I mean it  
22 seems a little bit disconcerting, too, that you wouldn't have followed up on that.

23 A. I can't answer that. You'll have to ask Billy I guess. I don't know why he --- he  
24 didn't make me aware of that situation and again, I'm off a little bit I think that way --- I  
25 don't know. We just miscommunicated there. Just maybe in his defense a little bit.

1 I've been in mines where you get these mines bumping and bouncing. That might  
2 means a lot. In this case is probably should have been I agree because we were a  
3 little nervous about the whole thing anyway. And I agree that probably at least it could  
4 have been investigated by an inspector there maybe. He could have run out and tried  
5 to determine the severity of that thing. But obviously Billy made it up in his mind and  
6 the way he decided it wasn't reportable and I think he based a lot on equipment when  
7 it was recovered. One damaged and that kind of thing there.

8 UNIDENTIFIED SPEAKER:

9 My last one. Again, we talked a little bit about Billy obviously  
10 not being there at Crandall, you not being there. You mentioned Gary in response to  
11 Joe's question about D9 personnel. What about Kathleen? Any idea why she wasn't  
12 there or what she was doing during the whole Crandall Canyon thing?

13 Ex. (b)(6) and Ex. (b)(7)(C)  
14

15 UNIDENTIFIED SPEAKER:

16 I just have one for you. That's going back to the five issues  
17 that Pete Del Duca raised about his concerns with the plan. And just as an outsider, I  
18 think the way that what you described your conversation with Billy Owens, you know,  
19 the kid makes wrong assumptions. It seems like he may been discredited a little bit.  
20 Did you ever get the impression that maybe Billy did not give full consideration to  
21 those concerns or alternatives?

22 A. You're pretty sharp.

23 UNIDENTIFIED SPEAKER:

24 If somebody more senior or somebody with more experience  
25 that Billy would have given it more consideration?

1 A. You're exactly right on. I don't really bring that up much but he had some  
2 concerns with Pete at that time and had some issues with Pete but I don't necessarily  
3 agree with that. I think Pete made him real happy with what I've seen so far and  
4 hopefully he's going to develop and be a real help to us. There was that sense. There  
5 was a little sense and again, this is just a feeling I'm getting as a manager, that there  
6 was a little professional pride with tech support that I don't need him, under guy.  
7 Because I don't hesitate to get you guys out there and help, like I said, get out on a  
8 limb with us. Hell, that's nothing but a help and I told Reitze that and I told all these  
9 guys that. Damn, I mean don't be stupid. Get these guys to give us an opinion and  
10 we better then yeah, we better be really justified if you're going to go against it but why  
11 do we need to go against it? We don't owe Aberdeen or none of these people  
12 anything. We can sit down and hash it out. To me it makes our job easier.

13 BY MR. TEASTER:

14 Q. Bill you've been out here a long time. How many fatals do you remember  
15 excluding the Crandall Canyon do you remember being out caused by bumps?

16 A. Well, we had one in Aberdeen.

17 Q. One in Aberdeen a year or so ago or two years ago.

18 A. And then one at Aberdeen long ago back in like '98. And then we had about  
19 seven outburst ones at MidCon. Different animal so to speak but a lot of it was  
20 suffocation and stuff blowing out there.

21 Q. So with all the ---

22 A. Other than that ---.

23 Q. --- hundreds maybe of bumps, I mean we've heard inspectors tell us if you go  
24 on a gob power section, bumping all the time. You go on longwall, it's bumping all the  
25 time. You can recall basically two fatalities in your career here and let's exclude

1 MidContinent because that's a different one that resulted in fatalities?

2 A. You may be real close to being right. I think Castle Gate had a couple pretty  
3 good injuries at Sunnyside but fatalities, you're right, that's what shocked me. I mean to  
4 this extent and this degree this was totally unexpected. It was a real shock.

5 Q. So you've seen the power. I had two fatalities at C2 Mine Harlan Cumberland  
6 Coal Company on a bounce that maybe was two pillars bounced and just the force of  
7 the coal coming out hit those guys like shotguns. There wasn't much coal on the floor.  
8 And I mean with what you've seen is it just the fact that we're real damn lucky out here  
9 or are they that good to stay away from them and I guess the thing is are people  
10 complacent about bounces out here?

11 A. I think they may be more macho a little bit particularly at West Ridge and  
12 Aberdeen and at MidContinent they were kind of that way.

13 Q. How about inspectors?

14 A. I think management on mine design knows that they have to control these  
15 things and, you know, ---.

16 Q. Do you feel like our inspectors are somewhat macho about the fact that, you  
17 know, this is not so bad?

18 A. You know, I don't know. I could see where they could get a little battle  
19 hardened. I mean we got some tough mines and you go in there day in and day out  
20 and bounce it's just another bounce.

21 Q. Didn't kill anybody?

22 A. Even what I saw when Bill and I were at Aberdeen there I tell you it's been a  
23 while since I been like MidContinent I remember but this place here --- and our  
24 inspectors get used to it and you bring somebody from back east for the first time it's  
25 going to be interesting what Casey Sears says when he gets back to headquarters.

1 When he came out last week along with Pete to Aberdeen and West Ridge. You take  
2 guys from back east and go up there and watch them cut face in one of these places  
3 under 3,000 foot of cover and it's talking to you all the time and there's a rumble all  
4 the time and, you know, there's a lot of energy there sitting right on top of that coal  
5 pillar. Like I said, it's a risk factor that this agency needs to decide what's acceptable.  
6 Where do we draw the line?

7 Q. You mentioned a few times that maybe AI has a reputation of being too easy.  
8 Where are you getting that from?

9 A. I get a lot from our guys here that ---.

10 Q. Your guys in vent roof and ---

11 A. Vent, yeah.

12 Q. --- plans group? Maybe AI gives into the operator too much and tells them to  
13 improve things they don't want to improve?

14 A. Well, I think they have found something in the review process and they were  
15 in the combat zone with some of these people, you know, what I mean? They're  
16 hitting heads and they want to win and when they don't, I think they're upset. But  
17 they'll be a meeting and then AI will listen to both sides like he does and he'll make a  
18 cut. And I told these guys he's the DM, he'll take the responsibility. Get over it and  
19 let's move on. But some of them get a little upset and I think that's where some of that  
20 comes from and there's been some personnel issues here that we all scratched our

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

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A. Yeah. I think Al and all of us probably would like to just not have conflict. I don't think anybody particularly likes conflict.

6

7

Q. Well, there's some people that really like it and then maybe they're characterized as overzealous.

8

9

A. That could be.

10

Q. There's other people that don't like it so therefore their characterized as easy.

11

Bill, we appreciate your time and your honesty and answering the questions and certainly we appreciate your time with MSHA, your dedication to this job and what you tried to do in the past.

12

13

14

A. Well, thank you.

15

Q. Your relocations and other things that I know were a hardship but you did the best you could under the circumstances and weathered through all that so we certainly appreciate your help. We sympathize with your groups. I know it tears people apart and your group is ---.

16

17

18

19

A. Well, losing Gary was a hell of a blow. He was a great guy. Hell of a blow.

20

Q. That's right. And we all certainly feel sorry about that. I knew Gary well myself from mine rescues. Thank you. We appreciate it again. We ask you please don't discuss your interview with others until we're through.

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