

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
WILLIAM M. TAYLOR

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
DECEMBER 10, 2007

1 just ask us and we'll clarify them. We would like to tape this interview if you don't
2 have a problem with that so that we can have something to refer back to if we need
3 some clarification as to what was said. Do you have any questions or concerns?

4 A. No.

5 MR TEASTER:

6 All right. I'd like to read this statement into the record before
7 we get started. The Secretary has assigned this group the task of evaluating MSHA's
8 performance during the period preceding the August 6, 2007 coal bounce at the
9 Crandall Canyon Mine and the subsequent rescue effort. We will also be evaluating
10 issues that were raised during this time period regarding Bob Murray and his
11 interaction with MSHA. This is not an investigation or review of any individual person.
12 It's an administrative review of MSHA's action as an Agency. This evaluation will be
13 presented to the secretary in the near future and it's intended that the results of the
14 evaluation will be made public. This interview is being conducted to gather
15 information for this assignment. We also intend to interview a number of other MSHA
16 employees so that we may obtain unbiased information. From all persons to be
17 interviewed, we ask that you not discuss the interview until all the interviews have
18 been complete.

19 BY MR. TEASTER:

20 Q. Bill, you're not a bargaining unit employee and, therefore, not entitled to union
21 representation. Is that an accurate assessment?

22 A. Yes.

23 Q. Bill, if you would, please state your full name.

24 A. William Matthew Taylor.

25 Q. Bill, what is your current title?

1 A. I'm a supervisory coal mine safety and health inspector.

2 Q. How long have you been in that position?

3 A. Since 1992.

4 Q. Who is your current supervisor?

5 A. I guess I have an acting supervisor, it would be Don Gibson.

6 Q. Don Gibson's acting. How about giving us a little bit of background on your
7 mining history and then your history with MSHA?

8 A. Well, I started in the mining industry in 1975 and worked in the mines at
9 Plateau Mining Company and Soldier Creek Coal Company and Price River Coal
10 Company from 1975 to 1982. 1982, I came to work with Mine Safety and Health
11 Administration in District 6. 1984, I transferred from District 6 to District 9 and have
12 been here in District 9 since 1984. In 1992, I accepted a promotion to the field office
13 supervisor in Delta, Colorado. In 1997, I requested a transfer back to here because
14 there was a vacancy here in the Price office. In 1999, they changed the --- all the field
15 office supervisors were moved. So I was moved from Price to Castle Dale. Probably
16 somewhere around 2004, but I'm not exactly sure on those dates, they --- whenever it
17 was when Gene Ray left the Price office. I ran both the Castle Dale office and one of
18 the Price field offices until at some point --- I think that probably lasted about a year
19 and a half where I was running two field offices. And then they moved me from Castle
20 Dale to the Price office subsequent to closing down the Castle Dale office.

21 Q. So most of your mining was in this area?

22 A. Yes.

23 Q. Most of your inspections, except the time you was in District 6, was in this
24 area?

25 A. Yes.

1 Q. Did you ever meet with Bob Murray or have any communication with him
2 concerning mine inspections enforcement and actions?

3 A. The only time I met Bob Murray was on these recovery operations.

4 Q. Had you had any dealings with him at all prior to that?

5 A. Not personally. I had heard about him. His mines were transferred to me in
6 October. October 1st of 2006. But I didn't have much communication because I had

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

About in September I had a

8 hard time even getting in to work. When I did get in, I was in on crutches. And then

9 during that same time frame, Ex. (b)(6) and Ex. (b)(7)(C)

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

So I went off on

11 family leave Ex. (b)(6) and Ex. (b)(7)(C)

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

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

Then at the end of

17 March I was released by him to go back and I could start traveling with inspectors
18 again.

19 MR. PAVLOVICH:

20 January '07, Bill?

21 A. Yeah. January of '07, yes.

22 BY MR. TEASTER:

23 Q. When did you go away from work?

24 A. Well, I was off for quite a bit in September of '06 and then I was off in October
25 of '06, and Ex. (b)(6) and Ex. (b)(7)(C)

1 Q. So basically September. The last four months of last year you were out?

2 A. Yes. September, October, November, December really and January.

3 Q. You had not had any phone conversations or no interaction with Murray at all?

4 A. Not with Murray. With his mines, but not with Murray.

5 Q. What action did you have at his mines?

6 A. Well, his mines were --- October 1st, his mines were assigned to me, which
7 would have been Pinnacle, Aberdeen, West Ridge, Crandall Canyon and South
8 Crandall Canyon.

9 Q. Did you have any Murray mines assigned to you prior to that time?

10 A. Yeah, I had Pinnacle and Aberdeen.

11 Q. Did you have any --- have you noticed any difference between the mines that
12 you had prior to Murray taking them over and since that time?

13 A. I was concerned when he came in because it seemed like --- and I wasn't
14 familiar with the other mines, so I can't be too explicit there, but I was concerned like
15 at Aberdeen that he basically came in and got rid of the senior people that were really
16 familiar with mining conditions and brought in people that were not as familiar with the
17 mining conditions. The purpose behind that I don't know, but --- I don't understand
18 why he would remove senior mining people who understood the mining conditions, the
19 ground cover and the problems with methane and replace them with people that didn't.
20 That doesn't make much sense to me.

21 Q. Have you noticed much difference in the two mines that you had prior to
22 Murray taking them over and since he's taken them over as far as the level of
23 compliance and conditions of the mine?

24 A. Well, they were on the unwarrantable sequence before Murray took them over
25 and they're still on the unwarrantable sequence. So I don't know if you'd say there's ---

1 I mean, he came in with a big story how he was going to make everything safe, but he
2 never --- the conditions in the mine were not changed where the mines could come off
3 the unwarrantable sequence. So I don't know that ---.

4 Q. He had indicated ---?

5 A. I can't say there's been any real change.

6 Q. He had indicated to somebody that he was going to make all these mines
7 safer? Did I understand you correctly?

8 A. Well, you hear this from his people. He never communicated directly with
9 me, but his people, when you'd talk with them, they'd say well his first primary concern
10 is safety. He wants to see safety first and this, that and the other. But when
11 inspectors would come back where they would talk with people when they travel in the
12 mine, they told me that he said hey, as long as coal is in on that belt, it doesn't matter
13 what they write. I never heard that directly from him. I'm just saying. So this is
14 secondhand or probably thirdhand information. So I just told the inspectors well, just
15 go up there and enforce the law. That's all you can do.

16 Q. Have you noticed any difference in the attitude with those mine management
17 people?

18 A. Well, I was looking --- of the compliance with the Miners' Act. As an example,
19 we had in District 9, there were ten violations on the Miners' Act, five of them were
20 issued out of my field office and they were all Murray's mines. So when you take that
21 in perspective, I mean, if you had a certain percentage, you would say well, you know,
22 there's some here, there's some there. But when you look at the District and you look
23 at where people are not complying with the Miners' Act, they were all his mines, at
24 least in our area. You know, obviously, some of the ones that were in the rest of the
25 District weren't his mines, but the ones in our area were all his mines.

1 Q. Do you know why those mines were transferred from one group to the other,
2 the ones that were purchased by Murray?

3 A. Well, I got an e-mail from Bob Cornett and Bob Cornett had an e-mail from
4 Ted Farmer saying that he had his ^{Ex. (b)(6) and Ex} working at a West Ridge Mine and that it
5 would be better if those mines were assigned to us. I gave a copy of that e-mail to the
6 OIG. Before those mines were reassigned to us, I responded to that e-mail and I said
7 hey, I've talked with the people in our field office and we've got a guy who has a
8 person --- one of our inspectors has a person in management. Therefore, it would not
9 be reasonable to switch the mines on that basis. My e-mail went on to say, you know,
10 I think down the road this could cause a problem if you're just switching mines
11 because someone works or has a relative at the mine, somewhere that will come back
12 to haunt us. But I said nonetheless, having stated my position, if you still want me to
13 have those mines effective October 1st, we will switch them to my workgroup. That
14 was basically the extent of my e-mail that went back to Bob.

15 Q. Do you know how long that Ted Farmer's ^{Ex. (b)(6) and Ex} had worked at those mines?
16 Was that just recently hired in or do you know?

17 A. I don't know. See, the thing is, to me, it really doesn't make any difference. I
18 mean, my last place back in Kentucky, you couldn't find anybody that wasn't related. I
19 was the only one, really. When I went back there, I was the only one that wasn't
20 related. So to me, I can't see --- I mean, if you prevented people from going to a mine
21 to inspect because they were related to somebody, you might as well just say just shut
22 down the agency. It makes no sense to me. It doesn't matter what you do on
23 Saturday and Sunday. It doesn't matter who you're related to. I told the inspectors
24 this. You can ask them. When you go to work on Monday, it doesn't matter what you
25 did on the weekend. You might have had Thanksgiving dinner with someone. You go

1 to work on Monday, your responsibility is to enforce the law.

2 Q. Are you familiar with the allegation that was made against [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C)

3 A. Only hearsay. I hate to repeat hearsay stuff because after a while people
4 repeat stuff and you don't know whether it's true or false or what. I had no personal
5 dealings with it. All I did hear that there was an allegation, but I wasn't involved in it
6 and mine is only second or thirdhand information. So, you know, I could repeat some
7 of that stuff, but is it true? Is it false? I don't know.

8 Q. Was you aware that some time between when that allegation was made and
9 when the decision was made to transfer those mines that [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C) had shut down one
10 of their longwalls for five days or five shifts or some extended period of time?

11 A. It's an interesting question because how --- I mean, these guys go out and
12 they write orders. I don't keep track of them, especially when they're not in my field
13 office. He may have shut down the mine, but, I mean, it's not something that I would
14 have kept track of to see who was shutting down what because I have enough trouble
15 keeping track of my own inspectors and what they shut down.

16 Q. Is that a yes or a no?

17 A. It's probably a yes or a no. I'm not saying that to be facetious. I'm saying that
18 he may have done that.

19 Q. But you have no knowledge?

20 A. Well, I'm not saying that I have no knowledge because I may have heard that
21 he shut down the mine, but I don't know that I know the specifics of any time he shut
22 down a mine.

23 Q. Do you have any reason to believe that those mines were transferred from
24 one workgroup to the other, other than Ted's [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C) working at some of those mines?

25 A. There may have been some other motive, but I can tell you what I had

1 documented in writing. What I had documented in writing said it was Ted's

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

2 That's what I have documented in writing.

3 MR. PAVLOVICH:

4 Did you ever get a response to your e-mail back that said, you
5 know, we could basically shut the whole office down because everybody has family
6 working somewhere? You didn't even get a response?

7 A. No.

8 MR. PAVLOVICH:

9 Did you get a phone call about it?

10 A. No.

11 MR. PAVLOVICH:

12 So it was just another e-mail that said it will be changed or did
13 you not even get that?

14 A. No, I didn't --- actually, my e-mail said if I don't hear back from you, I will go
15 ahead and make the change as of October 1st.

16 MR. PAVLOVICH:

17 Okay. And you never heard back?

18 A. No.

19 MR. PAVLOVICH:

20 And so no one ever even called and discussed it with you on
21 the phone? Bob Cornett just sent you an e-mail saying we're going to swap these
22 mines because?

23 A. Yeah.

24 MR. PAVLOVICH:

25 Okay. Didn't your inspectors question you, Bill, why?

1 A. Yes. And I said look I --- I said, fellows, I have already responded to the
2 District. I've told them what my opinion is, but I can't change the work assignments. I
3 still do what I'm told. I did go on record as making that a matter of something that
4 needed to reviewed, but nonetheless, if the District decides that's what they want
5 done, that's what I did.

6 MR. PAVLOVICH:

7 So Ted's (b)(6) and (b)(7)(C) worked at what mine?

8 A. West Ridge I believe.

9 MR. PAVLOVICH:

10 Did you already have West Ridge?

11 A. No.

12 MR. PAVLOVICH:

13 You had Pinnacle and Aberdeen?

14 A. Right.

15 MR. PAVLOVICH:

16 So they took West Ridge and Crandall Canyon and South
17 Crandall and added them to your group?

18 A. That's right.

19 MR. PAVLOVICH:

20 What did you give away to Ted?

21 A. Let's see. He would have picked up Emery Mine and Skyline. Emery and
22 Skyline were underground. Then I think some surface operations.

23 MR. PAVLOVICH:

24 So would that have kept the workload of the two groups
25 commensurate with where it was before?

1 A. Yeah, I think so.

2 MR. PAVLOVICH:

3 Kind of?

4 A. Probably.

5 MR. PAVLOVICH:

6 It's just you ended up getting all the Murray mines?

7 A. Right.

8 MR. PAVLOVICH:

9 And he ended up getting some other mine?

10 A. Right. Quite honestly ---.

11 MR. PAVLOVICH:

12 Did that seem suspicious to you?

13 A. Well, I don't think anybody wanted all of Murray's mines.

14 MR. PAVLOVICH:

15 Why?

16 A. I mean, I didn't want all of Murray's mines, but I thought ---?

17 MR. PAVLOVICH:

18 Why? Why not?

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

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

24 MR. PAVLOVICH:

25 I'll ask the questions. So was there --- from your workgroup

1 and your inspectors, were they asking you hey, why'd we get all the Murray mines?

2 A. Yes, they did. I told them why.

3 MR. PAVLOVICH:

4 Were they upset about it?

5 A. Well, I suppose. I don't know if you'd say upset. I mean, they came --- I just
6 told them look, I submitted this to the District. The District made their decision. We
7 have the mines. Stop your crying and move on.

8 MR. PAVLOVICH:

9 Okay.

10 BY MR. TEASTER:

11 Q. What workgroup are you, one or two?

12 A. Two.

13 Q. You're two. Had you ever been underground at Crandall Canyon before
14 August 6th?

15 A. Yes. When I got released from the doctor's office the end of March, I traveled
16 --- that next quarter I traveled with inspectors and one of the inspectors I traveled with
17 was Jim Martin. I don't remember the exact dates, but it would probably be in June.
18 Somewhere in there. You guys probably have those records somewhere, but I
19 believe it would have been in June. I traveled with him two days.

20 Q. Do you know where you traveled in the mine when you went with the
21 inspector, Jim?

22 A. The first day we went in, I don't remember exactly what crosscut it was, but we
23 went in to --- they were just developing the section.

24 Q. Developing the North Barrier and West Mains?

25 A. Yeah. Let me see. Where are we at? Yeah, this --- yeah. Yeah, where the

1 accident occurred. But they were just developing at that time. They had not started
2 retreat mining.

3 MR. PAVLOVICH:

4 You mean the accident that occurred on the 6th of August?

5 A. Yeah.

6 MR. TEASTER:

7 Okay. So they were in the South Barrier. This was the South
8 Barrier where the accident occurred.

9 A. Yeah, that's right. The beltline came in here and went down like that. Yeah.

10 MR. PAVLOVICH:

11 Okay. Okay.

12 A. Yeah, the South Barrier --- the MEU, where the accident occurred on August
13 6th. We went in, observed conditions on the section, wrote some violations on there
14 and came back outside that day. The next day we came in. I don't remember the
15 names of these belts, but we parked the vehicle here so we could travel the short belt
16 down and then the long belt into the section and then traveled the return back out and
17 be able to have a vehicle. And then we traveled --- that same day we traveled out
18 here because I wanted to take a look at this idle section too. So we traveled up here
19 and went in and looked at this idle section.

20 MR. PAVLOVICH:

21 Do you remember who you traveled with that day?

22 A. Jim Martin.

23 MR. PAVLOVICH:

24 Jim Martin?

25 A. I traveled with him two consecutive days.

1 MR. PAVLOVICH:

2 Okay.

3 BY MR. TEASTER:

4 Q. What did those conditions look like in the South Barrier?

5 A. They looked pretty good for, you know, what we see out here. You get
6 pressure on ribs. You know, the ribs can swell out, but there was no bouncing. There
7 was nothing active. In fact, that kind of surprised me when we went in because there
8 wasn't --- you know, you'll hear some thumps and things like that. We didn't. It was
9 quiet. It was completely quiet, which is --- that's why I would have never suspected ---
10 you know, we had problems at the Aberdeen Mine, bounces so significant that they
11 were --- had injuries, had injuries, a number of injuries at the mine. We had requested
12 tech support to come out. Tech support had, in fact, come out and looked at
13 conditions at Aberdeen. We had the roof control people from the District come out.
14 And so when we looked at Aberdeen, there was a red flag saying hey, this is a place
15 where we really need to have extras take a look at this. But when I went to Crandall
16 Canyon, the place was quiet. I mean, their accident/injury frequency rate was lower
17 than other mines in the area, lower than the national average. There was nothing
18 there that indicated that hey, this is something we need to really keep an eye on,
19 except the things we wrote in their violations. I mean, they had accumulation
20 problems and rock dust problems, things that you would find --- you know, you could
21 find at any mine.

22 Q. What did you think of them mining up there in that area around West Mains?

23 A. Well, we've got this mine, like I say, in October and they had been mining
24 similar conditions. You know, when you look at this area here, this was all mined
25 before we ever got this mine. This was all mined out. This was all mined out. They

1 came down into here and pulled this up and they did it successfully. They had gone to
2 Agapito and Agapito apparently agreed that they could mine that down there. You
3 know, when you look at the area that's mined out here, I mean, this was a small area
4 and a large area. This was a smaller area and a large area. A lot of our mines don't
5 do that, but they do it on their own. They do it because they don't think maybe it's
6 prudent to do it, but sometimes people ask you, they say well, why in the world would
7 MSHA approve that. Well, what MSHA approves is not as easy or disapproves is not
8 as easy as what some people in the public might think. If you have an engineering
9 firm that says that it can be done safely, we have to prove that it can't be done safely.
10 When I say we, I'm referring to the Agency because we don't have the approval
11 process here. We're not --- we don't approve those plans.

12 Q. Bill, when you looked at the South Mains, do you view that where you're
13 extracting pillars and then driving rooms toward the gob, is that then similar to splitting
14 those barriers or driving four entries up in those barriers? That's in the West Mains.
15 Do you think that's similar in mining?

16 A. Well, that's what they did here is they retreated out of there. They pulled
17 these mains out, ---

18 Q. Right.

19 A. -- which is similar to what they were doing here. They were going to pull
20 these mains out.

21 Q. But did they drive entries up the barriers over there at South Mains?

22 A. Well, I can't verify that for sure because I didn't have the mine then, but I don't
23 know how else you would do it. You had to have entries down in there.

24 Q. My understanding is ---

25 A. The entries are already existing.

1 Q. --- that they would drive so far up in the barrier and pull back and then get the
2 pillars and retreat out. I don't know how far they were driving in the barrier. But I
3 mean, I view that as different as to getting into a long barrier and driving four entries
4 up for 2,000 feet or whatever that distance is. But you don't see no difference in what
5 they done in the South Mains as the West Mains?

6 A. Well, what you're describing is different, but I wasn't familiar with that because
7 I was not --- the mine, this was not our mine. All of this had been mine without it being
8 assigned to the 02 workgroup. When you look up here and you look at areas, like as
9 an example, where they mine or retreated and mined, you know, those were areas
10 that they said well, hey, we have problems. So we backed up and we started mining
11 again.

12 Q. Maybe you can clarify. In the South Mains, they retreated that area on the
13 base roof control plan. And when they went up in the West Mains, they had to get a
14 site-specific plan. Do you know why they would have to do the difference? Why it
15 would be different?

16 A. No, I don't. I don't. You'd have to ask the roof control people. I mean, in all
17 reality, when they approve a plan, what we do is we go to the mine to monitor to see if
18 in fact they're complying with the plan and to see if it's adequate.

19 Q. So if you went to that mine and they were mining in that South Barrier and
20 they had no site-specific plan, you would just assume that it was covered by the
21 existing plan?

22 A. Well, I would say most places that you go to mine, if they have an approved
23 roof control plan, they either have something site-specific or they have an approved
24 roof control plan. So if they don't have a site-specific plan, it would have to be
25 covered by the approved roof control plan.

1 Q. Would you consider development of those entries in the North Barrier and the
2 South Barrier as development, new development?

3 A. When you say the South Barrier, you're talking about the one that came
4 down?

5 Q. Well, there's one north of West Main and one south and it's been commonly
6 referred to as the North Barrier and the South Barrier.

7 A. Well, those were barriers that had to be developed. As far as I understood,
8 they did go in there and mine them. I mean, they developed entries. I can't speak on
9 the previous one, but on the one that I traveled, it had been developed because they
10 were developing it when I traveled it.

11 Q. Right. We know they were developed. But I'm just trying to --- would they
12 have to have a plan that addressed that because they were developing those areas of
13 the mine or could they just develop any area of the mine without a site specific plan?

14 A. Well, I would say normally your roof control plan is a mine-wide plan. So
15 normally you could develop entries as long as you comply with that approved roof
16 control plan.

17 Q. Why would you think they submitted a plan to mine that?

18 A. Well, that's a good question because I hadn't thought about it before.

19 Q. You know they submitted a plan and then I think the Agency decided it would
20 have to be like a four-stage plan versus development of North Mains Barrier and
21 second retreat of that and then development of the South Barrier and then retreat of
22 that. So it was four stages of it. So you observed nothing abnormal on your visit up
23 there with Jim Martin?

24 A. No. When we traveled through, everything looked good. They were
25 developing the entries. There was nothing that was --- other than the things that we

1 cited.

2 Q. Was there any bumping or thumping ---

3 A. No, there wasn't any ---.

4 Q. --- or hourglassing of the ribs?

5 A. Well, yeah, there was. But that's common out in this area. When you get the
6 kind of cover we have, it's not uncommon to see ribs that are coming off, sloughing
7 off.

8 Q. So it was relatively quiet when you were up there?

9 A. Yes.

10 MR. PAVLOVICH:

11 Do you remember about how far in they were, Bill, by any
12 chance? Of course, this would be it right here, so ---.

13 A. Yeah, but they hadn't started retreating so I know that they weren't --- I'd have
14 to look at notes or at the inspection report to say for sure, but they were developing in
15 here. So they were in here somewhere.

16 MR. PAVLOVICH:

17 Okay. But they hadn't started retreating yet?

18 A. No.

19 MR. PAVLOVICH:

20 Okay.

21 BY MR. TEASTER:

22 Q. About how long were you in that section day that you were there?

23 A. Well, let's see, we went in, went across the faces, checked imminent dangers.
24 I don't remember if we checked equipment, but we had a problem with rock dust. We
25 took samples on the ---.

1 Q. Could you talk a little louder so we can get these, Bill, please?

2 A. Yeah. I don't remember exactly how long were on the section we went on.
3 We were on there long enough until we wrote some violations on the section,
4 discussed with them the abatement times and you know, what the root causes were
5 and told them that we'd be back to abate them. Without looking at the report, I can't
6 remember exactly how long we were in there. We were in there long enough to look
7 at those things, write those violations and then came outside.

8 MR. PAVLOVICH:

9 Bill, do you remember when you were in there, if you looked
10 at the map, did you ask them why they quit mining in the North Barrier about halfway
11 out?

12 A. I didn't because by that time it was already sealed by the time I went there.

13 MR. PAVLOVICH:

14 Okay. But you never did say why'd you leave all these
15 pillars? Why'd you quit here? Did you have some problem? Or just ---?

16 A. No, because I wouldn't have any reason to ask them that, or you know, ---.

17 MR. PAVLOVICH:

18 Well, you might if you looked at it and said well, gee, you
19 mined half of it and you left the rest. Why'd you leave the rest and seal it? Was there
20 a problem there or was there water ran you out? Did a bump run you out? Did
21 conditions run you out or did you just get tired of mining coal? I mean, that's not usual
22 that you'd start pillaring that and leave it halfway out without having a problem, would
23 you?

24 A. Well, if you look at the map though, you see several other areas where they
25 mined, stopped mining, backed out. So it's not ---.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Right. But you know, like you said, these were old areas and you could assume there's probably something wrong where they did that; right? You wouldn't normally do that. Did you look at it or, I mean, did you not really pay any attention to it since it was sealed?

A. I didn't really pay attention to it because it was sealed. You know, we were behind on inspections and I've told guys, you know, if you've got a place that's being sealed, don't waste your time going back into the sealed area. It's going to be sealed. There's active areas of the mine that need to be inspected and examined.

MR. PAVLOVICH:

So it was already sealed when you and Jim went up?

A. Right. Yes.

MR. PAVLOVICH:

You didn't pay attention to it. You just knew it was sealed.

A. Right.

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. When you were off from September of last year on through the end of the year, who was acting in your place?

A. They had several different people acting Ex. (b)(6) and Ex. (b)(7)(C) was acting for a while. Apparently there was something that went on. I don't know exactly what the story was because I wasn't there, but I think Bob Cornett came over and, for some reason, they told him they didn't want him acting, and so they put Ted Farmer in. So Ted Farmer actually acted. Then Dan Vitter came and he acted under the direction of the District.

1 And then between the times when he wasn't there, Ted Farmer acted and Larry
2 Ramey came over and acted in January. But in times between, they had these other
3 people acting. I think Ted Farmer acted in between there as well.

4 MR. PAVLOVICH:

5 Wasn't Ted already the supervisor over the 01 group? So
6 what did they just give him both groups?

7 A. Yeah, that's kind of like when I had Castle Dale and Price.

8 MR. PAVLOVICH:

9 He just handled all of it?

10 A. Yeah. So I guess they figured some periods in between wouldn't be much
11 different than when I had two field offices.

12 MR. PAVLOVICH:

13 Do you know what it was that Cornett came over and talked to

14 Ex. (b)(6) and Ex. (b)(7)(C) about and took him off acting?

15 A. Well Ex. (b)(6) and Ex. (b)(7)(C) told me that it had to do with --- it had to do with something
16 involving overtime. That one of the employees had worked overtime without having it
17 authorized and then that employee apparently went and said well, Ted told me that I
18 could do that. So then they went to Bob and Bob went to Ted and said okay, go
19 ahead and approve it because it was approved by the supervisor, who really wasn't
20 the supervisor. It was Ted. So then for some --- I wasn't there so I don't know. But if
21 I'm just going by what Ex. (b)(6) and Ex. (b)(7)(C) said, then Ex. (b)(6) and Ex. (b)(7)(C) said well, then I was
22 replaced and Ted took over until they had someone that officially came over, which I
23 believe as Dan Vetter.

24 MR. PAVLOVICH:

25 So Ted approved overtime for someone and he wasn't the

1 supervisor, so they had a problem with Ted, but they took [REDACTED] Does that make
2 any sense?

3 A. Well, I guess you'd have to ask [REDACTED] that.

4 MR. PAVLOVICH:

5 Okay. Or maybe Cornett.

6 A. Yeah.

7 BY MR. TEASTER:

8 Q. Did any of your inspectors, since you've taken over the Murray mines, ever
9 bring any particular problems concerning those mines to you?

10 A. Well, I know Ron brought a problem to me, but it was after this recovery
11 operation because he had issued a violation. I don't even remember what it was now,
12 but I remember it unwarrantable, because I had to do a work review on it. So he left
13 me a special attention packet with all the stuff in it. When I got back from these
14 recovery operations, I went ahead and reviewed it and it looked like a good order to
15 me. So I went in and signed off on it and forwarded it to the District. It wasn't until
16 after that that I found out that the district manager had required them to vacate the
17 thing. So then we had to call the District and recall it.

18 Q. Do you know why it was vacated?

19 A. I couldn't see any reason to vacate it myself.

20 Q. What reason did the District give?

21 A. The District said that they didn't have people over there because their people
22 were over here working at Crandall Canyon efforts. My opinion was that they had
23 people working underground. They had conditions that needed to be corrected, that
24 they were in violation and they needed to --- if they didn't want to run their mine, they
25 needed to pull their people out of the mine and not run it. If they're going to run their

1 mine, then they were going to have to comply. That was my opinion.

2 Q. So kind of like imminent danger's okay if you've got equipment over here
3 helping out another mine on an emergency?

4 A. Well, I don't think it's okay.

5 Q. But that's basically what it amounted to, wasn't it? You issued the imminent
6 danger order?

7 A. It was a D.

8 Q. A D order. I'm sorry. The D order, but it was vacated because we had the
9 equipment over at the other mine?

10 A. Yeah. I told them they still make shovels, don't they?

11 Q. They did the last time I checked.

12 MR. PAVLOVICH:

13 Did you talk to anybody in the District about that, Bill?

14 A. I talked to Al Davis about it.

15 MR. PAVLOVICH:

16 What did Al say?

17 A. Al said they didn't have people available out there. I said well, Al, if they
18 didn't have people available, maybe there were mitigating circumstances. Maybe it
19 didn't meet the criteria for an order if --- you know, if that --- if all what they're saying is
20 true. I said first of all, not everything they tell you is true. You need to remember that.
21 I said even if what they told you is true, that would only mitigate it down to still a
22 violation. It would not mitigate it to vacating it.

23 MR. PAVLOVICH:

24 What did Al say?

25 A. He didn't say --- he just --- I don't remember what he said, but it was not to be

1 changed.

2 MR. PAVLOVICH:

3 So he said leave it ---

4 A. Leave it.

5 MR. PAVLOVICH:

6 --- vacated? It was already vacated by the time you talked to

7 him; right?

8 A. Right.

9 BY MR. TEASTER:

10 Q. Was this sometime, Bill, after the accident on the 16th?

11 A. I don't think so because I was relieved up there. I was relieved up there
12 before the accident.

13 Q. So it was prior to that?

14 A. So this would have been ---.

15 Q. Somewhere between the 6th and the 16th?

16 A. Right.

17 Q. And what mine was that?

18 A. It was West Ridge Mine.

19 Q. West Ridge.

20 MR. PAVLOVICH:

21 You made a statement there when you answered that
22 question, Bill, about you can't always believe what these people tell you. Had you
23 encountered other instances where people from the mining companies had told people
24 in the District something that wasn't necessarily true but they seemed to believe
25 them?

1 A. Right on this recovery operation.

2 MR. PAVLOVICH:

3 Okay. What was ---?

4 A. They came to me and they wanted a plan approved to have people go
5 underground to take pictures. I told them they didn't need to. There's no reason to
6 have those recovery operations and there was no reason that they needed to have
7 pictures taken.

8 MR. PAVLOVICH:

9 So you turned the plan down?

10 A. Yes.

11 MR. PAVLOVICH:

12 Then what happened?

13 A. Then Jim Poulson went to Al Davis and told him that he had a plan that
14 allowed him to take pictures and that there was no reason in the world why he couldn't
15 have that incorporated in the K Order and let them take pictures. So Al told me I
16 would modify the K Order and allow them to do it. So I modified --- I didn't personally.
17 I told Barry Grosely to modify it and let him do it.

18 BY MR. TEASTER:

19 Q. How about prior to Crandall Canyon, has there ever been issues like that
20 come up in this District with the District believing the operator maybe when it wasn't
21 the whole truth and telling you to change things or not to enforce something or to
22 change your position or something on some areas?

23 A. I can't remember everything, but the ones that are significant I remember,
24 one was with mine rescue teams because they had rotated people around. Well, as
25 far as I'm concerned, they have a responsibility to maintain mine rescue teams. If

1 they want to lay people off or they want to idle people, that's their concern. They still
2 have to maintain the mine rescue teams. Well, they moved people around and didn't
3 have that maintained anymore. So we actually had a complaint. We wouldn't have
4 known this, but someone called and they said, wait, you know, they've rotated people
5 around here. They're not even maintaining their mine rescue team. So we went up to
6 investigate it and, in fact, that was the case. So the inspector called me and I told him
7 to issue not only an order at that mine, but to issue orders at the other mines.

8 Q. At all the Murray mines that you had?

9 A. And withdraw the people.

10 Q. What happened with that?

11 A. They called immediately. They had some kind of a hotline. I don't know how
12 in the heck they do it because I can't even get a hold of Al that quick. They called Al
13 and Al said we don't need to withdraw people. I said --- well, I wasn't this calm.

14 Q. Okay. What did you say?

15 A. I said look. You are the district manager, but I'm telling you that these people
16 don't have mine rescue teams. If someone got killed underground, how are you going
17 to explain that. I said these people deserve to be withdrawn. He said well, they've
18 got a letter coming from Deer Creek. I said then let's withdraw all the people until they
19 get a letter. When they get a letter and get it submitted to the District where they can
20 comply with the requirement, then we'll let the people go back underground.

21 Q. What was the end result of that?

22 A. The end result is he says well hold up. They said that that letter's on the fax
23 right now. So I said all right, Al.

24 MR. PAVLOVICH:

25 How did Al even know you were going to withdraw people?

1 A. That's what you do with an order.

2 MR. PAVLOVICH:

3 No, no. How did he know? I mean, you sent inspectors out.
4 The inspector called you and said they don't have coverage. Guys have all been ---
5 they don't have coverage and you said then my advice is to close all the mines down
6 because they have no mine rescue coverage and withdraw the people. Then the next
7 thing you get a phone call from Al telling you you're wrong. How did Al know?

8 A. That's what I just said. They had a --- they could get a hold of him quicker
9 than I could. They called him personally.

10 MR. PAVLOVICH:

11 So they called Al personally?

12 A. Yes.

13 MR. PAVLOVICH:

14 Al told you they called me?

15 A. Yes.

16 MR. PAVLOVICH:

17 And you're wrong?

18 A. They said they have --- he didn't say I'm wrong. Al's very diplomatic. He
19 didn't say I was wrong. He just said can't we handle it this way.

20 MR. PAVLOVICH:

21 Oh, okay. Okay. So in the long run you didn't withdraw the
22 people; right?

23 A. Well, no, because people can say what you want them to. When you're 13,
24 you'd like to keep your job for a little longer.

25 BY MR. TEASTER:

1 Q. But you did issue the D paper?

2 A. Yes.

3 Q. So you issued it after they faxed it over so it was basically issue and
4 terminate? No withdraw?

5 A. That was basically --- that's basically ---.

6 MR. PAVLOVICH:

7 So you let it stay as a D?

8 A. Right.

9 MR. PAVLOVICH:

10 When it says affected area mine, it's the entire mine? It
11 would appear, if I'm reading that violation, that you withdrew everybody from the mine,
12 although you didn't.

13 A. And I'd have to check with Randy Gunderson because at the mine he was at,
14 I think there was communication underground to withdraw the people, but there was a
15 hold on that because Al called the mine back personally too and talked with Randy on
16 the property.

17 MR. PAVLOVICH:

18 So Al literally called the mine and talked to Randy, too?

19 A. Check with Randy for sure, but I think that that did happen. Well, it might
20 have been the same call when Poulson --- Poulson's the one that made the call. Jim
21 Poulson. When he called Al Davis, he may have just handed him the phone.
22 Whether Al called back, I don't know. I mean, there was communication there. That's
23 all I know. There was communication.

24 BY MR. TEASTER:

25 Q. That was each of the Murray mines?

1 A. Well, I'm just talking about West Ridge, but West Ridge maintains the mine
2 rescue teams for Crandall Canyon, South Crandall Canyon, West Ridge, Aberdeen
3 and Pinnacle.

4 Q. Right. So I'm saying that all five mines got a D order?

5 A. That's right. And what we did is we had the inspector physically travel to each
6 mine and hand them the D because you can't do an order over the phone. So from
7 AI's perspective, technically we really couldn't withdraw people over the phone from
8 the other mines. We had to go there in person. Well by the time we could drive
9 there, they actually in fact had the documentation. So in that case, it was an issue
10 terminate. I'm not sure about West Ridge. I think Randy may have had people
11 started out of the mine at West Ridge.

12 Q. Does this happen frequently that operators seem to have a hotline to AI?

13 A. Well, some of the unwarables are really sticking in my mind. So I really don't
14 know about some of the other things. I know Bear Canyon there was an issue on that
15 because they had a --- they were on a special analysis program respirable dust. They
16 had received a letter from the District showing that they were on a special analysis
17 program. They didn't improve they were doing business, so they ended up getting a
18 letter from the National, from headquarters. Okay. And then they went out again and
19 I had the documentation. I told the inspector to issue a D. AI did not believe that they
20 should be a D. I said AI, there's no other way I can issue this. I said if this
21 documentation doesn't meet criteria for a D, they might as well throw the D right out
22 the door and not write any Ds. After a lengthy discussion, I don't know, it went on for
23 some time, he finally agreed that we could issue the D. But I felt like I was beaten
24 about to a pulp by the time --- it's not that he did anything physically. I'm just telling
25 you. You just get tired of arguing with the operator and arguing with our people. It just

1 wears you down.

2 MR. PAVLOVICH:

3 So if you issue a D, usually the operator argues with you and
4 the District isn't real supportive of you. Is that what you're ---?

5 A. I wouldn't say all of the District.

6 MR. PAVLOVICH:

7 All the District. Let me say AI isn't real supportive of you?

8 A. Because I've had other people. I've had Reitze who's over in ventilation and
9 I've had Dave Elkins who's over AI and I've had Billy Owens who's over control who
10 have been very supportive.

11 MR. PAVLOVICH:

12 So they'll support you, but then AI will overrule that
13 sometimes?

14 BY MR. TEASTER:

15 Q. What about the ADMs?

16 MR. PAVLOVICH:

17 Well, let him answer my question first.

18 MR. TEASTER:

19 I'm sorry. I thought he answered.

20 MR. PAVLOVICH:

21 No, he just frowned.

22 A. I think unfortunately --- you know, there are times when you have to make a
23 decision. It's not about liking or disliking people. That's not what this is about. It's
24 about what's doing right by the miners. And I think sometimes AI, he gets a call and
25 he listens to their side rather than listening to the field office supervisor and the

1 inspector who have been out and seen conditions. You can't do that.

2 MR. PAVLOVICH:

3 Does that hurt the enforcement program here, Bill? For an
4 inspector who writes some Ds and gets them changed by AI, would you want to
5 continue to write any Ds and look bad or do you think they just don't care?

6 A. Most of our Ds actually haven't been changed. Now, this one at West Ridge
7 was. They had to vacate that. Most of our Ds --- because I tell them you have to ---.

8 MR. PAVLOVICH:

9 Okay. Well, when does the fight come in then? I mean, is it
10 just kind of like pressure, you really shouldn't have wrote that D? Is that what it is?

11 A. Sometimes the operator will call him before the inspector can get it written on
12 property. That's where these other cases came in like with the mine rescue. That was
13 before he could physically write it, I mean, he'd go out and did an investigation,
14 you've got to set up your computer. And before he could physically write it, they had
15 called out. So it's not like he's trying to change something after. Except that West
16 Ridge was an exception because that was already written.

17 MR. PAVLOVICH:

18 Sometimes it's before the inspector ever gets it written, he
19 tells them I'm going to issue you a D and then he gets a phone call from AI or
20 someway gets to talk to AI on the phone and AI says don't write the D?

21 A. No, he doesn't --- AI doesn't say that.

22 MR. PAVLOVICH:

23 What does he say, Bill?

24 A. Well, AI has talked to me and he will say things like don't you think we can
25 handle this a different way or does it meet this criteria. I don't recall him actually

1 telling me no, you can't write that. And on the ones that I've had discussion with him,
2 they ended up staying as Ds because I would not get off the phone until he agreed
3 that it would stay as a D. But I had no opportunity to talk with him on the one on West
4 Ridge because he had already made a decision. It had already been vacated before I
5 even knew about it.

6 MR. PAVLOVICH:

7 The ones that you did uphold as a D, did they ever get
8 changed at conference?

9 A. I haven't seen any of them change.

10 MR. PAVLOVICH:

11 Okay.

12 BY MR. TEASTER:

13 Q. While you didn't get any specific directions not to issue or to vacate, you knew
14 where AI was coming from or what the discussion was about?

15 A. I had to defend why I was writing it as a D, and I suppose there's nothing
16 wrong with that. It's just that I hate to fight with the operator and then have to --- I'm
17 not saying fight. I don't mean fight that way. It would be nice to have someone say
18 hey, that's a good job. That's the way that should have been issued.

19 Q. Well, if someone that was superior to me was to say is there another way we
20 can handle this, I would construe that to mean, you know, let's find another way.
21 While it's not a direct quote or direct order to say don't do it or change it or whatever,
22 but that's what I would --- I would be looking for a different way to try to accomplish
23 that mission.

24 A. Or would you try to explain why you could do it just the way you're doing it?

25 Q. Well, no, I would do that too, but I mean, my point was you said you hadn't

1 been told directly to do something. But I'm saying when a superior tells you is there
2 another way, I think he's looking for a way other than what you want to go.

3 A. And I think you're probably right, but I still think if you hold firm to what you
4 believe, you can still uphold it as long as you have the documentation to do it.

5 Q. What about the assistant District manager, your supervisor. Have you had
6 any ---?

7 A. Well, Bob --- although Bob's a District manager now, Bob really never got
8 much involved with things. I mean, in all the time I was over here, and I've been over
9 here since --- 1997 is when I transferred over here. And I only know of one time that
10 Bob ever traveled underground with me at one of my mines. That would have been
11 ten years now.

12 Q. Well, in the past have you had other assistant District managers?

13 A. Richard Gates.

14 Q. And if someone would call in, would they normally go to the assistant District
15 manager if you had a compliance problem or would they go straight to the District
16 manager?

17 A. Well, normally, even if they --- there's no regulation that says you can't call a
18 District manager. But what most often would happen, because I worked over there as
19 assistant District manager as well, when the District manager has a question, what
20 would normally happen is it would be transferred. If it was an enforcement issue, it
21 would be transferred to the Enforcement ADM.

22 Q. Right.

23 A. If it was dealing with plans, it would be transferred to the ADM over at plans,
24 the technical. So I don't --- some how along the line, that system or methodology got
25 interrupted to where people felt like they could just call directly the District manager

1 and he would give them some kind of leeway. Now, all he had to do though is refer to
2 his assistant District manager and let the assistant --- because I talked with Richard
3 Gates and that's what used to happen. They used to call him, too, and try to get
4 things and he would say let me call the field office and check with the inspector, then I
5 will get back to you.

6 MR. PAVLOVICH:

7 Who was the District manager then when Gates was here?

8 A. Kuzar.

9 MR. PAVLOVICH:

10 Did you ever have Kuzar call you and tell you maybe we can
11 get this done different, Bill?

12 A. No, never.

13 MR. PAVLOVICH:

14 Did he seem to support heavy paper as we call it? I mean, Ds
15 and unwarrantables and imminent danger orders if you wrote them and S&S, did
16 Kuzar support that?

17 A. He did except with one exception.

18 MR. PAVLOVICH:

19 Okay. And what was that?

20 A. That was the Willow Creek Mine where he John Danashay (phonetic) was
21 over the Willow Creek Mine. The Willow Creek Mine, that was an unusual situation
22 because John Kuzar came in to my office. That was when I transferred from the Delta
23 office over to here and I had just one field office at that time. Jim Kirk had the other
24 field office. Those two field offices, I ended up running both field offices because Jim
25 Kurt transferred to Metal/Non-metal. When that happened, I got Willow Creek, which

1 was in the other field office, but I wanted to travel out to the mines that were not in my
2 field office that I had so I could get familiar with them. I traveled to Willow Creek, had
3 a question on them because they had a bleeder. They were running a longwall without
4 a bleeder. John Kuzar came over, sat me down in that Price office right over there,
5 and closed the door. Ex. (b)(6) and Ex. (b)(7)(C)

6 Ex. (b)(6) and Ex. (b)(7)(C)
7
8
9
10
11
12
13

14 MR. PAVLOVICH:

15 So it wasn't done the way you wanted to do it?

16 A. So it wasn't done.

17 MR. PAVLOVICH:

18 Subsequently what happened there?

19 A. They had a fire at the mine. Fortunately, no one was injured. Then Gene Ray
20 came out from back east. They gave Gene Ray that mine who'd never been around
21 hydrocarbons in his life. He never dealt with that kind of cover or those hydrocarbons
22 and that was when they sent me to Castle Dale. Ex. (b)(6) and Ex. (b)(7)(C)

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

24 MR. PAVLOVICH:

25 The bleeder was never connected anyway?

1 A. No. After I left, I don't know what they did.

2 MR. PAVLOVICH:

3 Okay. Was it a history here then that District managers like
4 don't --- provide favoritism or what?

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

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

7
8
9 Ex. (b)(6)
10 and Ex. (b)(7)(C) They need to forget any of those personal things and do what's best for the
11 miners. In 99.9 percent of the time that was John Kuzar.

12 MR. PAVLOVICH:

13 Ninety-nine (99) percent of the time he was that way except
14 for this one instance?

15 A. Right. That was the only mine I was ever aware of that he ---.

16 MR. PAVLOVICH:

17 Did Al Davis --- are you aware of his background, Bill?

18 A. I inspected him at McConnell.

19 MR. PAVLOVICH:

20 When he came in to MSHA, did he ever inspect?

21 A. If he did, it couldn't have been very long. A very short time because I
22 remember going to a --- I don't remember what the year was, but I remember going to
23 a roof control seminar on bounces in Beckley and I was a 12 and he was an 11. It
24 wasn't very long after that he was a 12 and then he went to Arlington as a 13. So it
25 couldn't have been very long.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Was he in the roof control group in Denver?

A. I actually can't remember for sure, but probably. That's probably right because I don't think he was in ventilation so it probably would have been in roof control.

MR. PAVLOVICH:

Working for Lee Smith maybe?

A. Yeah, that's probably right.

MR. PAVLOVICH:

You had a question?

UNIDENTIFIED SPEAKER:

I just wanted to clear this up for the record, Bill, before we moved on to a different subject. When you said people are moved around and you didn't have enough bodies for mine rescue coverage for those particular mines, that people were moved around and they lost some of their team members, how did faxing in a piece of paper resolve that condition? That's what I just want to get cleared up for us.

A. They had enough people for one team and then Deer Creek provided the second team.

UNIDENTIFIED SPEAKER:

Another company?

A. Yes.

UNIDENTIFIED SPEAKER:

Okay. I just wanted to make sure that was clear.

BY MR. TEASTER:

1 Q. Bill, how did the District deal with plan approvals concerning the Murray mine?
2 Do you think they got any special consideration, expedited ---?

3 A. I'll tell you I don't --- my personal opinion, for what it's worth, is Billy Owens I
4 think is really going to be missed. I think he's probably one of the best roof control
5 people in any of the districts and he's the only person that I'm aware of that has been
6 to every underground mine in our area, both mine and Ted's. He's the only guy in the
7 District that I'm aware of that's been to every underground mine. He looks at the
8 conditions. I don't know what you could possible expect from a guy who comes out
9 and actually looks at the conditions before he does approvals. I mean, is he human?
10 Does he make mistakes? Yeah, I think probably we're all human and can make
11 mistakes. But I don't think you could ask for more support than I've seen from Billy
12 Owens.

13 Q. I was trying to see if they could get a plan fast tracked through the system as
14 opposed to somebody else who would submit one and just go on a pile and they would
15 get to it in regular rotation?

16 A. See, I wouldn't know that because whatever goes into the District, I wouldn't
17 know what happens with that.

18 Q. You don't have any involvement in the roof control plan?

19 A. Well, I wouldn't like --- what you're saying is that there's a stack that comes in.
20 I would have no way of knowing if there was one on the bottom of that stack that got
21 moved to the top. I wouldn't know that.

22 MR. PAVLOVICH:

23 Would you even know what plans were submitted by the
24 operator?

25 A. No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

So you have no involvement in the plan approval process prior to the approval?

A. Occasionally I've had someone give us a call.

MR. PAVLOVICH:

Okay. They may call you and ask you a question about a particular plan?

A. Right.

MR. PAVLOVICH:

But for the most part, would you say it's typical that plans are submitted to Denver, Denver either approves or rejects them and you and your inspectors have little or no involvement in that? Primarily you get the plan after it's approved and you're expected to enforce it?

A. I would say that that's probably an accurate statement and probably the most recent one. Of course there obviously was approved in headquarters because I have vehemently opposed the approval of the roof control plan at Aberdeen.

MR. PAVLOVICH:

That's recently?

A. That was just recently approved, but it was not approved by the District.

MR. PAVLOVICH:

It was not approved by the District?

A. It was approved, but it had to be approved by headquarters. The whole plan went to headquarters and was approved by headquarters. It was sent back to the District for their approval.

MR. PAVLOVICH:

1 So if you respond negative to a plan, especially this one at
2 Aberdeen, your comments were discounted as something that wasn't important?

3 A. Well, I'm not an engineer, you know, and I don't profess to be an engineer.
4 But you know, if we go to the mine and we see things that are blowing out and we see
5 tailgate blockages and we see where we have headgate blockages and we have an
6 injury rate 300 percent above the national average, I mean those are all things that
7 are red flags. To me what are they doing to address the bounces. This plan that was
8 just approved, they have addressed reactionary measures, keeping people outby
9 keeping people off the face. That has not addressed the bounces.

10 MR. PAVLOVICH:

11 Okay. All right. Then you asked them to address the
12 bounces?

13 A. Address the bounces.

14 MR. PAVLOVICH:

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

16 A. Ex. (b)(6) and Ex. (b)(7)(C) But again, once that plan comes back and it's approved,
17 we're going to live with it.

18 MR. PAVLOVICH:

19 Okay.

20 BY MR. TEASTER:

21 Q. How did you voice your concerns and to whom?

22 A. Well, on this last one, I sent an e-mail before it was approved.

23 Q. You sent an e-mail to?

24 A. I sent an e-mail to the District, to Billy Owens, with a copy to Al Davis and
25 whoever the heck --- it was either Bob Cornett or the acting ADM, whoever it was, and

1 to Bill Knepp voicing my concern that these were reactionary measures. And the
2 e-mail that I got back said that it had been sent to headquarters and headquarters felt
3 like these measures were enough to be able to justify --- I don't remember the exact
4 wording, but anyway, it was approved.

5 Q. Did they indicate --- did you ever get any indication what the District people
6 thought about it? Billy Owens, Bill Knepp, Bob Cornett or whoever was in that position
7 and Al Davis?

8 A. They only thing I know for sure is that it was submitted. That whole plan and
9 their engineering data was submitted to headquarters. And headquarters said that it
10 met the criteria that they could protect people and --- I know headquarters doesn't
11 have an approval stamp. They don't stamp things. It's the District stamp that still
12 comes out and shows it was approved by the District, but it was done by headquarters.

13 MR. PAVLOVICH:

14 If we send [REDACTED] Ex. (b)(6) and E over to your field office sometime this week,
15 could he get a copy of that plan?

16 A. Sure.

17 MR. PAVLOVICH:

18 I'd like to see that.

19 BY MR. TEASTER:

20 Q. Could we get a copy of that e-mail as well?

21 A. Sure. Just let me --- the e-mail? The one I sent to Billy Owens?

22 Q. Yes.

23 UNIDENTIFIED SPEAKER:

24 Bill, while we're on the subject, did you object to the plan
25 before you saw it or did you see the plan?

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

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

3
4
5 didn't happen. The plan was approved and we saw it after it was approved.

6 MR. PAVLOVICH:

7 So they wouldn't even let you see the plan in advance, the

8 District?

9 A. Well, they didn't.

10 MR. PAVLOVICH:

11 They didn't. Well, you asked to see them in advance, but you
12 didn't get to?

13 A. No.

14 MR. PAVLOVICH:

15 Nor were you consulted when they had the meeting with the
16 operator in Pittsburgh or wherever they went to?

17 A. Yeah, back east somewhere. I don't know where they met.

18 MR. PAVLOVICH:

19 You weren't consulted about that or taken back with that
20 meeting either?

21 A. Don't get me wrong. I don't have a --- I realize I'm not an engineer and they
22 have things available to them. But if they want our input on stuff and they want to
23 have firsthand knowledge by people who are actually looking at conditions, --- you
24 know, even the one guy from tech support that came out before Crandall Canyon, I
25 was upset at him because he actually told the people that they needed to have better

1 protection equipment. He said he could provide them a name of people who had
2 better headgear, better flak jackets, better protection. I said Ex. (b)(6) and Ex. (b)(7)(C)

3 Ex. (b)(6) and Ex. (b)(7)(C)
4

5 MR. PAVLOVICH:

6 Who was that that said that?

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

8 MR. PAVLOVICH:

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

10 A. Uh-huh (yes).

11 MR. PAVLOVICH:

12 --- advised the operator on better protective equipment you
13 could buy as opposed to fixing the problem of what causes bouncing?

14 A. Right.

15 BY MR. TEASTER:

16 Q. What caused the plan to be submitted initially?

17 A. I need to --- if I don't write these down, I'll forget them. You needed the e-mail
18 and you needed a copy of the ---.

19 MR. PAVLOVICH:

20 The plan. Can we take a break?

21 MR. TEASTER:

22 Yeah, that's a good idea, Joe.

23 **SHORT BREAK TAKEN**

24 BY MR TEASTER:

25 Q. Did you ever let the District know that you felt like you needed to be involved

1 in the plan approval process of mines in your area?

2 A. I don't know that I've said something per se. I've called them and talked with
3 them on issues either in ventilation or roof control, but you know, I've never come out
4 and said well why don't you let us be involved. I suppose this e-mail is probably the
5 closest to anything when I said, you know, would you mind sending it over and let the
6 inspectors at least take a look at it and see how they feel about it. I didn't feel like that
7 was an unreasonable demand. I mean, it wasn't a demand anyway. I didn't write it as
8 a --- you'll read the e-mail. It wasn't a demand saying you will do this.

9 Q. No, it was a request more or less.

10 A. It was a request, yeah.

11 Q. And the response back to that was?

12 A. We got an approved plan that we could review.

13 MR. PAVLOVICH:

14 Bill, you mentioned earlier you had provided some e-mails to
15 the IG about a particular ---?

16 MR. TEASTER:

17 Yeah, I've asked him for them already.

18 MR. PAVLOVICH:

19 Oh, you've asked. Okay. I just wanted to get it on the record
20 that you'll provide us with those also. Okay.

21 BY MR. TEASTER:

22 Q. I had a question and it left me.

23 MR. PAVLOVICH:

24 I'm sorry, Ernie. I didn't mean to mess you up.

25 MR. TEASTER:

1 No, that's okay. That ain't the first time I've ever messed up.

2 **BY MR. TEASTER:**

3 Q. The inspectors fill out a quarterly review of the roof control, ventilation plan?

4 A. That's a 2000-204 form.

5 Q. 2000-204?

6 A. Uh-huh (yes).

7 Q. Do they normally include a lot of comments or any comments?

8 A. Not normally a lot of comments, but occasionally they have comments. If
9 they have a problem with the vent plan, they might just have comments on the vent
10 plan portion of it. They're both on the same form. If they didn't have any problems
11 with the roof control plan, they would just put no deficiencies. Or it could be vice
12 versa. They could have no deficiencies on the ventilation portion and they could have
13 some deficiencies on the roof control portion.

14 Q. You would know when they had noted comments?

15 A. Yeah.

16 Q. Does the District --- how does the District deal with the field office in regards
17 to those comments?

18 A. What we do is we instruct the field office secretary that when those 2000-204
19 forms come in that they be sent over to the District so the District has a copy of them
20 so that they're aware of those comments for the review process.

21 Q. What feedback in response? What do you get back from the District?

22 A. Billy Owens would usually call on a roof control issue. Bill Reitze usually puts
23 something in writing back.

24 Q. Can you think of an instance where one of your inspectors said something to
25 roof control and Billy called back?

1 A. Yeah. We had cases on the Aberdeen Mine. That's how we ended up getting
2 tech support out to look at it because we had concerns. The inspector had talked with
3 Billy, Billy called back and he called and talked with me. He even came over, went up
4 to the mine to look at some of the conditions and he invited the tech support to come
5 out and take a look at it as well.

6 Q. This is on the recently approved plan?

7 A. No, this was prior to Crandall Canyon.

8 Q. So you feel like anytime that there's comments included on those forms that
9 are forwarded to the District, that the District adequately addresses them and gets
10 back and informs you what action was taken or not taken and why?

11 A. I think they respond to them. That doesn't mean that we're always going to
12 agree with their response, but they respond to them.

13 MR. PAVLOVICH:

14 You ever get responses back that says we'll approve the plans
15 and you just inspect them, Bill? Or you just enforce them?

16 A. I've never seen a response like that, but I had an inspector one time that told
17 me that he kind of got that verbal response, you know.

18 MR. PAVLOVICH:

19 So sometimes you might. Someone may have got those
20 verbally?

21 A. Yeah, but I never saw anything like that in writing. Sometimes you have to
22 take it with a grain of salt because sometimes when an inspector gets a little bit upset
23 about something, he may see something that is just not exactly what someone told
24 him on the phone. So you're getting it secondhand, you know. So I usually take it
25 with a grain of salt and move on.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Inspectors ever get frustrated over putting comments on those 204 forms and maybe not do it anymore?

A. I think there was a time when we were doing that, but Jack Kuzar really got upset because we brought that up in the meeting. And he said that they would be responded to. So I mean, he ---.

MR. PAVLOVICH:

So Jack kind of changed the program?

A. Yeah.

MR. PAVLOVICH:

Prior to that you weren't getting much?

A. Right.

BY MR. TEASTER:

Q. Bill, did you ever have an occasion where the mine operator got a plan from the District and the inspector wasn't aware or the field office didn't get a copy of that plan and the inspector took enforcement action at the mine and then the operator pulled this plan out that would have been approved?

A. Usually they will call me. If that happens, they will call me and I will check to see if we have anything in the uniform mine file. And if not, I will call the District. That's a kind of rare thing, but I have had an inspector call me from a mine and I've had to call the District and, for whatever reason, we didn't get it. You know, there's a lot of paperwork that comes out of that District and it's 420 miles away, and there's --- you know, there are things that slip through the cracks. That happens.

Q. Usually the mine's not much further than the field office though is it?

A. Right.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Well, they might fax them an approval and send yours hard copy and you hadn't got it yet?

A. Oh, yeah. Right.

MR. PAVLOVICH:

Does that happen fairly often?

A. Usually they will fax us, but occasionally there is a time --- there's been a time when I've had an inspector call me and say hey, we don't have this. I say okay, let me check the mine file. If it's not in the mine file, then I'll call the District and they say yeah, we have it. That is approved. I think that's probably rare. It does happen, has happened though.

BY MR. TEASTER:

Q. Other than the issue that you had mentioned earlier involving the mine rescue team, has there been any instances where you had taken some enforcement action at any of the Murray mines and the District wanted you to hold off on that enforcement or vacate it?

A. I'm not aware of any other than that one that I told you about, West Ridge.

Q. How about your conferencing? Do you have a lot of paper that's conferenced by your mine operators?

A. Right now Murray's conferencing everything. They're asking for a FOIA request on all inspectors' notes on every violation that's issued. I think it's an abuse of the system and I don't think it should be allowed.

MR. PAVLOVICH:

Is the District providing those notes to them prior to conference?

1 A. What is happening is --- when I talked with Bill Denning, who usually does the
2 FOIA request, he said that they were --- because most operators don't ask for that
3 much. And so they were providing it free of charge. He said because of the
4 numerous requests that were coming from them, he was going to charge them. He
5 was going to document and charge for the time and the copying and that stuff. I don't
6 know if that will --- I don't know if that will deter it or not, but he said he felt like he was
7 well within his rights to charge for that because of the amount of it.

8 BY MR. TEASTER:

9 Q. Are you and the inspector normally notified when some of the paperwork's
10 being conferenced?

11 A. We get a letter from the conferencing officer that shows what is being
12 conferenced, you know, what citations or orders are being conferenced and what part
13 they are conferencing.

14 Q. Do you normally provide what the operator is saying in defense of their
15 position?

16 A. After they have the conference, we'll get a letter that comes back and says
17 this violation either remained the same or it was reduced or whatever. And in that, it
18 will show what the operator's position was.

19 Q. Prior to, did he ever ask you for comments on ---?

20 A. On violations and orders. But we don't know what the operator's position was
21 until after the conference, and then we get a thing back that will show their position
22 and what happened with each violation.

23 Q. And there's a lot of paper changed as a result of the conference?

24 A. I don't think too many are changed. You know, there are things that --- the
25 thing is one of my pet peeves with conferencing is that there's so many decisions out

1 there that you can pull decisions and you can get decisions that will either support
2 violation or support the operator. And my personal opinion is why are we bothering
3 with decisions that support the operator. We've got a decision out there that will
4 support the violation. Why not use it? Now, that's one thing that I've had some
5 difficulty with.

6 MR. PAVLOVICH:

7 Bill, do you think that every violation kind of stands on its own
8 facts anyway; right? What does an Administrative Law Judge decision have to do with
9 it?

10 A. No, I'm talking about Commission decisions.

11 MR. PAVLOVICH:

12 Commission Decision. Do you think the facts are identical?

13 A. I think if you get different people, you can have --- the interesting thing about
14 conditions, I can take a guy that takes a half an hour to write a violation underground,
15 probably not that long, but write that violation. I can have it reviewed by a
16 conferencing officer. He will want to know why it's written this way. I've seen it
17 reviewed by an ALJ that said well what are you talking about. How did you arrive at
18 that. I got a Commission look at that same one and say well that ALJ doesn't know
19 what he's doing and they reverse his decision. I've had it go into the Court of Appeals
20 and have them reverse the Commission decision. Yet here's a guy out there they
21 expected to know exactly how to write it when he saw it. And so when you get legal
22 minds together, it depends on which legal minds you have together will determine
23 what the decision is. Whether it's right or wrong, that's the way it is.

24 BY MR. TEASTER:

25 Q. So do you generally agree or disagree with a conferencing officer action on

1 paper of your inspectors?

2 A. Here's the way I look at it with a conferencing officer. The conferencing
3 officer is not a legal decision body. He's like an ALJ. It's not binding. If I believe that
4 an inspector should be writing it the same way, I'll tell him, look, you can't be
5 influenced by the conferencing officer. If you believe this exists, write it the way you
6 can defend it. If the conferencing officer changes it, then he's going to be responsible
7 for the change.

8 Q. Do you think sometimes that there's information that's not available for the
9 inspector to consider and then the operator can provide that later that could cause a
10 lesser action to be taken?

11 A. I think the operators have become very imaginative in their defense of
12 violations. It used to be when you wrote a violation, the guy who was going to
13 conference it, would travel right with you. He would look at the condition. You would
14 both decide on how it's going to be written. You saw much fewer conferencing. There
15 was less conferencing in those kind of conditions. Now that doesn't happen. If the
16 safety director travels with your or a safety person, the Safety Department travels with
17 you or a foreman travels with you, he will not be a part of the conferencing process.
18 They will take a person who never saw the condition to conference it from a legal
19 standpoint of whether or not it can hold up legally, not based on what the guy actually
20 saw, because they don't want someone in that conference that says yeah, I saw that.
21 And by taking him out of the loop, that guy can -- he can conference something
22 without ever having seen the condition.

23 MR. PAVLOVICH:

24 The conferences that are held on violations issued here in
25 Price, do they usually do those in Denver? The operator travels to Denver?

1 A. Yes. Or sometimes they do them over the phone. I don't know if he actually
2 travels to Denver.

3 MR. PAVLOVICH:

4 Sometimes they do them over the --- do they ever come here
5 to do them? Does Ned ever come here?

6 A. I've never seen Ned come over and do them. I've seen --- now, Ron Paletta
7 used to be a conferencing officer, but they took him out of the loop. He disagreed with
8 the operator, I guess, too many times. Because Ron was really good to pull up
9 decisions, Commission decisions, that would support what the --- now, that doesn't
10 mean that he never changed something.

11 MR. PAVLOVICH:

12 Right.

13 A. Occasionally you'll find something that was just written in error, you know,
14 something that --- you know, that all the information is not available and there are
15 mitigating circumstances that changed the gravity or negligence in some way. If those
16 are valid, I don't have a problem with that, but let's not just change it to be changing it.

17 BY MR. TEASTER:

18 Q. You think that's happening some on the COR work?

19 A. I can only give you my opinion because I'm not there in person, but my
20 opinion is --- the reason I know this is because I've done it myself, not conferencing. I
21 have actually --- I did conference when I first came in because supervisors used to
22 conference violations. But I have found that if you call the conferencing officer as
23 soon --- as you find out that an order has been issued, if you call the conferencing
24 office and give him your side of what actually happened before the operator can call
25 him and get a hold of him, it will actually make a difference on his decision. If the

1 operator can get a hold of him and give him this big elaborate thing of what happened
2 before you can talk to him, it will influence his decision. Is that right or wrong? You
3 know, we're all human. We're going to be influenced by who talks to us first. You
4 can't change that. That's a reality. So over the years if I've had an unwarrantable that
5 I thought the operator's going to be calling, I like to call the conferencing officer and
6 say are you aware that this history exists and they have this and this and this. Then
7 when the operator calls crying on his shoulder, it is usually a little bit harder for him to
8 get something changed.

9 Q. Have you had the occasion where your inspector took certain enforcement
10 actions, and he brought it in, you reviewed it and determined that that probably was
11 not the appropriate way to go and having to change it?

12 A. Yes. Yes. Actually, very seldom do I ever have anybody vacate something
13 because there's --- usually if an inspector vacates something, it's because he has
14 looked and found additional information and realized it was --- before I even see it,
15 he'll vacate it on his own. I don't have to tell him that. When you have some kind of
16 paperwork --- usually it should never be vacated. In most cases it just needs to be
17 modified. That was one big argument that I had with conferencing. It's not so much
18 anymore, but a conferencing officer who said well that's not my responsibility and I
19 said it's just as much your responsibility to modify as it is to vacate. If you're telling
20 me that that should have been issued a different way, then it shouldn't be vacated. It
21 should be modified.

22 Q. So most of yours has been modified as opposed to vacate?

23 A. Yes.

24 Q. Does that happen very frequently?

25 A. Percentage-wise I don't think so. I mean, if you look at the percentage of the

1 violations that are conferenced, yes, there's a percentage. But I think the percentage
2 is actually fairly small that are changed compared to the ones that are conferenced.

3 Q. And the percentage that you change or have changed would be even smaller?

4 A. Yeah, because I usually don't change them. If they come in and they're
5 wrong, I send them back to the guys and say look your notes don't agree with the
6 violation, so you're going to have to change something here. Either your notes are
7 wrong or the violation's wrong, one of the two.

8 Q. Is it fair to say then that when you forward on something to the District in a
9 citation that you agree with the action that has been taken by the inspector?

10 A. Yeah, but at that point I'm also not aware of any mitigating information that
11 the operator might bring.

12 Q. Right. With what you have you're supportive?

13 A. Right. Do I make mistakes? Yeah. You know, I send stuff back to inspectors
14 and have them change it, and there are things obviously that I forwarded to the District
15 that I've looked at that I've made mistakes on. I think when you look at the sheer
16 numbers of volume of paper that has to be reviewed, anybody that can say they don't
17 make mistakes has got to be lying or they're not doing anything.

18 Q. Did you ever review the Agapito report concerning mining on West Main
19 there at Crandall?

20 A. I didn't.

21 Q. Have you reviewed it since the accident?

22 A. I still haven't reviewed it.

23 Q. Still haven't reviewed it?

24 A. No. I'm not sure if it's available.

25 UNIDENTIFIED SPEAKER:

1 Can I ask one question on conferencing before we get too far
2 away? You said that Murray pretty much conferences every citation that's issued. Do
3 you know what District 9 requires when a request is sent in for a conference? Do they
4 have to justify every citation or do they just say, I want a conference ten citations?

5 A. No. They're supposed to list each violation and list what they want to
6 conference, are they conferencing that it's a violation of law, are they conferencing the
7 gravity, are they conferencing the negligence and they have a time frame they're
8 supposed to do that in. In my opinion --- I don't know if that's always been done this
9 way, but I told the conferencing officer if they don't meet every criteria, I just deny it
10 and send them back a letter denying it if they haven't met every one of those criteria's.

11 UNIDENTIFIED SPEAKER:

12 Do you know if that's done in this county is what I'm asking?

13 A. That I don't know.

14 UNIDENTIFIED SPEAKER:

15 Don't know, okay. All right.

16 A. I know at one time when I told a conferencing officer that, he said I can't do
17 that because I'm too far behind on my conferencing. So what he was indirectly saying
18 is that I've got a stack of things to conference and so they may have gone longer than
19 the ten day time, but their actual initial request was within the required time frame.

20 UNIDENTIFIED SPEAKER:

21 Okay.

22 BY MR. TEASTER:

23 Q. Did you have any involvement at all in the plan approval? The addendums
24 for the mining in the North Barrier and South Barrier?

25 A. No.

1 Q. After you --- after they were approved, you did review them?

2 A. I believe I would have reviewed them at some point, you know, before I
3 traveled with Jim Martin. I would have had some kind of idea when I went to look at
4 the uniform mine file.

5 Q. Did you have any concerns when you reviewed?

6 A. Well, what I like to do usually is go to the mine and look at the conditions to
7 see if I have concerns. I mean, reading something on paper is not necessarily
8 something that would cause concern if you go to the mine and don't see something
9 that would cause concern at the mine. When I traveled at the mine, I didn't see
10 anything that was out of the ordinary. I didn't see anything that was unusual or
11 anything that would raise a red flag, except the things that we cited, but they had
12 nothing to do with the bounce.

13 Q. You said earlier that you didn't have any knowledge of the bump that occurred
14 up in the North Barrier?

15 A. There was never a reportable. They had never reported a bounce. We had
16 no clue that that thing was the magnitude it was.

17 Q. When did you first learn about that bump?

18 A. Well, that was --- I didn't learn it was reportable until after, well after, this
19 August event.

20 Q. Have you seen those pictures?

21 A. No. Richard Gates said he had some pictures and I think some that he shared
22 with the Commission, that Utah Commission they developed.

23 Q. This is the North Barrier. This is the face up this way. And this lined in purple
24 is the barriers that were involved in the bounce. And what they had done, they had
25 mined --- been mining up here and had a lot of problems, and he pulled out and left

1 these two road blocks and started mining again when this bump occurred. They
2 decided, based on the damage and I guess the action that had taken place, that they
3 just determined that they could no longer safely mine in that area and decided to seal
4 and move it. But if you would flip through those pictures, that's the extent of the area
5 and the others are just pictures that was just taken a day or two after those.

6 A. Do you have any idea who took these pictures?

7 Q. I think Laine Adair took them.

8 A. Now, that's interesting because if this area --- well, I don't see ---.

9 Q. This gives you an idea of where you're looking.

10 A. Okay. So we're just looking at a main entry going in right there and then a
11 crosscut. So he's showing that the area through the crosscut was still travelable. This
12 is the entry out here. He just wants to take a look at the rib to see what's --- now, were
13 these timbers had been previously set here?

14 MR. PAVLOVICH:

15 We don't know.

16 MR. TEASTER:

17 I don't know.

18 MR. PAVLOVICH:

19 Those are just pictures that ---.

20 A. Because I see some timbers down there.

21 MR. TEASTER:

22 I'd say that they were. I don't think they'd just throw them ---
23 laid them up there after the bump.

24 MR. PAVLOVICH:

25 I don't think they brought them in after the bump.

1 A. Yeah, and this looks like a roof mat right here. Does anybody say what they
2 did when this bounce occurred?

3 BY MR. TEASTER:

4 Q. What they did?

5 A. I mean, the people that were there at the mine.

6 Q. I think it was in between changes of shifts.

7 A. So no one was there when it actually happened?

8 Q. Nobody was actually present is my understanding.

9 A. Are they trying to say that's why they feel that it didn't interrupt mining? That
10 they ---?

11 Q. I don't know. I've not heard any defense. I don't know what you could
12 possibly come up with as a defense of not reporting that because it clearly interfered
13 with mining activities because they moved the section out.

14 A. Well, and it looks like it ---

15 Q. Knocked ventilation controls out.

16 A. --- interfered with ventilation. And see my question is, just looking at this, if it
17 interrupted ventilation, how did they get in here and take these pictures without an
18 approved plan that they didn't have?

19 Q. It may have been that when BLM come over and looked at that, that he
20 traveled with him and took pictures. I don't know.

21 A. That wouldn't be legal either.

22 MR. PAVLOVICH:

23 No. I think Agapito and Laine Adair went in there and took
24 those pictures.

25 BY MR. TEASTER:

1 Q. Okay. So it was Agapito. Okay.

2 A. So what I'm saying is they wouldn't legally be able to do that because if the
3 ventilation's interrupted, they would have to have a plan.

4 Q. They probably had some long powerful winds or something. I don't know.

5 MR. PAVLOVICH:

6 They figured if they didn't report it, Bill, why would they worry
7 about getting the plan to take pictures?

8 A. Right.

9 MR. PAVLOVICH:

10 That's actually looking over ---

11 A. Top of the pillar?

12 MR. PAVLOVICH:

13 --- over the top of the pillar.

14 BY MR. TEASTER:

15 Q. Does that look like something that would be reportable? You can continue
16 flipping through there, but ---?

17 A. Do they show where the miner was, by any chance?

18 MR. PAVLOVICH:

19 No, they don't. The most news we have about that was
20 somebody said that it took 60 shuttle cars of material to dig the scoop out, wherever it
21 was.

22 A. To do that, how could that not have interrupted mining activities?

23 MR. PAVLOVICH:

24 Well, it stopped the mining activities.

25 A. Exactly.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. TEASTER:

Yeah. Let me ---.

MR. PAVLOVICH:

Did you ever read the BLM report on that?

A. No. Were these things available to --- did Agapito make these available to the District?

BY MR. TEASTER:

Q. No, I don't think so, but I think this was Laine Adair's. I don't know that they was ever given to ---.

A. To Agapito?

Q. Yeah. I don't know.

MR. PAVLOVICH:

We don't know. We'll discuss that report with you when we get the Agapito report if you want to.

BY MR. TEASTER:

Q. My question is, Bill, seeing that bump, --- and there was other bumps that occurred in that area but this one was the one that we have pictures of. They was mining up to here. Now, you cease operation because it just got too bad over here because of the bumps and whatever. Then you go over there and you're trying the same --- essentially the same mining techniques and retreat process over there on that side with the exception of --- I think the only change was you had a longer pillar.

A. These were longer. These are shorter.

Q. Knowing that this occurred over here, do you think that they should have retreated?

A. Knowing that this bounce occurred right here, I don't think --- to my opinion, if

1 someone had known this, they wouldn't have even allowed them to mine this.

2 Q. Wouldn't have allowed them to develop.

3 A. It they had reported this thing, I believe those people would still be alive today,
4 because this would have been investigated. And when this was investigated and this
5 information was brought out, it would have had a decided effect on that. On this down
6 here.

7 Q. Now, they called the District within a few days after this, but didn't report it as
8 a bounce like to call in and say, I've had a bounce under Part 50. They notified the
9 District that they couldn't examine the bleeder because they had had some bumping
10 up there and it caused some damage up there and they couldn't examine the bleeder
11 and they were moving back. Do you know if the field office was ever notified or
12 informed of any of those conversations that they had with the District around that time
13 frame?

14 A. I don't remember anything specific, but it seems to me that they probably said
15 something about the operator's going to make some changes or something. I think
16 ventilation. I think Bill Reitze had something to do with on the ventilation. Even that
17 didn't raise a flag because it was not a --- you know, they didn't report it as a
18 reportable bounce and then our area out here, we have bounces and thumps and
19 bumps all the time. So if someone says well, I don't think it's safe to travel back
20 around that bleeder anymore and we would like to know what the evaluation points
21 out, that's not something that would raise a flag to somebody.

22 Q. Randy Gunderson was up in that area shortly after this happened. He didn't
23 go up there in by the seals, but did he --- did you and him have any discussion to what
24 he observed on his inspection when ---?

25 A. The only thing I asked him what they were doing up in there and he said that

1 they had --- they told him that the area got rough and that they moved out. I said well,
2 there's no sense in you going up in there. They're going to seal. They've got a plan to
3 seal that. There's no sense in exposing our people to an area that's going to be
4 sealed.

5 Q. But you had that discussion with him back in March?

6 A. Well, he was on an --- whenever he was on inspection. I don't remember the
7 date.

8 Q. He went up there --- I think the bump was on the 10th or the 11th of March
9 and he was up there like on Monday the 13th or somewhere in that time frame. It was
10 just a day or two ---.

11 A. I probably didn't even have --- I'm not sure if I even had that conversation with
12 him at that time. I think that's probably something that happened later on.

13 Q. Something later on?

14 A. Yeah.

15 Q. After the Crandall Canyon accident or ---?

16 A. Or even after that was sealed. I really don't remember. See, the problem
17 with this thing is that you have so many discussions with people that it's really hard to
18 clarify in your mind when you had those conversations. But I know I had talked with
19 all the inspectors and I told them look, if you've got an area that's being sealed, don't
20 waste our time and resources traveling that area. Go ahead and examine the seal
21 when it's sealed. Now, if this --- if they had reported this as a reportable bounce, that
22 would have been a whole different thing because we would have went in there and
23 investigated it. But this mine had a history of backing out and pulling out of areas and
24 you wouldn't want to waste resources checking an area that was not a reportable
25 accident and they were going to seal.

1 Q. Yeah, I mean, I agree if you're going to seal it, you don't necessarily need to
2 go back there, but it would seem to me that I would be curious as to, they had a plan
3 to retreat this knowing that the mine was getting short on areas to mine. When you
4 see them pull out of an area and leave a lot of coal that there should be some reason,
5 and I'd be curious as to the reason why and what that reason was. So you had a
6 discussion with Randy, but you don't remember when it was?

7 A. When. Yeah, because I know we've talked about that. I know we talked
8 about sealing and not needing to go in by an area that was sealed or you know, look at
9 things that were going to be sealed because ---.

10 Q. Okay. And you think that had MSHA had the knowledge of this bump and the
11 extent of this bump that occurred in the North Barrier that mining would not have been
12 approved in the South Barrier?

13 A. That's what I think. It looks like Gary Peacock right there.

14 Q. It might be Gary.

15 MR. PAVLOVICH:

16 Yeah, I think that's who it is. I think Laine took the pictures is
17 what Richard said and provided them, but I think that someone else identified him as
18 Gary Peacock.

19 MR. TEASTER:

20 Do you want to go over that BLM report? The Agapito report?

21 MR. PAVLOVICH:

22 Yeah.

23 MR. PAVLOVICH:

24 Bill, this is a --- I don't know if you know Steven Falk?

25 A. I don't. I've heard the name. Barry said that he knew him over there when he

1 left.

2 MR. PAVLOVICH:

3 You know now that he is a --- works for BLM as whatever they
4 do. I don't know what his title is, but apparently they do evaluations in mines. And if
5 someone wants to stop mining in a mine that's on federal lease, they have to go look
6 at it to make sure to give the approval that they're not cheating the government out of
7 their royalties. And this is a report of an inspection that took place on March the 15th.
8 It wasn't written until August 13th of 2007, but it was done on March the 15th. And it
9 refers to he had a call from Tom Hurst who said that they had tough conditions in the
10 North Barrier and informed him I'll be up there. Then he talks a little bit about the
11 barrier. But then he talks about his inspection of the North Barrier which starts here in
12 that lower paragraph.

13 A. So he went in to about here then.

14 MR. PAVLOVICH:

15 Well, yeah. The North Barrier's not even on this map. This is
16 the Main West.

17 A. Oh, it's the next one up isn't it?

18 MR. PAVLOVICH:

19 Yeah, it's the next one up and it's not showing. So it really
20 doesn't --- it is on this map if you want to look at it on that one.

21 WITNESS REVIEWS DOCUMENT

22 A. What does he mean by the first report that a few large bounces occurred on
23 off shifts soon after startup of pillar mining. It sounds like a --- how could they start on
24 the off shift right after you're doing pillar mining?

25 MR. PAVLOVICH:

1 Pardon me?

2 A. What does he --- I see what he means. He means that they started pillaring.
3 Then they had an off shift and that's when the bounces occurred.

4 MR. PAVLOVICH:

5 Okay.

6 WITNESS REVIEWS DOCUMENT

7 A. You know, the interesting thing about this is that --- see, I dealt with BLM when
8 we had major bounces over at Trail Mountain. And the interesting thing to me is that
9 Trail Mountain, they were under almost 3,000 feet of cover then and they had a
10 bounce that split the shear in half. So they called me. The difference was instead of
11 calling the BLM first, they called MSHA first. And they said, look, we've had a major
12 incident here and we don't think we can safely mine this. We went up and
13 investigated it. Then the BLM actually argued with us. They called us and said look,
14 those are reserves in there that they need to mine, we think they can mine them. I
15 said, look, I'm telling you they had a bounce large enough to split a shear in half and
16 I'm telling you I don't think they can mine it safely. Now, if they thought this was so
17 significant, why didn't they bother calling us? Because they have called us in the past.
18 I realize what they ---.

19 MR. PAVLOVICH:

20 This is the end of it right there, Bill.

21 A. Yeah, I realize what they've gotten written here. But my question is did they
22 write that at the time of the occurrence? If they were so concerned, then why didn't
23 they call us because they have called us before when we told them that, as an
24 example, Trail Mountain could not mine that safely.

25 MR. PAVLOVICH:

1 So you're agreeing with what --- I mean, what he's
2 documented here is here's why they don't have to mine this anymore?

3 A. Right.

4 MR. PAVLOVICH:

5 Because it's really kind of bad I guess.

6 A. Right.

7 MR. PAVLOVICH:

8 Here's what Agapito sends in to mine the South Barrier. And
9 the very first page of it talks about --- if you read this sentence, second paragraph.

10 A. Right here?

11 MR. PAVLOVICH:

12 Yes.

13 A. He says the remaining north panels were banned and in favor of mining. Is
14 there something missing out of here? I mean, is there something they deleted out of
15 here?

16 MR. PAVLOVICH:

17 Well, it says --- he's talking about the North Barrier.

18 A. Right.

19 MR. PAVLOVICH:

20 The panel was successfully mined ---

21 A. To crosscut 138.

22 MR. PAVLOVICH:

23 --- to crosscut 138 under --- to only 100 feet of cover.

24 A. When poor roof conditions motivated moving face outby skipping pillars. And
25 then he says a large bump occurred at this point resulting in heavy damage to the

1 entries located in the remaining north panels.

2 MR. PAVLOVICH:

3 Now, do you think anybody was notified of a heavy bump?

4 A. No. Well, Agapito was.

5 MR. PAVLOVICH:

6 This --- Agapito sent it in?

7 A. Oh.

8 MR. PAVLOVICH:

9 I mean, this is the Agapito report that's provided to Denver.

10 A. Well, when did they do that?

11 MR. PAVLOVICH:

12 Prior to receiving approval to pull pillars in the South Barrier.

13 A. I mean, it's dated April 18th. When did they send it over?

14 MR. TEASTER:

15 May.

16 UNIDENTIFIED SPEAKER"

17 May 15th the District received it.

18 MR. PAVLOVICH:

19 They're basically identifying the fact that we want to pull the
20 pillars in the South Barrier. Here's what happened in the North Barrier. We had a
21 major bump, resulted in heavy damage and we pulled out.

22 A. But see, they still don't describe it as a --- Agapito still doesn't describe it as
23 what would be a Part 50 reportable accident.

24 MR. PAVLOVICH:

25 Would you ask?

1 A. Yeah.

2 MR. PAVLOVICH:

3 I mean, as opposed to thinking it was a deterioration of the
4 bleeder system or was it a heavy bump with extensive damage?

5 A. Yeah. Yeah, I think it should have been asked. Yeah, but see also on that
6 same report it says that Agapito was able to analyze the stress and conversions and
7 conditions at the time of the bump and modify the pillar design accordingly to control
8 the potential for similar events in the South Barrier. So their own engineers are saying
9 yeah we had a bump up here but we have modified the design and you can mine that
10 safely. That's what --- isn't that what that's saying?

11 MR. PAVLOVICH:

12 Well, that's what they're saying. That's what Agapito said.

13 A. Right.

14 MR. PAVLOVICH:

15 But, you know, I guess --- you've already made the statement
16 that the District shouldn't always believe what someone else says when safety of
17 people is --- because the company wants to pull that coal.

18 A. Right.

19 MR. PAVLOVICH:

20 And they hired Agapito to tell them you can do it.

21 A. They can do it.

22 MR. PAVLOVICH:

23 So does that say we should never question? I mean, ---

24 A. No. I think they should be questioned.

25 MR. PAVLOVICH:

1 wouldn't have known that they did this up there so I wouldn't have had a reason to call
2 them.

3 Q. Right. They've got a form and on that form it's got some things to check off.
4 One of them was, was MSHA notified or contacted or whatever.

5 A. Did they check that?

6 Q. No, they did not check it, but we're trying to find out why that would be on that
7 form. It would indicate that there's some times that they may need ---?

8 A. To contact MSHA.

9 Q. Yeah. And there's some agreement between the two or something. That's the
10 only thing we're trying to identify here.

11 A. There's no inner agency agreement that I'm aware of, you know, like we have
12 an inner agency agreement with the Alcohol, Tobacco and Firearms. I'm not aware of
13 any inner agency agreement with BLM.

14 MR. PAVLOVICH:

15 This is just a copy of a regular whatever quarterly or six
16 months report. Not a special report, but you see on the back page it has a line here
17 was mine status reviewed with MSHA.

18 A. With MSHA and they did say no.

19 MR. PAVLOVICH:

20 No. Do you know why that would even be on their form? You
21 don't remember there ever being any kind of an agreement here?

22 A. No. And actually, I've never seen their reports before.

23 MR. PAVLOVICH:

24 Do you want to keep at that?

25 MR. TEASTER:

1 No. It's the bottom one, so we'll get on that next.

2 A. So I wouldn't even --- like the one when we dealt with Trail Mountain, I would
3 imagine they should have some kind of a form like that for it too, but I've never saw it.

4 MR. PAVLOVICH:

5 Okay. Yeah, they probably did a review with some kind of an
6 inspection that probably said Bill Taylor said they can't mine.

7 BY MR. TEASTER:

8 Q. Bill, have you had the occasion to where you found that there was an
9 inconsistency between the ventilation and the roof control plan?

10 A. Have I had an occasion? You mean in other mines or just mine?

11 Q. No, at your mines, any of your mines.

12 A. Well, over the years occasionally you'll see something come through. Usually
13 you don't pull a ventilation plan out and a roof control plan out and set them side by
14 side. I don't know anybody that does that. Usually they do that in Denver, in the
15 Denver office. However, I have had occasion when we've looked at something and
16 said well, you know, this doesn't agree with the vent plan or this wouldn't agree with
17 the roof control plan, but that's very seldom they do that. You almost have to be in the
18 process of reviewing something that would require you to pull the other plan out and
19 look at it. Then it would bring it to your attention. For a person --- even a person
20 reviewing a uniform mine file, you don't take the two plans out and set them side by
21 side to see --- I mean, you don't do that.

22 MR. TEASTER:

23 Joe's got the roof control plan and a ventilation plan for that
24 South Barrier.

25 MR. PAVLOVICH:

1 This was the approved roof control plan here, Bill, for the
2 South Barrier. And you can see that it shows leaving the blocks between the number
3 three and number four entry to protect the bleeder entry of number four and to slab
4 the barrier and take number one and number two pillars and then number three,
5 number four on out. And subsequently when they get to, and I can't pillar number
6 one4, it shows, because of this offset, leaving eight pillars in that area and not
7 slabbing a barrier. Okay? This is the vent plan approved for exactly the same area.
8 You see it also shows leaving the barrier blocks here or the pillar blocks between
9 number three and number four to protect the bleeder, but at the offset, it shows only
10 leaving five blocks and gives permission to slab the barrier plus pull those three pillars
11 between 31 and number two. Okay?

12 If you had seen that when you reviewed those plans when those addendums
13 came in, would you have questioned that?

14 A. Well, let's see the date. This came in in June. When did the other addendum
15 come in? Well, it came in in 16 days.

16 MR. TEASTER:

17 June 1 and June 15th I think the dates are.

18 A. Yeah.

19 MR. PAVLOVICH:

20 They come in fairly close to mine that barrier.

21 A. Right. But even --- you know, 15 days seems like it's pretty close, but when
22 you review a stack of paperwork that comes in every day from inspection work and
23 then when you review stuff that comes from Denver, I'm not sure that I would have
24 correlated these two having seen them. If they came together, but I obviously didn't.

25 MR. PAVLOVICH:

1 which is another whole issue. He would have actually been up in this mine rather than
2 being on that belt and they should have had --- not had that issue going.

3 MR. PAVLOVICH:

4 Well, that's something else we'll ask you about. If you had
5 noticed this, you would have called Denver?

6 A. Right.

7 MR. PAVLOVICH:

8 You wouldn't have just said well they can do one or the other?

9 A. No. Yeah, it would have been a conflict.

10 MR. TEASTER:

11 Are you guys ready for a break?

12 OFF RECORD DISCUSSION

13 BY MR. TEASTER:

14 Q. Bill, does the District or do you have any rule of thumb or guidelines as to how
15 many addendums you get into a base plan before you have all those addendums and
16 cite specific things, whatever, incorporated into a ---?

17 A. I don't know what their guideline is in Denver, but I've asked them. If it was up
18 to me on their six-month review, I would make the operator incorporate all --- if they
19 have multiple addendums, I would make them incorporate them into one plan. That's
20 the way I would do it, but I'm not over there.

21 Q. Are you familiar with the roof control plan at Crandall? I mean, the number of
22 pages and how voluminous it appears to be?

23 A. Yeah. I couldn't quote you how many pages without looking at it.

24 Q. When you reviewed it, did you have any concern about all the different
25 addendums and stuff?

1 A. Well, at Crandall Canyon Mine, it was not what you would consider a problem
2 mine. It hadn't been a problem mine. The accident injury rate is lower. I did look at
3 that stuff before I went to the mine. The accident injury rate was lower. I hadn't been
4 to the mine, so I wanted to travel and look at the conditions. I didn't see any
5 conditions that were different than what people were citing. So from that aspect, it
6 didn't raise a flag to me. And I had already talked with --- you know, it had nothing to
7 do with this mine. I had talked with him before about amendments and plans and that
8 I felt like the amendments should be removed and that when they did their six-month
9 review of those things, I couldn't understand why we have amendments and then
10 plans. It's not just this mine. I mean, I understand you're going to have some
11 amendments from time to time, but it seems to me when you do a six-month review,
12 or at the very minimal annually, make an operator submit a plan that incorporates
13 those addendums in there or remove them from the plan. One or the other.

14 Q. Who did you submit that to?

15 A. Those were just verbal discussions.

16 Q. With the District?

17 A. Yeah.

18 Q. By the looks at that plan at Crandall, that suggestion was not adopted. Is that
19 fair?

20 A. Well, we only inspected this mine probably 25 days from when I got it. I
21 mean, this mine hadn't even gotten inspected for years by the other field office.

22 Q. I think the base plan went back to 2001 or 2002.

23 A. Right.

24 Q. There was a lot of addendums in there. It would just appear to me, as an
25 inspector going through and finding out what they can or can't do, it would be very

1 confusing trying to find out what plan, you know.

2 A. I don't disagree with you, but our field office was probably just getting up to
3 speed and getting familiar with this mine.

4 MR. PAVLOVICH:

5 Wasn't much left to pull was there?

6 A. No, because they pulled the longwall out, you know, they were ---.

7 MR. PAVLOVICH:

8 The life of this mine wasn't very --- you wouldn't have
9 anticipated it another year or so?

10 A. Right. And from a District standpoint, that'd be the same way, they probably
11 had other mines that were advancing, adding new sections on and they probably
12 looked at that as more important to look at, you know, incorporating those
13 amendments into a plan rather than a mine like this that was on its way out. That
14 doesn't make it right or wrong. That is probably reality.

15 BY MR. TEASTER:

16 Q. You don't see a particular problem with mining barriers with gobs on the left
17 and right?

18 A. Yeah. I don't like it, but like I said before, in most cases in mines in our area
19 the operator is proactive enough that they didn't even submit a plan. When we had
20 barriers like that before, operators wouldn't even submit a plan. They, on their own,
21 wouldn't mine them. So when they submit a plan to Denver, then Denver has to look
22 at that and make a determination whether or not they have evidence enough to reject
23 it. If they don't, then I would say they're going to have to approve it. But most
24 operators --- I don't know of an operator in our area, before Murray, that had actually
25 done that.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

So you've never seen that done?

A. No.

MR. PAVLOVICH:

Emie's question did you ever see that done before?

A. No.

MR. PAVLOVICH:

No, you never had.

BY MR. TEASTER:

Q. At a lot of these --- well, at these hearings that Congress had, several of the miners and other people said that you can just look at that. I can just tell you right off looking at that, these planning's, mining should have never been approved in that area. What's your assessment of those kinds of statements?

A. I think people can say a lot of things after the fact, but how many of them said something before the fact? As an example, if we had had this same incident occur at Aberdeen Mine, we would be having this same interview and I would be saying look our people have had that mine for some time and we had requested tech support. We had requested tech support from the roof control people and we believe that there is a significant reason not to mine in that area because of the bounces. They were 300 percent over the national average of accidents and injuries associated with bounces. After the fact of this happening, yeah, a lot of people can say things. But you know, we did not have one call from one miner on the 800 call. We did not have one anonymous caller. We did not have anybody that called and said hey, we think there's a problem up here. But after the fact, everybody thought there was a problem.

Q. You had concerns with the roof control plan that just was recently approved

1 over at Aberdeen. If you would have been submitted a plan to mine that area, do you
2 think you would have had any comments or concerns about mining up in that area that
3 you would have voiced? I know this is after the fact.

4 A. It's very difficult to say. If I had had this mine for several years and the mines
5 hadn't been switched around -- it's just like if Aberdeen had been switched to the
6 other workgroup and those guys were not familiar with that mine, they would not have
7 had the background that our field office had in looking at those injuries and things that
8 had happened. I didn't have the background on this mine and what had happened in
9 the last ten years at this mine. So it's hard to evaluate that without having the history.

10 Q. Do you know what type of roof bolts was being used up there in the South
11 Barrier?

12 A. I believe resin router roof bolts. I haven't really looked at them, but most often
13 they're -- in our area they use either 5 or 6 foot resin router roof bolts, but I'd have to
14 look and see. I can't tell you off the top of my head.

15 Q. Do you know if they were drilling test holes up there according to the plan, roof
16 control plan?

17 A. I didn't see them drill any test holes on the day -- the one day that I was on a
18 section.

19 MR. TEASTER:

20 Do you want to take about five minutes before we start on the
21 rescue?

22 UNIDENTIFIED SPEAKER:

23 Yeah.

24 SHORT BREAK TAKEN

25 MR. TEASTER:

1 Do you want to go ahead and ask that question?

2 MR. PAVLOVICH:

3 Yeah. Bill, you've made the statement a couple times so far
4 kind of referring to the approval of plans and if an operator submits a plan and Denver
5 can't find anything to contradict it that they pretty much have to approve it. Where are
6 you getting that from? Who's told you that?

7 A. That's what the District has told me.

8 MR. PAVLOVICH:

9 The District tells you that?

10 A. Yeah.

11 MR. PAVLOVICH:

12 So if an operator submits a plan and even if we don't agree
13 with it or whatever, if we can't find anything to disapprove their numbers or their facts
14 or their information or whatever we think, we have to approve the plan?

15 A. Well, that's what they said. I even talked with tech support before this
16 happened.

17 MR. PAVLOVICH:

18 Well, tech support doesn't approve plans.

19 A. Right.

20 MR. PAVLOVICH:

21 But the District's telling you that?

22 A. Right. When tech support came out here like at Aberdeen, I would talk to
23 them about things like what I was talking to you about how if you ventilate and you put
24 cans in, now you put cans in and now it's going to cause that weight distribution
25 somewhere and that's going to come out somewhere. And I realize that tech support

1 doesn't approve plans, but the information they provide to the District, the District has
2 to give credibility to that information that tech support gives them.

3 MR. PAVLOVICH:

4 Okay. I just wondered who had told you that before, but you
5 say some people in the District have told you that. Is that usually the supervisors of
6 roof control or ventilation or Bill Knepp or Al or who? Do you remember? Or is it just
7 something you've heard a long time ago?

8 A. I don't know when I heard it and I hesitate to say without giving you --- let me
9 think about it for a minute. I'm trying to think who tells us. Well, I haven't heard that
10 about ventilation, so it's only come from roof control people.

11 MR. PAVLOVICH:

12 So from Billy maybe?

13 A. Either him or one of his people that work for him.

14 MR. PAVLOVICH:

15 Okay. Okay. Bill, what would determine whether a bump was
16 reportable?

17 A. If it met the requirements under Part 50.

18 MR. PAVLOVICH:

19 How about under --- okay. How about, how would you
20 determine if a bump or a bounce should be recorded on a mine map?

21 A. Well, actually I would have probably answered it the same way everybody
22 else did, but I had a violation that came through my office this week after a guy who
23 had an interview with you guys. I asked him where he came up with that violation at.

24 MR. PAVLOVICH:

25 What was his response?

1 A. He said, ---.

2 MR. PAVLOVICH:

3 Bill, don't you know the law, is that what he said? You've
4 been around here a long time, Bill, you should know this.

5 A. Yeah. So at any rate, we have a --- we actually had an e-mail that came from
6 the District office now giving us guidance and direction and that, because we have not
7 been --- we have not been doing that. I mean, we have not considered that under Part
8 50, but we are now.

9 MR. PAVLOVICH:

10 Okay. So you think that that regulation 75233 or whatever ---

11 A. Twenty-three (23).

12 MR. PAVLOVICH:

13 --- 23 does require that any outburst of coal or rock be marked
14 on a mine map if it meets those ---

15 A. Right.

16 MR. PAVLOVICH:

17 --- five criteria that's in there?

18 A. Right.

19 MR. PAVLOVICH:

20 Okay.

21 A. Well, the way I read it though, it doesn't have to meet all five of them.

22 MR. PAVLOVICH:

23 Right. Any one of them.

24 A. Right.

25 MR. PAVLOVICH:

1 Any one of them, yeah, if it meets any one.

2 UNIDENTIFIED SPEAKER:

3 223, yeah.

4 MR. PAVLOVICH:

5 Yeah, 223. Okay. So now do you think it's beneficial if you
6 could look at a mine map like this and similar as to roofs bolts being plotted if you
7 could say bounces are --- we've had a lot of them in this area or whatever? That
8 would be significant?

9 A. Yes.

10 MR. PAVLOVICH:

11 As opposed to trying to remember.

12 A. We weren't doing that, but I would say we should have been doing it.

13 MR. PAVLOVICH:

14 Bill, were you familiar in the vent plan there was an approval
15 that said this was utilizing a wraparound bleeder system for mining the South Barrier.
16 Would you call that a wraparound bleeder system?

17 A. Well, it's just they have the air come in and flow through it and come out the
18 return on the return side, which was the top side.

19 MR. PAVLOVICH:

20 That's kind of like a single entry bleeder then?

21 A. Right.

22 MR. PAVLOVICH:

23 Were you aware of the fact that the plan also said that as
24 water builds up in this bleeder that the evaluation point or, what is it, MLP, or
25 something as referred to in the plan, would be moved back as a section retreated to

1 the toe of the water?

2 A. I don't recall that specific, you know, I don't recall the roof control plan, but I
3 would say that that's not an abnormal thing because sometimes I've seen where they
4 had water that they do allow them to move it back.

5 MR. PAVLOVICH:

6 So the vent plan says you got a floating --- we're approving a
7 floating evaluation point. As the water builds up, you only inspect to the toe of the
8 water?

9 A. Yeah. I'm not saying though that I like that, but I'm saying that I have seen
10 that.

11 MR. PAVLOVICH:

12 Let me ask you, do you like it?

13 A. Well, if it was me, I wouldn't approve of them that way. I think they should
14 have a system that could be maintained and travelable. If you don't have a system
15 that's maintained and travelable, then what happens is the operator just continues to
16 take shortcuts.

17 MR. PAVLOVICH:

18 Do you realize that the roof control plan also said there should
19 be no standing water in the bleeders?

20 A. Well, I'd have to say that I'm --- not without reading it.

21 MR. TEASTER:

22 There's a regulation that states that as well.

23 MR. PAVLOVICH:

24 So how does a floating evaluation point for ventilation
25 supersede the law that says no standing water allowed in the return?

1 A. Well, I suppose that's something that we missed at the field office level, but
2 it's not ---.

3 MR. PAVLOVICH:

4 Do you think as an enforcement person and not having any
5 responsibility for plans in this District that something like that should be approved? A
6 floating evaluation point to the toe of the water as water builds up.

7 A. No. There's other things that I don't think should be approved.

8 MR. PAVLOVICH:

9 Okay. But that's one that you don't think should be approved?

10 A. No. When these things are approved, we kind of live with them out here.

11 BY MR. TEASTER:

12 Q, Bill, are you familiar with mines that have bleeders that they actually pump
13 water in to?

14 A. Pump water in to the bleeder?

15 Q. In to an area that would affect the bleeder?

16 A. Not affect it, but SUFCO pumps anywhere from three to six million gallons of
17 water a day. But what they do is they drain it in to areas so they still --- you can still
18 travel their bleeders. I mean, they have multiple entries and they have to pump that
19 water. They do pump it to get it out of the way, but they maintain a travelable entry
20 that the water is pumped out of. So when you ask the question am I aware of mines
21 that pump water in bleeders, yes, but not to make it impassible. To pump it so that is
22 passable.

23 MR. PAVLOVICH:

24 So not to pump water like back here so that the evaluation
25 point keeps retreating?

1 A. Right. Right.

2 MR. PAVLOVICH:

3 Do you have any mines, Bill, or ever had any mines in your
4 area here that had gobs storage plans or a plan to store mine material, some of which
5 was coal, in an area of the mine?

6 A. No, I think mostly in their gob storage plans the majority of it was supposed to
7 be rock, because it's almost impossible --- like when they shoot out overcast and stuff
8 like that, it'd be almost impossible to have just a hundred percent pure rock. But what
9 they do is they have approved gob plans where they could store that gob and then
10 they have to have a heavy coat of rock dust on it.

11 MR. PAVLOVICH:

12 Would they also, say, if they were loading a shuttle car and
13 some rock fell in it and contaminated it, would they dump that into their gob storage
14 area?

15 A. No, that's not a part of a plan. The plans that I'm aware of are plans where
16 they would shoot for --- like for overcast.

17 MR. PAVLOVICH:

18 But if it's rock, you really don't need a plan.

19 A. But it's impossible to get a hundred percent rock. I mean, I've never seen
20 one where, even shooting in overcast, where you got a hundred percent rock, because
21 most of our mines have a floor coal. So even when you're scooping up the rock you
22 shot out for the overcast, you're going to pick up some of the floor coal.

23 MR. PAVLOVICH:

24 Do you have any questions? You've got some questions?

25 MR. TEASTER:

1 I believe they wanted to ask him questions before we got
2 into ---.

3 MR. PAVLOVICH:

4 Okay. You got a question **Ex. (b)(6) and**
Ex. (b)(7)(C)

5 UNIDENTIFIED SPEAKER:

6 Let me ask one question, Bill. Joe and Ernie were asking
7 about the bleeder entries. I just want to get your opinion on something because, you
8 know, different areas of the country looks at things a little differently sometimes.
9 What's your thoughts on a single travelway for an example?

10 A. I've always been opposed to it.

11 UNIDENTIFIED SPEAKER:

12 Did you ever make any comments to the District when it was
13 approved?

14 A. Verbally, but I was told that that's the way it would be. But I have always
15 opposed single entries. And I've actually told them look, there's only one way in and
16 one way out. Especially if something happens in there, how is anybody going to get
17 in?

18 UNIDENTIFIED SPEAKER:

19 In mines that are prone to bumping?

20 A. Yeah. I've don't it at all mines. I believe that it shouldn't be done whether it
21 bounces or not because you can't determine when a bounce is going to occur. You
22 might have a mine that's prone to bouncing. You might have a mine that's not prone
23 to bouncing and that might be the one that ends up giving you trouble. In my opinion,
24 a single entry bleeder should not be approved.

25 UNIDENTIFIED SPEAKER:

1 What would be the only motive for having a single entry or
2 submitting a plan to have a single entry?

3 A. Because the operator doesn't want to take the expense to do multiple entries
4 and the expense of supporting it.

5 UNIDENTIFIED SPEAKER:

6 And leaving another pillar?

7 A. Yeah.

8 MR. PAVLOVICH:

9 Did you voice those concerns to Reitze, do you remember, or
10 Knepp?

11 A. Actually, I probably voiced that several times over the years when Bill Knepp
12 was out before here before and before he went back east and when he came back out
13 here. You know, it's a sad thing because after you say things so many times, you
14 stop saying them. You just say well, I've gone over --- I've been down this road and
15 what good does it do.

16 MR. PAVLOVICH:

17 So you get discouraged from continuing. Okay.

18 UNIDENTIFIED SPEAKER:

19 Bill, I had a couple, before we move on, relating to your visit
20 to the mine in June with Jim Martin. Were you aware that Billy Owens was at the
21 mine in May?

22 A. I am now. I don't know that I ---.

23 UNIDENTIFIED SPEAKER:

24 So when Billy goes to the mines, he never really touches base
25 with you for what he's there for or what he's looking at?

1 A. No, he might have. He might have called or he might have said he was going
2 to the mine. He might have. I don't remember an e-mail or anything like that, but he
3 may have called and said hey, you know, I'm coming over. I'm going to go to the
4 mine.

5 UNIDENTIFIED SPEAKER:

6 And you don't ever recall him saying that he was concerned,
7 one of the reasons why he was there in May is that he was evaluating it for bump
8 potential prior to granting the approval for retreat mining in the South?

9 A. I thought he was going to travel with Gary Jensen when he came over,
10 because he --- and I think Gary Jensen had expressed some concerns, but I think he
11 wanted to travel. In fact, didn't he travel with Gary Jensen?

12 UNIDENTIFIED SPEAKER:

13 Yeah. I think he traveled with Gary, but my understanding is
14 that one of the reasons for that visit was that he was getting ready to approve or
15 disapprove retreat mining in the South Barrier. So that approval might not have been
16 granted in May and that was at least one of the purposes of his visit. And I guess my
17 question is if he didn't talk to you about that, when you went in June, were you even
18 looking for the same things to evaluate bump potential as one of the reasons that you
19 were there for --- with Jim?

20 A. Well, even if he didn't say it to me, I would have done that, because when I go
21 to a mine, that's what I do. I take a look at the current conditions to see what they
22 have. And when I went there, that former place was sealed. So I was concerned with
23 the mine area that they were developing to take a look at that and see what it looked
24 like.

25 UNIDENTIFIED SPEAKER:

1 Were you going there specifically or at least in part for bump
2 potential though? I mean, was the retreat mining plan approved in June? I'm not sure
3 exactly when you were there in June relative to when the approval was issued.

4 A. I don't think we would have received that. I don't remember seeing that in
5 June anyway when I traveled up to the mine. But when I traveled with the inspector, I
6 went up there and it was quiet. I mean, I didn't hear anything. I didn't hear any
7 bumps. I didn't hear any bounce. I didn't hear anything that was unusual. Now had it
8 been active when I went up there, I would have called the District when I came back
9 and said I was just up there and I don't feel comfortable. But when I went through
10 there, there wasn't anything that would raise a flag.

11 UNIDENTIFIED SPEAKER:

12 I guess that was my ultimate question. Specifically, you
13 know, mentioned the bumping and thumping, but what else would you have been
14 looking for that you would have called the District to alert them what you saw?

15 A. I would say primarily that, because they have pillars in there that you have
16 some yielding, but that's not uncommon out here. So to look at that, I mean, you
17 would have to call the District on every mine you went to because it's common to see
18 in the mine. So seeing that, seeing a rib swelling out is not something that we would
19 consider uncommon out here.

20 UNIDENTIFIED SPEAKER:

21 So you would have been looking more for the bump and
22 thumping as you were there?

23 A. Right. Because that's a pretty good indication. The downside to that is that
24 the mine can be pretty quiet for quite some time. It could be quiet for several weeks
25 and sometimes that energy is stored and when it is released, it's a major bounce. But

1 you can --- you can only address what you see when you're at the mine. That's the
 2 thing. I've got two purposes when I dealt with Jim, because Jim had come off ---. So I
 3 travel with him on the company activity and I also wanted to see how he was doing

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

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

6 So I wanted to see, you know, how it was doing as far
 as being able to travel and carry his equipment, and that kind of stuff as well.

7 UNIDENTIFIED SPEAKER:

8 That's all I have.

9 MR. TEASTER:

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

11 UNIDENTIFIED SPEAKER:

12 No. Go ahead Ex. (b)(6) and Ex.
 (b)(7)(C)

13 UNIDENTIFIED SPEAKER:

14 Bill, when a plan addendum comes into the field office, what
 15 happens to it?

16 A. Normally the secretary --- it would be put in my in-box --- basket along with the
 17 stack of other stuff that she's got, and then I just go through it. And when I have an
 18 amendment that comes in, what I'll do is I'll put a little note on it for her to --- it to the
 19 inspector, to give a copy to the inspector that's currently at the mine, in addition to
 20 putting it in the uniform mine file. I always make sure to put a note on it so the
 21 secretary gives a copy to the inspectors at the mine.

22 UNIDENTIFIED SPEAKER:

23 So the inspector gets a copy and you put a copy in the ---?

24 A. Uniform mine file.

25 UNIDENTIFIED SPEAKER:

1 Normally when you get one, you ---?

2 A. If one comes through my in-basket, I always initial if it's come through my
3 in-basket while I've been there. If there's one that came through when there was an
4 acting supervisor, then there's a possibility that I might not know it came through.

5 UNIDENTIFIED SPEAKER:

6 You said you did accompanied activity with Jim Martin?

7 A. Yes.

8 UNIDENTIFIED SPEAKER:

9 Did you document that with the new system or some old
10 system?

11 A. It depends on which new or old system you're talking about.

12 UNIDENTIFIED SPEAKER:

13 You had one that come up like supposedly nationwide that ---.

14 A. Right. They told us that we were going to implement a new ITS system in
15 October, but when October rolled around, they told us not to implement it because
16 they had not given us training on it. So when October rolled around, October 2006,
17 they told us to use the old inspection procedures. Then somewhere in that time frame
18 they said no, you really should have been using the new ITS system so go back and
19 take all that stuff you've been doing and enter it into the system. Then in the first ---
20 the second quarter, which would be January, February and March, they said well,
21 we're really having problems with this. We can't get the supervisor's approval on it
22 because there's a problem with the disk, getting the disk in to the secretary and the
23 secretary's giving the disk to the supervisor. They said this is not working. So in the
24 third quarter when I went up with Jim Martin, they had done away with that system and
25 said go back to the old system again. Then after they went through that old system,

1 then they said in the last quarter of the year we want you to use the new ITS system
2 with the old note keeping record. Also, they came out with a new handheld in January
3 of 2007 that they said they wanted us to use, which they changed in July of 2007 and
4 told us that's the one that we would follow under which you couldn't find anywhere on
5 the W drive. You can't still find that. July when it's supposed to be automatically
6 updated, you won't find that on the W drive anywhere. And I just got an e-mail just
7 last week and said, okay, forget that handheld that came out in July. Now we've got a
8 new ITS and handbook that's coming out in January 2008.

9 UNIDENTIFIED SPEAKER:

10 I mean, I'm just talking about just documenting your travel
11 with him, not his inspection but just that you traveled with him for two days?

12 A. I filled out a form. So whatever form that they wanted at the particular time. I
13 filled one out.

14 UNIDENTIFIED SPEAKER:

15 That was like a District form?

16 A. No. Well, it's a field activity review form and it shows accompanied activities,
17 the days you traveled, the things that your ---.

18 UNIDENTIFIED SPEAKER:

19 Did you do a field activity review besides the accompanied
20 activity?

21 A. Yeah, but I didn't do that until --- I couldn't do the field activity. I did the
22 accompanied activity. I couldn't actually fill out the review until ---. When this --- I
23 was actually on leave. When I came back off leave, I was scheduled to come back
24 the morning that this happened. So I came back on that morning and I was up at the
25 mine and then they locked the file up. Headquarters locked the file so I couldn't even

1 get in to look at his completed inspection until some time after that.

2 UNIDENTIFIED SPEAKER:

3 So his report was already in before you got a chance to do a
4 review of it?

5 A. Right. That was some question the ALJ ask.

6 UNIDENTIFIED SPEAKER:

7 The other thing we noticed when you was going through the
8 inspection reports that, you know, end of December had what we call a --- I call them
9 a blitz, a whole bunch of inspectors went up to the mine, wrote a lot of D orders and
10 citations and it seems like nobody went back until March. Was there any reason ---?

11 A. I wasn't there so --- I was off. Ex. (b)(6) and Ex. (b)(7)(C)

12 UNIDENTIFIED SPEAKER:

13 So you went back in January of this year?

14 A. The end of January I came back.

15 UNIDENTIFIED SPEAKER:

16 The end of January.

17 A. That's when I was released to come back to light duty.

18 MR. PAVLOVICH:

19 Was there any instruction that you remember, Bill, that said
20 we can't open a new inspection until we finish all the old ones that are open? Do you
21 ever remember hearing that some time around January or February maybe?

22 A. I tell you I'm really confused. They made so many changes in the last year
23 I've never seen. In all my time with MSHA, I've never seen the things they changed.
24 Go back, do this, no do the --- no, don't, go back. I've never seen a --- I've never in
25 my life seen that. It got so confusing that people really didn't know which handbook

1 even they were out of, what policy are they on today or this week.

2 **MR. TEASTER:**

3 Ex. (b)(6) and Ex. (b)(7)(C) do you have some?

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

5 Yeah. Ex. (b)(6) and Ex. (b)(7)(C) are you finished?

6 **UNIDENTIFIED SPEAKER:**

7 Yeah.

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

9 I just have a few. Going back to the exchange that you've
10 talked about with this case at the time that the work group came back out, I thought
11 you started to say that you have a relative who's in management at Crandall.

12 A. No, one of my employees. That's what I --- this e-mail that he wants a copy
13 of, that is described in that e-mail.

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

15 At the time that they made this change, did they ask you if
16 you had Ex. (b)(6) and Ex. (b)(7)(C) who worked in ---?

17 A. No.

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

19 They didn't?

20 A. They didn't even ask anybody in our field office. That's why I sent that e-mail
21 to inform them that what would be the difference between the field office who
22 originally had this mine and us doing it. I couldn't see any difference.

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

24 And that's not a relationship that you all are required to
25 disclose on your 450; right? This is just a Ex. (b)(6) and Ex. (b)(7)(C)

1 A. Right. That's not considered conflict of interest to have someone working at
2 the mine. If it was, like I said, when I was in Kentucky you would have absolutely no
3 MSHA back there.

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

5 It's just an additional relationship that Al and Bob decided
6 needed to be, I guess, examined further outside of what's required on the 450?

7 A. The 450 doesn't require disclosure of having someone, --- a relative work at a
8 mine. The 450 would disclose if that relative was giving you gifts from the mine as a
9 mine operator as opposed to if he came to Thanksgiving dinner, your Ex. (b)(6) and
10 brought a turkey. You know, they described that as being a legal thing. In other
11 words, my Ex. (b)(6) and works at the mine, he can bring a turkey for Thanksgiving dinner and
12 that's not considered --- now if he brought a \$10,000 gift as a representative of mine
13 management, obviously that --- you know. So there are things that you can have
14 relatives work in the mine without having a conflict of interest.

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

16 I just wanted to be sure that nobody asked you about your ---
17 do you have Ex. (b)(6) and Ex. (b)(7)(C)

18 A. I have Ex. (b)(6) and Ex. (b)(7) out none of them work in the mining industry.

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

20 Okay. I just wanted to be sure that nobody asked you that
21 question. The other --- I have a couple more. You referenced a hotline to Al Davis.
22 Was this same type of hotline when Jack was here?

23 A. It's not a ---.

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

25 And I know ---.

1 A. It's not a hotline. It's just people that call him.

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

3 Right. And they apparently feel ---.

4 A. A hotline is when --- is the number that people use to call in complaints. So
5 when we talk about a hotline or about people calling in complaints, don't confuse that
6 with someone calling --- anybody has a right to call a District manager.

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

8 I agree.

9 A. I was just surprised how quickly they could call him.

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

11 Did you --- that quickly with Jack when he was here?

12 A. Well, I don't know. I'm not saying the mine operators didn't call Jack. I'm just
13 saying I'm not aware of the things that happened if they did call him, because I didn't
14 see that. I'm not saying they didn't call him. I don't know. It's just that with the current
15 District manager, I saw it happen when operators call him because we end up getting
16 involved.

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

18 With respect to the conferencing that you said Crandall
19 Canyon is conferencing everything now. Was that before the accident at the mine?

20 A. No. It's the --- I said the Murray mines.

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

22 Murray mines. Was that the same --- I mean, have they been
23 conferencing everything even prior to this accident or ---?

24 A. They were conferencing things, but not like this. They're conferencing every
25 violation now and they're asking for a FOIA request on the inspector's notes.

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

1
2 Okay. Just one more question. Do you have any insight as
3 to why Laine Adair and Crandall Canyon didn't report the March bump? I mean, have
4 you ever asked him since then? I assume you still work with them. Did you ask them
5 why?

6 A. Actually, until about last week, I wasn't even real -- it might have been two
7 weeks ago. I wasn't even aware of the severity of that bounce until within the last
8 couple of weeks. So I haven't talked to anybody except my inspectors. I've asked
9 inspectors in my office. I said how can this possibly be that a bounce of this
10 magnitude took place and no one reported it. How can this be that no one called the
11 hotline. And by the hotline, I'm not talking about Al Davis. I'm talking about the
12 hotline for miners to complain. Because I can't --- I don't understand that, because
13 we've had complaints called in from all these mines around here. I can't understand
14 why they wouldn't call that in.

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

16 Okay.

17 MR. PAVLOVICH:

18 Bill, how long have you known Laine Adair?

19 A. That's a good question. I really don't know.

20 MR. PAVLOVICH:

21 Well, could it be one year or closer to ten years?

22 A. Well, I think he was actually involved probably out of Price River years ago
23 when I inspected there probably in the '80s.

24 MR. PAVLOVICH:

25 So you've met him on inspections numerous times and also in

1 his capacity as mine management somewhat?

2 A. I wouldn't say numerous times because he never liked to travel underground.

3 So when I ---.

4 MR. PAVLOVICH:

5 Well, of course when you show up at the mine, you're not like
6 from there underground immediately. You do have a chance and probably can talk to
7 him when you come outside if he's a mine manager or in some capacity of
8 management?

9 A. Yeah, but most often I would just see his name like on an approval. Like he
10 would do the vent plans like at Price River years ago.

11 MR. PAVLOVICH:

12 So you never talked to him much?

13 A. I wouldn't say talk to him. In fact, I don't remember talking to him really until I
14 got involved with these mines over here. We did travel --- we had tech support that
15 came out and I traveled with them because we were looking at Aberdeen. And he
16 came under and gave them a big spiel on why they should have a plan ---.

17 MR. PAVLOVICH:

18 So you've heard him talk before?

19 A. Yeah.

20 MR. PAVLOVICH:

21 Do you put a lot of faith in what he says?

22 A. No.

23 MR. PAVLOVICH:

24 Okay. And why would you say that?

25 A. Because I think he has a way of baffling people with certain things that I'm not

1 sure are at all factual. He put a certain amount of stuff up there and then show
2 pictures and videos, after a while, people think this guy must really know what he's
3 doing. But I'm saying I never saw that equated in him coming underground. In
4 situations that I dealt with and in violations that I wrote, I never saw that equated.
5 He'd come underground to tell me why what I was doing was wrong.

6 MR. PAVLOVICH:

7 Okay. So if he told you, Bill, you don't need to go over that
8 and check that, we took care of it, you wouldn't necessarily trust him?

9 A. No, I'd go over and check it.

10 MR. PAVLOVICH:

11 Do you think he seems to get his way with Denver a lot?

12 A. I think more so than he should. I don't understand it.

13 MR. PAVLOVICH:

14 You don't understand. So you've seen things that have been
15 approved with his name on it that you certainly would question and say how could you
16 possibly get this through?

17 A. Well, it's not --- I don't know what his role is because Murray has changed
18 some things around, but he might have some role even on the conferencing, you
19 know, of some of these violations. So I don't know. I can ---.

20 MR. PAVLOVICH:

21 He seems to have a lot off influence with the District from
22 what you're saying?

23 A. Right.

24 MR. PAVLOVICH:

25 Does he --- once he gets his mind set on something, is he

1 very persistent about wanting what he wants? Do you know?

2 A. I would say ---.

3 MR. PAVLOVICH:

4 Yes?

5 A. I would say yes.

6 MR. PAVLOVICH:

7 Okay. What's your bump experience, Bill? Have you ever
8 been in a bump?

9 A. Yes.

10 MR. PAVLOVICH:

11 You've investigated bumps?

12 A. Yes.

13 MR. PAVLOVICH:

14 So you've seen and felt a lot of bumps. Have you ever saw a
15 bump that was this extensive as what you've heard this one to be?

16 A. No. In fact, our --- just recently we had one at SUFCO that I went down to
17 look at. And I'm telling you, I have never seen anything like it. I mean, I inspected
18 SUFCO and I supervised inspectors at SUFCO. They've been mining on their
19 longwall down there. They've been longwalling since 1985. They were doing
20 continuous mine for that. But in 22 years of longwalling, I have never seen what I saw
21 down there. They had a bounce that actually started at the last shield on the tailgate
22 and extended 140 feet out, rib to rib and from floor to within two and a half to three
23 feet of the top.

24 MR. PAVLOVICH:

25 Almost filled the entries up similar to this?

1 A. It looked like these pictures you have here. And prior to that, normally they ---
2 like I was saying, they pump somewhere between three and six million gallons of
3 water a day. I have seen where they had a blockage because they had power go off,
4 they had a pump go out, you know, for water, but not for roof conditions.

5 BY MR. TEASTER:

6 Q. You traveled with Jim Pruitt on his inspection. Did you review that inspection
7 ---?

8 A. You mean Jim Martin?

9 Q. I'm sorry. Jim Martin on this inspection in June at the Crandall Canyon Mine.
10 Did you review this inspection report and discuss that with him?

11 A. I reviewed the days that I traveled with him and the days prior to me going --- I
12 went to Beckley. We had a week thing back in Beckley and then I was on annual
13 leave. So I reviewed the things when I --- the things that he had turned in to me, but
14 the acting supervisor actually reviewed the report.

15 Q. So there were some things where the dates didn't match up with his inspection
16 that he had turned in with that report?

17 A. That's correct.

18 Q. When did you learn of those?

19 A. When the IG ---

20 Q. Wanted to know?

21 A. --- came to me and asked me and the file had been locked. I told him I
22 couldn't look at this thing because the file had been locked. So when I looked at it, I
23 said, yeah. I said but look at the --- I said just having looked at this for a few minutes,
24 logic would tell me that he simply made an error on the dates. They said, well what
25 lead you to that conclusion. I said, well look at his close out conference. I said he lists

1 the violations including an order that he issued on the inspection. I said how could he
2 possibly know three months ago he was going to issue those citations in that order and
3 it's dated the same date as the other dates. Normally a guy comes in and he closes
4 out an inspection, there's certain pieces of paperwork that he will finish to close out
5 that inspection. If you see those all have the same date, wouldn't it be logical that he
6 just dated that the wrong date? That was my explanation. Actually, the guy --- we
7 had a second team that just --- or a third team was tracking how many times they
8 come out. But they just reviewed that and they agreed that that was a reasonable
9 conclusion.

10 Q. Another review group?

11 A. Yeah. Yeah, the IG.

12 UNIDENTIFIED SPEAKER:

13 Bill, do you have a checklist that you go by when you review
14 reports to ensure that they're complete?

15 A. Yeah.

16 UNIDENTIFIED SPEAKER:

17 Or what do you use? How do you ---?

18 A. We did away with it because they've had so many changes. Actually, Ted and
19 I looked at --- before the ITS system or anything of this came out, we actually
20 developed a checklist so that we could get some feel for if major things were in a
21 report. But we have found that with all the changes in the ITS system --- and we've
22 had --- just asked this question and they said they don't want any other checklist.
23 They want us using the ITS system and they want it entered in the ITS system and
24 they want that to be the complete report, and I said that's fine with me.

25 UNIDENTIFIED SPEAKER:

1 Before the ITS was out, did you --- so you had a checklist or
2 something?

3 A. Yeah. Yeah, we developed something that wasn't approved so --- well, it's a
4 long story. I think Joe can probably tell you about some things that he developed over
5 the years that were good ideas but were not approved. I remember that one was on
6 determining whether a violation should be reviewed for special assessment, which I
7 thought was a pretty good document. They said no, you can't use that.

8 MR. PAVLOVICH:

9 How do you and Ted get along?

10 A. I think we get along all right. Ted had some problems with Ex. (b)(6) and Ex. (b)(7)(C) when
11 Ex. (b)(6) and Ex. (b)(7)(C) was over here. But at that time, the workgroups had some real problems
12 where they didn't even hold staff meetings together. So I don't know what the issues
13 were there, but since I've come over, we have all our staff meetings together. We
14 review conditions. If we have --- if someone brings up something at a mine, we'll
15 discuss it with the whole group so that everybody ---.

16 MR. PAVLOVICH:

17 So you presently do your staff meetings together?

18 A. Yeah.

19 MR. PAVLOVICH:

20 Both workgroups the same time?

21 A. Yes.

22 MR. PAVLOVICH:

23 Do you all try and help each other out where if you need
24 inspection help?

25 A. Yeah. Prior to this event, we had actually been to Deer Creek. We were on

1 target to complete our inspections and so we had gone up and helped Ted at Deer
2 Creek, but when this occurred, everything got off track.

3 MR. PAVLOVICH:

4 Ready to start on the rescue, Emie?

5 MR. TEASTER:

6 I think so.

7 BY MR. TEASTER:

8 Q. Bill, how about telling us how you were notified of the August 6th accident at
9 the Crandall Canyon Mine?

10 A. I got a call and I can't remember the exact times, but it's in the log if you guys
11 have that log somewhere or the accident investigation team has it.

12 UNIDENTIFIED SPEAKER:

13 We got a copy of it over there if you want it, Joe.

14 MR. PAVLOVICH:

15 You're just asking for too much, Bill.

16 A. See 8/6. Okay. Yeah. Okay, yeah, I got a call from Bill Denning it looks like.
17 He said he received a call from the call center indicating that a bounce occurred at the
18 Crandall Canyon Mine. The bounce was reported to the call center at 3:41 a.m. on
19 8/6/2007. The mine reported that they had attempted to call personnel on the active
20 working section and there was no answer.

21 BY MR. TEASTER:

22 Q. So after you got notification from Bill Denning, what did you do?

23 A. I called Barry Grosely. He was the inspector assigned to that mine.

24 Q. What'd you call him? Barry's last name?

25 A. Grosely.

1 Q. Grosely. Okay. We've been calling him Grossly.

2 A. He pronounces it Grosely.

3 Q. Okay. You called him and what instructions did you give him?

4 A. I told him that we had received a call from the call center, that I needed him to
5 go up and check it out, to give me a call back at the Price office, that if I didn't hear
6 from him that I would be up there to meet him but that I wanted him to go up and
7 assess and let me know what he had, which he did. He went up there to the mine and
8 he called to give me --- he called the Price office and he told me what he had. And I
9 had my stuff loaded by then and went up to meet him up there.

10 Q. Do you know about what time you arrived at the mine?

11 A. Let's see. If it's not in here, I don't. He called me at five minutes to 5:00, and
12 it's probably a 45-minute drive up there. So somewhere between --- I mean, five
13 minutes to 6:00. Somewhere between five minutes to 6:00 and 45 minutes after that,
14 or probably 6:45. Somewhere in there because it's 40 or 45 minutes to the mine.

15 Q. What did you learn when you arrived at the mine?

16 A. He still hadn't had any communication with anybody underground.

17 Q. What did you do?

18 A. By that time the phones were ringing off the hook because Bill Denning had ---
19 well, I don't know if Bill Denning did, but someone in the District notified headquarters.
20 So we had people --- we had calls from the District office wanting to know what was
21 happening. We had calls, by that time, coming from headquarters. We were trying to
22 meet with representatives from Utah American. We were trying to get things
23 organized on the surface, so that we had mine rescue teams. We were trying to still
24 make contact with people underground to see who we had underground. So as
25 anytime there's an event of that nature, it's pretty, especially in the early stages.

1 Q. So there was miners working underground in an effort to rescue the missing
2 miners?

3 A. Let's see, at the time --- this says 6:20 Utah American mine rescue team
4 traveled underground with 14 members. There were additional 18 men underground
5 working on restoring ventilation from crosscut 95 inby to the Main West. So yes, there
6 was.

7 Q. Where was Barry at this time?

8 A. Barry would have been there working on the surface reviewing with those
9 people and trying to coordinate efforts to see if we could get some things established
10 at the mine. I can't remember exactly what he was doing because there was a lot of
11 things going on.

12 Q. Just walk us through the things that you've done there for the ---.

13 A. Well, the best thing is probably just review this, because this is --- pretty well
14 reviews.

15 Q. Can you speak up a little bit too so we can get some of this ---?

16 A. Yes. 6:35, all unnecessary outby personnel were removed from the mine.
17 7:28, a fresh air base was established at crosscut 20. Mine rescue team had ---.

18 Q. Now, was you establishing that fresh air base?

19 A. I was on the surface. I was on the surface at the ---.

20 Q. Just walk us through what you had done on the surface.

21 MR. PAVLOVICH:

22 Did you establish a command center?

23 A. Yes. It was a temporary command center.

24 MR. PAVLOVICH:

25 Okay. When you first got there. Who was in that command

1 center with you?

2 A. I didn't record this in the log, but it would have been representatives of Utah
3 American and myself. Barry probably came in and out from time to time to let me
4 know what was happening or to find out what was happening. We had a phone ---.

5 MR. PAVLOVICH:

6 Where were you located at?

7 A. That was in --- well, it's a surface building that they have right there.

8 MR. PAVLOVICH:

9 Okay. Like a shop building or something upstairs in the
10 office?

11 A. Well, they have a com center, their communication center. We would have
12 been in that same building only maybe a few doors down. It had a room like this. It
13 had a map, mine map, on it. It had communications on the mine phone underground
14 so we could communicate with people underground. We also had an outside phone
15 line so that we could receive any information from the outside or send any
16 communication to them. That was where we had that command center until we got
17 the MEO vehicle.

18 MR. PAVLOVICH:

19 Did you issue a K Order, Bill?

20 A. The K Order --- I told Barry to issue a K Order and he issued a K Order on the
21 phone when he was in the Price office because he was getting ready to go to the mine
22 and apparently someone from the mine called him to indicate that it was worse than
23 what they had called to the call center. And he issued a K Order at that time from the
24 mine property and then reduced it to writing when he got off the phone.

25 MR. PAVLOVICH:

1 So were you the ranking person in charge for MSHA at that
2 time in those early hours?

3 A. In the early hours, yes.

4 MR. PAVLOVICH:

5 Okay. Did the company present any kind of plan to you or
6 talk to you at all about how they were going to approach this?

7 A. Well, at this time we really weren't developing any plans. What we were
8 looking at was the mine rescue teams that were available and seeing if we could ---
9 they have two forms of communication in compliance with the Miners' Act. There are
10 two different hard-lined wires. One in separate entries. And what we wanted to do is
11 see what we could evaluate with our mine rescue teams and see if, in fact, we could
12 find either one of those lines where we could communicate with someone.

13 MR. PAVLOVICH:

14 Had Barry already been underground by the time you got
15 there, do you know?

16 A. I don't believe so.

17 MR. PAVLOVICH:

18 Okay. Who told you what the circumstances were
19 underground? Do you remember?

20 A. I think that's from a call. We received information from the mine rescue team.

21 MR. PAVLOVICH:

22 Paul?

23 A. No. I think we just received information from a call out.

24 MR. PAVLOVICH:

25 Bill, don't whisper to me. Speak up.

1 A. I think we just received information from underground on a call, but let me
2 look on this and just see. Well, someone was calling out this information to us that we
3 were recording to see what kind of air we had, what the conditions were.

4 MR. PAVLOVICH:

5 Who was recording? Is that your writing?

6 A. Yes. Do you mind if I take a look at that?

7 MR. PAVLOVICH:

8 Had you talked to Al Davis, Bill?

9 A. Probably, but I'm not sure. I had so many calls that came in from the District
10 and from headquarters that I honestly can't remember who all ---.

11 MR. PAVLOVICH:

12 Did you know that Al was on his way or was going to come on
13 his way?

14 A. Well, it seems like someone said he was on his way, but I can't remember
15 whether that was him that said that or someone else from the District that said he was
16 on his way.

17 BY MR. TEASTER:

18 Q. Did you call for MSHA people to come and help you?

19 A. Yes. In the course of this, I talked with the District office, let them know that it
20 was more serious than what they had called in on the call center and they said that
21 they had people on their way. We had people already assembling in the Price office
22 to come up and assist us from both field offices and the District was going to look at
23 bringing tech support and other resources.

24 Q. So you notified Price Field Office to come to the mine, the inspectors that
25 were there?

1 A. Actually as I was leaving --- as I was leaving the Price office, Ted Farmer ---
2 because for some reason, Bill Denning thought it was Ted Farmer's mine and he
3 actually --- Ted Farmer first, I think. So Ted was already aware, but I didn't realize
4 that until later. When I was in the office getting ready to leave, I got the call from
5 Barry Grosely at the mine. He told me that it was more serious than they had reported
6 to the call center. I was getting ready to leave. Ted Farmer came in and Ted said
7 that he would let people know in the office that he would communicate back with the
8 District and that he would be bringing up the vehicle. So I said well, I want to get up
9 and see what's going on up there. So Ted was kind of taking care of that as I would
10 travel to the mine to get things established up there.

11 Q. So what --- was the decision made to --- how to approach this underground?

12 A. Well, ---.

13 Q. To send rescue teams in?

14 A. Yeah, because we sent --- well, we sent a rescue team in. They sent the Utah
15 American mine rescue teams with a captain, Kyle Abada (phonetic), traveled
16 underground. That was at 6:20. They had 14 members. They had an additional 18
17 men underground. I already read that.

18 Q. Did someone --- I guess I'm --- did Utah American submit a plan to you or did
19 they discuss with you or somehow of here's how we're going to approach this, Bill, and
20 you said yeah that's a good idea, do it, or was --- did things just start happening, they
21 just start sending people in?

22 A. Well, at these early stages, there wasn't really much of a plan.

23 Q. Well, was it a discussed plan? Was it a verbal plan?

24 A. Well, we talked about establishing a fresh air base underground. We
25 established --- we talked about following mine rescue procedures. We talked about

1 seeing if we could get communication on either one of those lines and communicating
2 back to our surface station until we could set up a permanent command center. So we
3 talked about some of the ---.

4 Q. So you talked about that and then how did it get started? Did you say I
5 approve it?

6 A. There really wasn't an approved plan.

7 Q. So there was just some discussion and things started to happen?

8 A. Right. We were trying to assess where we were at and if, in fact, we could
9 re-establish communication to the sections.

10 Q. Then was the K Order modified to allow work to begin underground as far as
11 team go in or how was that --- came about?

12 A. Well, as I recall it, I don't think we actually set up a computer and started
13 seeing modifications until some time later.

14 Q. So that was some time later.

15 A. Yeah.

16 Q. So had anyone ever trained you, Bill, on in the event of an emergency like this
17 that the initial K Order can say, you know, everyone is withdrawn for the safety of
18 people and any entry into the mine will be based on a plan submitted by the operator
19 approved by MSHA and then you can have this series of written plans without
20 modifying the K? Have you ever seen that done?

21 A. Yeah. Actually, that didn't happen until Kevin Stricklin, later in the process,
22 said that he wanted it done that way.

23 Q. Why wasn't it done that way? Do you know? Or did just nobody think about it
24 or what?

25 A. Well, I've seen it done both ways. I've seen it done without --- I've seen it

1 done --- I've been in enough that I've seen it done both ways. And when Al got there,
2 you know, we were doing it one way. And when Kevin got there, he said ---.

3 Q. So you were modifying the K Order each time someone different went in?

4 A. Right. When Kevin got there, he said well, really there's no need to do that.
5 Let's modify this to show that the plan or one of the plans ---.

6 Q. That was pretty tedious and Kevin said let's do it this way?

7 A. Yeah.

8 Q. Which made it easier?

9 A. Right.

10 Q. Okay.

11 MR. PAVLOVICH:

12 Bill, let me ask you what impact did that K Order have when
13 you issued the K? What was you trying to accomplish with the issuance of that K?

14 A. We were trying to protect those people who were going to be working
15 underground and ensure that we had control of, in fact, who was underground.

16 MR. PAVLOVICH:

17 That K Order addressed the section?

18 A. Yeah. I believe --- do you have a copy of it? Because I believe it also says
19 all people entering underground, doesn't it?

20 BY MR. TEASTER:

21 Q. I don't remember. We'll get --- our records --- men were on the records run,
22 we call it. See how quick? Just ask. There it is.

23 A. Yeah. He says basically this order is issued --- he has issued it to ensure the
24 safety of all persons at this operation. The order prohibits all activity at the Crandall
25 Canyon Mine until MSHA has determined that it is safe to resume all mining

1 operations and the affected area of the mine operation will obtain prior approval for all
2 plans prior to the implementation.

3 MR. PAVLOVICH:

4 I can't hear you.

5 BY MR. TEASTER:

6 Q. So that precludes any entry into the mine without MSHA's approval? Is that
7 what you read?

8 A. Or without a modification.

9 Q. Withdraws all people from the mine until it can be evaluated?

10 A. Basically or unless this is modified, this K Order.

11 Q. But the initial ones.

12 A. Yeah.

13 Q. And so were there people working underground when you got there?

14 A. There were recovery efforts taking place.

15 Q. Already started?

16 A. Yeah.

17 Q. Who approved those?

18 A. Well, I would say the mine operator does have a responsibility to take prudent
19 efforts to protect people and do what they can.

20 Q. So if you call on the phone and say I'm issuing a K Order, does that kind of
21 not require everybody be withdrawn until --- or does it allow the operator to continue
22 doing what he wants to?

23 A. Well, it requires people to be withdrawn, but if you --- it's a difficult thing,
24 because if you had someone there who is engaged in efforts that would be helping the
25 cause that you wanted to help, you would be hard pressed just to automatically tell

1 someone --- until you had a chance to evaluate it and see what was happening. And
2 basically, you know, they had ---.

3 Q. So are you telling me then there's a problem with the way 103(k) is written and
4 what really happens?

5 A. Well, I --- when you go on mine property and they've got, like they were here,
6 developing mine rescue and they were contacting other mine rescue teams --- we ask
7 them that. They had contacted their mine rescue teams. I think Energy West team
8 was one of them.

9 Q. What did I ask you?

10 A. Is there a problem with the K Order.

11 Q. Yeah. I mean, does it contradict itself in that the K Order says I'm going to
12 issue it and nobody can do anything, but yet people --- you say the operator has a
13 right to do things, so ---.

14 A. We should have been more specific in the way --- the wording --- we could
15 have had the wording different on that.

16 Q. I think also the requirements of 103(k) say when the first person arrives at the
17 mine; right?

18 A.. Well, but ---.

19 Q. Or an inspector arrives at the mine.

20 MR. TEASTER:

21 Is that what it says ^{Ex. (b)(6) and} something ---?

22 UNIDENTIFIED SPEAKER:

23 When present.

24 BY MR. TEASTER:

25 Q. Yeah. So would we still assume that you can call on the phone and tell

1 somebody over the phone I'm issuing a K, and does that mean they pull everybody
2 out?

3 A. Well, we had a question on that because Beckley Academy is teaching, in
4 fact, that you do call on the phone and issue it over the phone.

5 Q. They teach that in Beckley now?

6 A. Yes.

7 Q. Call on the phone?

8 A. Yeah. So I --- you know, so I don't know what --- you know, I've ---.

9 Q. It was hectic is what you're telling me?

10 A. Yeah.

11 Q. And you were trying to do what you could?

12 A. Yeah.

13 Q. Okay. And this is paperwork as opposed to real life. Okay. Were you still
14 there when Al got to the mine?

15 A. Yes.

16 Q. Did Al then assume responsibility and take charge or were you still in charge?

17 A. Well, usually when someone comes who is above you, the logical process is
18 that that person is in charge.

19 Q. So you're assuming as soon as Al stepped on the property, he's now in
20 charge. Did you brief him as to what was happening?

21 A. Yes.

22 Q. An did he give you an assignment at that time?

23 A. I honestly can't remember. I mean, there were so many things going on that
24 there were probably things discussed but, you know ---.

25 Q. When you first got there, who were you meeting with in the company? Who

- 1 was the top company person there? Do you remember that?
- 2 A. No.
- 3 Q. Laine Adair? Was it Peacock? Was it ---?
- 4 A. Well, in that room it seems like you would have had Gary Peacock. But I
- 5 don't know if they all stayed. You see, some of those people came in and out. I told
- 6 them we wanted to have access, we wanted to have communication with those people
- 7 who were underground. Some of their people came and went, so I don't know if they
- 8 stayed there the whole time. You probably had Laine Adair. You probably had Gary
- 9 Peacock. At some point you probably had Bodee Allred who is a safety person come
- 10 in and out. At one point, it seems like Murray arrived, but I'm not sure.
- 11 Q. Before Al? He got there before Al did? I'm just asking.
- 12 A. Yeah, yeah. I'm not --- he was there some time because I remember him
- 13 making the statement that he had flown in for something or other.
- 14 Q. So you got there and the first place you went was to this room, ---
- 15 A. Yes.
- 16 Q. --- the com center as you're calling it. Someone briefed you on what was
- 17 happening. Was it Barry Grossly --- Grosely?
- 18 A. Yeah. I talked with Barry and then I talked with the company people.
- 19 Q. Okay.
- 20 A. And I told them I wanted to talk with someone underground. I wanted to have
- 21 firsthand information on what they actually had underground.
- 22 Q. So who did they bring? Who did they give you to talk to?
- 23 A. Well, actually I don't remember who called, but it would have been ---.
- 24 Q. Someone called from underground?
- 25 A. From the mine rescue team, yeah.

1 Q. From the rescue team and they were already underground?

2 A. Right.

3 Q. What did that person tell you?

4 A. Well, I think they gave me some readings because I recorded stuff here.
5 They said they established a fresh air base out across 120.

6 Q. Well, now you weren't sitting --- were you sitting already taking the log when
7 you first got there?

8 A. Yeah, I was taking notes and I put this in the log. Then after the log was
9 established, then I didn't have notes. So this stuff there's just stuff that ---.

10 Q. That's your notes?

11 A. Yeah.

12 Q. What did the guy tell you?

13 A. Well, just what he --- he gave me air readings, you know, where they were at,
14 air readings across the 116. The air was 21 percent oxygen, NOCH4 and NOCO ---.

15 Q. Did they tell you they couldn't explore anything? I mean, the rescue team
16 there at crosscut 120 or somewhere, 121? I mean, did you say well, why don't you go
17 up there and get them?

18 A. Well, they told me there was no communications.

19 Q. No. But I mean no communications and the entries being full of coal are two
20 different things.

21 A. Right.

22 Q. I mean, I could have no phone line but the entry open.

23 A. I think it's --- the crew was located at crosscut 139. The ventilation devices
24 had been damaged outby to crosscut 95. It seems to me that we had a guy come in
25 who had actually been in there and there was another person out at this location

1 somewhere in here. And his vehicle broke down and he called in for that guy to come
2 out.

3 Q. Section mechanic maybe?

4 A. Yeah. And that guy came out and he came in the room and he gave us an
5 update of what things look like and that it was impossible to get back in there.

6 Q. Did he go trying --- after the bump did he try and go back in?

7 A. Some of them. They had some people that went down in there. I think this
8 was even before MSHA was called. They went down in here and I think they only got
9 to like --- it was probably in there, but I think they only got to like 119.

10 Q. Up here.

11 A. Somewhat, yeah. Because they said ventilation devices were blown out. At
12 some point they could not proceed any further.

13 Q. So you knew that now?

14 A. Right.

15 Q. Okay. So who from the company said Bill here's what we want to try and do?

16 A. Let me see if I can --- let me see if I got anything written in here that can jog
17 my memory. See, it looks like probably Hubert Wilson was there, too. Hubert would
18 have been the safety person from over at West Ridge, but it looks like he must have
19 been here as well. The Emery County Sheriff's Office established security to the
20 entrance of the mine. And obviously, we had been in contact with headquarters
21 because there's Amy Louviere's phone number in here and Dirk Fillpot. And these
22 guys, Tim Harper, Jamison Ward and Brian Pitt.

23 Q. When you first talked to headquarters or somebody called you, did they give
24 you any direction or guidance, Bill?

25 A. They said they would have somebody on their way to help.

1 Q. They said they would have somebody on their way to help from headquarters?

2 A. Yeah.

3 MR. PAVLOVICH:

4 How was it decided they would send some rescue people
5 underground, mine rescue people? Or was there mine rescue people already
6 underground? I'm talking about apparatus people.

7 A. Yeah, we had --- according to this, we had two mine rescue teams, Utah
8 American Mine Rescue Team's captain traveled underground. So we had two mine
9 rescue teams. The two Utah American mine rescue teams.

10 MR. PAVLOVICH:

11 Was you part of a discussion on the surface that was decided
12 that the mine rescue team members would go underground and see how far they
13 could explore?

14 A. I think they were probably already underground.

15 BY MR. TEASTER:

16 Q. Before you got there?

17 A. Before I got there.

18 Q. Okay.

19 MR. PAVLOVICH:

20 When did Barry go underground? Did you send him
21 underground?

22 A. I think Barry was on the surface getting information because he gave me a
23 call back to the office. I don't think he would have been underground. I think he
24 would have been on the surface.

25 BY MR. TEASTER:

1 Q. Did you send him underground later, after you got there, to see what the
2 conditions were?

3 A. I actually don't really remember.

4 Q. You don't remember? Okay.

5 A. I mean, I don't remember exactly what happened, because there was so many
6 things that were happening.

7 Q. Does MSHA have a procedure what to do when there's one person and then
8 when there's two people available from MSHA to have an emergency site like that?

9 A. Well, you know the difficult thing is when you're surrounded by things that
10 have to be done instantaneously, in most cases you go with what experience that you
11 have. And you know, it wouldn't make any difference if ten people had told you three
12 years ago, okay, you do this, you do that. You try to make the decisions based on
13 what's happening right then. And you know, if those decisions were wrong, I will have
14 to answer for that, but I tried to do the best that I could with what I had available.

15 Q. Well, I'm not suggesting you done wrong. I'm trying to find about what the
16 policy was. What is the reason you said that they couldn't go up probably so far
17 because there was no ventilation? Was it because that there was low oxygen
18 encountered up in those areas?

19 A. They didn't say that. The oxygen they called out to me with at 21 percent
20 oxygen, and that was at 38,000. That was at crosscut 120. What they were doing was
21 working on establishing the ventilation up to that point because there were ventilation
22 devices that had been blown out.

23 Q. Right.

24 A. And we wanted to see that that ventilation was established up so that we, in
25 fact, had a valid fresh air base.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

So you had people up there establishing ventilation?

A. Yes.

MR. PAVLOVICH:

Miners or rescue team? Which one?

A. I think it was just --- it says here the mine rescue team. There were an additional 18 men underground working on restoring ventilation.

MR. PAVLOVICH:

Okay. So you had rescue team members up there and they were hanging curtain or something; right? I mean, they weren't building kennedys?

A. No.

MR. PAVLOVICH:

Hanging curtain?

A. Right.

MR. PAVLOVICH:

Okay.

A. Then later on we replaced those with more permanent devices.

MR. PAVLOVICH:

Okay. So then while they're establishing ventilation and communications, fresh air base, whatever, was there any plan proposed to you at that time on how to start to effectuate a rescue effort? Do you remember?

A. Well, if I recall, it seems like they looked at --- they wanted to consider going in to see if there was a possibility of opening up a seal here to see whether or not they could travel in this area.

MR. PAVLOVICH:

1 So they didn't even talk about loading and clearing up this
2 yet? They wanted to go into the seals in Main West and see if they could get up to the
3 area?

4 A. Well, they did talk about this. They talked about it, but the mine rescue teams
5 felt like it was impassible, which meant that they would have to do some extreme
6 cleanup and rehabilitation. So they were looking at alternatives and they were
7 thinking well, if we can't do this, what would be the possibility of opening this seal and
8 looking to see if --- since you have this little barrier here, there was still the possibility
9 that maybe you had a good entry that you could travel up that way.

10 MR. PAVLOVICH:

11 So were you there when they proposed that?

12 A. Yes.

13 MR. PAVLOVICH:

14 Did you give the approval to do that?

15 A. Well, either me or someone else. I don't know if they had --- I'm saying I don't
16 know at what point ---.

17 MR. PAVLOVICH:

18 Was AI there maybe by then?

19 A. I don't remember what point he got there and what point we actually did that.

20 MR. PAVLOVICH:

21 I mean, there's nothing wrong with that. I'm just saying did
22 you remember doing it or did AI --- was AI already in charge, did he do it?

23 A. I think AI may have already been there by the time that point arrived. The
24 reason I say that is because it took them quite a while to establish ventilation. I mean,
25 they had to do quite a bit of work to establish ventilation back up to this point. So

1 there was quite a time --- period of time that passed while they were doing that.

2 BY MR. TEASTER:

3 Q. What do you know about the mine rescue team members and an MSHA
4 person trying to zigzag their way up to see how far they could get on top of that debris
5 that had been thrown out into the entry?

6 A. I don't think that was initially unless I --- let me see if I can find it in here and
7 see because they would have called --- anything that they would have done they
8 would have called out, especially with an MSHA person with them. This was just his
9 statement, that guy. These were MSHA people that were arriving and we were
10 stationing them up to monitor the fan. It looks like they did check the atmosphere. By
11 1:30, they were checking the atmosphere which I would say would have been behind
12 that seal area to see what they had back there. It looks like they started seal
13 breaching at 1:55 that afternoon. In the log we didn't put on here when AI arrived, but
14 --- see, I'm looking at 6:00.

15 Q. Do you remember any written plans submittal to send to the rescue teams in
16 to breach that seal?

17 A. I don't think so. I think we discussed that with AI and we used the K Order.

18 Q. So you might modified the K Order to say they could do that?

19 A. Well, I don't know. I'd have to look at it.

20 Q. How long did you stay there that first day, Bill?

21 A. Oh, I don't know. It was until really late that night because we were trying to
22 get a schedule set up. Let's see. The schedule they set up was going to be AI and me
23 and Kevin Stricklin and Mr. Stickler were going to be on dayshift.

24 Q. You were awarded the privilege of dayshift with everyone else?

25 A. Right. On the afternoon shift it was going to be Bob Cornett, ---.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Was that the first modification?

MR. TEASTER:

That looks like it was modified at six o'clock, 6:00 a.m.

A. Okay. So initially that's probably what we did was modify this K Order to do those things that we had discussed. And then at some point when Kevin got there, he said he didn't want it modified that way. He wanted it modified one time to show that they would submit plans.

MR. PAVLOVICH:

But that was the next day?

A. Yeah.

MR. PAVLOVICH:

So all this first day any time you made an excursion in, you modified the K Order?

A. Yeah.

MR. PAVLOVICH:

Up until the time Kevin got there?

A. Yeah. I wonder who's taking this log now because it's not me.

MR. PAVLOVICH:

When Al arrived onsite, Bill, and I guess eventually you got the Blue Goose up there ---

A. Yeah, Ted brought it down.

MR. PAVLOVICH:

--- and you located the MSHA command center in the Blue Goose?

1 A. Yeah, but I'm not sure --- that may have not been until the next day. I mean,
2 the van got up that day, but I think we had problems getting the phone lines.

3 MR. PAVLOVICH:

4 So you couldn't get phone lines or phone service hooked up
5 so you really didn't utilize it until you got phone lines?

6 A. Right. So I think we would have still been up in this office while we were
7 doing that. We don't get cell service out here everywhere, and that was another
8 problem. Even the guys, the specialists that came out, they couldn't get that antenna
9 directed to where they could get good receptivity.

10 MR. PAVLOVICH:

11 So would you say it was rather hectic to say the least, Bill?

12 A. Yeah. Yeah.

13 MR. PAVLOVICH:

14 Headquarters was calling you. Denver was calling you.
15 People from underground were calling you. You were trying to meet with people. You
16 were trying to discuss what was going on. You didn't have enough help there yet to
17 handle it. How can you keep feeding these people information when you're not getting
18 it yourself?

19 A. It's pretty hard, but they were still calling.

20 MR. PAVLOVICH:

21 They didn't really care about your problem, did they?

22 BY MR. TEASTER:

23 Q. When do you think you got your arms around this thing and got things
24 organized?

25 A. It was really quite some time. You know, we had some basic things that were

1 going on and we had some modifications. We had some things that were reviewed
2 with us. We were trying to get basic ventilation established, fresh air base
3 established. We set up communications with the sheriff's office to make those
4 arrangements and make sure that ---.

5 Q. You made the arrangements with the sheriff's office?

6 A. We talked with the company and had the company do that. We thought that
7 was --- there wasn't enough of us to do everything so we made assignments. That
8 was one of the assignments the company had was to make that arrangement with the
9 sheriff's office, who was really good about doing that. So were trying to get those
10 basic things taken care of and still trying to see if we could get any communication
11 with those people underground. So you know, it was a hectic time.

12 Q. Did they have a mine emergency plan? The mine, did they have an
13 emergency response plan?

14 A. Well, they have a plan like most mines. It's posted on the bulletin boards. It
15 shows who they have to call.

16 Q. I meant something that they would pull out and follow in a situation like this,
17 where they would routinely notify so many people and just follow certain things. A
18 plan that MSHA had looked at and approved or ---?

19 A. I don't think that's a --- I don't think it's an approved plan. I think it's a plan
20 that they're required to post that we review on our inspections that shows who they call
21 in the event of an emergency. In other words, there's a list of people that they're
22 required to call and notify. And I think that's what we would normally look for on ---
23 you know, on the inspections to see if they had those arrangements made.

24 UNIDENTIFIED SPEAKER:

25 What about the emergency response plan the MINER Act

1 requires? Doesn't it say they're supposed to list in that their contacts which includes
2 the sheriff and a liaison for the family?

3 A. That's what I was just saying. Right. That would be --- you'd find that on the
4 bulletin board and that would be a page. Usually it's only a page long. It has all those
5 emergency contacts on it.

6 UNIDENTIFIED SPEAKER:

7 That's something that we enforce though, isn't it? The ERP
8 plan? If they're following it issued under the MINER Act 314(b)?

9 A. Right. But I'm saying that's not an approved plan. It's just a plan that if they
10 don't have it posted, we would cite. It's not something they send to Denver, is it? It's
11 not approved.

12 UNIDENTIFIED SPEAKER:

13 No, but ERP plan that the MINER Act says that the mine has
14 to have now? There's a new ---.

15 BY MR. TEASTER:

16 Q. ERP plan.

17 A. Well, the ERP is different than what he's asking for. Are you asking for the
18 ERP plan that's approved by the District?

19 Q. Yes. Yes.

20 A. Yes, the District had a plan as an example on their approved ERP plan. It
21 required them to have their breathable air, I think, by August 16 or something like that.
22 Where they did have an approved plan, but there were things in it that were not
23 established yet.

24 UNIDENTIFIED SPEAKER:

25 But that's the plan that says they contact the sheriff, they set

1 up a post for the family, ---.

2 UNIDENTIFIED SPEAKER:

3 I think the question was were they using that plan during this
4 emergency.

5 A. Well, yeah. They contacted the District office and then they contacted the
6 sheriff's office. There were things in their plan that hadn't --- even though it was
7 approved, there's things that were not implemented yet, but that the deadlines had not
8 arrived for them.

9 MR. TEASTER:

10 Let's take about a five-minute break.

11 SHORT BREAK TAKEN

12 BY MR. TEASTER

13 Q. Bill, when Al Davis arrived, he assumed charge that you had previously had.
14 When Mr. Stickler and Mr. Stricklin arrived at the mine, do you think that they
15 assumed --- which of those would you think would assume?

16 A. Mr. Stickler because Kevin Stricklin has --- at one point Kevin Stricklin had us
17 modify the K Orders so that the senior --- it would refer to the senior person.

18 MR. PAVLOVICH:

19 Okay. So is it was now the senior person who was Mr.
20 Stickler and he was in charge? You were never in doubt of that as far as fact he was
21 assuming charge of the operation?

22 A. That was my understanding.

23 MR. PAVLOVICH:

24 Okay.

25 BY MR. TEASTER:

1 Q. And by the time that they arrived, do you think MSHA had an orderly
2 organizational structure?

3 A. I think by that time we were in the MEO vehicle and had the lines and things
4 established.

5 MR. PAVLOVICH:

6 By the time they got there you were in the MEO unit?

7 A. Yes and I think there might have been an IT person that was trying to work out
8 some of the bugs still on some things but ---.

9 BY MR. TEASTER:

10 Q. When --- you want to get some water? I have a cough drop; would you like
11 that?

12 A. That's better.

13 MR. PAVLOVICH:

14 All right.

15 BY MR. TEASTER:

16 Q. When Al and Mr. Stickler and Kevin were not on mine property who was in
17 charge?

18 A. The way they worded that it was a senior person, so when they were not there
19 that meant that was me.

20 Q. So you had the authority then to approve or disapprove plans that were
21 submitted by the company?

22 A. Yeah, actually Al Davis reviewed stuff before it was signed. So even though
23 the K Order was written that way, he reviewed that stuff before anything was signed.

24 MR. PAVLOVICH:

25 Was that from all three shifts?

1 A. The other two shifts didn't sign anything.

2 MR. PAVLOVICH:

3 Okay. So even Bob Cornett or Tommy Hooker, whoever was
4 there, I mean they might look at something but it was pretty much up to Al, they wait
5 until Al got there to sign it?

6 A. That was my understanding because even like when I would have meetings in
7 the morning, I'd go up early to meet because they had like a seven o'clock meeting in
8 the morning and I invited Tommy Hooker to attend that because I figured I mean, he's
9 a senior official on mine property. He attended one of them then he said he didn't
10 want to attend any more and I thought that was a little bit odd.

11 MR. PAVLOVICH:

12 That he didn't want to attend any more meetings?

13 A. Yes.

14 MR. PAVLOVICH:

15 Why?

16 A. Well, he wanted to be relieved and leave but I thought I well, you know, it
17 seems to me that someone above a 13 should probably be attending those meetings
18 and I brought that to the attention of Bill Denning. I said, you know, it seems odd to
19 me that all these senior officials have to go to these meetings. I mean, do they all
20 need to be there.

21 MR. PAVLOVICH:

22 So you were having a meeting with the company but they're
23 all gone to another meeting?

24 A. Yes, a meeting with the press.

25 MR. PAVLOVICH:

1 A. Before they leave, yeah. And then when it came time for people to relieve me
2 I had to chase around to try to find them to give them a pass down to tell them what
3 was going on and I thought this is killing me. I can't get people --- stuff out of the
4 people that I'm coming to relieve and I have to chase around and give the pass down
5 two or three times to the people that are relieving me.

6 Q. And who was relieving you?

7 A. Bob Cornett and Ted Farmer and I talked to Bob and I said Bob, do you want
8 me to give this pass down to you or to Ted. He said well, give it to Ted. I said okay,
9 I'll go and get Ted. I'd give it to Ted and then Bob would come back and say okay,
10 now what's going on.

11 Q. So going back to the morning, you would go to this meeting to discuss
12 whatever they wanted to do and then what would take place from that point?

13 A. Basically, they would have a little work thing that would show we wanted to
14 know what their people were doing in accordance with the plans we had. We wanted
15 to have --- we wanted to know what stoppings they were working on, if they had
16 stoppings that had to be replaced. We wanted to know what materials they were
17 bringing in. If they were bringing in another miner that day, that had to come from the
18 other section because we wanted a backup miner. We wanted to --- who was working
19 on it, how many people they had, and then we could take that list and we could check
20 off so we could see what had been done.

21 Q. Now, was that part of the approval of the plan?

22 A. No.

23 Q. Just information?

24 A. It was information. We wanted to know what they were doing to comply with
25 the plans that were approved. We wanted to know who was underground and what

1 they were doing.

2 Q. Okay. Then what would you do?

3 A. Well, then we would follow their progress during the course of the day. We
4 would fill out this log to show what progress they had and then we would report that.
5 Mr. Stickler would usually call, he wanted to know what the advance was and how
6 many props had set up.

7 Q. Was that the way it normally went, that Mr. Stickler and Kevin, and Al Davis
8 would call up and get the information for these briefings, for the morning briefing, or
9 would they come up to the mine?

10 A. They would come up to the mine. I mean, it's not like they stayed down there
11 all day.

12 Q. Well, no, the briefing was in the morning. I'm not suggesting that they stayed
13 all day. I'm saying you had to get up there that morning because they were done there
14 briefing and the briefing, as I understand it, didn't take place until nine o'clock.

15 A. Right. And sometimes there were some mornings when at least Al --- at least
16 Al was up there, not early enough for the meeting that I went to, but he was up there
17 like when I came back from the meeting. He would be there in the van --- in the MEO
18 vehicle. So there were times when he was on mine property.

19 MR. PAVLOVICH:

20 But usually he wasn't at the morning meeting with the
21 company? You were?

22 A. I don't recall him ever being at that meeting.

23 MR. PAVLOVICH:

24 He was never there. Was Kevin or Stickler ever there?

25 A. Not that I recall.

1 Q. You called him and he told you?

2 A. Well, I don't know if I called him or he called me.

3 Q. But you talked to him and he said he had?

4 A. That plan, he said I've reviewed that with them and when they got up there,
5 there was some kind of a change that had taken place and that's why you'll see my
6 name on the first page of it and his name on the second page.

7 MR. PAVLOVICH:

8 Was there ever times that you had to hunt down AI to get a
9 plan approved?

10 A. Well, I would call down there and ask them if --- I'd say hey, someone needs
11 to come here because we need to look at this or we need to involve tech support.

12 MR. PAVLOVICH:

13 So there was no one there and you'd have to call and tell
14 something come up and then would they usually come up pretty quickly?

15 A. Oh, yes, AI was good about calling back. And even Kevin, Kevin would come
16 in and look at things and Kevin was very extremely supportive as far as from an
17 enforcement standpoint. Actually Kevin was extremely supportive. If I would say hey,
18 I don't like the way they're doing this or I don't think this should be done, Kevin would
19 look at it and say, that's right. They can't do that.

20 MR. PAVLOVICH:

21 Do you ever go underground, Bill?

22 A. I didn't.

23 MR. PAVLOVICH:

24 Okay. Were you aware that bumps were continuing to
25 happen throughout the ten days of the rescue operation?

1 A. Yes. One of the serious bumps was reported to me by Ron Paletta. And I
2 took Al in and I showed him on the map and I showed him the areas that had pointed
3 out to me by Ron Paletta. And I said Al, if anybody had been in any of these
4 locations, they would not have survived.

5 MR. PAVLOVICH:

6 Okay. An what did Al say?

7 A. I don't really recall. He kind of looked ---.

8 MR. PAVLOVICH:

9 Did anybody come to you and say Bill, give me an outline of
10 all the bumps we had during these shifts?

11 A. No.

12 MR. PAVLOVICH:

13 Nobody ever asked you about the number of bumps?

14 A. No, but Kevin --- they had a --- when that bounce occurred on --- it was on the
15 afternoon shift actually. I was on dayshift but Ron told me. When he came back the
16 next day, he told me about it.

17 MR. PAVLOVICH:

18 Right.

19 A. But Kevin was very explicit. He said when a bounce occurs, I want, wherever
20 I'm at, I want you to call me. If I'm not up here or if I'm at home --- or not at home, but
21 if I'm asleep, I want --- and he was very explicit. We put his name on the board and
22 where he could be reached at and that he was to be notified anytime they had a
23 bounce.

24 MR. PAVLOVICH:

25 So was he called every time there was a bounce reported in

1 the log?

2 A. If it was a significant bounce.

3 MR. PAVLOVICH:

4 Who made a determination as to significance?

5 A. Well, if you have a bump that didn't affect anything, didn't blow anything ---
6 because you can have a bump that just, you know, ---.

7 MR. PAVLOVICH:

8 But if it knocked out a stopping, would you call Kevin?

9 A. Yeah. When Kevin said that he wanted to be called, I would have called him
10 if it happened on my shift.

11 BY MR. TEASTER:

12 Q. How many times did you call him, do you recall?

13 A. Well, sometimes you didn't have to call him because sometimes right outside
14 --- sometimes those guys would come up and they would sit just right outside the MEO
15 vehicle. There's a little covered area with a table and stuff. And there were times on
16 dayshift when I --- all I had to go out and just talk to them right there.

17 Q. Do you know whether the people coming out from underground were being
18 debriefed?

19 A. As far as I know. My debriefing was a little bit difficult because I was
20 expected to go to that meeting in the morning so the graveyard people, which would
21 have been Gibson and Hooker, would have been talking with the people that were
22 going underground because I couldn't be in two places at one time. I couldn't be at
23 that other meeting, which they held up in this original office where we were in, that's
24 where they had that meeting, and then come back down. And so then I would come
25 back and see what information had been provided to those people, you know.

1 Q. Do you know of anybody who was assigned to debrief the MSHA people
2 coming up from underground?

3 A. It's the people at the command center when those people came out.
4 Occasionally some of those people we had to track them down. Sometimes we
5 couldn't get them until the next shift because sometimes when they came out, they
6 just went into their vehicle and left.

7 Q. Did you do any debriefing yourself?

8 A. I talked with individuals if they had problems, like Ron.

9 Q. Well, that's if he had a problem. I'm talking about where you routinely
10 debriefed everyone coming off shift?

11 A. I don't think people were routinely --- well, I don't know what you mean by
12 routinely because ---.

13 Q. I mean, just like you every day showed up at the mine to replace Ted or
14 Hooker or Gibson, whoever it was, when you came on, you got briefed. Even though
15 you had to hunt them down and talk to them and then the same thing with the end of
16 shift.

17 A. Right.

18 Q. Who was doing that for the people that was working underground?

19 A. Well, what I would do is people came on before they went on their shift,
20 underground, what I'd do is I'd take these work orders that showed what we expected
21 to accomplish. If there was a plan change I went to the little copier there, made a
22 copy of that plan, gave them a copy of the plan, and gave them a copy of the work
23 order, and I said when you come out, we want to know how much of this stuff has
24 been done. So that we could --- I considered that a briefing and a debriefing because
25 it was an actual plan that you were following and an actual work order and when they

1 came --- they had that to take with them underground. They knew what was approved
2 and when they came out, we could see their own notes, in fact, what they had seen
3 was accomplished.

4 UNIDENTIFIED SPEAKER:

5 Okay. Can I ask ---. So on every shift if there were three
6 MSHA guys going underground, all three guys came to the command center and got a
7 brief?

8 A. I'm not --- I can't say on every shift that all three --- that all people did but like
9 when ---.

10 UNIDENTIFIED SPEAKER:

11 On the flipside when they came out, did those three MSHA
12 guys that came out from underground come up to the command center and kind of
13 say hey, in addition to what we called out, here's what we saw? And I'm not saying
14 that's your responsibility, we're just asking you if that happened?

15 MR. PAVLOVICH:

16 Was anybody doing that?

17 UNIDENTIFIED SPEAKER:

18 Were there instructions given for them to do that?

19 A. I can only say, you know, the things that I did and what I was doing is I was
20 making a copy of the plan, giving it to the people as they were coming out and then
21 have them give me a list, that list, that work list, to show what was done when they
22 came out, but I don't know what was done because sometimes the people that were
23 underground could not get a ride out. There was a long --- a lag time there. Some of
24 the people that went --- that I gave information to, to go under on dayshift, were not
25 coming out until I had already been relieved on the afternoon shift. So I can't ---.

1 UNIDENTIFIED SPEAKER:

2 So I guess the bottom line is, the bottom question is, were
3 there shifts where people came out from underground and were not debriefed?

4 A. And I'm saying I can't say that without talking for somebody else.

5 UNIDENTIFIED SPEAKER:

6 On dayshift, in the morning, because I know you said
7 sometimes you had to go track them down?

8 A. Right. But sometimes people --- it's hard for me to answer that because when
9 I went to the other meeting, if people came out ---

10 UNIDENTIFIED SPEAKER:

11 Let me ask it a different ---.

12 A. --- if people came to, they would have debriefed with Tommy Hooker and
13 Don Gibson.

14 UNIDENTIFIED SPEAKER:

15 Let me get a little more general. And I'm not saying this is
16 your responsibility, we're just trying to see what was going on. Is it a general rule, was
17 there instructions given that when the three guys from MSHA came outside that they
18 were to go to a specific location and let everybody know on the surface what they saw
19 on their shift?

20 A. I don't think there was any written instruction, but we ---.

21 UNIDENTIFIED SPEAKER:

22 Any instructions, verbally or ---?

23 A. Yes, there were verbal instructions because when I gave people --- I said look,
24 when you come back out, I want to know what has been done. But I wasn't always
25 there.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNIDENTIFIED SPEAKER:

Right. I understand that. We're just trying to see if there was any system for getting information from the people underground.

A. There probably could have been a better system, but I did copy stuff for people and give it to them before they went underground and I did give them instructions to come out and show us what had been done on that work order. So you know, there could have been a breakdown but there were verbal instructions and there were things given for people to take underground.

UNIDENTIFIED SPEAKER:

Bill, was there a system the other way that when if you did get something back from the guys underground, did you have explicit instructions to pass it on to anybody above you?

A. No. But I did. There were never instructions but I mean, I'd been around enough that --- like when this bounce occurred, I made sure that that got delivered to people above me so that they knew what was going on. Even if no one asked me for it I would have given that anyway.

UNIDENTIFIED SPEAKER:

I guess the reason I was asking the question, Bill, --- and I don't want to drag this point on. Is in emergencies in the past a lot of times that Ernie and Joe had been involved with, you have a set time. When you know people are coming on shift and you say before you go underground, 30 minutes ahead of time, we're going to brief you on what's happened in the previous two shifts and they go underground and when the people come outside, you set them down and say did you see anything unusual, see any concerns, that's a set item to be done. You know whether you're there, whether I'm there, whether anybody's there.

1 A. Right.

2 UNIDENTIFIED SPEAKER:

3 So we're not saying you know that, you know, it was your
4 responsibility we're just trying to see was there something in place to make sure we
5 captured all the information from the guys coming outside? Were there any directives
6 given to anybody going underground so they would know what's ahead of them if
7 they're going underground or if they could relay what they saw when they came
8 outside, other than you trying to do what you said you did?

9 A. I can only say what I did and that was what --- you know, nobody gave me that
10 directive anyway.

11 UNIDENTIFIED SPEAKER:

12 Okay.

13 A. Nobody gave me that directive but I would copy plans, if we had a change in
14 the plan, I would copy that, give them a Xerox copy so that they had copies to take
15 with them so they'd know what was legal to do, like where the miner operator could
16 stand when they were installing the protective props. You know, where he could --- I
17 wanted to make sure they knew that so that the operator wasn't doing something that
18 wasn't in compliance or not in compliance with the plan. And then I gave them this
19 work sheet and said you know I want to know what has been actually done. So yeah,
20 it probably could have been better, but you know I've talked with people and I gave
21 them things to take underground and if they reported anything back to me that was
22 significant like that bounce, I made sure that that went to the level above me.
23 Whether it went anywhere from there, I don't know.

24 BY MR. TEASTER:

25 Q. Bill, did you hear any discussion while in the command center from senior

1 officials about there's two many bumps, we got a lot of bumps occurring, we need to
2 watch this or any caution at all or concern about the number and intensity of the
3 bumps?

4 A. I don't remember hearing that discussion. I remember talking about the
5 potential for what we saw with the bounce that occurred with --- because that was a
6 significant one that occurred with Ron. Anytime you have a bounce significant enough
7 to knock somebody down, I mean obviously if they were in a different place, it would
8 do more than just knock them down. But I think they were still looking at, you know,
9 recommendations from tech support because the roof control specialist experts were
10 underground looking at it to see whether or not it was being controlled. The support
11 that was being putting in was recommendation from tech support as to what could, in
12 fact, control that. I think they honestly believed that what they were doing could
13 control it but it didn't.

14 Q. Did you have any input into what roof support systems they were going to
15 utilize there?

16 A. We talked about them but the real input came from tech support. I mean we
17 all talked about things. Well, we've seen this work, we've seen this kind of floor to
18 roof support work. We've seen ---.

19 Q. You discussed this with who?

20 A. Well, I remember Al Davis and Kevin Stricklin in there when we were talking
21 about that, but then the tech support people didn't really come in the MEO vehicle that
22 much so I don't know if they met separately with Al and Kevin. But occasionally they
23 would come in and they would show us --- I know they put some pictures on the
24 computer showing what --- you know, what they had seen underground and they had
25 put some instrumentation underground to see what kind of movement. They were not

1 showing that movement that was significant and they felt like, you know, the support
2 that was in there was adequate.

3 Q. Do you know whose suggestion it was to use the rock props and use the
4 system that they had there? Was this a plan the company came up and ---?

5 A. Yes, but I think tech support participated in that. I mean, when I saw it, it was
6 a plan that had been reviewed and approved and was supposed to be incorporated
7 into the system. I know we had talked about all these things. We had talked to about
8 floor to roof support, we talked about tying the props in, we talked about what would be
9 the best way to protect the miner operator because he would be the most inby person.
10 But I can't honestly say who actually came. You know, was it a tech support person?
11 Was it an MSHA person?

12 Q. So this was made in a discussion between tech support people and the
13 company and District and that. Was Kevin ---?

14 A. Well, I don't know because they didn't --- when we were there going about
15 taking the calls out and seeing what was happening at the fresh air base, recording in
16 the log, sometimes those guys would go out and meet. They would meet with the
17 company. So there are meetings --- the meetings were not always right there. So I
18 couldn't hear what was going on. But they wanted someone in that command center
19 to have communication with underground to see what was going on and have
20 communication with the District office and have communication with headquarters
21 because they would repeatedly call and they wanted updated information right now.
22 And so they --- sometimes those guys would leave the command center and they
23 would go out. Now where they met, I don't know. But it's hard for me to say who
24 exactly was involved, but I would say the company and Al Davis and tech support.
25 You know those people, those entities, were involved in the formulation of those

1 plans.

2 **BY MR. TEASTER:**

3 Q. Do you have any thoughts as to why the District roof control people were not
4 present?

5 A. That's a good question because I don't remember seeing Billy Owens there.
6 Why wasn't he there?

7 Q. Probably because he wasn't there.

8 A. Yeah. But I'm trying to think why. I don't know why.

9 **MR. PAVLOVICH:**

10 So you don't know why?

11 A. I don't know why.

12 **BY MR. TEASTER:**

13 Q. I mean you would think you'd have your top roof control person there?

14 A. Was he on leave or something? I don't know.

15 Q. I don't think so but I wouldn't ---.

16 A. I don't know.

17 Q. Do you know if anybody there that --- you know, there's been a lot of talk
18 about you want people to nose them out. I've heard that term when they're talking
19 about bumps. Do you know of anybody at the mine, the inspectors or yourself or
20 anybody that was consulted about these bumps occurring and whether that support
21 system would provide the lateral protection that was needed to protect?

22 A. I don't know that they consulted. I don't know. I honestly can't answer that
23 because I don't know.

24 Q. Okay.

25 A. I don't know that they were consulted unless ---.

- 1 Q. Do you think they should have?
- 2 A. Yes.
- 3 Q. Are you familiar with mines that utilize rock props?
- 4 A. Well, our Aberdeen mine uses rock props.
- 5 Q. Do you know of any occurrences where they've been knocked out by bumps
6 or ---?
- 7 A. Yes, we told tech support that. That was before Crandall Canyon happened,
8 we had lateral movement that were blowing those out.
- 9 Q. And was that a pretty significant bump or bounce that it took to knock --- to
10 dislodge those?
- 11 A. Yes.
- 12 Q. How much material --- did you investigate it or you seen it or ---?
- 13 A. Yes, the ones they reported and I'm going by what our --- what my inspectors
14 reported back to me.
- 15 Q. Right.
- 16 A. But they said they were pretty significant and that in some cases they blew
17 them across the entry, the props.
- 18 Q. Do you know if they had the wire rope on them?
- 19 A. Well, they had two kinds of props. On their headgate they would put wire rope
20 around those but like in crosscuts, they wouldn't always necessarily wire rope those
21 and those were the ones that you'd see more problems where they would pop out
22 where it didn't have the wire rope tying them in. But the ones where it went down the
23 headgate entry, that would be tied in, they'd tie that in, you know, to hold --- use the
24 wire rope to tie it in.
- 25 Q. Do they anchor the rope, Billy?

1 A. Yes, they'd bring it around.

2 Q. All the way around the block?

3 A. Yeah. And that was one problem we had up here see, because you couldn't
4 do that until you got advanced far enough to get it around where you could tie it in.

5 Q. At Crandall, they never did get it around the block, did they?

6 A. Yeah, they did. There were some advancing them. I don't remember which
7 ones, but as they advanced --- well, I can't say on there. But anyway, wherever they
8 advanced, there were some that they got around the block. But I don't believe it was
9 on that last one, I don't believe that was advanced on that last one around the block.

10 MR. PAVLOVICH:

11 Do you think they actually tied them around the block?

12 A. Well, I didn't go around and look at them.

13 MR. TEASTER:

14 Did they clean --- they didn't clean the crosscuts out?

15 A. Yeah, they did clean some of the crosscuts. At least they called outside
16 saying they were cleaning crosscuts because ---.

17 MR. PAVLOVICH:

18 Totally clean so that you could crosscut in the number two
19 entry so you could go all the way around the block?

20 A. Well, no I'm not saying all the way around the block. I thought you meant
21 tying in. They were just coming around the corner and tying in. They were not going
22 all the way around the block.

23 BY MR. TEASTER"

24 Q. So they were just tying around the corner?

25 A. Yes, they were cleaning in the crosscut far enough to tie around the corner. I

1 misunderstood your question because when they were advancing up here, they
2 couldn't tie around until they got up to where they could clean a crosscut. Then they
3 tied far around to go around and in the rib. But no, they didn't go --- they never did go
4 around the whole pillar.

5 Q. Are you aware of any miners or any MSHA people raising concerns about
6 their safety while working underground?

7 A. We had some people that decided that they did not want to work there from
8 Utah American Energy. They said they felt it was unsafe and, you know, Kevin
9 Stricklin, Al Davis, Mr. Stickler were all aware of that.

10 Q. Did anybody talk to those miners to try to find out specifically what their safety
11 concerns were, that you're aware of?

12 A. No, maybe they did but not that I am aware of. I know the company told us
13 that they had people that were concerned about working under there and they had
14 other people that weren't concerned. So they just reassigned the people that weren't
15 concerned. I don't want it to sound that way that they weren't concerned. I mean,
16 they were concerned but --- how do I want to say that? They had people that felt like
17 they didn't want to be in those conditions and those people were removed and people
18 that were comfortable working in those conditions were reassigned.

19 MR. PAVLOVICH:

20 Were the people that were usually assigned to replace the
21 rank and file miners supervisors?

22 A. They were probably a majority of them, but I couldn't ---.

23 MR. PAVLOVICH:

24 So they didn't really have a choice to say I'm afraid?

25 A. That could be.

1 **MR. PAVLOVICH:**

2 You know you're afraid or pack it up, where as the miners they
3 reassigned them?

4 A. And I can't give you a definitive answer on that because I don't have a list but
5 there's probably a list out there somewhere that would tell you exactly who that was.

6 **MR. PAVLOVICH:**

7 Did you --- but did you say you ever talked to any of the
8 miners that elected to withdraw themselves and ask why?

9 A. No, they just disappeared. So you couldn't talk to them.

10 **MR. PAVLOVICH:**

11 Weren't they reassigned to other areas of the mine to work in?

12 A. No, I think they assigned them to their other sister mines.

13 **MR. PAVLOVICH:**

14 So you think they actually sent them away from the mine not
15 just moved them outby?

16 A. I could be wrong on that but ---

17 **MR. PAVLOVICH:**

18 No one ever from MSHA ever said let me talk to these guys
19 and see what their concerns are, to your knowledge?

20 A. Not that I am aware of.

21 **MR. TEASTER:**

22 Joe, since you can read upside down, you want to go over
23 that log with him there?

24 **MR. PAVLOVICH:**

25 I can.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. TEASTER:

This is again --- it tells you on the bumps that were occurring there.

MR. PAVLOVICH:

Well, you know there's some seismic activity beforehand, Bill, like on the 3rd, there's 1.5. On the 5th there's a 1.6. Again 1944 on the 5th, there's a 1.8 bounce somewhere. Okay. At 2:48 was the big bounce, 3.9 magnitude, that trapped the six men, and they record that. At 1702 ---

A. A 1.9.

MR. PAVLOVICH:

--- there's a 1.9. At --- and there was people, I guess, in here working then. At 1:13, there was a 2.2 that was recorded. This is the one Ron Paletta was in front of the feeder and got knocked down and totally filled up the number four entry again where scooping had been going on?

A. Right.

MR. PAVLOVICH:

Okay. And ran them out of number four. You're familiar with that. Were you still there that night when that happened or you found out the next day?

A. I found out the next day because Ron came in and talked to me.

MR. TEASTER:

Okay.

MR. PAVLOVICH:

And so at 2:43, there was a 1.6. Then there's bouncing, bouncing, bouncing. There's something else about bump was heavy. There's a 1.7 at

1 1542 on the 7th. Okay. And the 8th and 9th don't show anything. No record of any
2 bouncing or bumping at all. That's kind of hard for me to believe.

3 A. Actually sometimes it gets pretty quite and that's when it gets ---.

4 MR. PAVLOVICH:

5 That's when it's worse?

6 A. Right.

7 MR. PAVLOVICH:

8 And that would have concerned me but apparently it didn't ---.

9 MR. TEASTER:

10 It's also the time period when they were moving ---.

11 MR. PAVLOVICH:

12 Maybe there wasn't much going on.

13 MR. TEASTER:

14 Right.

15 MR. PAVLOVICH:

16 Maybe they weren't moving much material?

17 A. If they weren't clear --- right.

18 MR. TEASTER:

19 Right.

20 MR. PAVLOVICH:

21 Then again on the 10th, I see there's a lot of bumps reported.

22 And I'm assuming that if you get guys like Gunderson and Paletta, you know, if it's just
23 cracking up in the roof, they're not calling that out?

24 A. Right.

25 MR. PAVLOVICH:

1 This is something that jolted them, ---

2 A. Right.

3 MR. PAVLOVICH:

4 --- because they've been around these things before. More
5 bumps throughout, here's one at 2106 on the 11th, just had a big bounce. Everyone is
6 okay. It's real dusty, everyone accounted for, only the continuous miner operator
7 helping and Gary Jensen were the only ones there. And they write ribs looser,
8 everything else is okay. This says the bounce was a lot louder and didn't do as much
9 power.

10 Here's one at 2254, bounce killed power on the miner,
11 accounted for everyone, dusted the entries up. Onto the 12th, small bounce occurred,
12 a couple of small bumps. Bounce appears to have centered around 122 return side,
13 felt originated in number three or number four, everyone accounted for. Usually if
14 they say everyone accounted for, it probably dusted up pretty good and they did a
15 head count; wouldn't you think?

16 A. Right.

17 MR. PAVLOVICH:

18 Is that kind of what feeling you were getting? 1940, bump
19 north corner, everyone accounted for. Some material on the miner and asked about
20 when miner is pulled out to bolt up to face to be able to set props as far up, save time,
21 approved in command center by Al Davis and Bob Cornett.

22 On the 13th, there's another bump, bump area reported by
23 Gauna. There's some more bumps. Some information on the 14th from Gauna about
24 roof movement in the number one entry. 1:15 bump, 11:45 bump 1355 bump, 17 two
25 small bumps. On the 15th, small bounce. 2:26 seismic event 1.2, bounce occurred in

1 cleaning area, lots of dust, everyone accounted for, bounce was significant as
2 reported by Barry Grosely, blew out a couple kennedy panels, curtain across at 1:25
3 stop mining, rib sloughing across miner, miner was 107 feet inby.

4 Here's one that also says, it's the same thing, both cutter
5 motor shafts on the continuous miner sheared as a result of the bounce. One from
6 Durant. This continues on in the 15th, 9:35 bumps, 9:45 bumps, 9:55 bumps, 11:15
7 bump, 11:30 bump, 11:40 bump, 1845 bump, 2100 bump. The 16th, 12:03 I guess
8 that is in the morning, or 12:30 a few more bumps and 8:30 another bump. 8:31 a
9 bump, 8:45 a bump, 8:50 a bump, 9 o'clock small bump, 10:02 bump, covered the
10 right side of the miner and affected ventilation controls, 10:04 that was a 1.5 and then
11 they go on, you can see pretty much every few minutes continuing right up until we
12 had the big bump. We got 10:33, 10:42, 11:08, 12:05, 12:45, 12:57, 1302, 1415.

13 And did anybody ever put together a set of notes like this that
14 someone could look at and say wow, look at the number of bumps we're having?
15 Anybody ever ask you to do it? Did anybody ever instruct anybody to do it? Did
16 anybody ever do it, that you know of?

17 A. Not that I'm aware of. Mr. Stickler would call and he would say I want to know
18 how far they've advanced on clean up and props.

19 MR. PAVLOVICH:

20 Okay. So he wanted to know the footage and the props?

21 A. And when ^{EX. (b)(1)} [REDACTED] tried to give any explanation to him as to why they were down or
22 they had a bounce, he said very specifically I don't want to hear that. I want to know
23 how far they've advanced and what the footage on the props is.

24 MR. PAVLOVICH:

25 So Stickler told ^{EX. (b)(7)(C)} [REDACTED] hat?

1 A. Richard Stickler.

2 MR. PAVLOVICH:

3 I don't want to know about anything else but footage and
4 props?

5 A. I want to know footage and props and I want it recorded in there every hour in
6 the log.

7 MR. PAVLOVICH:

8 Did he fire ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED]

9 A. Came close. ^{Ex. (b)(6)} [REDACTED] ended up ---.

10 MR. PAVLOVICH:

11 Did he threaten to fire ^{Ex. (b)(6) and} [REDACTED] nce or twice?

12 A. I don't know if he threatened but he ended up --- they told ^{Ex. (b)(6) and} [REDACTED] he ^{Ex. (b)(6)} [REDACTED] needed to
13 leave the property on the 16th.

14 MR. PAVLOVICH:

15 He told ^{Ex. (b)(6) and} [REDACTED] o leave the property on the 16th?

16 A. No, they told ^{Ex. (b)(6) and} [REDACTED] hat everybody needed a break and so ^{Ex. (b)(6)} [REDACTED] needed to leave.

17 MR. PAVLOVICH:

18 What time was that?

19 A. That was on the Thursday, the dayshift.

20 MR. PAVLOVICH:

21 Yeah. But what time was it, early in the morning? Was it
22 after the big bump on the 16th? Was it ---?

23 A. Well, no, it was before --- that big bump happened on afternoon shift. So it
24 was prior to that.

25 MR. PAVLOVICH:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Okay. Like at the end of [redacted] shift?

A. Yeah.

MR. PAVLOVICH:

Who told [redacted] that?

A. Bob Cornett told [redacted]. He said [redacted] -- everybody needed to have a

BY MR. TEASTER:

Q. Had [redacted] had any discussions with Mr. Stickler prior to that?

A. Well, Mr. Stickler called on the phone and asked [redacted] what the footage -- [redacted] just come on. Graveyard hadn't recorded anything in the log and so [redacted] went back and [redacted] said, tried to explain to him what they had had and things, equipment, had been down.

I don't want to hear any of that. I don't want any explanations. I want to know how far that thing is advanced and how far the props are advanced. And if [redacted] can't get that in there, we'll get someone that can. And [redacted] said well, that didn't even happen on my shift. [redacted] said I just got here. I don't want to hear that, I want it in the log.

Q. So the next thing [redacted] was told was that [redacted] some time off away from the site?

A. They didn't say time off. They just said that everybody needed to be rotated out.

Q. Rotated out means [redacted] was off work, right?

A. Right.

Q. [redacted] were not to report to work?

A. [redacted] was to report back to the office.

Q. Right. What about -- was there any -- did you overhear any discussions between [redacted] and Mr. Stickler?

1 A. [Redacted]

2 MR. PAVLOVICH:

3 No.

4 UNIDENTIFIED SPEAKER:

5 [Redacted]

6 A. Huh?

7 UNIDENTIFIED SPEAKER:

8 [Redacted]

9 MR. TEASTER:

10 [Redacted]

11 A. Well, what kind of a ---?

12 MR. PAVLOVICH:

13 Did Mr. Stickler threaten to fire him if he didn't put something
14 down in the book correct or did [Redacted] tell him that, [Redacted] going to get fired if
15 you don't put this down in the book?

16 A. Yes, it was probably more like that. It was probably like, [Redacted] et
17 what he wants in this book [Redacted] are probably going to be down the road.

18 BY MR. TEASTER:

19 Q. Does [Redacted] work for [Redacted]

20 A. Yes.

21 MR. PAVLOVICH:

22 And he was nervous because he didn't have his year in yet
23 and [Redacted] did.

24 BY MR. TEASTER:

25 Q. Did you overhear any conversations between [Redacted] and Mr. Stickler?

1 A. I didn't hear any. [REDACTED] was in there in the command center, so you know
2 unless he went out for a break, he would have been in the command center.

3 MR. PAVLOVICH:

4 Did you ever hear about Mr. Stickler ever pointing his finger
5 at somebody and telling them he wanted these reading correct?

6 A. Well, I heard a lot of things about him but, you know ---.

7 MR. PAVLOVICH:

8 Okay. Tell us some.

9 A. Well, people were not happy. When they came up, they felt like he could
10 spend down times on the briefings but when it came to minesite stuff, it was a different
11 story and I think people had some difficulty with that.

12 MR. PAVLOVICH:

13 So they wondered why he wasn't at the mine running the
14 operation as opposed to spending time with the families and the press?

15 A. And I think ---.

16 MR. PAVLOVICH:

17 Do you think it's possible to do all three?

18 A. I think realistically, you know, people understand that he can't do that but I
19 think some of the concern was that when he was on the property, you know, that he
20 and Murray seemed to do --- they seemed to do things together. That decision to
21 have people go underground, those cameras, was a decision that was made by
22 Murray and Stickler. Those two people made that decision regardless of what
23 anybody else says. That decision was made by those two.

24 MR. PAVLOVICH:

25 So when he was on site, he and Murray were wrapped up

1 planning or whatever?

2 A. I don't know, because he wasn't ---.

3 MR. PAVLOVICH:

4 He wasn't in the command center concerned about this stuff,
5 this bump log?

6 UNIDENTIFIED SPEAKER:

7 Can I just clear something up, Joe? Bill, what was the date
8 that ^{Ex. (b)(6) and Ex. (b)(7)(C)} trying to explain about the log and ^{Ex. (b)(6) and} didn't have the information and
9 he said I'll get somebody to replace ^{Ex. (b)(6) and Ex. (b)(7)(C)}

10 A. Whatever date that shows in here. After that, everything was circled. You'll
11 see a circle around those reports.

12 MR. PAVLOVICH:

13 A square around the footage and the ---?

14 A. Right.

15 UNIDENTIFIED SPEAKER:

16 What was the date that ^{Ex. (b)(6) and Ex. (b)(7)(C)} given a break?

17 MR. PAVLOVICH:

18 16th.

19 A. The 16th.

20 UNIDENTIFIED SPEAKER:

21 ^{Ex. (b)(6) and Ex. (b)(7)(C)} on dayshift on the 16th?

22 A. 16th, yeah.

23 UNIDENTIFIED SPEAKER:

24 So ^{Ex. (b)(6) and} left before the accident happened?

25 A. Right.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNIDENTIFIED SPEAKER:

And ^{Ex. (b)(6) and Ex. (b)(7)(C)} coming back for a little while?

A. Right.

UNIDENTIFIED SPEAKER:

Okay.

MR. PAVLOVICH:

Did they tell ^{Ex. (b)(6) an} we'll just get in touch with ^{Ex. (b)(6) and Ex} when we need

^{Ex. (b)(6) and Ex. (b)}

A. No, he didn't say that. He just ---.

MR. PAVLOVICH:

Did they tell ^{Ex. (b)(6) and} how many days to stay home and then come
back or what?

A. No, he just said go back to the office ^{Ex. (b)(6)} already had more -- ^{Ex. (b)(6) and} been there all
through the weekend and all through the week. So ^{Ex. (b)(6) and} already had more than ^{Ex. (b)(6) an} hours
in. He just said, you know, plan on coming back into the office on Monday.

MR. PAVLOVICH:

In the office on Monday?

A. Yes.

MR. PAVLOVICH:

Okay, Bill?

UNIDENTIFIED SPEAKER:

Yeah, just a question about the bump log, Bill, while we're
relatively close to it. How many of those that Joe read off to you was Kevin informed
about, you know, regarding his instructions to call him whenever, wherever?

A. Some of these that he read off were not probably in the log because I think

1 they probably came from Utah. The University of Utah has a seismograph.

2 MR. PAVLOVICH:

3 Well, no, the majority of them, Bill, were referenced in the log,
4 okay, somewhere, small bump, bump at section six, crosscut bump. They're in that
5 log because that's where we got them from. Ex. (b)(6) and Ex. (b)(7)(C) went through that and ---.

6 UNIDENTIFIED SPEAKER:

7 Ninety-nine (99) percent.

8 MR. PAVLOVICH:

9 Yeah, 99 percent. There's a few that were picked up out of
10 someone's notes where it was cross referenced from someone's notes with what was
11 in the log and then all we did was take the seismic activity analysis from University of
12 Utah and we didn't put any in here that weren't reported.

13 A. Okay.

14 MR. PAVLOVICH:

15 For example if somebody reported one at a certain time, like
16 the Paletta one, where ---.

17 MR. TEASTER:

18 1:13.

19 MR. PAVLOVICH:

20 Yeah, right here. I mean, 1:13, Paletta's pretty descriptive
21 with what he said. There's someone that called that in to the log and also there was a
22 corresponding University of Utah event for that time so we put it in but we didn't just
23 start making them up. I mean, ---.

24 A. We were given --- at least to answer your question, we were given a specific
25 directive after that one occurred on that afternoon shift, because apparently Kevin

1 didn't get that reported to him and we were given specific direction and that's when we
2 put in the MEO vehicle we actually had it written out, any bounce that occurs, Kevin
3 Stricklin will be called personally.

4 UNIDENTIFIED SPEAKER:

5 How many times did you call him?

6 A. Well, I didn't --- most often I didn't have to call him, because ---.

7 UNIDENTIFIED SPEAKER:

8 How many times did you report it to Kevin?

9 A. However many times it was in the log.

10 UNIDENTIFIED SPEAKER:

11 Well, just take maybe a guess, how many times did you have
12 to go to Kevin and say we've got a bounce underground, just an estimate?

13 A. Well, from the 13th through the 16th there weren't that many bounces on
14 dayshift.

15 UNIDENTIFIED SPEAKER:

16 No, just the whole time you were there, how many times?

17 A. No, that's when we specifically had the directive and so that's why ---.

18 MR. PAVLOVICH:

19 Oh, you started on the 13th?

20 A. Right.

21 MR. PAVLOVICH:

22 Not on the 7th?

23 UNIDENTIFIED SPEAKER:

24 Well, I thought it was with just the major bumps?

25 A. That was the 13th, wasn't it?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. TEASTER:

No, that was on the 8th --- 7th.

MR. PAVLOVICH:

The letter was on the 7th. It was 1:13 in the morning on the 7th.

A. The next day, the very next day?

MR. PAVLOVICH:

Yes.

A. Well, then it was from them on.

UNIDENTIFIED SPEAKER:

So can you take a guess on ---?

MR. PAVLOVICH:

That was the one, Bill, where they were cleaning up the number four entry with scoops, okay. Do you remember that? The plan was ---?

A. Well, yeah, but I wasn't there but ---.

MR. PAVLOVICH:

No. But I mean, you were in --- probably involved in a discussion, they were cleaning up number four entry with a scoop and they cleaned it about 300 and some feet, scoops came out and Ron was standing in the crosscut in front of the feeder and it bumped and knocked him down and it filled that entry back up, and from then on they never went back in number four. Do you remember that instance?

A. Right. Because ---.

MR. PAVLOVICH:

Okay. And you say that's the one Kevin said I want you to tell

1 me. Well, Kevin wouldn't have been there yet. He didn't come until the evening of
2 the 7th. This was at 1:13 in the morning on the 7th.

3 A. Well, there was a bounce.

4 MR. PAVLOVICH:

5 There was a lot of bounces.

6 MR. TEASTER:

7 Are you sure that you talked to Ron the next shift or could
8 there have been some days in between there?

9 MR. PAVLOVICH:

10 You talked to Ron the next morning; right?

11 A. Maybe it was a ---.

12 UNIDENTIFIED SPEAKER:

13 He did say there was a delay in getting that information to
14 Kevin, so maybe it happened a couple days later when Kevin found out, you know.

15 A. And then from that point on he said, okay, I want everything ---.

16 UNIDENTIFIED SPEAKER:

17 Because he did say there was a delay from when that
18 happened with Paletta to when Kevin did find out, so ---.

19 UNIDENTIFIED SPEAKER:

20 Okay. Bill, I understand ---.

21 A. Whenever Kevin found out about that, he wanted them reported from then on.

22 UNIDENTIFIED SPEAKER:

23 Okay. So Kevin, I understand, Kevin may be aware of some
24 of them because he's on the same shift, he's there with you. That aside, how many
25 times besides that would you have called Kevin? Did you ever call him?

1 A. Well, I called Kevin but I can't remember that it was always for bounces
2 because there were other things that I had to call him for.

3 UNIDENTIFIED SPEAKER:

4 Can you take your best guess? I mean, I know all of our
5 memory slips us. Just take a guess on when you were at the mine, once you got
6 those instructions from Kevin, hey Bill, anytime you hear of a significant bounce
7 underground, you let me know. If I'm not on the property, here's my number. Just go
8 back in your mind, how many times do you think you went to Kevin, either in person or
9 though the telephone, to let him know about a bounce on your shift?

10 A. I can't remember on the phone because ---

11 UNIDENTIFIED SPEAKER:

12 Either.

13 A. --- we called for other things. But I know there's at least I can remember
14 specifically two times going out because they --- Al Davis and Kevin were sitting right
15 outside us, outside the MEO vehicle and I actually went out and said hey, we have a
16 bounce. They said well, is everybody okay and I said well, they reported everybody's
17 okay.

18 UNIDENTIFIED SPEAKER:

19 Yeah. We're not --- I know it's hard to remember exactly, Bill,
20 but we weren't there at all. So we're just trying to get an idea of maybe how frequently
21 that occurred. That's all we're trying to get at so ---. The only way we can know that is
22 if you give us some kind of number.

23 A. It's really hard to do that.

24 UNIDENTIFIED SPEAKER:

25 I understand but ---.

1 BY MR. TEASTER:

2 Q. Okay. So these two times that you went outside and told Kevin and whoever,
3 we had a bounce, what was the --- did they jump up and ---?

4 A. Well, their first question was how is everybody, is everybody okay?

5 Q. And they were okay. So what all was ---?

6 A. They were okay.

7 Q. So what was their next response, okay, thanks?

8 A. Yes, there was nothing --- I mean, there was only to say we're going to stop,
9 we're going to re-evaluate.

10 Q. Nothing, okay. They just --- you told them and they said is everybody okay
11 and you said and they said continue on?

12 A. Right.

13 UNIDENTIFIED SPEAKER:

14 The second part of mine to Bill, was the discretion, it seems
15 like you know you said well, if it was a big one or a noteworthy one, whatever, that
16 Kevin would find out about it. And I guess my question, the second part is, who was
17 deciding, you know, what kind of discretion were you using, was Bob Cornett or third
18 shift using on deciding when Kevin would get a call? Did Kevin ever get a call in the
19 middle of the night that someone decided it was an important one?

20 A. I don't know because it wasn't ---.

21 UNIDENTIFIED SPEAKER:

22 I understand you don't know but did you ever hear about that
23 from your trade off in the other shifts?

24 A. I don't know, but I know on every one of my pass downs, anytime I got a
25 directive, I would put it on the board and say this better be done because we were told

1 Kevin wants this and you make sure you pass it down to the graveyard shift. Then
2 when I came back for graveyard shift, I'd say did they pass that down to you from the
3 afternoon shift. So it was my understanding because you have some things described
4 in the notes that would be like a bump or a thump, but they didn't really call it out.
5 They might have put in their notes but if they called it out, we put it in the book. It was
6 my understanding that Kevin wanted to know that. That was my understanding.

7 BY MR. TEASTER:

8 Q. Was you present ---.

9 MR. TEASTER:

10 Go ahead.

11 MR. PAVLOVICH:

12 No, I don't have a question.

13 BY MR. TEASTER:

14 Q. Was you present when the press went underground, the media?

15 A. No. I wasn't, that was on afternoon shift.

16 Q. What did you think about the press going underground?

17 A. I didn't see any reason for them to go underground.

18 Q. Do you think it's consistent with the requirements of 103(k)?

19 A. No.

20 Q. Was the K Order modified to permit them to go underground?

21 A. No, not that I'm aware of.

22 Q. That modification that you had mentioned earlier, you modified it to allow
23 them to take a camera underground in accordance with a photography plan, that was
24 specifically to allow Bob Murray to take a camera under there to take some pictures?

25 A. They came to us and said that they wanted to take some pictures to be able to

1 show the families.

2 Q. They being Bob Murray's company?

3 A. Yeah. They wanted to take some pictures to be able to show the families. I
4 told them they couldn't do it when they came to me. I told them they could not do it.
5 That had nothing to do with recovery efforts and there was no need for it and that was
6 when Poulson went to Al Davis and said look, we've got an approved plan that says
7 we can actually take a camera underground and take pictures. What difference is
8 this, why can't we go ahead and do it? We found out later that he actually didn't have
9 an approved plan anyway but nonetheless he told Al that.

10 Q. So you trusted him when he said he had one?

11 A. I trusted Al. When he told Al, Al came to me and said look, they've got an
12 approved plan, go ahead and modify that K Order to let them do it. I said Al, I've got
13 some real concerns here. I said, first of all, you've got inspectors underground. I don't
14 trust these people. They may be wanting to take pictures of someone --- inspectors
15 trying to get them to correct something. They might be trying to take some kind of
16 pictures to make it rough for him to get done what needs to be done. I said I don't see
17 any need for it. There's no need for that but nonetheless, he came back and when he
18 told me to modify it, I went and had Barry modify it.

19 Q. What about the family members, what do you know about them getting the
20 right of entry?

21 A. Right of entry?

22 Q. Well, somebody allowed them to go underground?

23 A. I think they had some kind of a representative but a guy was already a miner.
24 He was a miner but he was related to them --- I mean, it's not like a guy that's not had
25 no mining experience. I think the guy was related and worked for Murray. I mean, he

1 worked at the mine and I think they allowed him to go underground and report back to
2 the family. That was my understanding.

3 Q. You had no personal involvement?

4 A. No.

5 Q. My understanding is that there was two family members, one of them was a
6 miner, but I had not heard that he worked at Crandall Canyon?

7 A. Well, he worked for Murray. I don't know if he worked at Crandall Canyon. It
8 could have been West Ridge Mine or Aberdeen or one of those other mines.

9 MR. PAVLOVICH:

10 And one worked for San Juan?

11 A. Oh, that's right.

12 MR. PAVLOVICH:

13 He was a rescue team member for San Juan?

14 A. That's right.

15 MR. PAVLOVICH:

16 The other one was --- had some mining experience. I don't
17 know if he was an active miner but he had mining experience somewhat. You're
18 probably thinking of the guy that worked at San Juan?

19 A. That's ---.

20 MR. PAVLOVICH:

21 That's a rescue guy?

22 A. That's probably right because it seemed like when they said well, this guy is
23 had experience, you know. But still, I don't know why those things were allowed. It
24 had nothing ---.

25 MR. PAVLOVICH:

1 But doesn't the K Order say the only people allowed in there is
2 the ones to correct the condition or working on the problem?

3 A. Right but when someone above you ---.

4 MR. PAVLOVICH:

5 I'm not questioning you, Bill, I'm just saying is that what it
6 says?

7 A. That's right.

8 MR. PAVLOVICH:

9 So did you feel that they should have been going in?

10 A. I saw no reason, I expressed that right up front to begin with, that I had saw no
11 reason because it had nothing to do with recovery and you know, later on they came
12 back and said well, gee, maybe we've learned something from this. Maybe these
13 people shouldn't be allowed underground. I said what is there to be learned. I mean,
14 we knew that before.

15 MR. PAVLOVICH:

16 Who said that, maybe we learned something?

17 A. I think that was Mr. Stickler.

18 MR. PAVLOVICH:

19 Mr. Stickler said maybe we learned something, that people
20 shouldn't be allowed underground anymore?

21 A. Well, something to that --- you know, something with the media, that kind of
22 thing.

23 MR. PAVLOVICH:

24 Okay.

25 BY MR. TEASTER:

1 Q. Bill, are you aware of any activity that was going on underground that was not
2 related to try to reach the trapped miners?

3 A. Well, you know, they were doing clean up, ventilation ---.

4 Q. So ventilation I understand that, I mean, I think that's directly related to getting
5 air up there to those rescue workers.

6 A. They had to move a continuous miner from that other section. I mean, there
7 were equipment and stuff that they were bringing in.

8 Q. That's all necessary stuff but I'm talking about stuff that's not related to trying
9 to rescue the miners? Getting the miner up there, setting the feeder, establishing
10 ventilation, that's all pertinent stuff.

11 A. Well, you know, we had people that went underground that looked at the
12 possibility of putting tracer gas in and where they could put it in and where they could
13 bring it out.

14 Q. I'm talking maybe stuff like cleaning belts, rock dusting the other areas of the
15 mine that was not ---.

16 A. Well, I think there was some people that went underground that were
17 concerned with the bounces that they --- when you have a bounce, even if you had an
18 area that's rock dusted, it looks black now after a bounce, and I think there were
19 people concerned that hey if we're going to be moving material out, we probably ought
20 to be making sure that those belts are in a safe operating condition, which would
21 include rock dusting. I think if you're going to use the belt as a part of a recovery
22 effort, I think that belt has to be maintained. So I don't see a problem with that.

23 Q. Okay. Are you aware of anybody that was working at the rescue effort that
24 was told to go home, other than ---.

25 A. I think Ex. (b)(6) and Ex. (b)(7)(C) was told to go home.

1 Q. What do you know about that?

2 A. I don't know a lot about it because they would have their little meetings and I
3 was just informed that he was going home and so anything ---. You know, I hear
4 things, but no one came directly to me and said this is why he's going home, but what
5 I had heard was that he had shut down a piece of equipment that they were using for
6 cleaning because it had some accumulations on it or had a leak or something. I don't
7 know -- I really don't know the details.

8 Q. Do you know who you heard the from?

9 A. That's a good question. I'm really not sure. I heard it from somebody up there
10 but I'm not sure who. It might have been Ted Farmer, I don't know, but I know there
11 were some people that were talking about that and I said well, you know, why did he
12 go home. And so you know, what they said I ---- whether or not that was true, I don't
13 really know.

14 Q. Did you meet Bob Murray while you were there?

15 A. Yes, Bob Murray came up. He was in that meeting pretty early on.

16 Q. In the morning meeting?

17 A. Yeah, not in the morning meetings every day but in that first day at the mine,
18 he came there.

19 Q. And what interactions did you have with him?

20 A. Well, he --- he's an interesting guy. He kind of plays a part like well, how
21 concerned he is about safety, you know. He gives this big spiel, but the proof is in the
22 pudding.

23 Q. Did you have any direct communications with him?

24 A. No, just in that meeting you know when we were trying to find out who was
25 underground, talking about what had been established in accordance with their ERP

1 plan, you know, those kind of things. Then he kind of --- when the other people, you
2 know, and Stickler and Stricklin and Davis were there, he kind of more or less went
3 with those meetings with those guys.

4 Q. Did you ever get anything out of him like he had a lot of political clout?

5 A. Well, I've heard stories on things that he's said, but you know ---.

6 Q. No nothing direct in your communications at the mine?

7 A. He's really kind of a funny guy because you know --- I say this just --- he's a
8 little bit strange because when Kevin showed up he'd say oh, yeah, Kevin's here. I've
9 worked with him. He knows that this is a good plan, you know, he'd go on and on like
10 that. Kevin would just kind of try and get away from him.

11 Q. Did you hear Murray say that this was an earthquake?

12 A. Yes, he said it was an earthquake and he also said that they weren't --- in that
13 meeting he also said that they weren't doing retrieve mining in there.

14 Q. And what did you think of those two statements?

15 A. I thought they were both stupid. The seismic event until we actually checked
16 with the University of Utah, really no one could tell whether that was an earthquake or
17 --- you know, if the earth --- but they can. The University of Utah can tell the
18 difference. I don't know how they do it, but they can tell the difference between an
19 event that's caused by an earthquake and an event that appears like an earthquake,
20 which this was an event that had a magnitude that appeared like an earthquake but it
21 was not an earthquake. It was a mine event.

22 Q. What do you think of Murray's attitude toward how things were being run ---
23 excuse me, how things were being run?

24 A. I don't know. He really --- after that first day, he really didn't spend much time
25 up there except like when they came up and I wasn't on the property then but when

1 they took the cameras and you know, the media and everything underground.

2 MR. PAVLOVICH:

3 So you didn't see him near as much on the minesite as we did
4 on TV?

5 A. Right.

6 BY MR. TEASTER:

7 Q. Well, what about his staff there, Laine Adair, Gary Peacock?

8 A. ^{Ex. (b)(6) and Ex. (b)(7)(C)} think --- I don't know if ^{Ex. (b)(6) and Ex. (b)(7)(C)} misled Murray or if the two of
9 them by the time they got done talking with each other, they came out with the same
10 idea. I mean, put the two of them in a pot and swirl it around, it's hard to tell which
11 one would pop out and be recognizable.

12 Q. Did you have any dealings with the family?

13 A. Just when I called. You know, I'd call from the mine down and then
14 occasionally Bill Denning would need a ride and so on my way down, I would stop and
15 pick up Bill Denning, but that was it.

16 Q. What about the press?

17 A. We were told specifically not to deal with the press and to --- we had phone
18 numbers that if they called that we were to refer them to them.

19 Q. How do you think this operation was run?

20 A. Well, I was impressed with Kevin Stricklin because every time he was there
21 and we looked at a plan, he was very enforcement-oriented and safety-oriented
22 towards getting things done. I was not impressed with Mr. Stickler at all. I thought he
23 was way too production oriented as compared to safety and being safety oriented for a
24 safety organization. That was my opinion.

25 Q. The Governor said in his hearing at the House that he never thought MSHA

1 had a pretty good hold of things out here. How would you characterize his comment?

2 A. Well, I would say that part of that is based on the fact that when he tried to get
3 on mine property, Murray instructed the Danbury County Sheriff to not allow the
4 Governor on mine property. I mean, that had some bearing on that.

5 Q. So you kind of figured he was a little bit upset by the time he got to the mine?

6 A. He was really upset because of the way he got in is he snuck in with MSHA in
7 an MSHA vehicle. Murray didn't know he was up there until he was actually on the
8 property.

9 MR. PAVLOVICH:

10 Who drove him in?

11 A. Well, it was an MSHA vehicle so it would --- I'm not sure who it was, but it
12 would have been an MSHA person. I don't know who drove him on but I know he got
13 on there by getting in an MSHA vehicle.

14 MR. PAVLOVICH:

15 So he actually rode in on a vehicle that had government tags?

16 A. That I can't be sure of because some of our government vehicles have state
17 tags.

18 MR. PAVLOVICH:

19 Okay. So it could have been anybody then?

20 A. Right.

21 MR. PAVLOVICH:

22 Even one with state tags, so would the --- when you pulled up
23 at the site and there was a sheriff there and you rolled down the window and said I'm
24 Bill Taylor, I'm driving an unmarked government car, but I'm with MSHA, you can go
25 on in?

1 A. Yeah, they would ---.

2 MR. PAVLOVICH:

3 Is that how they did it or how did they do it?

4 A. Well, after the Governor got on, then they started checking everybody in the
5 vehicle and you had to pull your ID.

6 MR. PAVLOVICH:

7 Before the Governor got on, how did they do it?

8 A. Before the Governor got on, they would check and see if you were with MSHA
9 and what your purpose was to be up there.

10 MR. PAVLOVICH:

11 How would they check that?

12 A. Well, most of those guys --- like I had been up there enough, most of those
13 guys knew me.

14 MR. PAVLOVICH:

15 Well, Mika Guana and Joe Zelanko came on board, they're in
16 a rental car, they got there pretty quick and they said we're Mike Guana and Joe
17 Zelanko with MSHA. What'd the guard say?

18 A. I think he probably said go ahead.

19 MR. PAVLOVICH:

20 Okay. I could have drove up there and said I'm Joe
21 Pavlovich with MSHA and they would have probably let me go ahead. So you think
22 somebody drove up and said I'm Ernie Teaster and these guys with me are with
23 MSHA, we're going in the mine, they would have said okay but it was the Governor in
24 the back?

25 A. I think that's probably what happened, but they changed it after that to where

1 then you had to show an ID, everybody that came up.

2 MR. PAVLOVICH:

3 So then you had to show an ID after the Governor got ---.

4 A. Yes.

5 MR. PAVLOVICH:

6 And what did the Governor do when he got there? Were you
7 there?

8 A. It really aggravated people because he looked like he was more concerned
9 about getting someone to take a picture than he was about what was actually
10 happening. There were guys that had been underground working and those guys were
11 all upset because he didn't even say boo to them. Like if you were standing there and
12 you'd come out of the mine, he just walked right passed them. He never came to the
13 command center.

14 MR. PAVLOVICH:

15 Was he wearing a suit or was he wearing mining clothes?

16 A. I'm not sure because I was in the command center and all I know is he came
17 up to the mine property and he left. I mean, he never came to the command center,
18 never said anything with us.

19 MR. PAVLOVICH:

20 Guarantee you we'll get to the bottom of this one.

21 MR. TEASTER:

22 I tell you it would look to me like MSHA's got him on the mine
23 property then he might have been a little more favorable in his comments.

24 MR. PAVLOVICH:

25 Maybe they made him walk off. It's a long walk down there to

1 that little bridge junction in the road.

2 A. I wonder who did bring him up. I'm not sure who brought him up.

3 MR. PAVLOVICH:

4 Was it Stickler?

5 A. I don't ---.

6 MR. PAVLOVICH:

7 Kevin? Al? I mean I don't think there's any inspector out here
8 that would take that upon himself; do you?

9 A. Yeah, you're probably right.

10 MR. PAVLOVICH:

11 Maybe but ---.

12 A. Well, the Governor didn't even talk to the inspectors. He didn't come and talk
13 to me. So what does that tell you?

14 MR. PAVLOVICH:

15 If I was an MSHA inspector, I don't think I'd say get in
16 Governor, let me take you into the mine. If you was a supervisor, would you have
17 said that?

18 A. No.

19 MR. PAVLOVICH:

20 No.

21 A. I would have checked with somebody say, hey, what do you want to do with
22 this guy.

23 BY MR. TEASTER:

24 Q. Bill, when you get back to the office, will you go through your notes and see if
25 you can identify specifically what time you talked to Ron Paletta about his involvement

1 in that bump?

2 A. Actually, I don't have any notes other than what's in this log. Ron could
3 probably tell you because he would have remembered, you know --- he came in the
4 MEO and talked to me about it.

5 MR. PAVLOVICH:

6 It might have been that morning?

7 UNIDENTIFIED SPEAKER:

8 It would have been that morning, the morning of the 7th.

9 MR. PAVLOVICH:

10 Yeah. He was knocked down that night and he came in and
11 talked to you that morning and told you what happened when he came out of the
12 mine.

13 MR. TEASTER:

14 Well, it could have been.

15 MR. PAVLOVICH:

16 But you think not?

17 MR. TEASTER:

18 Well, it seems to me like that Ron came out that day and
19 everybody was so busy that they couldn't talk to him and he went on home.

20 MR. PAVLOVICH:

21 He might have ----.

22 A. That may be, it may have been the next morning.

23 MR. PAVLOVICH:

24 You were on the phone and he waited to talk to you, but you
25 were too busy with updates?

1 A. Yeah.

2 MR. PAVLOVICH:

3 What did you think about providing these hourly updates to
4 headquarters and receiving those? Was that like a little bit of overkill considering how
5 much work was being done every hour?

6 A. It seemed to me that if there was significant work that was done then a
7 progress update could have been given and that would have been sufficient. But
8 sometimes by the time you went through the entire update, there were times on there
9 when it took us 30 minutes or more by the time we answered every question because
10 there was a whole room of people and they all had a question and by the time you
11 gave that update, sometimes you only had 30 minutes before your next one was due.

12 MR. PAVLOVICH:

13 Plus you had to call headquarters, plus you had to call the
14 district, and you had to have your numbers ready for Mr. Stickler and all the other
15 phone calls. Could you really concentrate on the effort going on?

16 A. It was pretty hard.

17 MR. PAVLOVICH:

18 When you looked at this map and you saw the extent of the
19 bounce and you'd been in bounces, you had never seen one that big before. You felt
20 the forces of a bounce either maybe knocked you down off your feet or blow your hat
21 off or something, see people get hit with stuff. So you know the force that probably
22 could have been associated with this underground and you also knew the reading that
23 had come out of the number one borehole was seven percent oxygen. Did you think,
24 Bill, there was a chance that these miners were alive? And I mean, in all seriousness
25 did you really believe they were alive?

1 A. Before the second occurred, I still hoped that these guys if they had the
2 presence of mind they could have gotten back into this entry and barricaded
3 themselves. That's what I hoped.

4 MR. PAVLOVICH:

5 So you hoped that but I'm saying realistically, you'd been in a
6 bounce, can you see anything when that dust starts flying or can you find your
7 orientation once you're knocked down and you're in that dust?

8 A. It's pretty hard.

9 MR. PAVLOVICH:

10 The force is tremendous, I would imagine, in something like
11 this and even if you weren't covered up and you were just knocked down and the dust
12 that would be in here now with no ventilation, could a person even see to find their
13 way up there?

14 A. You don't know, Joe, but you know depending --- even when you look at those
15 on the epicenter, you know, if we pull up a map right now you'd find those all round
16 Price. You'd find them all around Crandall Canyon, Bear Canyon, Energy West. I
17 mean, they're like dots, they're just dots covering a map. But the real key is where is
18 the epicenter of it because if the epicenter example is out here, this is where the major
19 devastation is going to be and it may not be nearly as bad back here.

20 MR. PAVLOVICH:

21 Did anybody know that?

22 A. Nobody knew that. All you can do is really hope that maybe these --- maybe
23 somebody survived in there.

24 MR. PAVLOVICH:

25 Don't you think there would have pounding or tapping or

1 something?

2 A. You know, when we put the first borehole through, but the problem is that first
3 borehole was down here and that's why they didn't really know much more until they
4 got back here because ---.

5 MR. PAVLOVICH:

6 But they had the geophones set up on the surface; right, in
7 case someone was pounding on the roof bolt?

8 A. Yeah. But they told us that they couldn't --- there's not much they could tell
9 until they actually got the borehole through.

10 MR. PAVLOVICH:

11 Okay. Well, did you ever think that we were taking too much
12 risk in cleaning this up with the number of bumps that were happening for the value of
13 what we might find in there?

14 A. Well, in the back of your mind you think that, but when you're thinking that
15 there's --- if there's a possibility of somebody alive back here --- I mean, it's a hard ---
16 it's not a ---.

17 MR. PAVLOVICH:

18 I'm just asking for your opinion, that's all. That's all. Was it
19 pretty much --- did you ever hear anybody discuss that in the command center or
20 anywhere on the property, that there's a chance these guys probably didn't make it
21 and you know we're risking ---?

22 A. Well, there's something that I specifically discussed in the command center
23 and that was when they were up on top doing these boreholes because we were
24 informed by John Urosek that they had a close call up there and when they were
25 setting that up, because initially they thought they could take that little robot that they

1 had up there and hold it, someone could hold it over the borehole and lower it down in.

2 Yeah, it sounds funny, but they actually thought they could do that and we had a near
3 miss up there. And then they had some lightning storms up there. And I went to Al
4 Davis and I said Al --- I said we don't know what we have here. This was before the
5 August 16th bounce. I said, but we certainly don't want to get someone killed up there
6 in a lightning storm. I said in my opinion those people should be pulled off. He said
7 what about the families, you know, we pull that off we've got to explain to the press
8 and the families. I said so be it, pull them off there but that never happened either.

9 Q. So was everything focusing on them, the pressure from the families as far as
10 the footage, the need for footage every day, the need to know, the props, the worry
11 about pulling those off? I mean, what are we going to tell the families, was that
12 driving this thing?

13 A. Well, look at the --- there was news media taking cameras underground. I
14 think when you look at everyone of those things, it had to do with what are the families
15 looking for, what information have we given the families, what information can we give
16 the families.

17 Q. So you think Mr. Stickler was more preoccupied with the families and the
18 media than he was with what was going on here?

19 A. Well, when you look at everything, it sure --- you know, you would --- it would
20 lead you to that conclusion. Whether that's true or not, I don't know.

21 MR. PAVLOVICH:

22 Okay.

23 BY MR. TEASTER:

24 Q. Bill, do you know there was a miner that was knocked down the same time
25 Ron Paletta was. Do you know if anybody talked to that miner?

1 A. I don't.

2 Q. Did you know another miner or a miner had been knocked down also?

3 A. I don't remember exactly what Ron told me. Ron told me that he was knocked
4 down and he came out and showed me on the map the exact areas of people and I
5 asked him, I said, well, how are other people. He said well, everybody was okay. We
6 did a headcount. You know, we checked everybody, everybody was okay. But the
7 real concern was is if anybody had been in any of those locations that were closed off
8 that the conclusion was he didn't think they could survive and I relayed that on.

9 Q. Based on your experience and now reviewing this log; what do you think was
10 taking place? I mean, is it common to have that many bumps in that short a period of
11 time of that magnitude?

12 A. Well, I have been on pillar sections where I've seen a lot of bounces. I mean,
13 as long as you're in there mining coal, as long as your relieving that support, which
14 even in this case in here, people don't --- have a hard time believing this, but actually
15 once you've had a bounce and you fill that entry in, when you go in with the miner and
16 start removing that, that's just like removing support.

17 A lot of people think well, that's not true, but it is true. I've seen more severe
18 bounces from people mining something out of a floor then mining into the rib or roof.

19 Q. But is this bumps that occur on normal pillar recovery, are they back in the
20 gob area, are they right next door or ---?

21 A. I've seen them right there where you're at. A lot of times like when you're
22 mining through, when you mine through a crosscut on development I've seen them,
23 I've seen bounce at a particular location, like just when you break through or just prior
24 to breaking through.

25 Q. Because it seems it's like by chance, you know, when nobody was right there

1 and was not killed by this bump up here. You get one up here where the miner is
2 breaks the shafts on the motors, it covers up the left side of the motor. So you've got
3 a lot of those things going on and it's just by the grace of God that there's nobody right
4 there in that particular area and maybe the only difference between the one on the
5 16th and those other ones is just we had people up there in that area. But is there not
6 anything that we can use as a barometer as to when this --- all these bumps are telling
7 us something? You know, we go with a mine fire, we got gases that we can look at
8 and make some informed decisions. And if you could cracked roof and roof falls
9 occurring, you can make good informed decisions. But with bounces is there anything
10 at all that would give us an indication to when this is just too touchy?

11 A. Well, I agree with what you're asking and I have to answer it again, with the
12 extreme documentation that we had to go through at the Aberdeen mine to get the
13 mine pooled, where you have an injury rate 300-percent above the national average
14 and yet today they sit with an approved plan. My question is why? If we don't have
15 the capability to understand what's causing the bounces and how to prevent them,
16 then we don't have the technology available to mine it in my opinion.

17 Q. I mean, I think the company made a decision that there was too many
18 bounces and it was too dangerous, too hazardous, to mine North Main or North
19 Barrier. So they pulled out of it. Obviously, and if you look at some seismic activity
20 that occurred up in that area from March the 9th through the 13th, there was six or
21 eight bounces that ranged in magnitude from 1.6 to 1.8. And I mean, there was ---
22 every eight to ten hours one was occurring. So they made a decision it's just to
23 dangerous for us to mine based on that number of bounces. Now, I'm just wondering
24 if there's any time that we can get enough bounces without getting somebody hurt
25 when it says it's time to go, there's just too many?

1 A. I would say if you pull up right now the University of Utah and look at the
2 number of bounces we've had in the area around Aberdeen, West Ridge, Dugout,
3 Bear Canyon, Energy West, you would say that none of those mines should be mining
4 because one of those is going to be severe enough that if the epicenter is located in
5 the right place, it's going to kill somebody. I mean, that's the reality of it.

6 Q. So the answer is we don't know?

7 MR. PAVLOVICH:

8 Can't predict them?

9 A. Right.

10 BY MR. TEASTER:

11 Q. You know one thing at Aberdeen, I mean, or at any mine, it would seem like
12 that if you're going to try to do it, it's got to be by design. It can't be that you go in
13 there and put some rock props in there and prevent a bump, that you got to have a
14 design that's going to be fashioned in a way that's going to prevent bumps or minimize
15 the occurrences of bumps. But once you've developed it, you know, you've either got
16 to leave it or mine it and live with the bumps and just hope they don't get you?

17 A. I agree exactly with what your saying.

18 Q. Put your goggles on and one of them Airstream helmets and off to the face?

19 A. The previous mine operator, as an example, at Aberdeen no longer works
20 there because when Murray came in, he told him that he -- you know, as part of the
21 roof control, he would leave a barrier between each longwall panel, but he believed
22 you could only go down so far and when you got to a certain depth of cover that would
23 no longer work. I mean that guy had worked ---(b) 6 & 7 (c) worked in
24 these mines all of his life, knew the ground. He no longer works there. (b) 6 & 7 (c
25 (phonetic) worked up there. He no longer works there. Anybody that had that kind of

1 experience no longer works there because Murray said it can be mined.

2 Well, just because you say it can be mined that doesn't --- what does that
3 mean? And you're exactly right, if you put --- if I put props in, that's after the fact.
4 That's after I developed initial support, designed my pillars for support, and they're not
5 working. Now, I have to do something else. And you can't tell that until you develop
6 the next panel and try something different. They do that by putting in a computer
7 simulation determining what will work. But I asked those people on those computer
8 simulations, can you tell me when a bounce is going to occur. He said no, I can tell
9 you when it occurred. And I said I need your computer to tell you that.

10 Q. Well, let me ask you this, Bill, do you know why they ceased rescue efforts
11 after the accident on the 16th?

12 A. What was the question again?

13 Q. Why they ceased the rescue effort following the accident on the 16th where
14 the three miners were killed and six injured?

15 A. I believe they realized at that point that it was not feasible to endanger live
16 people for an unknown.

17 Q. And do you know what they based that on, the support system not providing
18 the protection or was it just too many --- the mountain was too unstable?

19 A. I think when they saw this bounce and what happened with our people right
20 there visually seeing it, they realized that there's no way these people could have
21 survived.

22 Q. Were you back at the mine after the 16th?

23 A. On --- just to go up because we had certain things that had to be done after ---
24 you know, after we closed the mine, that prevented any further operations. There
25 were still things that had to be done.

1 Q. This committee of experts on mine bounces and mine bumps and outbursts,
2 do you know what data they looked at, because they didn't go underground?

3 A. Now, which committee?

4 Q. Do you know what data they looked at to make a determination that it was not
5 safe to go back in?

6 A. Which committee are you talking about?

7 Q. There was a group that they brought in somewhere around the 19th or 20th of
8 August, they were people, I don't know them by name, but they was from West
9 Virginia University. There were some from Seattle, there was some from NIOSH. It's
10 different. But it was a blue ribbon expert panel type that had a lot of knowledge in this
11 particular area. They came and reviewed data and made a determination without
12 going underground that that mountain was too unstable to continue the rescue effort.
13 Do you know what data they would have looked at?

14 A. I don't. But it's kind of like the guy who does the computer simulation, that
15 after a bounce occurs, he can tell you it occurred. Years ago I worked at Sunnyside
16 as an inspector at the Sunnyside Mine and the BLM --- not the BLM, the Bureau of
17 Mines did a tremendous amount of study and research and during my inspection
18 activities I'd stop and ask them because that mine used to have a lot of bounces, it
19 had a lot of methane. And I'd stop and ask them during the course of my inspection
20 activities, what have you learned? And he says well, I can tell you where every
21 bounce occurred in this mine. And I said but can you tell me when the next ones
22 going to occur and he said no. And I said well, tell me what good is your data then.
23 He said well, someday this will be used, this research may help. And I thought okay,
24 that's great, but what does it really tell us.

25 Q. I would look at that log, I couldn't tell you exactly when it was going to happen

1 but I could tell you it wouldn't be long for another to be occurring based on that log.

2 A. Right. And I can tell you that there's going to be bounces occur at West
3 Ridge, Dugout, the Energy West, but I can't tell you when they're going to happen.

4 Q. Or where?

5 A. I can't tell you when or where but I can tell you that they're going to happen,
6 because the background data from the seismograph says that it will happen. So if we
7 really follow that same philosophy, we should be saying those mines should not be
8 mining.

9 Q. Well, what's the best indicator of an impending bounce? Is there any?

10 A. What I have been around is usually when it quiets, when it gets quiet. And so
11 if you have a lot of activity usually that means that it's releasing. It's when it gets quiet
12 that I always worried about it.

13 Q. Well, see I've heard that but if you look at that log, there was --- there wasn't
14 much quiet time. You had a lot of significant bumps?

15 A. I know that. I understand what you're saying, but I'm just saying that on the
16 bounces that I've been around, usually if you have thumping and working, you know
17 that things are moving, it's cracking, the tops moving, but when it gets quiet, you worry
18 about it because you know it's building up and it's going to release sometime, you just
19 don't know when.

20 MR. PAVLOVICH:

21 Well, Bill, for one thing everybody, you included, and the
22 people who were underground and let's face it, there's nobody that's more expert on
23 bumps than the guys that work right here. Okay. They've been through hundreds of
24 them and we interview them and they'll tell you that. But they're going on their prior
25 experience. Okay. But when we sat and talked to him and you too, nobody had ever

1 seen barrier pillars pulled between two major longwall areas. Nobody had ever seen a
2 bump of this magnitude before and, in essence, nobody really ever saw one that was
3 cleaned up like this. That was packed full to the top and also you're taking part of the
4 barrier that is now moved out in the entry and the roof bolts were overtop of it. So I
5 mean, it's great to use experience, but hell, is the experience even applicable to a
6 totally different situation than anybody ever seen before .

7 And when we asked these guys about when it gets quiet and
8 said what do you mean by getting quiet, well, maybe five or ten minutes. Well, I
9 mean, five or ten minutes is not a very long time to be thinking oh, five minutes now
10 it's quiet. It's getting ready to bounce. So I mean, could you tell? You know, the
11 bounce that happened on the 16th was a 1.6 magnitude according to the University of
12 Utah, and throughout this log you got, you know, the one that bounced the rescue
13 teams out, you heard about that one, just as they came out, it bounced behind and
14 actually blew the fresh air base out. That was 1.9. The one Paletta was in was 2.2
15 and there's several here, there's one 1.7. I mean, these were all as big as that one.

16 A. Right.

17 MR. PAVLOVICH:

18 They just weren't in the right place?

19 A. Right.

20 MR. PAVLOVICH:

21 If the two scoop operators or the mine rescue teams had been
22 killed on that first day and either the one behind the seals or the one where Paletta
23 was in, would we stop then?

24 A. Probably.

25 MR. PAVLOVICH:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Couldn't it be somebody that --- they don't necessarily have to be from outside, but can't it be somebody that's main job is to focus on what's going on at hand?

A. I think that would be good.

MR. PAVLOVICH:

Have you ever received any mine emergency training?

A. We haven't had an MERD problems out here. We get the little handbook that comes out.

MR. PAVLOVICH:

Okay. But I mean, that's just who to call?

A. Right.

MR. PAVLOVICH:

That doesn't train you. So you never had any MERD exercises out here ---

A. No.

MR. PAVLOVICH:

--- maybe for years and years and years? So how did you acquire your expertise on command center organization and managing an operation like this?

A. The same way I did my first fatality investigation. Back in those days as an inspector?

MR. PAVLOVICH:

Experience?

A. Yeah. Back in those days, you didn't have a team of people went out. They

1 called you and said hey, we had a fatality at the mine, you go out and do the
2 investigation.

3 MR. PAVLOVICH:

4 So even though we've had all the accidents here in the last
5 few years at Sago and Aracoma and Darby and Jim Walters, nobody ever came out
6 and did any kind of training on MERD's organization of command center, how the
7 operation should be?

8 A. No.

9 MR. PAVLOVICH:

10 So you're just left on your own basically to handle something
11 like this?

12 A. Well, technically you have the mine rescue team which is under the direction
13 of Larry Ramey.

14 MR. PAVLOVICH:

15 Well, but the rescue team --- I mean I guess that's the
16 problem. Rescue teams basically follow somebody's orders when they come to a
17 minesite except at a contest. In a contest, they can do it all; right? They make their
18 own decision for everything but when they show up at a mine, they sit there and wait
19 until somebody says you go and do this and then they do it explicitly and do it well, but
20 they don't undertake an operation by themselves.

21 A. Right.

22 MR. PAVLOVICH:

23 They never have. So someone has to be giving them the
24 instruction and the guidelines and the orders of here's what to do and if nobody's doing
25 it, then --- you know, we can have the best rescue teams in the world but without

1 command center knowledge and somebody taking charge of an operation and doing
2 these type things, because that's usually what we do in a mine fire; right?

3 A. Right

4 MR. PAVLOVICH:

5 We evaluate gases, we evaluate all the information we have,
6 and then say okay, a rescue team can go now or you can't go, but on this, it was like
7 nobody was evaluating anything?

8 A. Well, it was kind of unique.

9 MR. PAVLOVICH:

10 Yeah, it is unique.

11 MR. TEASTER:

12 They're all unique.

13 A. I've been on those ones where we have fires or explosions--- yeah ---

14 MR. PAVLOVICH:

15 They're all ---.

16 A. --- but fires and explosions, you know, you evaluate things to see what --- but
17 this, this was different.

18 UNIDENTIFIED SPEAKER:

19 There wasn't anybody looking at it?

20 A. Looking at whether it was different you mean or ---?

21 UNIDENTIFIED SPEAKER:

22 The stuff Joe went over, in a fire, you look at the gases. In
23 the explosion, you look at different things. In this, I guess, Joe's point is, what were
24 we looking --- what was the senior decision maker onsite looking at to make
25 decisions?

1 A. Well, senior decision maker was asking on what our footage was.

2 BY MR. TEASTER:

3 Q. Do you think that the ---

4 MR. PAVLOVICH:

5 You're right.

6 BY MR. TEASTER:

7 Q. --- staff that was in charge at this operation was adequately trained to deal
8 with this kind of an emergency?

9 A. Well, we never had the MERD. And I think having MERD exercises so that
10 people can get a feel for well, hey, wait a minute what about this. You know, giving
11 them something that's different than they would normally be used to, I think that would
12 be something that would be valuable.

13 Q. What about AI, do you think AI was adequately trained?

14 A. Well, I'm not sure that he's ever participated in a MERD exercise. I mean,
15 he'd have to tell you that but I don't know.

16 Q. Just from your observations of him during this emergency, what are your
17 thoughts? Did he appear to be adequately trained to do what he was required to do?

18 A. I don't think he's had training on it. I don't think he's had MERD exercise
19 training, not that I'm aware of. Unless if he has, he'd have to tell you that, but I'm not -
20 -- if he had, it would have been out in this District and I'm not aware of any that
21 happened.

22 MR. TEASTER:

23 Does anybody got anything else on mine rescue? Rick?

24 UNIDENTIFIED SPEAKER:

25 Yeah, I do.

1 MR. PAVLOVICH:

2 One? One, is that what you said? One?

3 UNIDENTIFIED SPEAKER:

4 One.

5 MR. PAVLOVICH:

6 Or did you say a handful of ones?

7 UNIDENTIFIED SPEAKER:

8 Ones.

9 MR. PAVLOVICH:

10 Okay.

11 UNIDENTIFIED SPEAKER:

12 All the way back on Monday, the first day on August the 6th,
13 and when you had the Utah Energy Mine rescue team underground and they breached
14 the seal and went under apparatus and went back in the sealed area, who was in
15 charge for MSHA in the command center monitoring what was going on at that time?

16 A. You know, I'd have to look and see what time --- what time did they go?

17 MR. PAVLOVICH:

18 Were you there?

19 A. I was there.

20 MR. PAVLOVICH:

21 You were still there then?

22 A. Yeah.

23 MR. PAVLOVICH:

24 Okay.

25 A. But I think ---.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

That was the first day like 7:00 p.m.?

A. Yeah. By then other people had arrived by 7:00 p.m. though.

MR. PAVLOVICH:

It was actually 5:00 p.m. because the bump happened at 5:02.

It was a 1.9 magnitude, heavy bounce behind the seals. Would that log have documented in there who was in charge?

A. What time did you say it was?

MR. PAVLOVICH:

5:02 on the 6th.

A. Heavy bounce behind the seals, all the rescue team members are outby --- well, it doesn't say here in the log, but I'm thinking that there was more than just me there by that time in the evening.

MR. PAVLOVICH:

Okay.

A. But I can't say for sure.

UNIDENTIFIED SPEAKER:

Who would have been the only senior person above you that could have been there at that time?

A. It would have been Al Davis.

UNIDENTIFIED SPEAKER:

Was there any discussion about having people or not letting people been inby when they breached the seal?

A. I'm thinking that we pulled these people out before they were ready to breach that seal but we could check with the mine rescue people but I think we pulled people

1 out before they breached that seal.

2 UNIDENTIFIED SPEAKER:

3 Is there anything documented in the K Order being modified?

4 You weren't doing plans yet?

5 MR. TEASTER:

6 No, I don't think except cleaning, advance to number four
7 entry toward --- wait a minute. To open number one seal in the old Main West entries
8 inby crosscut 118 and used mine rescue teams to explore within established mine
9 rescue procedures. Ventilation will be established as necessary for the operation of
10 the necessary mine equipment. Additional equipment and materials would be moved
11 underground as deemed necessary for current rescue --- recovery operations.

12 MR. PAVLOVICH:

13 So they covered several things then?

14 A. So it was --- yeah, in that same one.

15 MR. PAVLOVICH:

16 It didn't specifically say ---? Bill?

17 UNIDENTIFIED SPEAKER:

18 I guess I do have one on the rescue before we move onto
19 something else. And that is what you related, Bill, about the discussion where tech
20 support was made aware of the failures of the rock props at Aberdeen. Were you the
21 one that informed them of that or were you there when they were informed of it?

22 A. Well, tech support was aware when they came out and did the evaluation at
23 Aberdeen prior to this happening. They would travel with one of our inspectors up to
24 the Aberdeen mine.

25 UNIDENTIFIED SPEAKER:

1 Okay. So you're saying in May when tech support was out
2 here, that was Jim Vadnal (phonetic) and John Cook.

3 A. Right.

4 UNIDENTIFIED SPEAKER:

5 You're underground or in this effort you have two different
6 people, so were they informed or were you just assuming that they knew what went on
7 at Aberdeen before?

8 A. Well, I guess we thought that they would have communicated with their
9 people that were in tech support but ---.

10 UNIDENTIFIED SPEAKER:

11 Well, I thought you said earlier that there was a discussion
12 where they were made aware of the failures at Aberdeen; is that not the case?

13 A. Well, they were made aware at Aberdeen. I'm not sure that we specifically
14 talked with them here.

15 UNIDENTIFIED SPEAKER:

16 When you were at Crandall about what went on at Aberdeen,

17 ---

18 A. Right.

19 UNIDENTIFIED SPEAKER:

20 --- you're not sure?

21 A. Yeah, because those guys were different guys. I'm not sure that that actually
22 happened with these guys but I was under the impression that these guys had talked
23 about --- because this was not a little issue at Aberdeen. It was a big issue and I was
24 under the understanding that tech support people were aware.

25 UNIDENTIFIED SPEAKER:

1 Well, I'm aware of what our guys looked at in May at
2 Aberdeen and I'm not aware of failures of rock props being an issue in May. So that's
3 why I'm kind of confused to what they might have known?

4 A. Well, what we probably ought to do is ask Ron Paletta because I think Ron
5 Paletta and Barry Grosely were involved. See, did you check with Barry or Ron?

6 UNIDENTIFIED SPEAKER:

7 I wasn't one of the guys in either case. So I'm just saying I'm
8 aware of what John Cook and Vadnal looked at in May and I'm not aware of a rock
9 prop failure being one of the issues that they looked at, at all. So I'm just trying to
10 understand what our guys here at Crandall might have been aware of as far as any
11 rock prop failure at Aberdeen?

12 A. The person you would have to ask probably is Ron Paletta, because I think
13 Ron Paletta's the one that talked about the rock props that were blown in the entry at
14 Aberdeen.

15 BY MR. TEASTER:

16 Q. I thought you said earlier that you had shared that with them, that they had
17 been knocked out at Aberdeen?

18 UNIDENTIFIED SPEAKER:

19 That was my understanding, too, from what you said earlier.

20 BY MR. TEASTER:

21 Q. Yeah, you said that earlier that you had shared that when you was discussing
22 it?

23 A. Well, I'm not sure --- the question is difficult with --- I don't remember tech
24 support people actually being involved where they came out and had a meeting in the
25 MEO vehicle. So when they met --- I mean, there were discussions in the MEO

1 vehicle but I'm not sure the tech support people were there.

2 Q. Okay. I see. You're saying that you remember saying that, but you weren't
3 sure if tech support was there?

4 A. Was there.

5 Q. Okay.

6 A. Right, yes, we talked about those but ---.

7 UNIDENTIFIED SPEAKER:

8 Okay. Well, then I guess I have to go back one step further
9 then because I'm kind of unclear then when we were asking you about how the plan
10 evolved as far as the rock props and you stated it was your impression that tech
11 support was intimately involved in that being decided from. What gave you that
12 impression then?

13 A. That was my impression because ---.

14 UNIDENTIFIED SPEAKER:

15 Based on what?

16 A. But it didn't happen, because those discussions were not held in the MEO
17 vehicle. They were held with tech support, Al Davis, the Utah American people, and
18 when they came out with that, there wasn't anybody in tech support that disagreed with
19 that because they came in and talked about it. There wasn't anybody that disagreed
20 with that particular support.

21 UNIDENTIFIED SPEAKER:

22 So you're saying that based on who participated in the
23 meeting then that you assumed that tech support, at least, was on board with it?

24 A. That would be my understanding. And they never met with me out in the
25 MEO vehicle, and I didn't meet with them in their meeting because that meeting would

1 have taken place with tech support, Al Davis, and maybe somebody higher, but at
2 least Al Davis, and Utah American Energy. So what they decided with and then came
3 back and said this is the plan that we're going with. So yeah, I don't have first hand
4 knowledge.

5 **BY MR. TEASTER:**

6 Q. Let me switch on you, Bill; how familiar are you with the MINER Act,
7 requirements of the MINER Act?

8 A. Well, it has a lot of requirements I'm familiar with.

9 Q. Could you be a little more specific?

10 A. That's like saying here's the 30 CFR.

11 Q. Were the training plan, the requirements as far as immediate notification, the
12 mine rescue, do you feel that you're well versed in the requirements of the MINER
13 Act?

14 A. Well, actually they've had so many changes that I would have to pull it back
15 out and look at it. If I was going to a mine to inspect, I would pull it out and look at it to
16 refresh myself. I think anybody can tell you that they understand the MINER Act, the
17 new seal implementation guidelines that they have, the new handbook that was
18 changed two times, there will be a third time by the end of this year. Anybody can say
19 that they know that without going back and looking at it, you know I --- unless you've
20 just looked at it.

21 Q. What training have you received in that?

22 A. In the MINER's Act, I don't believe there was any training in it.

23 Q. So you basically just got instructional memos and reading it and ---?

24 A. And saying well, do this, no, don't it. Well, wait we're going to do that next
25 week, no we were supposed to do that last week.

1 Q. Did you receive adequate guidance from headquarters concerning the sealed
2 areas and construction of seals?

3 A. We still haven't received adequate guidance. We still haven't received the
4 equipment to do the new seal sampling protocol. We still have not received training to
5 do the new seal sampling protocol.

6 Q. Did you get adequate guidance on SCSRs?

7 A. Well, by adequate, they have a spreadsheet that we have to fill out that shows
8 how many SCSRs that they have at the mine. There was no training involved. There
9 was just a list of what they wanted us to report back on.

10 Q. What about the ERPs, did you receive adequate guidance from headquarters
11 on those?

12 A. The ERPs have been a real problem because a lot of them were a long time
13 before they were even fully approved. You know, there were just certain portions of
14 them approved. Then I sent an e-mail on several occasions saying well, look if they're
15 not complying with breathable air, why don't we just cite them? And they said well,
16 hold off on that, hold off, hold off, hold off. And I said well, I mean, if they're not doing
17 it, why don't we just cite them. Let me worry about it. I still, to this day, have not
18 received an answer back on my e-mail as to whether or not we're going to cite them if
19 they have not complied with the breathable air.

20 Q. And you think you're getting uniform enforcement of the MINER Act
21 throughout?

22 A. I don't think so because if you're not getting instructions, how can you have
23 uniformity?

24 Q. I'm asking the questions.

25 MR. PAVLOVICH:

1 So your answer's no; is that right?

2 A. Correct.

3 MR. PAVLOVICH:

4 Okay.

5 BY MR. TEASTER:

6 Q. I'm only joking with you, Bill. It would be tough. Have you received any
7 training on the family liaisons?

8 A. I haven't. What they do is they tell us that there's a phone number and if
9 someone wants to or has a problem, give them this phone number that's who they'll
10 contact.

11 MR. TEASTER:

12 Joe, do you have any more questions?

13 MR. PAVLOVICH:

14 Yeah. Bill, in addition to the --- I guess, the communication or
15 miscommunication or lack of communication or lack of training, whatever, on this
16 MINER Act issue where you think probably everybody feels or knows or thinks
17 somewhat differently about it; do you have to do a lot of special initiatives and other
18 things that have been required of you in the last couple years?

19 A. They used to have so many initiatives that you didn't know whether you were
20 doing an EO-1 or doing an initiative.

21 MR. PAVLOVICH:

22 What do you mean you used to? They stopped doing them
23 now?

24 A. Well, I think because of Crandall Canyon, they have suspended them. My
25 fear is, is that as soon as this goes past, they're going to be right back on them again.

1 MR. PAVLOVICH:

2 Okay. Well, let me ask you this; prior to Crandall Canyon
3 were you doing a lot of initiatives?

4 A. Yes.

5 MR. PAVLOVICH:

6 And were they taking away from your inspection time?

7 A. Yes.

8 MR. PAVLOVICH:

9 Were they taking away from the focus of what you feel would
10 be the important things to do on a inspection?

11 A. Well, like the belt initiative. I'm not saying that's a bad initiative because it got
12 a lot of eyes looking at belts, but they didn't write any violations that were any different
13 than what our inspectors were doing on regular inspections. It's just that there were
14 more of them. So you had more eyes looking and more violations issued but ---.

15 MR. PAVLOVICH:

16 All right. But if the belts had already been made at XYZ mine
17 and then they came out to a belt initiative and five guys walk that belt again, did that
18 accomplish anything for your EO-1?

19 A. No.

20 MR. PAVLOVICH:

21 But you had five guys that took time to do something?

22 A. Right.

23 MR. PAVLOVICH:

24 So that took away from somewhere else; right?

25 A. That's correct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

Well, do you find that a lot of this providing information and posting bulletins and doing these initiatives is contributing to health and safety for miners or is it more detrimental to health and safety for miners in that we are not inspecting where we need to be?

A. I think it's detrimental to miners. They've got so many things that they want this on the feed ride, they want this on the W drive. I can't even keep track of all of them. And I've asked, I said, if you want all these different things, all these different tracking things on different devices, why don't you at least send out a nationwide lists saying we want this on here, we want this on here, we want this one? If they made a list, maybe they would realize how ridiculous it is.

MR. PAVLOVICH:

And when did you realize all this stuff really kind of getting out of hand?

A. I would say in the last year, it's ---.

MR. PAVLOVICH:

In the last couple years at least, maybe, ---

A. Yes.

MR. PAVLOVICH:

--- when they started doing compliance assistance and initiatives all the time?

A. Yes.

MR. PAVLOVICH:

So would you say maybe even in the last three or four years?

A. It could be, but I don't think we've seen the effects of it until more recently. I

1 mean, it may have -- sometimes it takes a little bit to see the actual effect of
2 something.

3 MR. PAVLOVICH:

4 Is it because nothing ever goes away, you just keep adding
5 more onto it?

6 A. Yeah.

7 MR. PAVLOVICH:

8 And so, therefore, is it difficult to make quality EO-1s?

9 A. It is. And I'll give you an example. Just like on this MINER's Act. You know
10 SUFCO has 244 seals. Now, anybody but pea brain would tell you the mine has never
11 produced methane. Now, why am I going to waste my time going down there and
12 checking a seal when it's exhausting, when I can tell you that the only thing it's going
13 to tell you when it's exhausting is that it's got a black dam behind the seal. When
14 before I could go down, I could check the perimeter of the seal. I could take my gas
15 checks. I could move on.

16 Now, I go down there, 244 seals and if those seals are intaking, I got to go
17 back and examine them again so I can take a bottle sample and send them to
18 someone so someone can put it on his little peanut counter list saying that he had
19 checked it, and it had absolutely no positive benefit for the miners. And then another
20 guy will come along and say when I inspected and I had diesel equipment, I would
21 check a representative number of pieces of diesel equipment. If I found serious
22 violations on them, I would expand and check more things. That's not what the
23 handbook says now. The handbook says you will check every piece of diesel
24 equipment. If I have 200 pieces of diesel equipment and I check 199, guess what an
25 audit teams going to tell me, you didn't complete the inspection.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PAVLOVICH:

You have to find them all, and that's not easy to do; is it?

A. And it's senseless. It's not helping anybody.

MR. PAVLOVICH:

Should be spending our time doing more valuable things than that?

A. Yes.

MR. PAVLOVICH:

For the health and safety of miners?

A. Do I need to go out and run bimonthly sampling instead of sampling quarterly like we used to do? I'm tying up someone that has absolutely at no value at all. I can go back through the reports and I can show you that the operator in our area is out of compliance more often on his samples than he is on ours. Why is that? Because when I go and sample, he's complying with the ventilation plan. So I say if he goes out of compliance, make him sample --- make him double the samples. Don't punish us.

MR. TEASTER:

I think that's a good point.

MR. PAVLOVICH:

It's a good point.

MR. TEASTER:

I think that's a good point.

MR. PAVLOVICH:

Very good point. I think that answers my questions.

MR. TEASTER:

1 Anybody else have any questions? Well, that's all the
2 questions we have, Bill. Is there anything that you'd like to share with us that we
3 haven't asked?

4 MR. PAVLOVICH:

5 We did keep you longer than --- 15 minutes longer than Ted.
6 So I guess you can go brag to him tomorrow that you got to spend more time.

7 A. If anything hey, I'm not saying that mistakes weren't made. People are
8 human, but I am concerned --- I mean, I got 31 years. I could retire but my concern is
9 there are going to be people that are going to have to continue living with the things
10 that have come out. And that Congress needs to take a look at what has happened
11 and have they done something to be a part of the problem or a part of the solution.
12 And if they're not part of a solution, they're part of a problem. And that's going to have
13 long-term detrimental effects for the health and safety of miners at our mines
14 everywhere. And let us look at this and see what we can do to get back to the basis.
15 Because when we look at basics and we deal with those, we will be dealing with the
16 health and safety of miners not some bean counter.

17 MR. PAVLOVICH:

18 That's right. Very good.

19 MR. TEASTER:

20 Well, we thank you for showing up. We're sorry we kept you
21 so late. Hope you don't have a cold dinner. But if you think of anything, Bill, else that
22 you'd like to share with us, just get a hold of us and if we think of something else that
23 we need from you, we'll get back in touch with you. You'll get this information for us,
24 Bill. Al or someone will go to the field office and pick it up.

25 A. Oh, do you want me to just get it ready for you or do you want me to bring it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

over?

UNIDENTIFIED SPEAKER:

You can just give me a call.

A. Okay.

MR. TEASTER:

Just give us a call.