

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
JACK KUZAR

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
NOVEMBER 8, 2007

1 MR. PAVLOVICH:

2 All right, Jack. Well, you're familiar with the fact why Ernie
3 and I were asked to come back to do the independent review, because Richard
4 Stickler and Kevin Stricklin were both at Crandall Canyon, so therefore, they decided
5 to hire us for an independent review. And we've put our team together here, people
6 that you know and love. So we're here to talk to you about your efforts in the
7 command center and the work you did at Crandall Canyon. And before we start your
8 interview, Jack, I've got to read a statement to you; okay?

9 The Secretary of Labor has assigned this group the task of
10 evaluating MSHA's performance during the period preceding the August 6th, 2007
11 coal bounce at the Crandall Canyon Mine and the subsequent rescue effort. We will
12 also be evaluating issues that were raised during this time period regarding Bob
13 Murray and his interaction with MSHA. This evaluation will be presented to the
14 Secretary in the near future, and it is intended that the results of the evaluation will be
15 made public.

16 This interview is being conducted to gather information for
17 this assignment. We also intend to interview a number of other MSHA employees.
18 So that we may obtain unbiased information from all persons to be interviewed, we
19 ask that you not discuss this interview with anyone until all the interviews have been
20 completed. And obviously you're a management employee so you're not entitled to
21 union representation; is that true?

22 A. That's true.

23 BY MR. PAVLOVICH:

24 Q. Okay. Could you state your full name for me?

25 A. John A. Kuzar, K-U-Z-A-R.

1 Q. Do you go by the name Jack?

2 A. Yes, I do.

3 Q. Okay. And what is your current job title, Jack?

4 A. I'm a district manager in the anthracite region, District One, Wilkes-Barre,
5 Pennsylvania.

6 Q. And prior to that where did you work at?

7 A. I was a district manager in Denver, Colorado for seven years from '94 to the
8 end of September of 2001 was when I was transferred to the east.

9 Q. Okay. What training have you received in mine emergencies from MSHA?

10 A. What training?

11 Q. Uh-huh (yes). Have you ever had any formal training in mine emergencies?

12 A. Yes, years of it. Well, let me go back. Prior to coming with MSHA when I was
13 a foreman in the coal industry, I was on a mine-rescue team for five years.

14 Q. Okay.

15 A. And then all the training that's through MERDs but the majority of mining
16 training has been hands-on with thermal events, fires, explosions ---.

17 Q. That was firsthand training then?

18 A. Yeah, a lot of it was hands-on, first ---.

19 Q. When's the last time you had a MERD?

20 A. It would have been when I was in District Nine we had a MERD problem at the
21 old Eagle Mine.

22 Q. Yeah. That was one that you ran yourself.

23 A. Well, we --- jointly with a company and it was tied in. We did --- it was
24 underground and surface both together where, you know, the local hospitals, we had
25 medivacs, we had everything. The high school --- the football team were the patients,

1 we had it in the mines ---.

2 Q. That's the one you helped organize and manage, though?

3 A. Yes, yes.

4 Q. How about the MERDs that they used to have here at the academy for MSHA
5 managers?

6 A. I can not remember when the last one --- it's been a number of years ago.

7 Q. Okay. How did you hear about the Crandall Canyon accident?

8 A. I believe initially we received an e-mail out of headquarters from Crocco's
9 division, accident- investigation team. I believe that was the initial --- naturally it was
10 on the news.

11 Q. Okay. When did you go to Crandall, Crandall Canyon?

12 A. I was called on Friday, August the 17th, and asked if I could be out there by
13 Sunday, which would be the 19th of August. I went out --- I flew out on the 19th and I
14 was there until the 29th of August.

15 Q. So you stayed approximately ten days?

16 A. Yes.

17 Q. So you were notified on the 17th, which was the day after the second major
18 bump in which three of the rescuers were killed?

19 A. Yes.

20 Q. Okay. And who called you to come out there, do you remember?

21 A. Yes, I was called by Terry Bentley.

22 Q. Terry Bentley is?

23 A. At the time was acting deputy administrator. And he told me he was calling on
24 behalf of Kevin, since I had knowledge of the west would I help them out. Well,
25 naturally, yes.

1 Q. Okay. When you arrived at the mine, what was the organizational --- MSHA's
2 organizational structure there?

3 A. Richard Stickler was there, Kevin was there, they briefed me on what was
4 going on. In addition, there was two other gentlemen assigned to come out. During
5 that time frame also was Charlie Thomas out of headquarters and District Three --- his
6 name escapes me right now.

7 Q. Carlos Mosley.

8 A. Yes, Carlos Mosley. Carlos was assigned third shift, Thomas was on second
9 shift and I was assigned dayshift and besides what was going on at the mine, I was
10 additionally assigned to deal with the media, the press and hold briefings with the
11 family members.

12 Q. So you would have been the chief or the most senior MSHA person in the
13 command center on the dayshift?

14 A. Yes, sir.

15 Q. Okay. So you would have been basically running the command center then --
16 -

17 A. Yes.

18 Q. --- or for the MSHA operation for the dayshift?

19 A. Yes.

20 Q. Plus also briefing the media and families?

21 A. Yes.

22 Q. Okay. And so did you assume when you met Richard Stickler there and Kevin
23 that they were in charge of the operation?

24 A. Yes. Al Davis, the district manager, he wasn't there when I first got there. He
25 was not there.

1 Q. He wasn't at the site ---?

2 A. No. And Mr. Stickler's instructions to me were, he says you're in charge of
3 what's going on here. And we talked some and Kevin talked some to me and they left.
4 I think there was one media briefing, I'm not positive if there was or wasn't with them
5 before they left. Mr. Stickler was handling those until I got there when he left.

6 Q. Okay. So they both left shortly after you got there?

7 A. Yes, probably the next day.

8 Q. So how was your command center set up, Jack?

9 A. Basically we had a person in there who documented all the calls, all the
10 readings, more or less a scribe.

11 Q. Okay. And where were you set up?

12 A. I was right in the command center with those folks.

13 Q. But where was it, physically?

14 A. Right at the mine center.

15 Q. What was the --- was it Blue Goose or was it an office in the building?

16 A. No, it was the Blue Goose, the Western Blue Goose.

17 Q. Okay.

18 A. In addition to that there was another trailer that sat to the right rear that we
19 had a lot of folks in there, the computer folks. And naturally Urosek's group was there.
20 I was involved with those folks, you know, the drilling of the holes, getting the
21 readings. And then all that stuff with the robot, I was involved in all that. As a matter
22 of fact at two of the briefings I thought it would be a good idea to --- I took Johnny
23 Urosek down to one of them to explain, you know, ventilation to the families so they'd
24 have a clearer understanding of what was going on and naturally what different
25 readings meant, you know, as far as to support life and what have you.

1 And then when the robotics folks got there, I brought that lady down off the
2 hill. They were up on the mountain. We worked for a day or so preparing this robot,
3 and then prior to --- there was something on --- the hole jammed. I don't have any
4 notes of it, I can't remember which hole we were going to put the robot down initially
5 but they got mud in the hole and we couldn't use that hole so the lady was up on the
6 hill with --- I believe she had two technicians with her. And I thought it would be great
7 because of some of the previous briefings I was questioned about technology, about
8 robots. And I couldn't give them any false hopes or anything, but we had this in the
9 works all along. She was out of Florida a university in Florida, which I can't recall what
10 university it was, but then this robot was designed specifically for this application. It
11 was something very different than what I'd ever seen before, I believe it weighed
12 about 70 pounds.

13 I was gone when they lost it, though, I'd come back. But I will tell you this, the
14 family members and that were very, very appreciative of that additional information.
15 And I left it with those folks because we had people that stayed down there. They had
16 my phone number they could contact me at any time with any questions. I offered to
17 meet with them one on one, you know, any of their concerns, you know, what we were
18 doing. In fact, I thought that things went well with the families.

19 Q. Okay. How many family members were still coming, Jack?

20 A. It varied. It varied. Initially there was quite a few and then it went down
21 maybe you'd have 10 to 15 of them. But then when they knew a hole was going to
22 intersect the mine or when I took John Urosek down there, or when we gave them ---
23 the robotic's lady taking her down there, then maybe you had close to 50.

24 Q. So you're still getting good family participation even after underground had
25 stopped?

1 A. Yes. Yes. There was very good questions. Things were very good until these
2 lawyers showed up. They had the same lawyer. I can't remember his name. He was
3 out of Salt Lake City, he represented I think the families at Wilberg. He was the same
4 one that they had gotten for them to help out.

5 As a matter of fact when I was leaving --- I was supposed to leave on Sunday
6 and Kevin asked me if I'd stay over a few more days. And naturally, yeah, I would do
7 that. Initially it was two meetings a day, I don't think I mentioned that. I'd have a
8 briefing in the morning and I'd have a briefing in the evening. So after about, oh, I
9 don't know halfway through my tour out there, I asked them if it would be all right just
10 to have one a day because, you know, what we were doing with the drilling and ---.

11 Q. Were they still drilling at that time?

12 A. Oh, yeah. Yeah. And they agreed, yes, but if there was any real urgent
13 information that they needed to have that we had their numbers down at the church,
14 they'd get ahold of them and we'd call a special meeting and they were all receptive to
15 that. And when I was leaving, there was a couple of them --- I got to know some of the
16 folks personally because they would talk to me, they didn't want me to go. I told them
17 I was going back east, I was done. And they were very --- I got along well with them
18 because I was very open with them and I would try to answer anything that they had --
19 - you know, it's a very difficult thing to do. Initially we were doing them jointly with the
20 company, those briefings, and then there was problems with Mr. Murray I guess
21 getting out of line with the folks.

22 Q. Now was this when you first got there?

23 A. Yeah.

24 Q. You were doing them jointly with the company still?

25 A. Yes, Rob Murray, I didn't ---.

1 Q. Rob Moore.

2 A. Is it Murray or Moore?

3 MR. TEASTER:

4 There's a Rob Moore, but he did have his son there and I
5 can't think of his name.

6 A. He had his son there.

7 BY MR. PAVLOVICH:

8 Q. But was it his son that was there?

9 A. No.

10 Q. Oh, okay.

11 A. The son never participated at any briefings of the media or the family
12 members. This fellow's name I thought is was Rob Murray, maybe it was Moore.

13 Q. It was Moore.

14 A. But he was his nephew, I do remember --- he's the vice-president of the
15 company.

16 Q. Okay. That's Rob Moore.

17 A. A very reasonable person, very compassionate.

18 Q. When you say that initially you were doing them jointly but then you had
19 problems with Bob Murray, what was the problems?

20 A. Well, I didn't initially have the problems with him Mr. Stickler did. Apparently -
21 --.

22 Q. This is prior to you coming ---?

23 A. Yeah, it might have been the meeting before I started holding them. So
24 Richard I guess talked to the Sheriff, barring him from the meetings. Okay? So what
25 happened was when I went down, they had a delay that first or second meeting and he

1 showed up, which he was not supposed to be there, but he didn't say a word he just
2 sat in the audience. Mr. Murray sat in the audience.

3 Q. So this is like the second meeting you had with them?

4 A. Yeah, I think it was. It could have been the second, it could have been the
5 third. I don't know. I had a lot of them, so I don't remember. But anyways for the most
6 part the meetings were held by Rob and I. We would open it up with a prayer and
7 we'd close it with a prayer. He'd go over what the company was going to --- because
8 I'm sure you guys are all aware of that the holes were going to be stopped and there
9 was some convincing to put that seventh hole --- sixth hole and the seventh hole. Mr.
10 Stickler I guess, convinced them of that.

11 Q. So were they in the process of drilling the sixth or seventh hole at the time
12 that you were there?

13 A. Oh, yeah.

14 Q. So you never had to work to convince them to drill any holes, they already
15 knew what holes they were going to do?

16 A. Well, no I was involved in some of the discussion when Kevin and those guys
17 were there. See I don't remember everything. But discussions afterwards I was
18 involved with --- without those guys. Now I think a lot of the convincing occurred ---
19 was over phone after Mr. Stickler left because the families there was various areas
20 where they wanted holes, you know what I mean? One was the dinner area and that
21 one --- I can't remember what number hole that was but it strayed, the bit strayed. It
22 might have been the --- it was one that was supposed to end up in a crosscut.

23 Q. Number one.

24 A. Maybe it was number one, I don't know.

25 Q. It drifted into the ---?

1 A. One of them drifted, right. But they wanted to be able to see because that
2 was the area --- from my understanding there was supposedly chain-link fence there
3 around this dinner hole where there were extra SCSRs stored.

4 MR. TEASTER:

5 Do you remember what hole that would be?

6 MR. PAVLOVICH:

7 Number seven.

8 A. No, seven wasn't the one. That was a later hole that they wanted. But there
9 was a hole --- this one down here, it must have been number one. Which one
10 strayed?

11 MR. TEASTER:

12 Number one.

13 A. Number one was the one that strayed.

14 BY MR. PAVLOVICH:

15 Q. Well, number one was the first hole they put in. It was like a two inch
16 diameter hole.

17 A. Okay.

18 Q. And it drifted off and that's where they got the first readings of bad air ---

19 A. Yeah.

20 Q. --- and low oxygen.

21 A. Right.

22 Q. Okay. And then subsequently later one of those later holes they tried to drill
23 into what they called the kitchen.

24 A. Yeah. That was the dinner hole, yeah.

25 Q. Is that the one you're talking about that was being drilled?

1 A. Yeah, that was one that ---. Six was it. Murray ---. I'm pretty sure that's all it
2 was. Murray took a position, there'd be no more holes unless you guys put a J Order
3 on this company. That was his words. I can remember that. Okay?

4 Q. Okay. That was after number six hole?

5 A. Right. And then there was, you know, naturally ---.

6 MR. TEASTER:

7 Were you involved in the discussions to drill the number
8 seven hole then?

9 A. Some of it.

10 MR. TEASTER:

11 And ---.

12 A. But I think a lot of the discussion --- not to interrupt you but I think was held
13 over the telephone from Mr. Stickler back in headquarters with them there because
14 then I'd get feedback from headquarters in the command center what was, you know,
15 going on. But I think Richard Stickler convinced him of it, you know. Some of these
16 holes, I don't remember which ones, it's in the official log, there was --- the entry when
17 they hit was full of rubble. Some I remember they had like a foot above, there was
18 nothing to gain. I mean, you couldn't --- I mean, we put cameras down these holes. I
19 didn't discuss that either but we did, we put cameras down, we looked around and then
20 we had the robot and had problems with that robot that we finally got it up out of the
21 hole. I don't remember what hole it was, you'd have to look in the official log.

22 And then they were preparing to put it down again and that's when I left. And
23 that's when I had heard that it --- I guess the hole shifted while it was down, it might
24 have been number seven hole then and it wedged or something and they couldn't get
25 it out.

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MR. PAVLOVICH:

And they lost the robot?

A. Yeah, they lost the robot. And I remember the robot --- it was \$50,000 to use this robot, but if you lose it, you own it, it was a hundred grand, that's what I was told.

BY MR. PAVLOVICH:

Q. So you bought it. You lost it, you bought it?

A. I didn't buy it, MSHA bought it. John Urosek, if you're going to interview him, John Urosek got flipped around with that, He can explain it to you, trying to --- this thing if you can imagine weighs 70 pounds. And there was this other I don't know what she called it, it was a tubular thing, it's on shiv wheels. I don't know if you know about this, but Johnny got drug all over the mountain trying to --- they thought they were going to hand this thing down the hole. And I guess it started going and Johnny wrapped the rope around him and drug him all over the place up on the hill. I thought we was going to have an injury here, but that's what occurred. I mean, it has potential, don't get me wrong ---.

Q. So they were lowering it down with a rope?

A. By hand and then the shiv wheels and the terrain up there ---. I didn't get on top of the mountain. I wanted to get up there but we had bad rains and mudslides and rocks and you name it. But I know I was talking to them on the phone when I was trying to get the lady down to brief the families and that's when Johnny got whooped all over the place. I mean, he was trying to hold on to this thing, it drug him --- well, you can imagine something you're dropping down over 2,000 foot, plus the 70 some pounds you're trying to hold this thing. I mean, these guys, they weren't thinking. You got to wrap it right.

Q. Maybe that's why they didn't need to bring it back out of the hole. Did they

1 ever see anything on it there, it never did work?

2 A. No. I think the cameras and that ---. I mean, they took pictures and such with
3 it. Its lighting, you know, to provide enough light, you know, to get reasonable
4 pictures. Now they enhanced a lot of those things, I'm sure that you folks will have the
5 ability to look at that stuff, you know, they have steels ---.

6 Q. But anything that you saw, they never showed anything?

7 A. No, like I could see stuff in the mine. I mean different things but as far as ---
8 no.

9 Q. So what underground work was going on, Jack, when you got there, anything?

10 A. Nothing.

11 Q. Nothing.

12 A. They were going in --- initially when I was there they were just taking readings.
13 There was something that happened with the fan, too, I can't recall. It's probably in
14 the ---. They had to change something out on that main fan. But after I was there a
15 while, yeah, then there was some things started going on.

16 MR. TEASTER:

17 And how did that come about?

18 A. Well, they had a meeting they wanted to pulling equipment out of the mine, so
19 we discussed it. I talked to Kevin and them about it. So what we wanted to do, we
20 had tech support there. I don't remember the crosscut number, it might have been
21 107, because the mountain was still moving. I mean this hadn't settled. So we
22 wanted to put some stations in there, you know, detect movement ground movement,
23 so I told them four days, we'll watch --- we'll go in and monitor this stuff for four days
24 and see what kind of movement before we make any decisions on where you're
25 allowed to go to start pulling ---.

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MR. TEASTER:

So that was the initial plan you approved was monitoring, installing stations and monitoring?

A. I don't know if it was in the plan or not but we just elected, as MSHA --- we had tech support there we wanted to see if there was movement, you know, outby --- maybe it was a result of them wanting to go in but they wanted to go much further than what we finally even left them go because there was --- I think it was 107 and then they worked outby putting ---.

BY MR. PAVLOVICH:

Q. Was there a purpose for wanting to go in, Jack?

A. To get equipment.

Q. Strictly to withdraw equipment, ---

A. That's correct.

Q. --- not to continue with anything?

A. No. Nope they wanted --- a lot of the equipment was borrowed, I believe.

When this event occurred, they borrowed ram cars and various things from other mines, which was fairly new equipment. And I believe it's still in the mine, I don't know for sure. But they only --- while I was there, the furthest they went was to 107. That was after, as I indicated earlier, that we monitored ---. I don't remember how many stations they put in, tech support put in, quite a few, though. And they would go in every day and check for movement. If there was ---.

Q. So these were new stations that were put in not the convergent stations that they already previously had in there?

A. Oh, these were new. These were the ones that ---.

Q. New ones.

1 A. Right.

2 Q. Who did that with tech support?

3 A. I don't remember their names. It would be in the official log because they
4 were logged in when they would go in a mine.

5 Q. Were they roof-control experts?

6 A. Oh, yeah, they were roof-control specialists.

7 Q. Was maybe Mike Gauna one of them?

8 A. I don't want to say for sure. There was two of them, though.

9 Q. Okay. All right. And so they actually went in to put new stations. Did the
10 company go in with them or someone accompany them or just the tech support?

11 A. No, they had a company person with them.

12 Q. Okay.

13 A. I don't recall who it was. I think somebody from safety.

14 Q. Okay. Do you know how many stations they put in, Jack?

15 A. No, I do not.

16 Q. And then how long did they monitor them?

17 A. Four days.

18 Q. Did they find any convergence whatsoever?

19 A. No, not in that area.

20 Q. Did they report that there was still bumping going on or was it pretty well
21 settled down?

22 A. From that point outby, I can say it was settled down or we would not have left
23 them pull any equipment.

24 MR. TEASTER:

25 How did you determine the mountain was still moving?

1 A. From what we were told through the drilling.

2 BY MR. PAVLOVICH:

3 Q. And the drillers told you what that indicated the mountain was moving?

4 A. Well, the drillers, it wasn't so much the drillers telling me anything. The
5 drillers were telling Urosek's group that was up on the mountain with the drillers, they
6 were telling them a lot and then it was being fed back to us down at the command
7 vehicle because in turn ---.

8 Q. What were they telling you, Jack?

9 A. That the mountain wasn't settled. They could tell it wasn't when they were
10 drilling. They got bits jammed, different things would happen, you know, shifting.

11 Q. Okay.

12 A. I mean I'm not a driller by any stretch but I mean they have some --- in my
13 opinion in the west they got some of the best drillers because the amount of holes that
14 I was involved with getting drilled when I was out there. I mean these folks are good,
15 they're very good drillers. The only thing that kind of amazed me a little bit, though, is
16 why we didn't have more than one drill going at a time.

17 Q. Did anybody ever answer your question to that ---

18 A. No, sir.

19 Q. --- when you were out there?

20 A. Nope, because a lot of events that I was involved with we had more than one
21 drill operating at one time.

22 Q. Did you ever ask anyone why they didn't have more than one drill?

23 A. I don't remember.

24 Q. Okay.

25 A. I do ---. Well, wait a minute. I'm not sure. I just think it was the company's

1 position that's the way they were going to do business.

2 Q. So when tech support monitored the underground convergent stations for four
3 days, then did you approve the plans for the company to go in and retrieve
4 equipment?

5 A. Yes, I did.

6 Q. Okay. Do you know what all they were going to get, Jack?

7 A. We had a list.

8 Q. What point was the furthest point you would let them go?

9 A. I believe it was 107.

10 Q. Crosscut 107.

11 A. Let me clarify something.

12 Q. Okay.

13 A. They had a ---. What they did, they developed a list. I did not see it in these
14 notes earlier but there was a list of equipment that was from --- located --- from the
15 surface to Crosscut 107 they had everything listed, you know, what equipment.

16 Q. Okay.

17 A. And as that equipment was removed from the mine it was checked off this
18 particular list, which was maintained in the command center, command vehicle.

19 Q. Okay.

20 A. Okay? But the initial plan --- well, it's like anything else, you can't take
21 anything for granted. These people were going to go running around in there. And I
22 didn't want --- me and that safety guy, which I can't remember his name, we had a
23 little sit down, a little heart to heart, about what you're going to do and how you're
24 going to do it. I wouldn't let them go without an inspector being right with them
25 because I was concerned about them going places where they shouldn't be going. So

1 any time they made a move then afterwards there was an inspector with them at all
2 times.

3 Now that's while I was there. I don't know what occurred after because when I
4 left everything wasn't out of the mine yet.

5 Q. They were still working on it?

6 A. Yes. Yes. Yes.

7 Q. So did you meet Mr. Murray while you were there, Jack?

8 A. Yes, I did.

9 Q. Had you ever met him before?

10 A. No, I did not.

11 Q. The first time was at Crandall Canyon?

12 A. Yes, sir.

13 Q. And what dealings did you have with him there?

14 A. Well, I was involved in some of the conversations where he had this blue
15 ribbon committee or whatever you called them. They were the so-called renowned
16 experts with regard to ground control from all over the country. Okay? Different
17 things --- because it was his contention all along that this was a earthquake. Okay?
18 Various things that was discussed.

19 And then one day I know I discussed issues with him for about an hour and a
20 half. He came over underneath the canopy of the command vehicle and we sat there.
21 And he give me a litany of this and that and about other MSHA managers and various
22 things he discussed. He discussed his knowledge of or his --- with Mitch McConnell
23 and the fact that our main boss, Elaine Chao, was his wife and on and on ---.

24 Q. He was telling you this at the mine?

25 A. Oh, he --- yes. Yes. He also attacked a previous manager, which I didn't

1 want to hear that. And then he got into the UMWA, on and on about that.

2 MR. TEASTER:

3 The previous district manager and the mine or just MSHA?

4 A. No, MSHA District Three.

5 MR. TEASTER:

6 Right.

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

8 A. I'll just say it

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

10 BY MR. PAVLOVICH:

11 Q. So was he taking credit for having

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

12 A. Well, why'd he bring it up?

13 Q. What did he say?

14 A About the sleeping --- you know, that --- I didn't really how do you say --- it was
15 taken out of context with regard to, you know, he knows Mitch McConnell well and he
16 knows some other politicians very well that the fact that the statement supposedly was
17 made that, you know, your boss --- I know who your boss sleeps with, to that degree.
18 And then the conversation went on and on. And then he said to me he says, you
19 know, I've heard of you, too. And I said, that's good, I've heard of you also. And that's
20 about how that ended. Most of my conversations with Rob --- Rob and I would agree
21 to things and the old man would just do the opposite. And Rob told me, he says, I told
22 him what we discussed and what we agreed upon, but Mr. Murray is very hard to
23 convince about just because he's told something doesn't mean he's going to do it. In
24 other words, from his own family members, the vice-president basically told me he
25 was a very difficult man to deal with.

Q. Jack, did you feel when he was telling you about his knowledge or friendship

1 with Mitch McConnell and talked about the Secretary, do you think he was telling you
2 that in some way to encourage you to do certain things or was he just sharing
3 information? How did you take that?

4 A. I really can't say how I took it. I just thought that this wasn't the place or the
5 time to talk about that kind of stuff because you're not intimidating me, if that's what
6 you're trying to do. And that's when he ---. And right after that's when he had told me,
7 I've heard of you before. And I said, well, that's good and I've heard of you. He was
8 in Pennsylvania when I worked in Pennsylvania before going to District Nine, but I
9 never had any dealings with the man but I don't know, he's --- just a litany of things.

10 I mean, just like the first --- I did three interviews with the media while I was
11 there. Now the second and third one he kind of kept to the back because it was
12 evident to me that if you didn't jump in on him, he was a control freak, you know, he
13 wanted to --- he was a ---. I wanted to say our message, what was going on and end
14 of it. But that first one when he got into the United Mine Workers, now I know the
15 mine workers weren't involved in anything there while I was there, until he did that.
16 And then they nicely showed up with a letter that they presented to the Sheriff. He
17 was set up at the bottom of the hill there, that now they were representing the miners.
18 Now there was a question as to, you know, the procedures the process, you know, of
19 selecting people to represent you.

20 But I know he attacked 50 years of history on national TV and I just thought to
21 myself ---. I mean, I didn't say anything but I thought, if folks aren't bothering you, why
22 stir it up? And he really did.

23 Q. And that was in a press conference, your first press conference there?

24 A. That was my first press conference that I held.

25 Q. And so he was still meeting with the media?

1 A. Oh, yeah. Yeah. And then I know Stickler, I know he spoke to him about, you
2 know, the professionalism, you know, the conduct, you know, all that kind of stuff try to
3 steer the guy right, but you couldn't control him. You'd be together meeting ---. See
4 how they were doing was --- how it's supposed to be is we're supposed to control it.
5 Okay? We go first, da, da, da. Now I don't know how --- there was no control over
6 him, I'll just say it that way, because I even saw there ---. We're having a press
7 conference here, it concludes, he's down the road doing another one with CNN two
8 campers down. I mean, it just --- but I will tell you this, I think that if --- he's hard to
9 control and you can't control what somebody's going to say, you can't do that.

10 But the second two with me he was all right. He just ---. I did my thing and
11 then he would do his. In fact, there was another thing I took the lady, the robotics lady
12 plus Urosek ---. I thought it would be good for the public to understand the big picture,
13 what we're learning from these holes. You know, what supports life and then naturally
14 the robot, the capabilities how far it could go. A thousand foot, I think, is what it was,
15 once it got to the mine floor. You know, for everybody to --- you know, open book
16 here it is folks.

17 MR. TEASTER:

18 Jack, going back to that conversation you had with him
19 regarding Mitch McConnell and Secretary Chao, was that following anything that you
20 had denied, like a plan or something they wanted to do? I'm just trying to detect was
21 there something he was coming at you from a threatening in some mild form?

22 A. He wanted to get equipment out of the mine.

23 MR. TEASTER:

24 This was during the time that you had the ---?

25 A. Yeah, that was the main --- the main thing was he wanted to get equipment

1 out of the mine this is done, da, da, da, this, that, but as I said earlier, he didn't
2 intimidate me one bit.

3 MR. TEASTER:

4 Well, but he was maybe trying to, that's why we're trying ---?

5 A. Well, if he was, it didn't work. I mean, we had our talk. He laid everything out
6 and I thought it was rather in that who he knew, you know, politically, who he knew,
7 **Ex. (b)(6) and Ex. (b)(7)(C)** And then he says, I didn't really say that about
8 sleeping ---. I forget the exact words. I don't want to say something that isn't exact,
9 but it was an indicator that about Mitch McConnell, you know, you got to know who the
10 wife is, you know, she's the Secretary of Labor and that's who he sleeps with. That's
11 what he said to me. And I just thought, why are you telling me this, you know, it could
12 be what you're leading to, it could be. I don't know.

13 MR. TEASTER:

14 Was it during --- well, I'm not trying to lead, I'm just trying to
15 find out if he told you that maybe you said give us four days or a certain number of
16 days to check out these convergence and he wanted to get in there right away. Was
17 that during the time period that you had this discussion?

18 A. It was around the same time period. Around the same time.

19 MR. TEASTER:

20 Had he voiced or anyone voiced concerns about the delay in
21 getting underground because of this convergence that you wanted to check on?

22 A. Not much. It wasn't pushed a whole lot like you would think in some, you
23 know, times that you have things like this where people are pushing to want to move
24 to do something. They wanted to do it, he wanted to get equipment out of there, but I
25 think what he got is not the main stuff that he wanted.

1 MR. TEASTER:

2 Okay.

3 A. The main stuff that he wanted was inby 107. He wanted that stuff, I'll tell you
4 that.

5 MR. TEASTER:

6 Did they request that? So they wanted to go all the way and
7 then you said you can't go farther than 107?

8 A. Because --- that's right, that's what we deemed was a safe area to go to
9 because anything inby that there was still movement.

10 BRIEF INTERRUPTION

11 MR. TEASTER:

12 So Murray was actually wanting to go up to get the ram cars
13 or whatever was inby ---

14 A. Yes.

15 MR. TEASTER:

16 --- 107?

17 A. Yes.

18 MR. TEASTER:

19 And basically you said no.

20 A. Yes.

21 MR. TEASTER:

22 And do you think that's what prompted this discussion of ---?

23 A. I don't know.

24 MR. TEASTER:

25 Okay. But it was sometime after you said no that ---?

1 A. That I don't remember either, but it was around --- I didn't meet with him for
2 nothing. Okay?

3 MR. TEASTER:

4 Okay. He just approached you about that?

5 A. Yeah.

6 MR. TEASTER:

7 Were they ever angry, Jack, about the fact that you told them
8 107 is it and you can't go any further to get the stuff?

9 A. I don't know if they were angry but I will tell you this, that head safety director
10 there at that mine he's the one that was putting the plans together and I can't recall his
11 name ---.

12 MR. TEASTER:

13 Jerry Taylor, maybe.

14 MR. PAVLOVICH:

15 Laine Adair?

16 A. I don't know who he was.

17 UNIDENTIFIED SPEAKER:

18 Lucille.

19 A. It might be on one of them letters.

20 MR. PAVLOVICH:

21 Lucille.

22 A. But anyways I drug him into the command vehicle. I said, me and you are
23 going to have a little talk. I mean, you can't let people run wild like Indians, you know,
24 what I'm saying in the mine, you know what they'd have done, I know what they'd have
25 done.

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MR. PAVLOVICH:

Okay.

A. And he was trying to pull some stuff. I said, we need to be very clear of what we're going to do and how we're going to do it. Okay?

BY MR. PAVLOVICH:

Q. Were they wanting to go in without MSHA?

A. Oh, yes. Oh, yes.

Q. They asked you to ---

A. Oh, yes.

Q. --- do that specifically?

A. Yeah, they want to go now. I said, no, we're going to wait. So when we put those stations in, we decided --- I had Kevin and them in the loop on those stations and that, too. I'm almost sure it was four days and we'd go and we'd, you know, get our readings see how things were and then at the end of the four days we'd make a decision, you know, what to do. I'm pretty sure it was four days. But now why Mr. Murray said what he said to me, I can't answer that, I don't know.

Q. Did you make any notes of it, Jack, that you remember of that meeting that you had with him?

A. Nope.

Q. When they went in to start to retrieve the equipment, Jack, who then did you assign to travel with them, some local inspectors?

A. Yeah, right out of the Price office.

Q. Okay.

A. This field supervisor assigned. They had --- I think they had a couple inspectors. I can't remember who they were. It would be in the log, ---

1 Q. Okay.

2 A. --- because they would log in and log out when they ---.

3 Q. Would they call you in the command center and report the status of their
4 activity underground ---

5 A. Yeah, there was ---.

6 Q. --- or call someone?

7 A. Yeah, there was communications of where they were at, what they were
8 doing.

9 Q. Okay.

10 A. And then when they'd bring a piece of equipment out, they'd escort 'em, escort
11 it out. There was something that happened to the fan, though, but it happened on --- it
12 must have been third shift. I wasn't there. There was something that had do with the
13 fan, chain something, something went wrong. I can't recall what it was but like I said, I
14 know when I was in that command vehicle, the folks documented every move in that
15 record book, the log.

16 Q. Jack, while you were there, did any of the media people or family members go
17 underground?

18 A. No, sir.

19 Q. Did you ever hear about any of them going underground?

20 A. Yes, I did.

21 Q. What was your opinion of the press going underground?

22 A. What my opinion was?

23 Q. Uh-huh (yes). What did you think about that?

24 A. I didn't think it was a good idea.

25 Q. For what reason?

1 A. Well, a couple reasons. First and foremost would be the safety aspect.

2 Q. Okay.

3 A. If we've got --- you know, if we've got a mountain that's not stable, it's still
4 moving, who's to say that something couldn't have happened where we would of got
5 some of those folks hurt? That would be my first concern, would be the safety. But
6 then my next concern would be setting precedence for any future --- because I mean
7 in my career I've been involved in many, many explosions and fires and what have
8 you. And I mean you opened up a door to the United Mine Workers or any other
9 interested party that would want to accompany, you know, you during a course of a
10 recovery, a rescue, you know, a rescue-and-recovery operation. And I just don't think
11 that it's fair to an MSHA manager who would be in charge, most of the time the
12 manager runs the show, most of the time.

13 Q. And when you say most of the time the manager runs the show, who did you
14 get the impression was running the show this time before you got there?

15 A. Assistant Secretary.

16 Q. If you were the manager and the Assistant Secretary and Administrator show
17 up and take over the operation as you stated they did here, what would your ---?

18 A. I didn't state that they took over the operation. I said I just --- the Assistant
19 Secretary was there. I mean, our manuals with regard to mine-emergency operations
20 and such, I believe it states senior person on site.

21 Q. Okay.

22 A. And I mean there's nobody any more senior then the Assistant Secretary. But
23 I personally ---.

24 MR. TEASTER:

25 So personally then, if you were the district manager there, at

1 any operation, and the Assistant Secretary and Administrator come on site, you're
2 going to make the assumption you're in charge?

3 A. Me as the manager I am in charge, but they're --- I mean they ---.

4 MR. TEASTER:

5 I mean you're going to make the assumption that they've now
6 come on site to be in charge?

7 A. I would say. I mean unless they specifically --- I mean, let's face it, the media
8 doesn't want to talk to a district manager when you've got the Assistant Secretary
9 there. First of all ---.

10 MR. PAVLOVICH:

11 Q. Nor would people want to submit plans to the district manager if you got the
12 Assistant Secretary?

13 A. I would think that they'll end up coming to a manager to sign, but the Assistant
14 Secretary or the Administrator would be involved. Personally I don't think it's a good
15 idea ---. I mean, yes, when we have events, as managers it's great to have support.
16 You love to have support and help but I don't think --- this is just me, this is my
17 opinion. I don't think that an Administrator or Assistant Secretary should be on site.
18 That's my --- because it protects them then to a degree, if you know what I'm trying to
19 say.

20 Q. Uh-huh (yes).

21 A. I mean, I always appreciated all the help I ever got, but most of those folks
22 distance they were somewhere else. I mean, yes, they're involved in decision making,
23 assisting you, providing resources, but mainly in my years it's been over the phone
24 because I just feel that you need to protect them. But I also believe this, if they were
25 there and I was having something going on, I would try to convey my concerns to

1 them because I have not dealt with one of them yet that you can't reason with. You
2 know, my concerns of doing something like what was done there, ---

3 Q. Uh-huh (yes).

4 A. --- I'm not saying it was wrong, I'm not saying that, but I'm just saying from my
5 perspective I wouldn't have done it. They maybe had their own reasons why. I don't --
6 -.

7 Q. Would you think allowing media or family members to go underground and
8 film would that violate 103(k), because what does that K Order ---?

9 A. I know what it says. I don't know what they have now, did they modify it? I
10 don't know if it was modified.

11 Q. Well what does K require, though?

12 A. Only those people involved in the rescue or recovery operations, that's what's
13 required. What would they be involved in?

14 Q. Do you think they were like helping load stuff out?

15 A. You know, let me back up a little bit. They weren't loading anything out, in my
16 opinion, but this first started up in District Three.

17 Q. What's that?

18 A. This family members. They went into that pit, you're aware of that, that
19 double fatal in District Three.

20 Q. Oh, okay. In Maryland?

21 A. Yes. Here a while back, I mean I thought it was kind of odd. That was the
22 first that I have ever heard of that and I've been with this agency for 30 some years.
23 I've never --- I mean, we normally try to keep the media as far away. Usually we have
24 the Sheriffs or State Police or what have you help with the security aspects of it, but I
25 don't think they were media in District Three, I believe it was family members to show

1 where these folks were covered on that equipment, the massive amount of material,
2 you know, so they had an understanding why it was taking such a lengthy time to
3 extract those bodies from that equipment.

4 Q. Okay. So you think that set a precedence?

5 A. It might have helped a little bit. I don't know but I do know this, this that
6 happened at Crandall Canyon, that did set a precedence.

7 Q. Okay. Jack, you were the district manager in District Nine for several years,
8 did you have much experience with bumps?

9 A. Lots.

10 Q. Were bumps occurring in those mines in Utah and Colorado fairly frequently?

11 A. They were occurring until we did some things.

12 Q. And can you explain that?

13 A. Yes, I can. First of all, it was not just bumps. Issues in the west, you had the
14 sponcom issue, hydrocarbon issue. And of course the bumps added to it. It was to
15 such a degree of problems that I decided to get the academia involved, all the
16 operators. So we had, I mean --- it was called a bounce rendezvous. And why I had
17 that meeting was to get ideas from everybody and tell them what I was going to do.

18 Q. Okay.

19 A. Okay. Now I do know that you can drill --- because there are signs ---. When
20 pillars are loading up, there's indicators. Now you can drill and shoot and you can tell
21 how much is loaded up by the fines that come up when you're drilling. I'm sure you're
22 aware of some of that.

23 Q. Okay.

24 A. But it's a very dangerous thing to do. So what we did, I'll remember a lot of it.
25 I wanted barriers between longwalls. Well, let's start off with development.

1 Sometimes you have problems with bounces even on development, when you're
2 under a lot of cover, so you've got to come up with the right pillar design. We tried
3 staggering crosscuts, we tried larger blocks, smaller blocks, you have to get the right
4 combination for the overburden that you have. I will say this, my experience with the
5 seven years of it out there, anything over 1,500 foot of cover, you better be taking a
6 real good close look at your pillar design and barriers because if you don't you're
7 definitely going to have a bounce.

8 We had a lot of bounces on the faces of longwalls. Some of the safety things
9 incorporated into it was, you know, folks wearing protective clothing such as like what
10 these dirt bike riders wear, putting up shields, on your shield itself a deflector board.
11 We got the University of Utah involved at Willow Creek Mine. They had stations in
12 there. We were trying to see if there was any correlation between earthquakes and
13 such in California, you know, was that causing some of your head gate, your tail gate
14 correlation with crosscuts where you were, if that had something to do with it. But the
15 main thing that helped us reduce the amount of bumps, reduce, reduce greatly was
16 barriers, leaving barriers.

17 The other thing that I failed to mention with issues in the west was methane
18 drainage because of the mountains, the overburden putting holes in. When I first went
19 to District Nine that was another major battle, was getting methane drainage. They
20 would use a lot of horizontal stuff but very little vertical. So once you got the vertical
21 drainage going --- and there's other issues, in their defense out there, dealing with
22 BLM, dealing with the Forest Service, being able to put roads on top of mountains,
23 you know, due to elk having little ones or whatever's going on. But it was amazing to
24 me when we would have fires, how fast I could get drill rigs on top of mountains.

25 So with a little convincing --- I had a lot of methane drainage going on out

1 there while I was there. And then your longwalls, your districts ---. Maybe I said that
2 wring earlier, it's short in districts. In other words, maybe even as little as a one-panel
3 district with a barrier between your next district. I mean, you take vast --- a large,
4 large, longwall district with no barriers, you're just asking for trouble from a bounce
5 standpoint and additionally a ventilation standpoint, because when they're
6 stepladdered on the back end, if you get my drift, ---

7 Q. Uh-huh (yes).

8 A. --- what occurs there is you're going to have a methane buildup. Your bleeder
9 system --- you're not going to maintain the bleeder system, where it's bounce prone,
10 you're not going to maintain it. So now you've got an issue with the bounce and you
11 got an issue with methane coming out on the face. So convincing folks to leave a
12 good enough bleeder system around, a walk around, you know, a wraparound system,
13 was a difficult thing to do in the west, but when I left we were doing it, along with
14 leaving barriers.

15 MR. PAVLOVICH:

16 Okay.

17 MR. TEASTER:

18 Jack, you mentioned earlier about BLM. What involvement
19 did you have with BLM when you were the district manager out there in District Nine?

20 A. Mainly was involvement of getting drill rigs on the mountains. They get paid
21 for the coal, they get paid so much, BLM. Okay? And I believe some of these
22 companies pay, they calculate how much coal you should be mining. And it was in
23 their best interest that mines are, you know, producing coal. But also they didn't
24 understand a lot about methane. We started having meetings with those folks to get
25 them a clearer understanding of what --- because see nobody sells the methane out

1 there. There's an issue with regard to mineral rights, oil and gas rights. Okay? I had
2 some dealings with them, yes, but mainly the dealings were after an event, you know,
3 a fire, a mine would catch on fire or an explosion or something.

4 MR. TEASTER:

5 Did you ever have any dealings with them in regard to safety
6 of mining certain areas underground?

7 A. Not that I can recall.

8 MR. TEASTER:

9 And did you always initiate the meetings with them or did they
10 initiate the meetings?

11 A. I initiated them. They were right across the street there when we were at Sixth
12 and Simms (phonetic). We had a couple of different meetings. It was mainly
13 educating folks. They don't ---. Those folks don't understand a lot that's involved in
14 mining, you know, what methane, different things. I mean even as much as fans
15 making noise, you know, around various communities this and that. I remember over
16 around Delta area, Bowie some of those mines up that canyon, Oxville, you know,
17 issues with regard to fans.

18 MR. TEASTER:

19 So most of the issues you had with BLM related to surface-
20 type issues drilling, roads ---?

21 A. Yeah. Yes. Yes.

22 MR. TEASTER:

23 There was nothing underground, that you can recall?

24 A. No, getting roads into an area, ---

25 MR. TEASTER:

1 A. You're over 2,000 foot of cover.

2 Q. Uh-huh (yes).

3 A. You know what's going to happen. The best way I can put it is, if you have a
4 house and you have a basement and you take all the blocks out from around the ---
5 the foundation blocks what's the house going to do? I can't put it any simpler.

6 Q. Okay.

7 A. I can not believe --- and I'm being very honest here, I can not believe that we
8 in our right minds approved something like this. Yeah, I heard about this Agapito
9 study. I dealt with a lot of those kind of people when I was out in the west. They will

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

11

12

13

14 Willow Creek. What's the safety factor? What do you --- now this is --- looking at that
15 and they told me what they were doing, they were slabbing those barriers, too. I
16 mean, you guys will learn that, I'm sure.

17 Q. We know their plan had approval to do that.

18 A. I never did look at the plan. Just what I saw on the map, I think it was --- I'm
19 not sure, but I thought it was at least 2,000 foot in some of those areas. And I mean
20 it's real --- there's those stepladders I was telling you about for methane buildup.

21 Right. When you have those, what usually occurs, it's either a water issue, or if you're
22 prone to bounces, it's going to choke it off, now you got methane coming out on your
23 face, unless you put some holes on the back end.

24 MR. TEASTER:

25 Jack, you mentioned just a few minutes ago that that section
over there, which is the west main south barrier, north barrier, that you had gobs on

1 both sides. Would you consider those west main entries that had been developed as
2 not being a gob on one side either the north or the south barrier?

3 A. You better point ---. To me this is all a gob.

4 MR. TEASTER:

5 Okay. This is gob.

6 A. This is gob.

7 MR. TEASTER:

8 Okay. If you're mining this north barrier here ---.

9 A. All right.

10 MR. TEASTER:

11 You've got these developed entries over here in this barrier,
12 so would you then say that you got a gob on both sides?

13 A. Yeah.

14 MR. TEASTER:

15 And if you mined this one over here, then you had this west
16 main's in here, even though the gobs over here but you had the west mains between
17 you and the gob over here you'd still say you had gob on both sides?

18 A. Yeah, and what it's trying to do is become one gob.

19 MR. TEASTER:

20 I don't disagree ---.

21 A. I mean, you asked me, I'm telling ---.

22 MR. TEASTER:

23 No, I think that's right. I think that there's some that might
24 consider that not being gob on both sides because you had this entrance, because the
25 west main's in there.

1 A. Do you think these entries here open?

2 MR. TEASTER:

3 I wouldn't think so.

4 A. Well, then what makes you think these would be? That would be my question
5 to whoever answers it that way. I mean I'm not being ---.

6 MR. TEASTER:

7 I meant as far as --- is it solid? It's not mined out. Not
8 necessarily gob, but as far as the air is concerned is you don't have a mined-out area
9 on one side because you got the west main.

10 A. There's 12 panels here, from there to here. I mean it's a no brainer.

11 BY MR. PAVLOVICH:

12 Q. So Jack you're saying that you would have had reservations about approving
13 that plan?

14 A. I didn't say I'd have reservations. I said that plan would not have been
15 approved. I didn't say it was ---.

16 Q. I'm sorry for not making it as clear as what you intended. I'm glad you cleared
17 that up.

18 A. Yes.

19 MR. TEASTER:

20 Jack, just one other thought. Now, is this something that they
21 started after mining like these barriers out whenever you were out in District Nine, did
22 you ever see that?

23 A. If they did they slid it by when I wasn't there. What's the dates on this, may I
24 ask?

25 MR. TEASTER:

1 No, no ---.

2 MR. PAVLOVICH:

3 No, we didn't think you ---.

4 MR. TEASTER:

5 I'm just talking about this system ---

6 A. No, no.

7 MR. TEASTER:

8 --- pulling all of those areas ---.

9 BY MR. PAVLOVICH:

10 Q. Murray bought these mines after ---. This was --- after you left there is when
11 Murray took over these mines; right? He wasn't there when you were.

12 A. It had to be. It had to be.

13 Q. What do you think about the way those south mains were mined, Jack?

14 A. What do I think about the way they were mined?

15 Q. Pulling those back like that, and those seals in those ---.

16 A. This, you're talking this?

17 Q. Yeah.

18 A. I thought I just answered that.

19 Q. I'm sorry. Tell me again. It wouldn't have been done while you were there
20 you said.

21 A. It would not have been done while I was there.

22 Q. Okay. So you don't think it was a very good practice?

23 A. Unless maybe I was somewhere else and somebody in the district approved
24 something that I didn't get to see.

25 MR. PAVLOVICH:

1 Okay.

2 MR. TEASTER:

3 What would have been your objections to it, Jack?

4 A. My objection to it?

5 MR. TEASTER:

6 To mining that south main barriers.

7 A. You had to have some bumps in this mine. The history, the area --- knowing
8 the area, I mean, putting somebody new in somewhere like that, that you don't
9 understand the geology, you don't understand what's going on, you know, you come
10 from mines that maybe you only had four or five hundred foot of overburden.

11 MR. TEASTER:

12 Right.

13 A. I mean it's just like when I went to the west, I was never used to bleederless
14 systems. I came from District Two. But you learn, you learn. Everything that you
15 know in one area that might be all right but there's other safe and good ways to do
16 business. And there's some ways of doing business that you have to do it that way in
17 order to mine the coal, but it can be done safely. I mean, I don't subscribe to letting
18 anybody do anything that there's a major risk of hurting folks, but the history in itself of
19 the Price area, the Delta area out there, you don't do things like this. And there's
20 people out there know better than this. Okay? That's the best way I can put it.

21 Now, the pressures to bear from this coal operator, so be it. I mean, I had
22 plans when I was there that --- I mean being very honest about this, they went to
23 Arlington because I wouldn't approve it. There was others that got involved in that
24 group.

25 MR. TEASTER:

1 Jack, do you think maybe that some western mine operator
2 that was accustomed to this problems that you have associated in those areas of the
3 country may not have even wanted to try to mine that but maybe Bob Murray coming
4 from the east not being totally familiar with it ---?

5 A. Did you ask me do I think or do I know?

6 MR. TEASTER:

7 Do you know.

8 A. Do I know that there's people out there that wouldn't try something like this?

9 MR. TEASTER:

10 Yes.

11 A. Yes, I know.

12 MR. TEASTER:

13 Would you say that's the norm out west that they would not
14 mine that?

15 A. Yes. Yes.

16 MR. TEASTER:

17 So you think maybe Bob Murray --- or do you know --- think or
18 know, either one, that Bob Murray didn't have full knowledge maybe of this and felt he
19 could mine that because he could mine it out east?

20 A. I would think ---. I don't know what Bob Murray knows or thinks he knows, but
21 I will say this, I would be willing to bet you that Bob Murray has conversed with some
22 people that have mines in that area, and probably the previous mine owner. I mean
23 that would only be good business to, you know, discuss any of your concerns of pillar
24 design, of barriers. I can say this, and I felt really good about it --- well, I didn't feel
25 good about it. While I was out there, I failed to mention, or maybe I did, there was a

1 heating event up at Dugout, so I ended up going up there. They had 500 parts per
2 million CO. But looking at their maps, they were leaving a barrier between each wall.
3 And I kind of complimented Gene DiClaudio on that. Because he used to run the
4 mine --- well, he's still over all of them, I guess, he used to, at West Elk. And they
5 know, they know. I mean, you've got to sacrifice some coal to mine this stuff safely or
6 you're not going to mine it. They know that.

7 But getting back to your initial question, I believe that others ---. I don't know,
8 but I would --- I mean, he's been in the mining business. I would assume he would
9 talk to people, you know, what kind of issues have they encountered, you know,
10 mining those deep-cover seams of coal.

11 BY MR. PAVLOVICH:

12 Q. Jack, you made mention before that there was times or you started to talk
13 about it you can clarify for me, but that you had denied plans that operators went to
14 headquarters?

15 A. Yeah.

16 Q. Were you ever then ordered to approve a plan based on an operator going to
17 headquarters?

18 A. Well, I'll say this, Willow Creek was not ready to mine coal with the bleeder
19 system they had in place. Okay? And I'll just drop it at that.

20 Q. You didn't answer my question.

21 A. I know I didn't.

22 Q. Were you ever ordered to approve a plan or encouraged to approve a plan of
23 one that you didn't want to approve?

24 A. Being encouraged and being ordered is two different things. Encouraged a
25 bit.

1 Q. Strongly encouraged?

2 MR. TEASTER:

3 Another way of putting it, Jack, would you ever approve a
4 plan you didn't agree with because of influence you were getting from headquarters?

5 A. Yeah.

6 MR. TEASTER:

7 And was that frequent?

8 A. No.

9 BY MR. PAVLOVICH:

10 Q. Was it for any particular mine?

11 A. Yes. I already answered that.

12 MR. TEASTER:

13 Just Willow Creek?

14 A. Yes.

15 MR. TEASTER:

16 Did West Elk ever have any occasion to ---?

17 A. West Elk, I battled with West Elk on a lot of things, but, no, they didn't ---.

18 BY MR. PAVLOVICH:

19 Q. Who owned Willow Creek at the time, Jack?

20 A. Cyprus.

21 Q. Who?

22 A. Cyprus. D. Moshan Associates (phonetic).

23 Then it changed to --- I think it changed to RAG America, but when the occurrence ---
24 there was two. The one occurred when I was over in the Ukraine with you.

25 MR. TEASTER:

1 Jack, you mentioned earlier there was a team of experts that
2 was brought out to the mine, roof-control people from all over the country, I guess,
3 academia and others to do an evaluation as to whether the rescue operation could
4 continue or not. Were you involved in any of the issues with them?

5 A. Not really. I met them, I went into a meeting --- I don't know if Stickler was
6 still there because they were in Murray's command trailer. I didn't --- I was privy to
7 some of the things, you know, not a lot of it. That stuff mostly was done before I got
8 there but that team was on site and then it was my understanding that he was hiring all
9 of them and I just thought ---.

10 MR. TEASTER:

11 He who?

12 A. Murray.

13 MR. TEASTER:

14 Murray was hiring them.

15 A. Yeah, and I just thought if he hires them all.

16 BY MR. PAVLOVICH:

17 Q. He's going to hire the team of experts?

18 A. He was going to hire the whole bunch of them because he wanted them to
19 look at some of their other mines out there but there was another motive to that, in my
20 opinion.

21 Q. But to your knowledge that never happened?

22 A. I don't know what happened. I don't know but I heard that they were looking at
23 other mines.

24 Q. Were you there then when they made the announcement that the team of
25 experts had recommended that no one go back in?

1 A. Yes.

2 Q. Were you involved at all with the family briefing on that?

3 A. I think I was.

4 Q. You were there?

5 A. I think.

6 Q. Were you with Stickler and Mr. Stricklin?

7 A. No.

8 Q. Or are you the one that made that announcement?

9 A. No, I think it was an issue, I think it was Stickler and them but that issue kept
10 coming up.

11 Q. Okay.

12 A. They would not give up hope at getting back in there.

13 Q. Okay.

14 A. Getting back in there and you had to convey to those folks that it wasn't safe.
15 And I mean we've already had three more fatalities and people hurt but they ---.

16 Q. So that came up several times during your briefings?

17 A. Yes. Yes, that'd come up. Other places to put holes come up, other ways of
18 tunnel liners, other ways of sinking another shaft. I mean there was all kind of --- it
19 was evident that some of the folks that were related to the immediate family, you
20 know, had knowledge of mining, they knew different things of mining and different
21 ways to control a roof. They knew about tunnel bores, that was another suggestion,
22 going in with a tunnel bore and tunnel liners the whole way. And as I indicated,
23 another shaft ---. I mean, I'm not saying it couldn't be done, anything can be done but
24 with that terrain, I mean one has to be familiar with the terrain over there to ---.

25 Q. Did you ever know of anybody in the west or being moved because of hard

1 enforcement, Jack?

2 A. Say that again.

3 Q. Did you ever know of anybody in the west being moved and any MSHA
4 person being moved because of tough enforcement? Moved to another area or
5 changed from mine to mine or moved to another field office or ---.

6 A. Yeah.

7 Q. You do.

8 A. Yeah.

9 Q. Did that happen frequently out there?

10 A. I moved five supervisors but then I got moved.

11 Q. You moved five supervisors because the company complained about their
12 tough enforcement or ---?

13 A. No.

14 Q. Why did you move five supervisors?

15 A. Because of their expertise, people that were very adversed in methane. I
16 mean, I have a person ---.

17 Q. You didn't do it because of complaints you did it because ---?

18 A. Oh, no, no, no. Enhance safety and health for the miners in the west.

19 Q. Now, how about your move, you said you were moved also was that for the
20 betterment of the agency?

21 A. Well, the one letter that went out said it was, but ---.

22 Q. What was your opinion of why you were moved?

23 A. I don't have an opinion. I know why I was moved.

24 Q. Okay. Would you like to tell me why?

25 A. I was a very hard enforcement person on the mines in the west, especially

1 Peabody. I think that was --- I think you could get a better answer on that from
2 interviewing Mr. Lauriski. Okay? But basically I had --- well, it was on the Indian
3 nations the Peabody mines down there, there was issues. We were educating the
4 Navajos. I hired a Navajo inspector whose husband was killed at the one mine and
5 there was a big to do about that. There was --- now the Peabody mines up in the
6 Powder River Basin, they were much better. I mean they treated their people with
7 dignity, with respect. They had a vested interest in one another, were down on the
8 Acquinta (phonetic) and Black Mesa, Black Mesa Pipeline. That particular area they
9 Ex. (b)(6) and Ex. (b)(7)
(C) complaints, G complaints. You can rest assured when you got a
10 G complaint and you went down there you'd find it was factual.

11 There was a local Ex. (b)(6) and Ex. (b)(7)(C) down there. His name was Ex. (b)(6) and Ex. (b)(7)
12 Ex. (b)(6) and Ex. (b)(7)(C) We just didn't see eye to eye.

13 I mean, they wanted a lot of relief on compliance, I'll give you a couple of little
14 examples. I mean, those mines were right on the nations, right where people lived,
15 school-bus traffic, this and that. Didn't believe they should have lights on the backs of
16 haul trucks. Instead of cleaning up the stuff they'd give the little kids respirators to
17 play outside wearing a respirator. I mean, I could go and on. I was told through
18 people in Arlington and through people at the academy that I was the first --- when Mr.
19 Lauriski got the job as Assistant Secretary, there was support provided to him
20 provided I would be moved. I had been told that, I'd rather not give names but I could.

21 When a certain person retired from the agency, I was called and apologized to for
22 being moved. If the person would have known me better, I wouldn't have been
23 moved.

24 I'll be honest with you guys, it ripped my hear out of me when that happened,
25 but I was called to Beckley for a five-minute meeting to tell me I was being

1 transferred. And what I was told was Ex. (b)(6) and Ex. (b) (7)(C) o I'm getting transferred. It
2 took about two minutes. I asked and I ---.

3 UNIDENTIFIED SPEAKER:

4 You were told what?

5 A. Ex. (b)(6) and Ex. (b)(7)(C) and I'm being transferred.

6 UNIDENTIFIED SPEAKER:

7 Ex. (b)(6) and Ex. (b)(7)(C)
8 A. [Redacted]

9 UNIDENTIFIED SPEAKER:

10 An MSHA management person told you that?

11 A. Yes, it was. I'll tell you who he was if you want to know.

12 UNIDENTIFIED SPEAKER:

13 Sure.

14 A. Ex. (b)(6) and Ex. (b) (7)(C) I asked if he could elaborate any. I says, I did everything
15 humanly possibly. I mean, read the accident report, it will tell you how we were 24/7
16 coverage at that coal mine. The amount of paper that was issued. There was not
17 internal review done at that mine. We did, in my opinion, the best we could possibly
18 do and it occurred that ---.

19 UNIDENTIFIED SPEAKER:

20 What mine was that?

21 A. Willow Creek.

22 UNIDENTIFIED SPEAKER:

23 What happened there?

24 A. There was an explosion.

25 UNIDENTIFIED SPEAKER:

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Okay.

A. Methane. And I'm sure that hydrocarbons had something to do with it, too, but no ---.

UNIDENTIFIED SPEAKER:

And that was the reason that was given?

A. That's the reason that was given me but then the letter didn't say that that went out to the world. It was Ex. (b)(6) and Ex. (b)(7)(C). Of course District One is a place there was no enforcement at all. I mean I'll just tell you, there was none. I mean when you go to storing W65 rescuers and fan signals that are a pair of woman's underwear blowing in the breeze, I mean, you tell me was there enforcement there? You want more, I'll tell you more.

MR. TEASTER:

Jack, who was the administrator at the time?

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

MR. TEASTER:

And Ex. (b)(6) and Ex. (b)(7)(C) what position was he in?

A. He was Acting Deputy ---

MR. TEASTER:

Acting Deputy.

A. --- Administrator, I believe, at the time. But that was the exact words that was said to me and it took two minutes. And I asked if I could talk any. I ain't got time, good bye.

MR. TEASTER:

Was it just you and Ex. (b)(6) and Ex. (b)(7)(C)

A. Yes, sir. It was right here at the academy. When it happened, when I was

1 summoned here, I was over in Delta. Something was going on in one of the mines, I
2 don't recall what, but I was told to get on an airplane and get here within a day or two,
3 in which I did. And then I was told afterwards people overheard conversations in
4 Arlington and here at the academy ---. In fact, I guess [REDACTED] was bragging about
5 it to some people, but so be it. I feel this way, I didn't like it, as I indicated earlier. It
6 ripped the heart out of me. I was coming east some day again anyways, but I believe
7 this, I left the district way, way better than what I found it. I believe that there was a ---
8 we had a good district. I think that we were making strides in the right direction. And I
9 will tell you this, compliance was a lot better, not only underground but surface, too,
10 with regard to bench initiative. I had issues with benches up in the basin, all over the
11 place. But sometimes you have to take a little risk to get things accomplished.

12 MR. TEASTER:

13 How long was it after Lauriski became Assistant Secretary
14 were you moved?

15 A. When did he become Assistant Secretary?

16 MR. TEASTER:

17 I think May of 2001.

18 A. Well, I got moved in September, so it was pretty quick.

19 MR. TEASTER:

20 And when did Willow Creek occur?

21 A. Well, there's two occurrences at Willow Creek.

22 MR. TEASTER:

23 I'm talking about the explosion with the two fatalities.

24 A. No, no the last explosion was the two fatalities. That was whenever I was ---.

25 I don't remember what year or date, but like I said, I was over in the Ukraine when it

1 occurred. And it could have been a lot worse. Thank God it wasn't. But it was --- Ray
2 McKinney did the investigation, the accident investigation, I mean reports out here.
3 But I thought --- I mean, we were pretty hard on that company as far enforcement and
4 it still happened, but we tried everything in our power that it didn't happen.

5 MR. TEASTER:

6 Have you had any enforcement issues in District One since
7 you transferred up there?

8 A. I've had --- I was averaging two Congressional's a month, I don't know how
9 many Senatorials, I had an IG investigation on me with eight of them. It took 11
10 months, which I was totally found doing my job. I think that's quite a bit.

11 MR. TEASTER:

12 Did a lot of this occur when Lauriski was Assistant Secretary?

13 A. Some of it did.

14 MR. TEASTER:

15 Did you have any pressures to ease up on your enforcement
16 from anyone at headquarters?

17 A. Not really. Not really. It was too --- the fact of the matter is both Ray
18 McKinney and Kevin Stricklin they've been very supportive of what we're trying to do
19 up there. I mean you don't change 30 some years of stuff overnight. It's a gradual ---
20 but there's been improvement there. We got fans running with fan signals, explosive
21 magazines are no longer in the cardboard box that the powder comes in. There's
22 been issues up there tremendous issues, but you've got to understand something, it's
23 a different culture. They are the way they are because we helped them become what
24 they are over the years. And you don't change it all over night.

25 The surface operations in that district are pretty much in line with the rest of

1 the country. They are, they're pretty much in line. But the underground, other than
2 UAE, they take you back 50 years. It's not mechanized other than UAE. I mean their
3 technology there went from a metal shelf to aluminum, that's about it.

4 I mean, they're hardworking people. I mean, don't take this all the wrong way,
5 they're very hardworking folks, they're very proud of their heritage but they believe it's
6 Ex. (b)(6) and Ex. (b)(7)(C)

7 Ex. (b)(6) and Ex. (b)(7)(C) They're hard
8 people, they're very hard people. Hardworking people but hard folks, very hard folks.

9 MR. TEASTER:

10 Was your emphasis when you went to the district more on
11 enforcement or more on compliance assistance?

12 A. Which district you talking about?

13 MR. TEASTER:

14 District One.

15 A. Well, back then a lot of it was --- I mean, we run a compliance assistance
16 much kinder, gentler, da, da, da, which don't ---. I've never changed. I've enforced the
17 regs the same way. I mean. I believe that we should have some compliance ---
18 writing a violation to me is compliance assistance also. You're getting assisted so
19 somebody doesn't get hurt.

20 MR. TEASTER:

21 Sometimes it's not voluntary but you still get it.

22 A. Yeah, you're going to get it. Okay. I mean as far as education and training
23 things, small mines, yes, I believe it has a place but those people aren't being used in
24 coal, that's what the sad thing is. We have them, but they like metal on metal stuff a
25 lot better. They don't --- I have one up there I don't think has been in the coal mine

1 since I gave him a room. He's been there six years and, you know, they'll do some
2 training assistance at vo-tech things like that, but as far as actually going where the
3 meat of it is, talking to miners one on one, observing work practices this, that, where
4 you should be in my opinion, it doesn't happen. To me it's a waste.

5 MR. TEASTER:

6 I'm sorry.

7 MR. PAVLOVICH:

8 Oh, I was turning it over to you. I think I've asked ---.

9 MR. TEASTER:

10 Do you want to take a break?

11 A. I don't need a break.

12 MR. TEASTER:

13 Well, you're watching that watch. I didn't know ---.

14 A. Well, I just wondered how much more I got.

15 MR. TEASTER:

16 Well, I'm through with my question. You got many more?

17 And these guys might have some. Let's take five, Jack.

18 SHORT BREAK TAKEN

19 MR. TEASTER:

20 I'd like to go back, Jack, and talk a little bit about
21 underground. In your experience with bumps, have you been in a situation where they
22 would go back in and clean that area up as they were doing here?

23 A. No.

24 BY MR. PAVLOVICH:

25 Q. Have you ever known of them to clean up a bump before?

1 A. The only one I could say that, well, you'd be loaded out, it would be what
2 occurs on the face of a longwall into the pan line.

3 Q. But as far as loading out entries like this?

4 A. No, I've never ---.

5 Q. Have you ever seen or had reported to you or had to investigate a bump of
6 this magnitude, Jack?

7 A. Nope.

8 Q. You never seen one like that?

9 A. No, we had several bumps when I was out there, even to the degree tear
10 shear off the pan line, off the face but never to this degree, never, that I can
11 remember of. I would remember, no.

12 MR. TEASTER:

13 Jack, just to give you some and most of this you may know
14 but when they first went in after the bounce, they started loading up here at Number
15 Four entry and they cleaned up. And my understanding is that they got up to around
16 126 or some thought that they maybe they didn't make it that far but they made it
17 some distance up number four and they were going without setting any types of
18 supports.

19 A. Okay.

20 MR. TEASTER:

21 And then they had this bump and this bump essentially filled
22 the area back up that they had cleaned up. There was one inspector outby that area,
23 it knocked him down and there was another company man over in this area and it
24 knocked him down.

25 Just to briefly describe some of the things here. We're

1 standing in front of the feeder breaker when a bounce hit, it took out ventilations,
2 suspended dust in the air, could not see the lifeline, knocked two people down, hit
3 Number Four entry, filled back up with coal. And that measured 2.2 on the Richter
4 scale. Now, this was the first day or maybe early morning of the next day following
5 that --- the 6th. And there was a lot of bumps that's taken place, some of them
6 reported significant, other one's were small bumps. Some are reported as thumps in
7 the roof, which they separated that different. They described a thump something
8 being high up on the roof and normally a bump, a small one or whatever would have
9 some vibration on the floor and the roof and sometimes it would knock out things,
10 sometimes vibrate the floor and the roof, things of that nature.

11 But there was a lot of bump activity and there's some that ---
12 there was one here on the 15th that broke the shafts on the motors, ---

13 MR. PAVLOVICH:

14 On the miner.

15 MR. TEASTER:

16 --- on the miner. They knocked stoppings outby ---. Let me
17 just sit down and just read some of them to you and ---.

18 UNIDENTIFIED SPEAKER:

19 Here's a copy. All the activity. Those are all the bumps,
20 Jack, and the times. Some of them showed up on the Richter scale and some didn't,
21 but that's during the whole recovery.

22 A. Well, first of all, I wasn't there during a lot of this.

23 MR. TEASTER:

24 No, I just wanted to get your opinion as to what ---?

25 MR. PAVLOVICH:

1 He wasn't there during any of that.

2 A. But I will tell you something where you're talking about this up above.

3 MR. TEASTER:

4 Okay.

5 A. This massive sandstone, I mean I've personally heard that stuff. When that
6 massive sandstone starts moving around up there, you know, that's what you're
7 hearing that's that massive sandstone.

8 Q. Yes.

9 A. That's --- some of that you alluded to earlier.

10 MR. TEASTER:

11 The thumping.

12 A. Up high that's that sandstone.

13 MR. TEASTER:

14 Right.

15 MR. PAVLOVICH:

16 Okay. What did you want him to look ---?

17 MR. TEASTER:

18 Well, I just read you the one ---. Go to the 15th there and it
19 kind of talks about this one that ---. It talks about this bump at 2:26. It registered 1.2
20 on the rector scale. It said bounce occurred, lots of dust, everyone accounted for
21 significantly, blew out a couple Kennedy stoppings.

22 Going down to the next paragraph, it appears that the rock
23 props moved out the tops and the bottom. And then you go over to the 16th. We're
24 just trying to highlight some of these things. And my questions is, I say all that just to
25 get to this point. What would this indicate to you? I mean we're getting some

1 significant bumps that's filling the entry. There's some in there where it filled the entry
2 back up level with the miner, broke the shafts on the motors of the miner, knocked out
3 stoppings. There was a significant one that occurred the morning of the 16th, which
4 you had --- that was the day that that one later happened that involved injuries. But
5 here's one at 10:05 on the morning of the 16th, bump at the mine Number One entry
6 right rib covered the body of the miner.

7 This bump was ---. Okay. Well, just look at those bumps that
8 occurred all morning there. And the last one that --- as recorded there was before the
9 big one at 1838 was at 12:00, had four small bumps, a 12:45 bump between 117 and
10 118

11 But this bump activity, what would that indicate to you was
12 taking place? I mean, obviously the people there, they determined that it was safe to
13 continue the rescue operation but, you know, when you got gas readings mine
14 explosion or mine fall you can look at that and make some ---

15 A. Trending.

16 MR. TEASTER:

17 --- informed judgment of whether it's safe or not safe ---

18 A. Right.

19 MR. TEASTER:

20 --- to continue based on the information you have. Or if
21 you've got falls occurring all around you, you can see it. But this bump phenomenon,
22 apparently there's not a lot of good indicators as to say or predict when one's going to
23 occur. But as I see this, the bumps that were occurring, a lot of those bumps were
24 occurring ---. The only difference between them and the one that involved injuries is it
25 happened right where the people were working.

1 A. You're right.

2 MR. TEASTER:

3 But how would you deal with them? What do you think was
4 taking place where these bumped occurred and how should we evaluate it, to
5 determine whether to continue with the efforts?

6 A. Well, what I think --- what's the after an earthquake, you get tremors or
7 aftereffects? You had the major bump, the initial that did all this. Okay? The
8 mountain wasn't settled. It was still bouncing. It wasn't settled. And then I'm looking
9 where you were showing me and I'm looking here 1,500 foot of cover. And I'm looking
10 at the crosscut number. It's evident that it was occurring more so in the deeper areas.
11 It wasn't finished, it wasn't done bouncing.

12 MR. TEASTER:

13 Well, apparently from what we've learned, Joe may have
14 more knowledge certainly than I, and maybe some of the others here, but this material
15 that we had on the floor that was ejected from the initial bump ---.

16 A. It filled up the void, support.

17 MR. TEASTER:

18 Right. It affords some lateral support ---.

19 A. Right.

20 MR. TEASTER:

21 And then when you start taking the middle of this out, then of
22 course that ---

23 A. You're taking away the support again.

24 MR. TEASTER:

25 --- takes it out. And it seems like that I don't know this for a

1 fact but most of it was involved in after we started mining. And there was a period of
2 time between this bump, when this bump occurred in Number Four entry until we got
3 set up over there in mining that there was little or no bump activity. Now, the bump
4 activity didn't start immediately after they started mining but after they got up there
5 into that deeper part, that's when the bumps started back and they continued on up
6 until the time of the 16th when we had the bump that incurred injuries.

7 A. I'm not a rocks-mechanic expert by any stretch, but you had a void that was
8 filled, which the void now to me is providing support. Now you've removed the void,
9 so you took away the support, so now it's back moving again. That's the way I look at
10 it. I don't know if that's ---.

11 MR. TEASTER:

12 Yeah, that's all right. Now this other thing. Now, when they
13 put that first bore hole down, they ultimately determined that there was like seven plus
14 percent oxygen. And down here at the seals in west mains they were getting
15 comparable readings. And what would that indicate to you? That when you're getting
16 readings up in the number one bore hole was ---?

17 A. What that would indicate to me is, I blew my seals out, okay, from that bounce
18 that's what you got out --- that come out of the gob.

19 MR. TEASTER:

20 So you think that that --- you was getting some
21 communication between the bottom of that bore hole ---

22 A. And the gob.

23 MR. TEASTER:

24 --- and the gob?

25 A. Because I had these seals blown out; right? Weren't the seals blown out?

1 BY MR. PAVLOVICH:

2 Q. No. These seals were intact; okay? But when they knocked a hole and
3 started sampling through those seals, they got 7- percent oxygen and like 89-percent
4 nitrogen.

5 A. Okay.

6 Q. When they took the first sample out of the number one bore hole or the first
7 competent sample out of the number one, they got seven-percent oxygen ---.

8 A. Well, that was reporting --- that was coming from here to there.

9 Q. So what you're saying is, there's some communication somewhere here?

10 A. Yes, there was --- there had to be.

11 Q. And how would that have been?

12 A. What do you mean, how would it have been?

13 Q. Well, you're showing the coal barrier here.

14 A. The barrier isn't there. There's something blowed out between these.

15 Q. Okay. So you're saying this barrier is breached?

16 A. Yes.

17 Q. That's what you would assume?

18 A. That's what I would think.

19 Q. Okay.

20 A. And I would say it's breached because of the bounce.

21 Q. Very good.

22 A. Well, thank you.

23 MR. TEASTER:

24 No, thank you, Jack.

25 A. What I mean, does that not make sense?

1 MR. PAVLOVICH:

2 Yes, it does.

3 MR. TEASTER:

4 Absolutely.

5 MR. PAVLOVICH:

6 Yes, it does.

7 MR. TEASTER:

8 Absolutely. And then so ---. We know that the miners were
9 working in this area here ---.

10 A. So if the bounce didn't get them initially, the low O2 did.

11 MR. TEASTER:

12 So if you go back --- have you ever heard of this theory, the
13 risk versus value?

14 A. Yes.

15 MR. TEASTER:

16 Where you basically determine, you know, what's the value of
17 continuing versus what's the risk of getting that value?

18 A. And also when I talked or I mentioned real early on in this interview the safety
19 factor that's between that risk and that value.

20 MR. TEASTER:

21 I guess what I'm getting to is based on some readings up here
22 --- now there was one bore hole, bore hole number three came in. And you had 16, 15
23 and a half to 16-and-a-half percent oxygen but that reading was taken after oxygen
24 was injected into the number one hole, at least, and maybe number two. So there
25 could have been some from that or it could have been existing there. And some of

1 the theory was that if the miners did survive the initial bump, that they could have got
2 back up in that area. And we do know at the bottom of number three that there was
3 no substantial amount of material on the mine floor so the bump didn't occur in that
4 area. So there was some thought and hope that these miners had escaped the initial
5 bounce ---.

6 A. And got up in there.

7 MR. TEASTER:

8 Right. But if you've got these low O2 readings and you're
9 getting all these bumps that's occurring, what's the hope of survival up here, and how
10 much risk do you think we need to put our miners or rescue workers up there? With
11 all these bumps occurring ---?

12 A. The hopes of survival is pretty slim. Okay? As I indicated just a little bit ago,
13 if the bump didn't get you, that low O2 coming over you probably did, because you
14 don't have too long with six, seven-percent oxygen, you don't. Now, how did that
15 report there? I don't know, you guys will probably learn more when you interview or
16 you guys won't interview miners you'll get from the accident team actually what all ---
17 how much they were slabbing.

18 Keep in mind, folks, they were on their way out of this coal mine. And all of is
19 that's been in mining know what goes on, you get every last drop that you could
20 possibly get. That's the nature of the beast, you're retreating ---. It's like there was
21 something said, Murray said it out there, it wasn't retreating. Well, to me there's only
22 two things, there's advance or retreat. And retreat was always to me, you're headed
23 on out. Now, I don't know what else you call this. I mean, it was a retreat mine and ---
24 .

25 MR. TEASTER:

1 Well, I think that theory was based out that he had backed up
2 behind them two ---. I mean, I totally agree with you but I'm just giving you an
3 explanation that he had ceased pulling the pillars here and had pulled back out. And I
4 don't know that this ---.

5 A. Why?

6 MR. TEASTER:

7 This is pretty current. So he just had pulled out by those and
8 was not ---.

9 A. Why? Why? Why did he pull out from there?

10 MR. TEASTER:

11 Because of this entry here and part of it, they wanted to
12 protect the bleeder ---.

13 MR. PAVLOVICH:

14 The vent plan made him leave those so that the bleeder entry
15 would still be travelable.

16 A. Oh.

17 BY MR. PAVLOVICH:

18 Q. You see how that entry was stepped off?

19 A. I know how it's stepped but ---.

20 MR. PAVLOVICH:

21 Okay.

22 MR. TEASTER:

23 So the ventilation plan required that they leave --- I guess it's
24 the vent plan; right, or the roof plan? One of them required they leave eight pillars.

25 A. But is it left, were they left? A lot of plans require a lot of things. That doesn't

1 mean people follow them.

2 MR. TEASTER:

3 Well, the information that we've gotten ---.

4 MR. PAVLOVICH:

5 Jack, we don't know. Okay. We don't know. I see your point.

6 Did they mine those pillars or did they leave those pillars like the plan shows.

7 A. Or did they just take about half of it?

8 MR. PAVLOVICH:

9 Well, we don't know that either, but the intent of supposedly
10 leaving those pillars was so you continued to travel up the bleeder entry.

11 A. I understand.

12 MR. PAVLOVICH:

13 Now, I guess what Ernie's asking you ---.

14 A. I know what he's asking.

15 BY MR. PAVLOVICH:

16 Q. Okay. Would you have continued with the rescue effort after you saw the
17 extent of that bump ---

18 A. Too much ---

19 Q. --- and the oxygen that was up there?

20 A. --- providing ---. Again, the degree of safety provided to those folks that are
21 doing this work and what's going on, I would have been drilling more. Would I have
22 been doing this? Now, if I'd found live people, ---

23 Q. Uh-huh (yes).

24 A. --- that would have changed --- maybe I'm going to take a little more risk, ---

25 Q. Okay.

1 A. --- just as the way you phrased it initially. But when I got holes that are telling
2 me that it's not going to support life, I know I've got all this bounce activity going on, I
3 mean that's a very hard decision to make but somebody has to make that decision.
4 And me, no.

5 MR. TEASTER:

6 Jack, what experience did you have out there, if any, with
7 water props?

8 A. Water props?

9 MR. TEASTER:

10 I'm sorry rock props.

11 A. Not a whole lot.

12 MR. TEASTER:

13 They were just coming on?

14 A. Yeah. Yeah, they used --- there was some of it. Just like those cans ---.

15 MR. PAVLOVICH:

16 Cans.

17 MR. TEASTER:

18 Cans.

19 A. Cans. I mean, saw where --- I mean, I looked at them, I watched them, but I
20 had a little concern about those, too. There's a lot of heat come off those. When
21 you're taking --- when this massive sandstone's moving, they'll get pretty hot.

22 MR. TEASTER:

23 I think that the people and the decision makers were confident
24 that these rock props, in conjunction with the fencing and the ropes and what have
25 you, that would contain any bump activity up there where they were working. And we

1 know that that didn't prevail on the 16th, but I think that's why ---. They thought if it
2 was --- if they could continue on because they had adequate protection from ---.

3 A. I'm sure that entered into their thought process, why they did what they did.
4 But unless you've been around these bumps ---. I've never seen anything to this
5 degree but I've seen bumps and I know what it does. And forces are --- there's
6 something that you can't explain to anybody other than unless you've witnessed it.
7 You just can't ---.

8 MR. TEASTER:

9 So it's pretty powerful?

10 A. Yes, sir. We here that work in the east most of our careers we're used to
11 bottom heaves and some of that stuff, but when you get it coming from everywhere,
12 mainly it's coming from --- it's loading up, it's loading up, loading and, and it blows,
13 those forces --- I mean, it's --- what it does is it's tremendous forces is all can say. I
14 can't ---.

15 MR. TEASTER:

16 Jack, could you equate what it would take, I mean if a shuttle
17 car can dislodge one of these rock props that's installed properly at about 1100 psi and
18 a shuttle car could knock that out, what confidence would that give you that this
19 protection would support --- provide protection for you from a bump that you're
20 accustomed to occurring out there in the west?

21 A. They'd fly like toothpicks. I mean I didn't know that was the --- what you told
22 me the psi it would take, you know, from a shuttle car --- because the forces that these
23 bumps generate are way, way, way, way beyond that.

24 MR. TEASTER:

25 Do we have any information that you're aware of that tries to

1 estimate how much pressures are released when we get a bump let's say that's 2.0 on
2 the Richter scale, how much energy that would ---?

3 A. I don't know. All I know is some of these things that the universities did, I
4 don't know what they called these things, but you take a map of the mine and the heat
5 ---. I don't know if you all have ever seen any of that, where it's loading up through
6 their readings and that, and it would be like --- I don't know how to ---.

7 MR. TEASTER:

8 It would be different colors ---?

9 A. Red or orange and it's getting redder and redder. And it's --- maybe some of
10 you have seen some of that stuff, but I know they used a lot of that to calculate. But
11 there's indicators, as I told you --- you know, you worked out there, there's indicators
12 when things are loading up.

13 MR. TEASTER:

14 What indicators are you referring to?

15 A. The coal close to the roof. And as I said earlier, they used to drill and give it a
16 little shot. And it would come out kind of real reddish kind of --- I don't know how to
17 explain. It was real powdery ---.

18 MR. TEASTER:

19 That's from the drillings?

20 A. Yeah it's from the drillings, but this weight, this movement, this grinding, I
21 might say.

22 UNIDENTIFIED SPEAKER:

23 Like a red dust?

24 A. Yeah. Yeah.

25 MR. TEASTER:

1 And red along the top of the pillar ---

2 A. Yeah.

3 MR. TEASTER:

4 --- where the coal's hitting the roofline?

5 A. Yep, the roofline.

6 MR. TEASTER:

7 You see red there?

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

9 MR. TEASTER:

10 Loading up.

11 A. It's loading.

12 MR. TEASTER:

13 Did you have a lot of interaction with Agapito Associates when
14 you were there as district manager?

15 A. I don't remember who all --- different ones.

16 MR. TEASTER:

17 You don't remember them?

18 A. I don't remember. I probably did. I dealt with a lot of them. And as I said
19 earlier, and I'm sincere about this, they'll give you whatever they're paid to give you.
20 Numbers can do wonderful things.

21 MR. TEASTER:

22 Who was your roof-control supervisor when you were there,
23 when you left?

24 A. When I left Billy Owens was. I got him --- what occurred, they closed down
25 tech support in the west. He was the head of tech support. And I was asked --- I was

1 asked if I would take three or four of those folks ---. I had a large engineering staff in
2 Denver, probably, oh, heck at least nine or ten engineers in the district office. But
3 Billy Owens was, but see initially when I first went to the west, there was the problem
4 with engineers. They didn't like to get dirty, I might say. They stayed in the district.
5 And I'm learning all these problems that I have with bleeders, and this and that, so I
6 put out a directive, thou shalt go to the mines once --- one week a month, you know,
7 and go to these areas where we're having issues.

8 MR. TEASTER:

9 Uh-huh (yes).

10 A. But for some reason it was a sacred fraternity, you might say, no disrespect to
11 any mining engineers in here, but better than the regular inspector, you know. But
12 what I did I had them --- I wanted them to work together. If an inspector has a mine,
13 he has an issue, you need to go out there and assist him.

14 MR. TEASTER:

15 Okay.

16 A. So we're all on the same page. And you guys that recommend the approval
17 of these plans to me, I want you to go look, I want you to go evaluate. Are they mine
18 specific, are they taking care of --- if I'm having a bunch of roof falls in a coal mine, I
19 got something wrong, something wrong. Either they're not complying with the plan or
20 it's inadequate, end of story.

21 So that's what I used to do. And then I made some changes in engineering
22 out there, made some moves, made some changes. I promoted one person and quite
23 frankly I made a major mistake in doing that, but I thought the person had a lot of
24 potential, had a degree in mine engineering. It didn't work out so I got him transferred
25 to another district. But since, he's back, he's back out there again. Okay. And the

1 thing about it is, I mean some people don't take what we do as serious as what they
2 should. I don't know how I can explain this real gently. The job isn't one's priority, it's
3 some other things. You need to ---. And I've had many lectures with certain people,
4 little sitdowns, heart to hearts. You need --- and I can remember several of them,
5 about trying to convince people that you need to put more heart into this, I'll say it that
6 way, more ---. You need to be sincere rather than everything's, you know, a
7 lackadaisical approach. You can't do business that way.

8 MR. TEASTER:

9 Did you ever have any of those heart to hearts with your roof-
10 control supervisor?

11 A. Not so much with him. Over his --- his boss I did, but not so much with him.
12 I've sent plans back, I mean, to people, whether it be ventilation or roof control,
13 because I learned certain mines out there you, as the manager, you don't take things
14 for granted. You better be looking at them yourself. I mean, yes, you got to rely on
15 people and, yes, you can't do them all, but certain ones you better look at because
16 some people tend to try to slide things through. But when I would catch it, it would go
17 back to them. Okay? And these are the reasons why. And I'm sincere as a heart
18 attack about this, what I'm telling you.

19 MR. TEASTER:

20 Was the ARMPS program utilized to a great extent while you
21 were there?

22 A. I'm not sure what all they --- I'm sure when Eric Sheer (phonetic) was out there
23 he probably used it, because Eric was another one that was out there, a very, very
24 good man. There's some good engineers out there. Was it used, I would say to a
25 degree it was. How much, I'm not sure. By the way, the ARMPS program does not

1 work in anthracite. It doesn't work. Pitch. I'm just telling you.

2 MR. TEASTER:

3 Well, you don't have a lot of cover up there.

4 A. It depends. It depends I mean the bottom gangway might be 500, 600 feet,
5 700 feet, you don't know. It varies.

6 MR. TEASTER:

7 Jack, just a couple more. One, on your roof control plan-
8 approval process, did you have an inspector and a supervisor involved in that
9 process, the best you can remember? Or can you just go through how the roof-control
10 plan came in and how it was processed from the time you received it 'til the time that it
11 was approved or disapproved?

12 A. As I indicated earlier, I wanted feedback from the inspectors. I can't
13 remember the form they fill out about adequacies of plans da, da, da, this, that, it's
14 submitted with regular EO1 inspections. Going to the mine together, sharing
15 information. Did it go on a lot, I mean what's a lot? I wanted it to go on. I stressed,
16 you know, information sharing because --- and I can remember something else. We
17 need to work together from the enforcement 14 to the engineering 14. Okay? Why?
18 Plan approvals have a hell of a bearing on enforcement. And enforcement side of it
19 has a heck of a bearing on the plan-approval process. So what my objective was and
20 what I was doing was trying to get them to share information and work together.
21 That's what I was doing, that's why I was making the engineers go to the mines. Now,
22 some it was benefit and some feedback I got, they're just out there taking there
23 hammer for a walk more or less, they're here because I made them go to the mines, I
24 mean ---.

25 Well, that's about basically for a ---. But, no, the ideal situations what I try to

1 do, and I'm being sincere, is sharing information and then working together. That's the
2 way you get plans that are mine specific and protect the folks that work in them mines.

3 If you got one going in one direction and one going another, you got major problems.

4 And then another issue is, you didn't mention these yet, the vent division. The
5 ventilation division and roof-control division working together also because you could
6 have one or one is recommending approval for something and it's going to have a
7 major impact on the other, that's why it's imperative that they work together also.

8 MR. TEASTER:

9 Sure. Jack, if you had a plan, a roof-control plan that said
10 that you're coal belt would be a nominal 80 by 90-foot block, what would that mean to
11 you? How would enforce that provision?

12 A. It depends where it was at, how much overburden.

13 MR. TEASTER:

14 Are you familiar with the term nominal? I mean, what would
15 that mean to you, if you said that it had to be a nominal ---.

16 A. Damn little.

17 MR. TEASTER:

18 Huh?

19 A. What are you talking, nominal?

20 MR. TEASTER:

21 Well, that's what I'm trying to figure out what nominal would
22 mean to you.

23 BY MR. PAVLOVICH:

24 Q. If the plan said you could have a pillar dimension with the nominal ---

25 A. Of 80 by 90.

1 Q. --- nominal dimensions of 80 by 90, what would that mean to you? How would
2 you enforce that?

3 A. I might have some heartburn with that. Okay? I want you to explain to me
4 exactly what this nominal means.

5 Q. We don't know, we thought maybe you knew maybe it was one of your words
6 you put in the plans out there.

7 A. Oh.

8 Q. We thought that, that's why we asked you. Was it?

9 A. No.

10 Q. No. You never heard that before, nominal?

11 A. I asked you, what does it mean. If I knew what it meant, I wouldn't have
12 asked.

13 UNIDENTIFIED SPEAKER:

14 We don't know.

15 MR. TEASTER:

16 Well, it is ---.

17 A. Pillar size to me, pillar dimensions, I'd want to know a couple things. I'd want
18 to know how much overburden I got, I want to know mine history, with regard to --- out
19 there. Now, if I've got a --- say I'm in 300, 400 foot of cover, I might not be too
20 concerned about that.

21 MR. TEASTER:

22 But would you be concerned ---?

23 BY MR. PAVLOVICH:

24 Q. Well, you would say a minimum dimension of 90 feet; right?

25 A. Yeah.

1 Q. Or 50 feet or whatever?

2 A. Right.

3 Q. You wouldn't say a nominal?

4 A. I don't know --- I don't remember that terminology, nominal.

5 MR. TEASTER:

6 We don't either. That's what we thought maybe you'd know.

7 A. It sounds like something that would come out of certain people's mouths that I
8 know, though. Okay?

9 MR. TEASTER:

10 Could you be a little more specific?

11 A. Yeah, [REDACTED] or maybe [REDACTED] Or not [REDACTED] don't
12 know, if there's a plan out there prior to September of 2001 that has that in that, I'd like
13 to know about that, because that slid by me. Nominal.

14 MR. TEASTER:

15 We looked at a lot of plans, but that word was used in the
16 plans here at Crandall Canyon and we're just trying to find out how that --- I mean I
17 would ---. Joe and I
18 and these other guys would not know how to enforce that. Does that mean it could be
19 ten feet less, you know, how much lower could you go and still be within that nominal
20 range?

21 A. How did you say that again?

22 MR. TEASTER:

23 It's got a nominal dimension of 90 --- 80 by 90. Now, if it said
24 80 by 90, I can deal with that, but you put that nominal in front of it, and I say, well,
25 now what does that mean. And it doesn't seem to be clear to most people when you

1 add that word nominal.

2 UNIDENTIFIED SPEAKER:

3 It must be in the ballpark ---.

4 MR. TEASTER:

5 Yeah, it's like ---.

6 A. In other words if you're off five or ten feet, we're not going to get excited?

7 MR. TEASTER:

8 Well, I think that would still be within the term of nominal, the
9 best we can ---.

10 A. I'd be excited about that, especially in these kind of cover.

11 MR. TEASTER:

12 Okay.

13 A. I mean, I think maximum and minimum, I mean something that's clear-cut, I
14 mean this is too much of a gray area that ---. To me you know what I call that kind of
15 stuff, that's a violation-prevention plan. Okay?

16 MR. TEASTER:

17 Okay. Jack, thank you.

18 A. You asked.

19 MR. PAVLOVICH:

20 That's a very good term for that, Jack.

21 A. Well, I mean sincerely, think about it.

22 UNIDENTIFIED SPEAKER:

23 I just have one question because Ernie, he and Joe did a
24 good job of covering all those subjects, but the only question I have, Jack, based on
25 all the time you spent out west ---. And Ernie went through the bump log. I don't know

1 if that's the right term, but the log they kept of all the bumps that were going on
2 underground. And one of the MEU guys said they called out about half of them, so
3 probably what we have recorded in that log may be 50 percent of what actually
4 occurred.

5 So I guess my question to you is, we've had some people, you
6 know, you look at this map and then, you know that they were removing that material
7 underground during the recovery, and they're setting these rock props with the cable,
8 like Ernie mentioned, and the wire mesh. And I guess most people felt comfortable
9 that that would prevent any bounce, that would give them protection. And then you
10 hear other people say they should have been installing arches or tunnel liners as they
11 were advancing, because advancement was slow.

12 Do you have any thoughts on any other type of support that
13 they may have put in, Jack, based on your experience? Would the arches have done
14 a better job or what are your thoughts on that?

15 A. Well, you asked me a couple questions there. The first one you said that we
16 were only getting 50 percent of the bumps recorded or reported. I'd have a problem
17 with that. If I got MSHA people with these folks underground, what's the reason I got
18 them with them? And the MEU folks, I mean, if I'm getting --- I mean, in order for you
19 to make a good decision on what --- I'll say it that way, a good decision, you need to
20 be well informed of what's going on. And if we had more than what we even knew
21 what was going on, which was bad enough, I believe that should have been reported
22 to the --- that should have been reported.

23 UNIDENTIFIED SPEAKER:

24 I guess their comment, Jack, was maybe they didn't think they
25 were significant enough to report ---.

1 A. They were still --- there was still something going on, because the little ones
2 turn into big ones. All right.

3 Next thing, roof-support stuff. I looked at that stuff outside. I mean, I'm not
4 familiar with what they were using. It looks substantial. Do I know about tunnel liners,
5 yes, I've been involved in those. The oval legs with arches --- and you're familiar with
6 how they yield and take weight and da, da, da. I believe to go through something like
7 that, you'd a had to had something more substantial like a liner and fill in the void.
8 The void, by that I mean maybe with shale behind --- something to, a cushioning. If
9 I'm making any sense.

10 UNIDENTIFIED SPEAKER:

11 Yeah, you are.

12 A. I mean we used them in Bethelam (phonetic) mines and ---.

13 UNIDENTIFIED SPEAKER:

14 No gap between the ---?

15 A. No gap. No you got to totally fill the void, so there's no --- but you've got to
16 have something substantial like yieldable legs, arches and fill the void totally.

17 UNIDENTIFIED SPEAKER:

18 In other words you're ---?

19 A. You're taking out a void. They asked earlier about when you're mining that
20 out, which in my opinion I answered what I felt that was doing.

21 UNIDENTIFIED SPEAKER:

22 Right.

23 A. But now you're taking away support to get somewhere, but you got to fill that
24 void with another type of support to get there safely. Would it have worked, I don't
25 know. But I mean that's another --- other than cementing the damn thing, you know,

1 but you have to have a cushioning agent between the rib and the roof if you're putting
2 liners, you've got to have something done. Or even in regular where you don't have
3 this type of overburden it's going to knock it out for you.

4 UNIDENTIFIED SPEAKER:

5 That's the only question.

6 A. Okay.

7 UNIDENTIFIED SPEAKER:

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

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

You said that you learned from the drillers that the mountain
11 was still moving. How did you get that information?

12 A. When they'd report to the command vehicle ---. There was another phone line
13 up there because communications were bad out there. I can't remember how they
14 were doing it but that was the feedback I was getting from John Urosek and those
15 people up on the hill that were, you know, talking directly with the drillers that, you
16 know, there was still movement occurring because of what was going on when you
17 were drilling. I don't know how they know that, the drillers but apparently they do.

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

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

Okay. I was looking through the logs and the only thing I see
20 is like hole number six is down 900 feet and then the next log will be down to 950 feet.

21
22 A. Oh, depth.

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

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

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

The only thing I see is depth. I don't see any record anywhere
25 where it said anything about ---.

1 A. Well, let's say this, before I would go brief those families, I would talk to those
2 people, the Urosek's or whoever else. I wanted to know what was going on. And
3 that's where I got it out, whether it's in the logs or not. They said that the mountain
4 was still moving.

5 And when some of this stuff was going on inside, ya'll were talking about these
6 bounces and minibounces and this and that, that was a lot before. And I guess they
7 knew from the earlier drilling the stuff that was going on.

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

9 Okay.

10 A. There was another way, too, and I can't remember what ---. I was told
11 something. I can't remember.

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

13 So as far as you know they were probably on bore hole five
14 when you got out there or somewhere in there?

15 A. Well, all you'd have to do is look in here and ---.

16 MR. PAVLOVICH:

17 You could look on there and see when they started.

18 MR. TEASTER:

19 Find out when they started and when they finished.

20 A. They probably were ---.

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

22 So as far as you know the first bore holes they ---.

23 MR. TEASTER:

24 Started on the 19th and went through on the 22nd, so ---.

25 MR. PAVLOVICH:

1 Do you have some personal notes there?

2 A. Huh?

3 MR. PAVLOVICH:

4 Do you have some personal notes there?

5 A. All I have here is my calendar.

6 MR. PAVLOVICH:

7 I was just asking.

8 A. Did I have personal notes? Some.

9 MR. PAVLOVICH:

10 Did you turn those notes in?

11 A. No.

12 MR. PAVLOVICH:

13 Could we have a copy of those?

14 A. I threw them away. They were basically little things for when I'd go to meet
15 with the media or the family, little things that I wanted to talk about to give ---.

16 UNIDENTIFIED SPEAKER:

17 Okay. I mean, was this to the point where the drill still was
18 getting stuck, Jack?

19 A. There was different things going on.

20 MR. PAVLOVICH:

21 Number five would have been the first one he would have
22 been involved with.

23 A. The 19th. We started the 19th. That would be the fifth. Drill hole five was
24 going on when I got there.

25 UNIDENTIFIED SPEAKER:

1 I don't remember hearing before about having problems with
2 the --- or getting reports from the mountain that the mountain was still moving while
3 they were drilling.

4 A. Well, we did. We did.

5 MR. PAVLOVICH:

6 That's why I was curious because in the log it don't mention
7 any of that. The only thing I saw ---.

8 A. Them drillers ---. Let me think a little bit hit here. There was something ---
9 they had drill bits stuck. There was stuff happened up there. I don't know if Urosek
10 kept --- because he was up there a lot, you know, with the sampling part ---.

11 MR. PAVLOVICH:

12 So you basically got the mountain moving from Urosek?

13 A. Yeah, and whoever else was up there. I never spoke directly to any of the
14 drillers.

15 MR. PAVLOVICH:

16 Right.

17 A. It was our people ---.

18 MR. TEASTER:

19 They had people up there sampling stuff.

20 A. It was either Urosek or his people, Kravitz didn't give me much of nothing
21 when he was on that mountain. He was up there. He was up there with the robot
22 stuff.

23 UNIDENTIFIED SPEAKER:

24 He was listening to the seismic --- had that equipment on was
25 ---?

1 A. I don't know but you couldn't do that with the drill running. You can't listen
2 with that, you got to have all that stuff shut down. I don't remember but that's what I
3 was told.

4 UNIDENTIFIED SPEAKER:

5 One of the logs I seen in here it said tripping in hole not
6 drilling. Do you have any idea what that means?

7 A. Yeah. Tripping steels out, that's the terminology.

8 UNIDENTIFIED SPEAKER:

9 Okay. So they're taking them out?

10 Q. Yeah, they're taking them out. That's tripping the --- and then when they
11 change from the one bit to the other, they trip that out. Okay?

12 UNIDENTIFIED SPEAKER:

13 Okay. And you said that when you were district manager that there was some
14 mining and barriers out in District Nine, but nothing like what they did in the south or
15 nothing like that.

16 A. Did I say there was mining in barriers?

17 UNIDENTIFIED SPEAKER:

18 Yes, you said there was some, but nothing like that and that.
19 And I was just wondering where would that be?

20 Q. I don't remember that. I don't remember that.

21 MR. PAVLOVICH:

22 If I remember correctly, he wasn't referring to a barrier. He
23 clarified it was not similar to what they were doing there. But he mentioned they were
24 mining some barriers but nothing similar to ---

25 A. Nothing like this.

1 MR. PAVLOVICH:

2 --- what's going on in the west mains or the south mains, ---

3 A. No.

4 MR. PAVLOVICH:

5 --- as I recall.

6 A. No, I mean there was some --- I mean, I wish ---. If I could have looked at
7 things, old plans and stuff ---. I mean, folks we're talking a number of years ago. I
8 can't remember all that stuff.

9 MR. PAVLOVICH:

10 Right.

11 A. But I would remember something like this.

12 UNIDENTIFIED SPEAKER:

13 Nothing like mining the bottom of a longwall ---?

14 A. No.

15 UNIDENTIFIED SPEAKER:

16 As part of the quarterly inspection when you were out there,
17 did the inspectors review the 101(c) petitions that were in effect at the mine?

18 A. Well, they should have.

19 UNIDENTIFIED SPEAKER:

20 Were there ever any rescinded, that you know of pertaining to
21 the two entry in particular?

22 A. I can't remember, because where I'm at right now I've got hundreds of
23 petitions that we've rescinded. I'm not talking --- I'm talking hundreds. Hundreds of
24 them.

25 UNIDENTIFIED SPEAKER:

1 UNIDENTIFIED SPEAKER:

2 Yes, it does.

3 A. I'd have a problem with that. I can't do this because of bump prone, but yet I
4 want to mine this and I can mine it safely. And I've got a consultant saying that I can
5 do it, but yet I'm saying the other hand I can't do the other things because of bump
6 potential. There's something wrong with that.

7 UNIDENTIFIED SPEAKER:

8 What about bottom mining? Was that a common practice out
9 west where they would come back and mine the floor?

10 A. Some. Some. Yeah, some because they couldn't reach --- seam heights.
11 They did some of it, mine on the way out. I can't remember which mines, but there
12 was some of that went on, yes.

13 UNIDENTIFIED SPEAKER:

14 Was there a special plan for that or was that just considered
15 part of the ---?

16 A. There were some plans in place for that. Which mines, again, and what the
17 plans said, I can't remember. I've been gone a long time from there.

18 UNIDENTIFIED SPEAKER:

19 A couple years.

20 A. It's a little over six.

21 UNIDENTIFIED SPEAKER:

22 Okay. I got a couple more. When you were out there and
23 when you had mines, several mines that had bumps, this was routine, I guess, did
24 they mark the bumps on the mine map?

25 A. Did the company mark them?

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UNIDENTIFIED SPEAKER:

Did they keep a map that recorded bumps?

A. I think some did. But I would want to know where they're at, because what are we doing from the approval process to prevent these in the future. As I indicated earlier, pillar design, barriers, this, that, various things. If I'm having bumps at a mine, number one, we'd go investigate. Okay? Like an accident, I mean sometimes these things block ventilation. There's different things that they do and naturally get people hurt. So we're going to look into them. And now does this take a plan, revoking a plan, revising a plan, that's why I had that as we talked about earlier in this interview. That's why I got everybody together, because folks you're going to come up with a means of preventing these bounces or guess what, there's some coal that you're going to have to sacrifice. That was the intent of that bounce rendezvous, getting the academia and everybody involved to help me better understand and help operators better understand if there's systems out there, pillar design, you name it whatever there is, we need to be implementing it because we're not going to get a bunch of people killed, that's what the intent of that was.

UNIDENTIFIED SPEAKER:

But as far as the enforcement side, was there an enforcement issue that if an operator didn't mark or maintain a map of bumps posted on that, that that was a violation?

A. I don't remember what they did. I can't remember. I don't remember.

UNIDENTIFIED SPEAKER:

Was there any controversy over what is a reportable bump and what isn't as far as the --- was everybody on the same page?

A. There's always controversy over anything that's reported.

1 UNIDENTIFIED SPEAKER:

2 But within the district, does that ---?

3 A. You mean our people?

4 UNIDENTIFIED SPEAKER:

5 Your people, did it seem like there was a lot of difference

6 when does that one hour start, and what's significant if nobody's hurt?

7 A. There probably was but I don't recall. There probably was, though.

8 UNIDENTIFIED SPEAKER:

9 Is there any district guidelines, that you issue a memorandum,
10 internal, that said, this is what a bump ---

11 A. No.

12 UNIDENTIFIED SPEAKER:

13 --- and this is when we start the clock and this is what we're
14 doing?

15 A. No. There's one policy I followed, it was national policy. I didn't make a
16 district policy. Okay? SOPs, yes we had SOPs in place on the approval process,
17 whether it be ventilation, whether it be roof control, whatever. But if there was a
18 bounce, I wanted to know about it. Okay? Now, whether operators were faithful, I
19 mean good in reporting, some were, some weren't. It's just like anything else.

20 Anything that's reportable, as I said, people ---. I mean, you try to --- where
21 there's not room to, you know, mess it up on their part, but it's usually by design that
22 you didn't know things, you know. Because they knew what I would do, I'm going to
23 look at that plan. We're going be upgrading the plan, we're going to do something. I
24 mean, whether it be roof holes, bounces or whatever. The same thing from a
25 ventilation standpoint loosing bleeders, why? Why? If it's continually happening or

1 I'm losing --- an example on some of these where you had bouncing longwalls, I lost
2 the brass off the tail gate side, or --- that was an ongoing thing that happened, tailgate
3 blockages, you know, one way in one way out. That kind of stuff. Yeah, we looked at
4 them. Did we revise plans, yes, we did. I don't know what they do now, I can't answer
5 that.

6 UNIDENTIFIED SPEAKER:

7 But even in that same line like an operator called in, he had a
8 bump nobody was hurt, the miner's covered up on the right side and they're going to
9 have to clean it up was a K order ever issued or ---?

10 A. I can't remember. I can't remember. I don't know. Would I want somebody to
11 look at it, yes. If I knew about it --- I mean, they may have called it in to the field-
12 office supervisor a lot of that stuff went directly to the supervisor. We'd be notified in
13 the district, naturally, but a lot of that ---. I mean the local field office would be notified
14 from the mine operator. You know, an example, you're talking over in Price, Utah.
15 That Price office would have been notified when something --- unless they couldn't get
16 somebody, because we didn't have the system in place. Well, you know, we didn't
17 have the system in place back six, seven years ago as we do now on report and all
18 that, you know, reporting accidents. But they would call. For the most part the folks
19 were pretty good about calling things in. Just like anywhere else, you always have a
20 select few operators that are reluctant to let you know anything. But, no, I'd want them
21 to go look at it, if that's what you're asking me. Would we write an order like maybe
22 we would do today, probably not. I'm not sure. If I wanted something in plan though,
23 oh, yeah and I'd keep the K on it until I got what I wanted, you know, and I was
24 assured that I didn't have the same stuff somewhere else in the mine, you know.

25 UNIDENTIFIED SPEAKER:

1 was going to be representative of the families of the miners. and that was turned down
2 based on the families were not miners.

3 A. I don't know.

4 MR. TEASTER:

5 Are you sure they was going to represent the miners?

6 A. Initially, I thought it was for the miners, reps of the miners, because some of
7 those relatives --- because I remember them coming up and getting some of the
8 clothes, family members --- I thought it was representing the miners.

9 MR. TEASTER:

10 Okay. I could be wrong.

11 A. I don't remember family --- I could be wrong. I don't know. I didn't get
12 involved in it, though, but I knew a letter showed up and they were --- the miners were
13 invoking their rights to have representation and they elected the UMWA to be their
14 representation. Now I left. What went on with that, I don't know, because Al Davis
15 come back ---. Al Davis come back I think the last day I was there. No, I'll tell you
16 when he come back, the morning that what you call it, the high CO readings up at
17 Dugout because I didn't get out of there. I mean, I was over at that mine at 5:00, 6:00
18 in the morning and I'm up there at midnight yet, you know, it's a pretty long day.

19 So --- and then he went up to Dugout and he come back over there and that
20 was it. And then I left the next day. I think it was the next day or two days later but
21 that's all I can remember about that UMWA stuff. I'm sure they have a copy of the
22 letter.

23 MR. TEASTER:

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

25 Probably.

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

1 Yeah. Just two or three. Let me follow up on one question. If
2 you have the area of the mine that the pillars were sized based on the code and all
3 that stuff the pillars and the new pillars and everything and then following up on
4 **Ex. (b)(6) and Ex. (b)(7)(C)** question, say they figured it was 8-foot ceiling height and they took 4 extra
5 foot, how would that 12-foot pillar affect the stability in your experience out there?

6 A. Taking how much more?

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

8 Say another four foot. If they could cut four foot bottom ---.

9 A. With that type of cover?

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

11 Uh-huh (yes).

12 A. It would have a heck of an effect on it.

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

14 Okay. So maybe ---?

15 A. You're lessening your support.

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

17 Okay.

18 A. I mean that was over --- I don't know. It was over 2,000 feet.

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

20 Okay. So if they got the plan approved that this is the height
21 and then you take more height than this, it would affect the stability of it?

22 A. I never saw the plan. I never saw the plan that was in effect here. All I saw is
23 what you got right there on that map. I don't know what the plan says.

24 UNIDENTIFIED SPEAKER:

25 That's fair enough. That answers my question. You was

1 there when those experts were out do you know if they said anything about the type of
2 support that was being used rock props and chain links and ---?

3 A. Those experts were there before I got there. I assumed that they were
4 involved in the rescue, you know, how they were going to support --- I would think --- I
5 don't know who came up with that but there was at least five or six those renowned
6 experts in that vehicle with Murray. I don't know but I would think that they would
7 have been involved in the supports to be used during this operation. I think. I don't
8 know.

9 UNIDENTIFIED SPEAKER:

10 All right. One last thing. You mentioned they had more drills
11 working how can you do that because I think that's a good idea too ---?

12 A. How do we do it?

13 UNIDENTIFIED SPEAKER:

14 Yeah, I mean how could we get the operators to do it?

15 A. I think some of that's salesmanship and also it was something that came out
16 from the families. I remember them asking me those questions because you're
17 showing --- I know it's hard to put in roads and this and that I know all that, but there's
18 more than one drill outfit out there in the west and I'm sure that this guy had more than
19 one drill. We had more than one drill going at a time at places where I had mine fires
20 going on. Okay. I'm talking Willow Creek, I'm talking Oxbow, I'm talking West Elk. It
21 just it can expedite things. You're learning, you're drilling to learn. You're trying to
22 locate these people to see if they're alive. Okay. That was what they're doing. Okay.
23 And determining the atmosphere that --- I mean the length of time it takes me to drill
24 one hole I need to be planning ahead where I need to be putting another one if this
25 doesn't pan out because some of them when the drill intersected the void was totally

1 full. How do we sell it that's what you're asking?

2 UNIDENTIFIED SPEAKER:

3 Well, maybe not necessarily sell it.

4 A. I don't think we can make them, there's nothing we can make a company do
5 unless we took control of it.

6 UNIDENTIFIED SPEAKER:

7 If we drilled hole number I think it's five where we thought the
8 people were at and hole number three at the same time how do you think that would
9 affect the underground operation? I know you weren't there but you got a lot of
10 experience.

11 A. Hole number five and hole number three?

12 UNIDENTIFIED SPEAKER:

13 Uh-huh (yes). If they went through at the same time.

14 A. Well the first thing that would have been in my head. All right. Do I know
15 where they were mining. Okay.

16 UNIDENTIFIED SPEAKER:

17 Right. That's where hole number three was.

18 A. Okay. Then the next thing in my mind would be ---

19 UNIDENTIFIED SPEAKER:

20 Hole number five, I'm sorry.

21 A. --- if this occurred where would I be most likely to head, where would I go?
22 That's what would be running through my mind. The first thing I'm going to try to do is
23 get out, I'm blocked so then what am I going to do. I got instruments I know it and
24 probably it was so damn dusty, you know, from that stuff but if I could see I'm going to
25 try go where there's decent air. If I'm totally blocked from egress out of this mine I

1 want to go find me a place, I'm the foreman I know what blocks I really took and where
2 would I be most likely to survive. I mean I don't --- barricading I don't like that stuff but
3 if it's the last resort where would I do it, where would I go. And I'd probably go up here
4 (indicating) that's why. That's why those holes in my opinion, the first two holes that
5 should have been drilled was going out and going in and then the next holes I mean
6 the way these holes are --- but if you really want to know something else this last hole
7 we give the families where would you like a hole put they're the ones that come up
8 with that last hole.

9 UNIDENTIFIED SPEAKER:

10 Oh, is that right?

11 A. Yes. I mean the company was --- we were willing to do it but we had a couple
12 options and we gave these --- I gave, I did to the family members where --- would you
13 want one here, would you want one here where in, you know, collectively.

14 UNIDENTIFIED SPEAKER:

15 Where do you want it?

16 A. Where you want it. That was it. That's how that came about.

17 BY MR. PAVLOVICH:

18 Q. Jack, I think that's all the questions for you that we have at this time. If
19 something comes up in the future and we need to ask you anything else we'll contact
20 you about the possibility of doing that and if you should think of anything later on that
21 might help us we'd appreciate you letting us know. Okay.

22 A. Yes.

23 Q. We also ask that you not discuss this interview with others until our interviews
24 are complete. And Jack, I want to tell you I appreciate you coming down and talking
25 to us today and certainly answering all our questions and giving us your honest

1 answers and I know, you know, you told us everything you knew and felt and told us
2 the truth and we appreciate that and I know from Ernie and both of us we really
3 appreciate your time and effort to get here. I know you had a long drive but you
4 certainly helped us out a lot so thanks a lot. We appreciate it.

5 A. You're welcome.

6 MR. TEASTER:

7 I want to echo that. We appreciate your frankness and your
8 honesty and I'm sure this is going to go a long way to helping us evaluate this situation
9 and come up with something that hopefully will make the agency better in dealing with
10 these types of situations. We know you had a lot of good experience and we
11 appreciate you sharing that with us. And we hope you have a good safe trip back.

12 A. So do I.

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