

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
JEFF FLESHMAN

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
January 23, 2008

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MR. TEASTER:

Jeff, just a little background about why we're here and what we're trying to accomplish, is as you're probably aware the Assistant Secretary was on site during the rescue effort there at Crandall Canyon. The agency has conducted internal reviews since the Piro explosion back in '89. The Secretary wanted to do a review of this accident but since Mr. Stickler was present during most of that rescue effort, she wanted to get an independent review, so that there would be no one subordinate to Mr. Stickler.

Joe and I worked for MSHA for over 30 years. We retired three and a half, five and a half years ago. So they called and asked us if we'd come back and conduct a review. We agreed to come out of retirement and work for another 6, 8, 10, 12, whatever it takes to do the job. We hope no more than eight.

UNIDENTIFIED SPEAKER:

Years?

MR. TEASTER:

Months. Anyway, we got this crew that you just met that each one of them's got different areas of expertise to help us to accomplish this mission. We hope to prepare a report and get it to the Secretary's desk just as soon as we can. She had targeted six months. We can try to meet that, but it may have to move a little bit. Do you have any questions?

A. No.

MR. TEASTER:

We'll keep it very informal. We got a statement I'd like to read before we start into the questioning. The Secretary has assigned this group the task of evaluating MSHA's performance during the period preceding the August 6,

1 2007 coal bounce at the Crandall Canyon Mine and the subsequent rescue effort. We
2 will also be evaluating issues that were raised during this time period regarding Bob
3 Murray and his interaction with MSHA. This is not an investigation or review of any
4 individual person, it's an administrative review of MSHA's actions as an agency.

5 The evaluation will be presented to the Secretary in the near
6 future. And it's intended that the results of the evaluation will be made public. This
7 interview is being conducted to gather information for this assignment. We also intend
8 to interview a number of other MSHA employees so that we may obtain unbiased
9 information from all persons to be interviewed. We ask that you not discuss this
10 interview with anyone until all the interviews have been completed.

11 BY MR. TEASTER:

12 Q. Jeff, are you a bargaining unit employee?

13 A. Yes.

14 Q. And are you aware of your right to have union representation?

15 A. Yes.

16 Q. And have you declined to exercise that option?

17 A. That's correct, I have declined.

18 Q. Jeff, would you give us your full name?

19 A. Jeffrey Lee Fleshman.

20 Q. And Jeff, what is your job title?

21 A. I don't know.

22 Q. Maybe we could have you just give us a description of your duties.

23 MR. PAVLOVICH:

24 We'll tell you what you fit into.

25 A. On paper I'm in the roof control group, but I do ventilation and have for, what,

1 17 of the 19 years I've been here.

2 BY MR. TEASTER:

3 Q. So who's your supervisor?

4 A. Bill Reitze.

5 Q. And how long have you worked for MSHA?

6 A. Nineteen (19) years.

7 Q. And how long have you worked in ventilation?

8 A. Fifteen (15) plus.

9 MR. PAVLOVICH:

10 Twenty-five (25).

11 A. I started out in Health. I was in the Heath group for a little bit. Then I was a
12 field office inspector for a while. And then the rest of the time has been in the
13 ventilation group.

14 BY MR. TEASTER:

15 Q. You say field office inspector. Did you inspect the field offices or ---?

16 A. No, I wasn't the inspector. Coal mine inspector ---

17 Q. Okay.

18 A. --- out of the field office.

19 Q. Okay.

20 A. Assigned to Trinidad field office, Trinidad, Colorado.

21 Q. Okay. Jeff, would you give us a brief description of your background in
22 mining?

23 A. I worked in punch mines in Southern, West Virginia, roof bolted. Just general
24 inside labor, union mines, scab mines. Got a two year Associate Degree from
25 Pikeville (phonetic), BS, mining, from WVU. After that I came out west, worked three

1 years down at Trinidad in the coal mine. And mining engineer, general inside labor,
2 just a coal miner before I came to work for MSHA.

3 Q. What do your job duties require that you do as a ventilation specialist?

4 A. Review ventilation plans, inspect mines for the ventilation, do EO-1 work
5 when I go to the mines.

6 Q. You say review of ventilation plans. How about walking us through what you
7 do as part of the plan.

8 A. Well, there's so many ways, but to get ---. If you have a ventilation plan
9 submitted from the operator, you just read the thing, go through about 370. Make sure
10 all the 370 issues are there for development. If they have retreat mining for CM
11 sections, you make sure that all the development in retreat mining ventilation
12 schemes are compatible as submitted with what their doing and the work. On site in
13 the mine, typically we go to the mine and check to make sure that what they've
14 submitted is what they're doing. Usually it is and we don't have that many CM retrieve
15 sections. We have in the past, but not many now. And the same thing for longwall
16 just to make sure that the three-entry or multiple-entry developments are compatible
17 with the retreat mining systems and bleeder systems associated for the longwall
18 districts that are being developed. And any partitions, of course we've go a lot of the
19 two-entry mining out here, make sure that the two-entry mining partition text is
20 compatible within the vent plan, fire-fighting evacuation plans.

21 Q. Okay. Have you ever met Bob Murray?

22 A. Yes.

23 Q. How did you come about meeting him?

24 A. Underground at the Aberdeen mine.

25 Q. Could you elaborate a little bit on the meeting? Was it just a hand shake or

1 did you have a discussion with him?

2 A. Do you want my personal opinion?

3 Q. Yes.

4 A. He's a [REDACTED]

5 Q. Meaning what?

6 A. He's a [REDACTED] That's just my personal opinion. Here's what I did, I was
7 over there doing an EO-1 last year. And I knew he was around because I saw his jet

8 [REDACTED]

9 and is in fear of him. And I happened to run into him in a section that was down. As a
10 matter of fact it was the best looking section I've ever seen at Aberdeen, because I
11 had planned on going into one section, it was down. So I said, well, let's go to the
12 other section. Well, guess what, that's where Mr. Murray was going to show up. Well,
13 I went in there and the belts were down. I think they got 13 drives from that section to
14 the surface. And of course they can't keep their belts running, you know, they use
15 nails to patch the belt, to keep holes out of the belt, you know.

16 Hell, he had an entourage with him. And he saw me in my zebra suit and
17 wanted to know who I was. And he shook my hand and he just kept shaking it just
18 starring me in the eye, wouldn't let my hand go, wouldn't let my hand go, wouldn't let
19 my hand go. Finally, I just jerked my hand out of his hand. And I was up there talking
20 to guys because they were down, the belts were down. The guys were asking me vent
21 questions on two entry cutting uphill versus cutting downhill. And how come we're not
22 letting them do certain things. And I was talking to 'em and telling them why, and
23 telling 'em why we were allowing them to cut downhill and use the weight of the miner.
24 And once you break through you can change your ventilation around. Especially, it's
25 a piece of cake on a two-entry development system. Belts on the left, it's a piece of

1 cake. Intakes on the right and downhill's on the --- you're using the weight of the
2 miner to force your way down the hill. You're not tearing your intersections up. You
3 know, it's just the opposite when you're trying to turn up the hill breaking in to intake,
4 because it just tears your roads all to hell.

5 Anyhow, I was talking to the miners like I always do and the next day I had to
6 go back in there to see --- to watch them mine. Ex. (b)(6) and Ex. (b)(7)(C)

7 Ex. (b)(6) and Ex. (b)(7)(C)
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10 The belts were always down, but it's my fault that I was in there and they weren't
11 running coal. And they're going to get their pay cut because I'm in there. Ex. (b)(6) and Ex. (b)(7)(C)

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

13 Q. So his characterization of you was similar to your characterization of him?

14 A. This is my characterization of him after I met him.

15 Q. Well, before you broke loose from that hand shake down there did you have
16 any kind of discussion?

17 A. Zero.

18 Q. Never said a word, just looked and shook?

19 A. Yep.

20 Q. Are you aware of anybody ever being moved from one of the Murray mines,
21 from inspectors being moved from one mine to another?

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

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

Q. Okay.

A. And it was at Aberdeen, not at Crandall. I think it was at Aberdeen. God, I go to so many of them. I think this event happened at Aberdeen, when I was doing part of an EO-1 or sponsor --- helping out at an end of the quarter. It was December last year.

Q. Okay. Have you ever been asked or instructed not to continue with an enforcement action or to vacate a citation or order that --- for any type of enforcement action that you had taken particularly at the Murray mine, any of the Murray mine?

A. Never.

Q. Had you ever had any controversy with district personnel concerning the

1 enforcement action at the Murray mine?

2 A. Never.

3 Q. Did you notice any difference in the attitude toward health and safety of the
4 people at the mines that are owned by Murray when he took ownership in August of
5 '06?

6 A. Yeah.

7 Q. How did it differ?

8 A. It got worse.

9 Q: How would you characterize it prior to his taking ownership?

10 A. I would say they were about average.

11 Q. And then afterwards?

12 A. They were subpar. Well, you're talking the philosophy. And as far as what I
13 saw and the complaints that I got is how I'm --- I mean, talking to the miners, not
14 miners' complaints, just talking to the miners.

15 Q. Could you share some of the stuff you were getting from the miners?

16 A. Well, the biggest complaint was that he was like a dichotomy, is how I took it
17 from the miners, is that he would talk a big story but turn around and threaten. Just
18 basically he'd beat the people's morale down. Ex. (b)(6) and Ex. (b)(7)(C)

19 The only thing he wanted was coal on the belt.

20 Q. Did you ever encounter ---? I'm sorry.

21 A. No, that's it.

22 Q. Did you ever encounter Mr. Murray on any other occasion?

23 A. No.

24 Q. Have you ever had any or are you aware of any favoritism that any of his
25 mines may get and when they submit a plan for approval that might be put on time?

1 A. Well, they call and cry, you know, we're so short-handed. What they do, they
2 wait until the last minute and submit Ex. (b)(6) and Ex. (b)(7)(C) submittal that nobody understands
3 or that can be interpreted a thousand ways or misinterpreted a thousand ways. And
4 it's a struggle to get anything legible, understandable that anybody can read or
5 enforce. Yeah, but as far as priority goes, we give him a lot of priority because Mr.
6 Murray, Mr. Murray wants, Mr. Murray wants.

7 Q. And who brings Mr. Murray into the picture?

8 A. Everybody.

9 Q. Could you be a little more specific? Everybody, that wasn't me. Have I ever
10 said that?

11 UNIDENTIFIED SPEAKER:

12 No, you haven't.

13 A. All the way up the line, I mean, it comes from Reitze, by Cornett when he was
14 here.

15 MR. PAVLOVICH:

16 So you're talking internal MSHA people?

17 A. Yeah.

18 MR. PAVLOVICH:

19 Not Laine Adair or somebody ---?

20 A. Well, no, I'm saying --- hold on.

21 MR. PAVLOVICH:

22 Okay.

23 A. Through MSHA chain, you know, and then Al's got his --- you know, Ray says
24 that, you know, they've called headquarters or Melinda's (phonetic) called somebody
25 or Kevin's called and said, you guys got to hurry up and work with these people, that

1 kind of thing. And on the other side from the company side, Laine --- God, I'm telling
2 you I've had a full-time job just dealing with all their submittals.

3 BY MR. TEASTER:

4 Q. When you said Kevin called, you're talking about ---?

5 A. Laine. No, hold on, you said Kevin?

6 Q. I thought you said Kevin.

7 A. Yes. Stricklin.

8 MR. PAVLOVICH:

9 So you think he gets calls from Murray?

10 A. Well, that's what we're told here.

11 MR. PAVLOVICH:

12 And how does that come to you, Al tells you that?

13 A. It just comes down the line.

14 MR. PAVLOVICH:

15 So Reitze tells you or ---?

16 A. It's all he says, they say, she says, you know.

17 MR. PAVLOVICH:

18 Okay.

19 A. So somebody in the Murray group has called, what's the guy's name Hill,
20 Bruce Hill, I think has called. When they want something and they don't get it
21 yesterday when they call today, the phones start ringing.

22 BY MR. TEASTER:

23 Q. Do you know who they call? Do they call you, do they call Al?

24 A. They call me, they call Reitze, they call right up the ladder. They call Al all
25 the time.

1 MR. PAVLOVICH:

2 How do you know that, Joe?

3 A. Well, hell, I work here.

4 MR. PAVLOVICH:

5 No, I mean you know what phone calls AI gets?

6 A. Well, hell, no, I'm not in there, but when they come --- when they come in
7 there and you know that they tell you right on the phone, if you don't give us what you
8 want --- what we want, we're calling AI. Call him.

9 MR. PAVLOVICH:

10 And so then what happens?

11 A. Well, the next thing you know we have a little sit down chit-chat. It's hearsay
12 because I didn't stand in AI's office and hear him talk.

13 MR. PAVLOVICH:

14 But does AI tell you, I talked to him?

15 A. Yeah.

16 MR. PAVLOVICH:

17 He tells you that, ---

18 A. Yeah.

19 MR. PAVLOVICH:

20 --- I talked to him, they called me and so you need to approve
21 the plan and ---?

22 A. No, he doesn't say you need to approve the plan, he says you need to get on
23 it. He doesn't say approve Ex. (b)(6) and Ex. (b)(7)(C)

24 MR. PAVLOVICH:

25 Okay.

1 A. You know, we wind up stopping what we're doing. We have a major
2 earthquake again. Stop and do all of our work just for them.

3 MR. PAVLOVICH:

4 So it's priority on the speed of the approval process?

5 A. Yes.

6 MR. PAVLOVICH:

7 It's not priority on giving them ---

8 A. Correct.

9 MR. PAVLOVICH:

10 --- a plan that's no good?

11 A. Correct.

12 MR. PAVLOVICH:

13 Okay. All right.

14 BY MR. TEASTER:

15 Q. So the answer to that question, do they get favoritism in getting their plan
16 moved up front, ---

17 A. Quite often.

18 Q. --- based on what you said, quite often they do that?

19 A. Look, a squeaky wheel gets grease.

20 Q. I've heard that. And the plans you get you've described as being pretty

21 **Ex. (b)(6) and Ex. (b)(7)(C)** What do you mean by that, is it they're asking for something to be approved
22 that's totally unreasonable?

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

24 MR. PAVLOVICH:

25 They don't know, Jeff, or they just want to submit the

1 minimum that they can possibly get by with?

2 A. Well, here's what happened, and this is the progression, the best way I can
3 explain it. There was good people on the property when Murray took over, when Utah
4 Energy took over. John Lewis, one of the best, he had an engineer underneath him,
5 Tom Hurst (phonetic). Murray come in there and he raided the place, got rid of all the
6 good people. Typically the type of operation they work them 20 hours a day, make
7 them live there. Just soon as you get off the property --- they know exactly how long it
8 takes them to get home. By the time they get home, they're calling them saying, get
9 your ass back to the mine. You know, just ask [REDACTED] he works with us now. He
10 was a 20-hour shift every damn day. They wear 'em out. The next thing you know
11 they quit, they go find another job.

12 When John Lewis was there, the guy knew how to submit plans. Here's what
13 I'm doing. Here's exactly what we're doing right now, it's compatible, it's identical to
14 the last submittal, a piece of cake. On this new submittal as I'm doing it, here's the
15 changes I want to make. Here's the middle change, here's the final product. That's
16 how we do it. We've told everybody that's how we do things here. They bring in a
17 new engineer [REDACTED] is his name, he'll just send you a piece of paper and it says, can
18 you help me with this. I'm not going to do your plan for you. I've told him over and
19 over and over. Give me what it is, show me the changes you want, show me the final
20 product, show me what changes, stoppings you're going to add, take out, remove,
21 change, relocate. You never get it. It's over and over and over and it's phone calls.
22 You need to change this, you need to change this, you need to change this. Well, I
23 submitted it to you.

24 BY MR. TEASTER:

25 Q. Most of your interactions with the company when you're dealing with plans like

1 that, is it dealing with the engineers?

2 A. Yeah.

3 Q. Do you ever get involved with anyone like Laine Adair or Gary?

4 A. Oh, yeah. Oh, yeah, quite often I talk to Laine.

5 Q. Under what circumstances would he get involved?

6 A. The same, an amendment that they need in a hurry, or some different scheme
7 that he's thought of. Or, you know, can I do this, can you take a look at this, this is my
8 idea. You know, they'll call and say, here's the condition we're in, this is the situation,
9 this is my idea, can I submit it to you, will you look at it. Laine's pretty good, but
10 Laine's hands are tied now. He doesn't do that much anymore since Murray's taken
11 over.

12 Q. So you don't interact with him much since Murray took over?

13 A. No. No. No, I used to interact quite a bit with Laine and now it's --- I've
14 begged them --- what they started doing was having four and five different people
15 throwing the same subject submittal at me, all five different submittals, all five
16 submittals different regarding the same subject, all of 'em calling, all of 'em wanting
17 something now. And I just said, look, you guys, I'm going to deal with one person at
18 that mine that understands what's going on, not five. One time I had my manager
19 submit something, they don't communicate. I had the safety director submitting
20 something, didn't know the other guy was doing it. Somebody else was submitting,
21 another mine, another engineer was submitting something to me. All of 'em were
22 submitting stuff, none of them were communicating on the same subject at a given
23 mine. I don't put up with that shit.

24 Q. So you get 'em all on the same page?

25 A. I just tell them, look, you guys are going to have to deal with one person and

1 one submittal.

2 Q. How much do you interact with the field office personnel when you get an
3 addendum?

4 A. It comes and goes, if it's a simple change, don't even --- it's not an issue. I've
5 dealt with Ted and Bill and everybody over there so long. If it's something that they
6 need to know about that I think they need to know about, I'll call them and say, hey,
7 this is coming. If it's routine, they really don't need to be bothered, I mean, we got an
8 understanding that I worked with them so long that if it's routine, they'll see it coming.

9 Q. There's a statement in your SOP that says, comments regarding plan
10 adequacy are solicited from MSHA field personnel representative to miners and other
11 MSHA personnel when appropriate. Who makes that determination when it's
12 appropriate to contact those folks?

13 A. I don't know what you're saying.

14 Q. Your SOP for approving ventilation plans, it's got a statement in it that says,
15 comments regarding plan adequacy are solicited from MSHA field offices.

16 A. Oh, no, that's from --- that's that 2004 form, or --- they call over here all the
17 time.

18 Q. No, that's a different thing, 2004. I'm talking about on a SOP for submittal of
19 addendums part of the ventilation plan. It's in your ventilation plan SOP.

20 A. See, I'm lost on that one.

21 Q. Read the statement, maybe that ---.

22 A. Right, those are --- oh, that, that's a phone call. That's for the six-month
23 review ---

24 Q. Okay.

25 A. --- on the --- that's on the six-month review. When we do a six-month review,

1 we always call the field office supervisor and tell him, like we call two or three times.
2 The first thing you do when you're doing a plan review, you call a field office, like Alice
3 or Pat, and say, hey, or I'll e-mail 'em. Anymore it's like an e-mail and they'll get to it
4 when they can. And say I'm getting ready to do Aberdeen six-month review, can you
5 send me the packet. Well, they get all --- every --- all the 2000-204s that are
6 ventilation, all the ventilation-related citations. Anything that has to do with
7 ventilation, they keep in a packet and they stack it, and stack it, and stack it, and stack
8 it until I call and say I need it and they just grab it and send it to me.

9 Q. How long has it been since you've done a six-month review?

10 A. Do you want me go look? It's been a year at least. I've got one on my desk
11 probably about a year old waiting to do a second disapproval on it.

12 Q. Do you have an estimate how many you think you've done in the last two
13 years?

14 A. I'm going to say four or five. I don't know in the last two years.

15 Q. Okay.

16 A. I have no clue. I could go look on the MPA and tell you exactly. But off the
17 top of my head, I couldn't tell you.

18 Q. You mentioned these 2000-204 forms that the inspectors submit. When they
19 identify a deficiency with a ventilation plan, they write it up in this 2000-204 form and
20 send it in, what happens to that? How's that handled?

21 A. Well, I do it two ways. I do it three ways. The primary way I take care of it, if
22 it's a legitimate complaint and they've justified a complaint, it's not just my opinion,
23 you know, there's fact there to justify a change, I make ---.

24 Q. Well, who makes that determination whether it's a fact or ---?

25 A. Typically, I do and by talking to people and finding out what's going on. And I

1 call them. They can't just say, my opinion is they need more air. Give me your notes.

2 Well, I just think they need more air. Why? Well, I think they need a shorter cut.

3 Well, I just think they ought to have a shorter cut. Why? They can't justify it.

4 Q. So the complaint, not the complaint, the form comes in identifying a
5 deficiency comes into the district and it would go to you ---

6 A. Yeah.

7 Q. --- as a ventilation specialist. You would look at it and make some judgment.

8 A. Yes.

9 Q. And if you just made a review that this is nothing and just put it in a file ---?

10 A. No, I make a comment on it. I call the inspectors and talk to them, is one
11 thing that I do.

12 Q. Do you document those phone calls?

13 A. Sometimes I do, sometimes I don't, on the 2000-204. The other thing I do,
14 sometimes I'll write a memo. Not too often will I write a memo. If you get somebody
15 that's just adamant that they got to make a change, and we've been there, it can't just
16 be an individual's change without the backup. They don't have any citations, there's
17 no dust history. I want more air, most of them typically are, I want more air, I want
18 more air. How many tickets did you write for no air? Or there's no dust violations,
19 there's no water violations, water-pressure violations. On the ones I'm telling you
20 about it. So that's one thing I do, I call them.

21 Second thing I do, I'll talk to their field office supervisor. Third thing, seldom,
22 seldom, I'll not only talking to their field office supervisor, I'm telling you, I'll write 'em a
23 memo answering it. And through all of us, from AI all the way to that inspector.

24 The other thing I do the most of, the ones that are legitimate, I answer them
25 by putting that --- I incorporate that into the ventilation plan during the next review.

1 Q. We had ---.

2 A. But I never call them up and tell 'em --- you know, I never write 'em a memo
3 when I put it in the ventilation plan. Hell, they can read the damn vent plan the next
4 time they're at the mine and see that the plan got changed.

5 Q. But what if they went through another mine and don't go back to that mine?
6 Would they still know that change have been made?

7 A. Typically, they do. I go over to the field office once every two years and have
8 it --- on their monthly meetings and set in and bitch to them and they bitch to me.
9 And, you know, the phone's open, guys call me all the time talking to me about this
10 stuff. Do we have a tracking form to say that I called them, I don't have one. Do I
11 have a memo for every time? No, I don't. If they never went back to that mine and
12 their concern did not get addressed and their feelings are hurt, I don't ---.

13 Q. Well, we're not talking about hurt feelings, ---

14 A. No, no, I'm just saying ---

15 Q. --- we're talking about a process that, you know, I got a form ---.

16 A. I'm just saying that I don't do it. I'm telling you I don't do it. So I don't --- I'm
17 answering your question. I don't do it.

18 Q. You don't do what?

19 A. The one you just asked me. If they went to another mine and they didn't --- I
20 can't tell you that every single one that I have in writing that I answered them and they
21 never went back to that mine, for them to know that a change took place. I just don't
22 have that.

23 Q. Is there a policy, Jeff, that you're aware of that says the inspectors, when they
24 identify deficiency, will be responded to as to how that deficiency will be addressed?
25 Either it will be incorporated or it won't be incorporated or whatever. I mean this ---.

1 A. I don't know how long ago we were told to start writing memos. And I --- six,
2 eight months ago, I don't know how long ago. We were told to start writing memos.
3 And right at that same time, and I'll have to go get it, I got one, but I called the field
4 office supervisor. There was nothing I could do. I mean, there's absolutely nothing I
5 could do at that time to --- and told the inspector what to write, what to cite, but I could
6 not put his opinion in the ventilation as a catchall. One of them was air over at a
7 battery-charging station. I told him how to address it. Another one was heat stress.
8 We worked and worked and worked on heat stress. And other than the catchall, the
9 ventilation plan through the Health group, I don't know how to get it in there.

10 Q. We requested a copy of the 2000-2 forms that had concerns addressed, and
11 18 of them involved issues pertaining to ventilation. And I think we found one that had
12 some documentation that had been responded to. And the general feeling we're
13 getting from our inspectors and supervisors is that when they submit something on this
14 they never hear from you. And there's nothing here to ---.

15 A. Well, I can tell you --- I'll tell you, you show me the mines that I do and I can
16 show you in writing that they got changed in the ventilation plan. I can show you
17 numerous accounts. Matter of fact, they told me to come back and start stacking 'em.
18 And I got four or five of them that I went and printed and showed you what --- I can
19 show you what was in the plan. I can --- a date, I can show you the date of the 2000-
20 204, the complaint. I can show you the subsequent date of the change in the
21 approved ventilation plan. Do I have it in writing that I called them up and told them I
22 made the change? No, not always, but it is in the ventilation plan that the change took
23 place. Show me any of them you want that's mine and I'll go show you ---.

24 Q. Well, I don't know whose are whose here.

25 A. Well, just give me some of them and start rattling them off and I'll tell you if I

1 did it or not. I mean, I have no problem. I've got all my files back there to share with
2 you.

3 Q. This one deals with respirable dust. Plan needs to be ---.

4 A. What mine?

5 Q. Horizon.

6 A. Not mine. I mean, I've got examples back there. I'll go show you whenever
7 you take a break that I stacked up already if you want 'em, to help you on showing
8 you.

9 Q. If you got some we'd appreciate if you'd submit them, where you've made
10 contact back ---.

11 A. I've got several of them because they told us to get them ready. I'll go get
12 them now and show them to you.

13 Q. Well, we can get them at the end. That would be fine.

14 A. Okay. Yeah, I have them all. I don't have them all, but I have my set of
15 mines and what I've done in the last two years.

16 Q. Okay. If you'd just share them with us, we'd appreciate it. Because most of
17 the stuff that we have ---.

18 A. I've got every one of them.

19 Q. We don't have any indication at all that it was responded to. There was only a
20 couple out of 44, most of which were roof control, that were not responded to.

21 A. I'm agreeing with you, I don't have --- I can't tell you that --- the majority of
22 mine I do get changed, if it's legitimate. And I'm not the sole one that makes that
23 decision. I go discuss this with Reitze and ---.

24 Q. So it could be you addressing the concern but there's no feedback getting
25 back to the inspector?

1 A. Directly, I don't think there is. I'm almost a hundred percent that --- across the
2 board in this office to call them up and write them a memo, we are not doing. But
3 when I have my meetings --- when I go to the field office meetings once a year or
4 once every 16, 18 months, and the guys say, hey, what about this. And I'll say, did
5 you look at the vent plan, I took care of it. And they always say thanks. And from my
6 end for a field office supervisor to say that they don't discuss this stuff with me is just
7 ludicrous. I talk to those guys all the time, every one of them.

8 Q. So you feel that the field office people have input into the plan-approval
9 process?

10 A. Yes, I think they do. I know they do. The guys call me. They call me one on
11 one all the time. Not only do they call me one on one, they do it through the 2000-
12 204. We tell them to. And we also tell them, don't send us a bunch of bullshit
13 because it's frivolous work. Just because they've got an opinion, hey guys, back it up.
14 Give us something substantial that we can back it up and support you.

15 Q. Well, I can tell you that's a general feeling among the inspectors that we've
16 talked to, and supervisors, is that they don't get any benefit or there's no action taken
17 as a result of their write-up. And there's no documentation that was provided to us
18 when we requested it to indicate that they did receive feedback. Now, if you got some
19 additional stuff, we'd appreciate it.

20 A. I think I'm going to ---. Sir, I'll tell you, I think I'm an anomaly to that, because
21 I can show you all of mine, ---

22 Q. Okay.

23 A. --- and what I did or did not do. Across the board that's probably a good --- a
24 true statement, but from where I stand, it's not.

25 Q. Well, I mean Jeff, I think, too, the fact that if you incorporated it in the plan

1 and it didn't get back to them ---.

2 A. I'm agreeing on that. I agree with you on that.

3 Q. All right. Any information you've got, we welcome it, because we would like
4 to ---.

5 A. But as far as --- as far as us not doing something to help them, from my job
6 and my --- you know, I've got proof. I got plenty of proof.

7 Q. Okay.

8 A. To back --- you know, to encounter that.

9 Q. Does the roof-control division and the ventilation plan for the same mine to
10 determine --- are there any review of those plans, ventilation and roof control, for the
11 same mine to determine if there are any contradicting statements in each of the
12 plans?

13 A. You know, I don't know what process we use. It's just word of mouth. I go talk
14 to Billy, hey, I'm working on this plan, this is what I'm doing, do you have any issues.
15 He'd come to me, hey, I'm working on this plan, this is what I'm doing, do you have
16 any issues. For me to go read verbatim his plans that have been longstanding or him
17 to read mine, I haven't done that.

18 Q. What involvement, Jeff, did you have in the ventilation addendums that were
19 approved for mining in the south barrier of west mains?

20 A. A hundred percent. I had the north barrier and south barrier.

21 Q. Done 'em both?

22 A. Yes, sir.

23 Q. Did you identify any --- on your initial review of those plans, did you have any
24 issues that needed to be resolved prior to approval that you had to work with the
25 company?

1 A. North barrier when they called and said they had the first bounce in the north
2 barrier, we told them to seal it. I don't know if it's the first bounce or the second
3 bounce, it's been too long ago. But when they called and said they couldn't get back, I
4 can't remember --- I think it must have been the second one. They had like a little
5 what they --- I think they had a small bounce and they could still get back to the
6 evaluation point because it was internal wraparound. But when the one occurred that
7 they couldn't get back to, that was the last time I really had a conversation with Laine.
8 He called over and said, hey, you know, we had this bounce but I'll walk back there.
9 And my answer was, would you send somebody back there. He says, well, I don't
10 think I'd send one of my employees back there. I said, well, it's time to seal it.

11 Q. And when did you have this conversation with Laine? Was that around the
12 time of the bump?

13 A. On the north barrier, yeah, it was probably the same day is my guess.

14 MR. PAVLOVICH:

15 So like March 11th or 12th?

16 A. Guys, I don't remember what date it was.

17 BY MR. TEASTER:

18 Q. What about the bump that you mentioned before, a smaller bump?

19 A. I think there was two bounces. I'd have to go look at it all. I think they had a
20 small one and then they redesigned the pillars on the retreat or they did something
21 different on their way out.

22 Q. Do you have something on that ---?

23 A. Well, just give me the --- show me the amendment, I'll show you which one
24 I'm talking about. I can't remember.

25 MR. PAVLOVICH:

1 Now, that's on the south barrier.

2 A. No, I'm talking about the north barrier. See, I thought --- I thought that they
3 did something. I can't remember if they had a bounce in here and then they backed
4 up.

5 MR. PAVLOVICH:

6 Are you thinking maybe there was some material hanging in
7 the mesh or something and they backed up a couple of pillars ---

8 A. Yeah.

9 MR. PAVLOVICH:

10 --- because it was getting so bad?

11 A. Yeah, is that on the north one?

12 MR. PAVLOVICH:

13 Like right here?

14 A. Yeah. There you go. It was after this when they came back out here when it
15 bounced.

16 BY MR. TEASTER:

17 Q. And then it bounced when they were mining these?

18 A. Yes, right.

19 Q. And so Laine called you and said, we definitely had a bounce?

20 A. This one, when it occurred right here, because see they left those three or five
21 pillars there, ---

22 Q. Okay.

23 A. --- they started up again, that's when they had it and they couldn't make ---
24 Laine said he walked back here.

25 Q. Okay.

1 A. Then that's when he said it was real bad but they could get back there and
2 they didn't want to put stoppings back, they wanted to hang curtains and we told them
3 not only no, but hell no, to seal it. And then the phone started ringing and went up the
4 ladder. And then that basically is when we forced them --- ventilation, that they had to
5 seal it because they could --- they chose to get out of there because they couldn't
6 rehab this and they didn't want to put seals in here and start over for a short distance.
7 They chose to seal off here. Because they could have sealed off right here. Outby
8 that bounce they could have sealed off and started up again on an internal
9 wraparound. They chose not to, they chose to come out and start into the south
10 barrier.

11 Q. You talked to --- Laine called you personally on the ---?

12 A. Yeah, Laine and Jim Poulson called talked to me. He says, well, he says we
13 need to go up the ladder. I went to Reitze, Laine --- Jim was on the phone. Laine and
14 Jim talked to me and Reitze, then from there it went on up the ladder.

15 Q. How did they describe that bounce to you?

16 A. Just a bounce. Nobody got hurt, just a bounce. Tore out the stoppings, roof
17 was good, blew the pillars out, hour glassed the pillars. That's what I remember.

18 MR. PAVLOVICH:

19 They told you they blew out some stoppings?

20 A. Yeah, all the stoppings inby ---.

21 MR. PAVLOVICH:

22 They told you we blew them all out or the bounce blew them
23 out?

24 A. Yeah, they wanted to put curtains in place of them. Blowing them out, they're
25 Kennedys, come on. What's blown out, I didn't go see 'em. They wanted to replace

1 them.

2 MR. PAVLOVICH:

3 No, I'm just asking, they said they blow out or ---

4 A. Yeah.

5 MR. PAVLOVICH:

6 --- were they slightly damaged?

7 A. Man, when that country bounces, there's not a --- give me a pop can, I'll show
8 you what that country does. Give me an empty pop can. Stand on an empty pop can
9 and reach down and tap it.

10 BY MR. TEASTER:

11 Q. Well, did you think based on what you were told, with the damage of those
12 stoppings and the amount of material that have been shelled off of the ribs that that
13 was a reportable bump under Part 50?

14 A. You know, looking back, hindsight, is great, but at that time, it didn't even
15 cross my mind as reportable. Or them reporting it to me. There was a condition, they
16 called and said, hey, we had a bounce, this is what we want to do. Now, am I guilty
17 for not standing up and screaming, oh, they had a bounce that's not reportable? I
18 can't tell you. I'm telling you this is what occurred.

19 Q. But they clearly said it was a bounce?

20 A. Yes. Well, they never --- we never used the word bump until it got on TV out
21 here. We've always used the term bounce.

22 Q. Do you see a difference in the terms?

23 A. No.

24 Q. Well, when we're talking, we'll call it bump sometime or a bounce, but we
25 mean the same. So we don't want to confuse nobody.

1 A. It's a common --- the terms are the same meaning. Different terms, same
2 meaning. What is it, a synonym or whatever they are, homonyms? No, they ain't a
3 homonym. Take me back to third grade.

4 MR. PAVLOVICH:

5 Hominy is what you eat.

6 A. Is it hominy? No, really, clearly they said they had a bounce. And we
7 recognized --- you know, we didn't go see it, we just ---.

8 BY MR. TEASTER:

9 Q. Who's we?

10 A. Me, Reitze, we ---.

11 Q. You all recognized it was a bounce?

12 A. Well, yeah, they did, too. Jim and Laine.

13 Q. What about the bounce that happened before that that caused them to move
14 outby ---? Did you have any notification of that prior to the second one?

15 A. Not me, I don't recall dealing ---. I don't recall that at all on the ---.

16 MR. PAVLOVICH:

17 Skipping those pillars?

18 A. No, you know, looking --- I know they skipped the pillars, but as far as what
19 occurred then, the only one that I can really --- that I recall that got involved was when
20 Laine and ---. Oh, we're calling up the ladder. Well, call was when this occurred.
21 This was the second one. The one outby is the one that I'm telling you I talked to
22 Laine and Poulson.

23 BY MR. TEASTER:

24 Q. And they initially wanted to move the bleeder evaluation point?

25 A. Didn't want to get to the evaluation point. They wanted to continue mining

1 because Laine went back there and the quality was good, being no methane and no
2 oxygen issues. But since it's okay, they got such a short distance to go, it would be
3 okay just to let us go ahead and do this wouldn't it? No.

4 Q. So as far as you know then they went to your supervisor?

5 A. Yeah. I went right to Reitze. They called Reitze, and I don't know if we went
6 straight to Al or if Knepp was around after that. It didn't matter to me, it was out of my
7 hands.

8 Q. Do you know if the field office was ever notified of any of this?

9 A. God, I don't remember if we called and told them or not. I just --- I don't know.

10 Q. Would you think it's something that the field office should have been notified
11 and maybe went up and took a look at?

12 A. I don't know if Billy didn't go over and look at that. I think this is the one that
13 Billy went right immediately the next day and looked at, if I remember right, one of
14 'em. I just --- yeah, something like this, I'm sure Ted or Bill or both knew that this
15 happened. My guess is that they also called --- I don't know. Knowing Laine and Jim
16 they would have called, working with them, my guess is they would have called Ted
17 and Bill, whoever was responsible over there is my guess. Now, whether they did or
18 not, I don't know. I know they called me and I took it up the ladder.

19 Q. Did they --- I mean, they characterized a few Kennedys being blown out and
20 the ribs hour-glassing. Was that pretty much the description that they gave you of that
21 area?

22 A. They just said it blew out, you know, it just --- if you've ever seen these, they
23 all look the same.

24 MR. TEASTER:

25 Do you got them pictures over there, Joe?

1 A. As far as them describing it in detail, you know, it doesn't take hardly anything
2 to throw out those Kennedys, especially in that hard ground.

3 BY MR. TEASTER:

4 Q. That purple indicates, Jeff, the area that was affected by that bounce.

5 A. Yeah.

6 Q. And them pictures are pictures that were taken by Laine Adair.

7 A. Okay.

8 Q. And you got that little caption up there. It tells you what direction the pictures
9 were taken.

10 A. You take this picture at any of those mines over there and it seems --- . It
11 looks like they had never mined. Aberdeen, the Sunnyside seam does the same
12 thing, at West Ridge.

13 Q. So that's typical you think out here in the West, that kind of bump just ---?

14 A. That's minor.

15 Q. This is a minor bump?

16 A. That's minor. Yeah, for it not to be totally over in the entry. That's why they
17 said we had a minor bounce. They're used to seeing this, they live like that.

18 Q. One of those you can see overtop of that pillar there. Did you notice that one,
19 too?

20 A. Yeah, well, a lot of this stuff, yeah, they shift. The pillar will completely shift
21 when these things bounce.

22 Q. And that's minor stuff?

23 A. That's what they call minor, yeah.

24 Q. What do you call major?

25 A. Major is when a longwall block shifts.

1 Q. When a longwall ---.

2 A. The pillar --- if this right barrier would have shifted, it would have come all the
3 way in. That's why they say this is a minor bounce. Look what you're seeing here is
4 around the pillars. These pictures are pillars, they're not barrier. This is barrier. I
5 don't even have to look at the description, I can tell you by looking at that. That's
6 barrier right there. That's what I see is barrier bouncing. That's not a big bounce.

7 Q. That's just routine stuff ---?

8 A. That's routine when they pop. That's routine when they pop. When it's major,
9 that whole block undisturbed shifts over the damn entry.

10 Q. So if I told you that they covered up a scoop and had to load 60 cars just to go
11 up there and get the ---?

12 A. Goes on all the time.

13 Q. Goes on --- clean it up and keep going?

14 A. Did it at Mid Continent routine, Mid Continent, in their high pressure ---.

15 Q. Have you ever personally witnessed that size of a bump?

16 A. Worse.

17 Q. Worse?

18 A. Yeah.

19 Q. What's the worst case that you've seen, as far as a number of pillars?

20 A. The worst one I saw was Castle Gate, where the pillar, longwall pillar came
21 over into the entry, when it threw the --- I think it broke a couple of --- it broke the
22 ranging arms, and it bounced off the face and broke two or three shield legs
23 (phonetic), back in '88, maybe. But these, yeah, this is ---. Look, that's typical if you
24 go in. These pillars typically yield on birth. So this is a result, to me, of when it's
25 squeezing, that's why you get the small stuff. To me that's why they call it minor.

1 That's what we've always ---.

2 Q. So based on your knowledge, is that a reportable bump or not a reportable
3 bump under Part 50?

4 A. Disrupted ventilation ---. I couldn't tell you if it's reportable or not reportable.

5 Q. Well, if it blew those stoppings out that was mentioned earlier when you talked
6 to Laine Adair. Did you blow any of those stoppings out? Does that disrupt
7 ventilation?

8 A. Oh, yeah, that's why we told them they had to put the stoppings back or pull
9 out.

10 Q. But even if they had to pull out and it disrupted ventilation, you'd still have to
11 report that to MSHA, would you not?

12 A. It's according to definition.

13 Q. But we don't have anything else but a definition; right?

14 A. That's all.

15 Q. I mean, the criteria for that, if it disrupts ventilation --- there's other things, but
16 one of them, if it disrupts ventilation for one hour, ceases or causes mining operations
17 to cease, ---

18 A. Yeah.

19 Q. --- somebody's trapped.

20 A. Yes.

21 Q. But you don't --- you would not view this one based on what you know as a
22 reportable bump under Part 50?

23 A. I wasn't there. What Laine told me, yes.

24 MR. PAVLOVICH:

25 Because of the ventilation control blown out?

1 A. Yes.

2 MR. PAVLOVICH:

3 So you would have expected that to have been reported?

4 A. Yes.

5 MR. PAVLOVICH:

6 All right. And not necessarily reported to you?

7 A. Right. Now, if they're saying they reported it to me and I didn't follow
8 procedures, I'm guilty. But from when they called me and we went up the ladder, we
9 all knew the conditions that it was not ventilated, and that he had hung curtains to
10 ventilate it, according to what Laine told us.

11 BY MR. TEASTER:

12 Q. Laine said that he did, in fact, hang the ---?

13 A. Yeah, he said he hung --- what I remember him saying, he hung some
14 curtains. And what stoppings blew, I don't know. What locations they tack curtains
15 back up, I'm sure they went in there a ways and was tacking curtains up the best they
16 could. It's so suspended with dust, it's hard to see.

17 Q. Jeff, the ventilation plan that was approved for the south barrier in the west
18 mains, it required there was a sump that came over from the west mains and was
19 driven over toward the south barrier that caused them to drop the number four entry
20 for at least one block. So they dropped it off and you may have that.

21 A. I got the north side here.

22 Q. North, both these north?

23 A. Right here, is this what you're talking about?

24 Q. Yes. So when they got to this area here in the south barrier, the ventilation
25 plan, the development is okay, but when they was coming back, the ventilation plan

1 requires that they leave this bleeder ---.

2 A. Correct.

3 Q. --- one block, ---

4 A. Uh-huh (yes).

5 Q. --- come down here and leave one block around this?

6 A. Right.

7 Q. And then the ventilation --- and then the ventilation plan also indicated this is
8 what the vent plan ---

9 A. Yes.

10 Q. --- allowed mining of this barrier over here for I think 40 feet. And then the
11 roof control plan came out. This was all handled in the district about the same time
12 with a three or four day difference.

13 A. Yeah.

14 Q. The roof control plan required that these blocks be left and that no mining of
15 the barrier be permitted. Now, if you go there as an inspector, which one of those
16 plans would you enforce?

17 A. Well, depending on where they were mining. If they were mining that barrier
18 with these two in, but see they were probably going by that. I don't know.

19 Q. You see the conflict with either two?

20 A. Yeah.

21 Q. And that was the question that I asked you earlier. Is there any process that
22 you have here that would --- to try to prevent that from occurring when you, you know,
23 try to interact between the two groups, the ventilation and roof control, to see if there
24 is any contradictions or conflicts in between the two plans.

25 A. Yeah, I see the conflict. Mine was, what, two weeks before Billy's.

1 Q. That was the approval, but I think if you looked at the date they were received
2 in the district ---.

3 A. May 17.

4 Q. I think the other one May 21st.

5 A. May 16. Well, remember me telling you before about differences in
6 submittals. See if they were submitted by the same guy. Tom did this one, yeah, Tom
7 submitted both of them. Yeah, I see the conflict there.

8 Q. While we're talking about conflict, let me ask you another one. Where your
9 ventilation plan allows the evaluation point with a bleeder to move to the toe of the
10 water, they can go to the toe of the water in the ventilation plan to evaluate their
11 bleeder system. But in a roof control plan you've got a requirement that says that no
12 water is allowed to accumulate in the bleeder.

13 A. In the travelable portion of the bleeder is what that's supposed to be.

14 Q. So they left a word out, travelable?

15 A. Yeah. Yes, because the dip the water builds up. So you come to the toe is
16 what that was for. Yeah, the intent of that was for what you do travel you can't let it
17 build up so much that you have an evaluation point on either side of it. You got to get
18 to the inby toe. I mean, that's standard. We do that across the board at several
19 mines.

20 Q. Well, it appears to us looking at it clearly that the roof control plan allows no
21 water in the bleeder. It don't say anything about a travelable part ---.

22 A. Oh, well.

23 Q. It assumes that there's no obstruction in either a fall or water that would hinder
24 the travel.

25 A. Well, most of the ventilation plans do say that ---, I mean, I'm agreeing with

1 what you're saying, they do say that. Across the board it's been understood that the
2 travelable portion of the bleeder you still have to travel up to the toe wherever you
3 have an established evaluation point or NPL, whatever term you're using for the toe of
4 the water.

5 Q. Of course if you looked at it from the other standpoint from the roof control
6 standpoint, if you wasn't allowed to let it accumulate, it always would be travelable;
7 right?

8 A. Right.

9 Q. See, so ---.

10 A. Wait. There's two places of water accumulation, in the travelable portion to
11 the toe of the water due to the dip. And you're only talking a term, the word travelable.
12 Now, if you got a seam that's pitched like this and it's filling up with water, and it's
13 filling up with water and you got a roll back here, that's that roll you still have to get
14 through. You can't --- they'd have to put a pump in that roll. And it would still have to
15 travel down to where the water is from that faces all the way back.

16 MR. PAVLOVICH:

17 Do you have a lot of plans that allow for a floating evaluation
18 point?

19 A. Joe, the only ones --- what we do is if --- okay, Dugout had one --- has had
20 one in the past and it's all based on pitch and elevations. Now, if it's filling up and
21 coming out and it's --- not Dugout. It's coming out, we've done it, we've done it for
22 years.

23 MR. PAVLOVICH:

24 So you'd approve a floating evaluation?

25 A. A moving ---. Yes. Yes, it comes out ---.

1 MR. PAVLOVICH:

2 I don't mean it ---.

3 A. Just as long as everything inby this ---.

4 MR. PAVLOVICH:

5 Moving back to the toe of the water?

6 A. Yes, from the toe of the water a reasonable distance inby ---.

7 MR. PAVLOVICH:

8 So that's a fairly common approval?

9 A. Yes, because from the toe of the water there's a reasonable distance inby that
10 the roof --- the water is roofed out

11 MR. PAVLOVICH:

12 . Okay.

13 A. So there's very small --- there's a wedge there that is or is not getting
14 ventilated from the toe of the edge of the water. And typically we let 'em take a
15 crosscut or two crosscuts open as the water builds up as it comes out, as the water
16 builds out.

17 UNIDENTIFIED SPEAKER:

18 About ten crosscuts?

19 MR. PAVLOVICH:

20 How much?

21 UNIDENTIFIED SPEAKER:

22 About ten crosscuts?

23 A. Ten, I don't know about ten.

24 UNIDENTIFIED SPEAKER:

25 What would be reasonable?

1 A. Typically two.

2 UNIDENTIFIED SPEAKER:

3 What about the elevations on, that if you would have ten?

4 A. I don't know.

5 MR. PAVLOVICH:

6 Is that something that you normally look at, Jeff, ---

7 A. Yeah.

8 MR. PAVLOVICH:

9 --- the elevation?

10 A. Yeah. Yeah.

11 MR. PAVLOVICH:

12 I think that's --- is that your note there?

13 A. Yeah, that's my handwriting.

14 MR. PAVLOVICH:

15 Can you tell us what that says?

16 A. That says less than or equal to 50 feet, entry four, south block to entry one

17 Main West.

18 MR. PAVLOVICH:

19 What's that mean?

20 A. Well, let's figure out what I am here --- what I'm doing here.

21 MR. PAVLOVICH:

22 Here's your north barrier line and here's your south barrier ---.

23 A. Hold until needed. As shown 333388 A1 roof control vent plan 3807. Fifty-
24 five (55) feet. Oh, this is --- 55 feet is --- I think 55 feet, what I'm talking about here is
25 55 feet, this distance here, this small block.

1 MR. PAVLOVICH:

2 Oh, that?

3 A. Yeah, that's what that ---.

4 MR. PAVLOVICH:

5 That offset block?

6 A. This right here is 55 feet between these punched faces and the rib line.

7 MR. PAVLOVICH:

8 Oh, okay. So you scaled that off ---

9 A. Yeah.

10 MR. PAVLOVICH:

11 --- as to how far those entries went to that ---

12 A. Yeah, now let me figure out ---.

13 MR. PAVLOVICH:

14 --- notch as something that was driven out?

15 A. Yeah, so I'm seeing it's less than 55 feet. Entry four of south block, which is
16 entry four during development.

17 MR. PAVLOVICH:

18 So you were concerned that that mining was within less than
19 55 feet of that sump?

20 A. Yeah, I have less than or equal to 55 feet for that distance there.

21 MR. PAVLOVICH:

22 All right.

23 A. As shown 38881 --- I've got to look that one up. Is that what that says? Yeah,
24 38881 for drilling. Because they're drilling ---.

25 BY MR. TEASTER:

1 Q. Going back, how far --- how many crosscuts outby they could get based on
2 them elevations?

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

4 MR. PAVLOVICH:

5 After you get back so far, Jeff, the entry pretty much flattens
6 out.

7 A. Right here, right there.

8 UNIDENTIFIED SPEAKER:

9 Okay. If we look at this here, you know, these first couple I'll
10 give you they're going to be about ---.

11 A. If it's flattened out, the water's age is going to be here.

12 MR. PAVLOVICH:

13 So you gotta --- where the water stops building up?

14 A. Well, where it builds up, yeah. You're going to walk through it a little bit.

15 MR. PAVLOVICH:

16 No, you said the toe of the water.

17 A. Give me a fucking break, the toe of the water is where you piss outside then,
18 Joe.

19 MR. PAVLOVICH:

20 Where do you mean it to be?

21 A. Well, where the coal miners are going to go. They're going to walk in there a
22 little bit in some ankle-deep water ---.

23 MR. PAVLOVICH:

24 So where do you intend it to be, Jeff? When you're right to
25 the toe of the water, where do you intend it to be?

1 A. Your guess is just as damn good as mine, at the toe of the water.

2 MR. PAVLOVICH:

3 Well, that doesn't help.

4 A. I can't tell you. I mean, everybody's definition of the toe of the water is going
5 to be different.

6 MR. PAVLOVICH:

7 Okay.

8 A. I'm going to walk up there a reasonable distance.

9 MR. PAVLOVICH:

10 Okay.

11 A. What can I tell you Joe? How much water ---.

12 MR. PAVLOVICH:

13 You can't tell me anything.

14 A. How much water have we walked through?

15 MR. PAVLOVICH:

16 That's not the issue.

17 A. Well, I can't ---.

18 MR. PAVLOVICH:

19 I asked you what does that mean. And if you say, I don't
20 really know what it means, then that's answer enough.

21 A. If the first drop of water is the toe of the water, well, then, yeah, I agree with
22 Ex. (b)(6) and Ex Nobody --- nobody's going to go up there, but most inspectors are going to go a
23 reasonable distance, and so are the fire bosses are going to go in there and make
24 sure that this place is being ventilated. Now, you want to argue the first little puddle is
25 the total water in the whole damn district, the whole panel is unventilated ---.

1 BY MR. TEASTER:

2 Q. Well, I don't think nobody's saying that, Jeff. We're just saying ---.

3 A. But as far as depth ---.

4 Q. I mean, if you got a body of water, the edge of that water ---.

5 A. I can't tell you where.

6 Q. Okay. If you can't, that's fine.

7 A. And did I go to this one? No, sir, I didn't go to these.

8 Q. When was the last time you visited Crandall Canyon?

9 A. Man, I'd have to look in my notes. I was over there --- I was at south, but I
10 don't think I went into Crandall. It's probably two years.

11 Q. Two years ago?

12 A. Don't quote me on time, but I think it's been about two years.

13 Q. So it was before Murray took over?

14 A. Oh, yeah. Yeah, I was --- yeah. I was over there on the South Crandall
15 Canyon. Went in there to do an EO-1 with Gibb and ---. I know it was with Gibb and
16 somebody else. We were supposed to go to both mines but they shared an office.
17 And I think when I was there I worked on a vent plan for both mines. At the Crandall
18 Canyon office because, you know, they're just right across the canyon there. But I
19 don't think I went in Crandall. It's been at least two years or better since I was in
20 Crandall.

21 Q. Jeff, when you first looked at those plans to mine those barriers up in the west
22 mains with longwall gobs on the left and the right that stuck up there by itself. What
23 was your initial thoughts of mining those barriers?

24 A. It's crazy. Development, I thought they could get away with development but
25 pulling them, my personal opinion was pulling them is a disaster waiting to happen.

1 Q. Did you share that with anybody?

2 A. Yes.

3 Q. Who?

4 A. Billy.

5 Q. Owens?

6 A. Yeah.

7 Q. And what did Billy say? Did you get a response?

8 A. He said --- yes. I talked to Billy about that and he said, there's not a problem
9 with it, we could run all the numbers and it looks good with the numbers on their
10 programs that they deal with.

11 Q. That was the only discussion you had with him?

12 A. Yeah, that was all. He said, it looks --- because I mentioned it to him. I said
13 to me it didn't look good with the longwall panels on both sides. And developing it I
14 thought it could be developed. And they said, well, they did this north side when I
15 talked to him. He said, well, we did the north side. And that's when they went in there
16 and looked at it. And then Agapito or somebody did some design changes on the
17 south side. And they thought that by the design changes that they made that it would
18 be a success. But I just told him, you know, I just --- you know, are we going to do
19 this. And he said, yeah, the numbers look good. He said, we've run the numbers and
20 they made a pillar design change and they look good. That was my only --- I mean,
21 we didn't argue or fuss about it. I just --- that was all I said.

22 Q. He said we run the numbers. By him saying that, you thought MSHA had run
23 the numbers?

24 A. That he looked at them is all I'm --- whoever we is, I didn't ask him who we is.
25 I'm assuming he went over the numbers with Agapito and the reports that they had

1 sent in.

2 MR. PAVLOVICH:

3 Did you remember at that time, Jeff, that they got kind of
4 bounced out of the north barrier?

5 A. Yeah.

6 MR. PAVLOVICH:

7 Did you say anything like that to Bill, ---

8 A. No.

9 MR. PAVLOVICH:

10 --- that they were bounced out of the north barrier?

11 A. Well, everybody knew they were bounced out.

12 MR. PAVLOVICH:

13 Well, you figured Billy knew that.

14 A. Oh, yeah, Billy knew that. He went over there and looked at that side. I'm
15 sure that's the side. He and I think Pete --- that was when Pete first started.

16 MR. PAVLOVICH:

17 I think actually they went up there while it was being
18 developed.

19 A. I just know that they went there.

20 MR. PAVLOVICH:

21 Yeah, they went there while it was being developed, and they
22 went to the south side while it was being developed. But I don't think he ---.

23 A. After --- okay, yeah.

24 MR. PAVLOVICH:

25 Because they sealed it almost immediately after that.

1 A. It was pretty quick.

2 MR. PAVLOVICH:

3 Yeah.

4 A. And that was during that alternative seal stuff. And, you know, that was
5 another thing that we had ---

6 MR. PAVLOVICH:

7 Well, you were involved in that.

8 A. Yes.

9 MR. PAVLOVICH:

10 Okay.

11 BY MR. TEASTER:

12 Q. Jeff, what --- when you identify concerns with any submittal from the operator,
13 and the operator don't want to make any changes that you've brought to his attention,
14 how is that normally resolved?

15 A. Well, one of two ways, I put it in writing to them, or they take it up the ladder
16 and get Al or Knepp or somebody else to say that their way is better.

17 Q. Is that something that happens frequently or ---?

18 A. It happens. You know, usually they work it out with me at my level and if they
19 disagree with me, I'm going to say more than half --- 50/50. When it comes to
20 controversy, it's even more than 50/50, you know, on controversy. You know, I've
21 been doing this so long I think I know what's going to get approved or not get
22 approved. It's not me making all the decisions, but that's my job. They say, well, it's
23 no argument with anybody of any of the companies. It's just, well, we disagree and
24 we're going to take it up the ladder. And typically they go call Reitze, they'll call
25 Knepp and discuss it. And then they call --- I mean, that's the chain. And they respect

1 that and that's the chain that they follow.

2 Q. So you said 50/50. I'm not sure what you're talking about when you --- I'm
3 only talking now about issues that you're not able to resolve, ---

4 A. Okay.

5 Q. --- that the operator says, no, I'm not going to --- I'm going to do it my way.

6 A. Okay. The majority of the time the operators don't have time for this writing
7 game. We get on the phone and resolve it. If it comes to a dead gridlock, it's in
8 writing. That doesn't happen too often. When it comes to that I can't work it out with
9 them for whatever reasons there's, I mean, it just goes up the ladder.

10 Q. And then what happens?

11 A. Well, you either resolve or you negotiate and figure out what you're going to
12 do. And once they've talked to everybody up the ladder and they made changes and
13 other suggestions ---. Or Al will say, now, look, we can't do this, what about other
14 submittals. And they'll say, well, let us get back to you. Two hours later, the next day
15 they may call back or say, here, here's what we've decided to do will you look at this.
16 Okay, we can approve that.

17 Q. Do you have a feel for how many of them that support your opinion on that ---

18 A. No.

19 Q. --- submittal?

20 A. No, I don't.

21 Q. Do you feel you get the support and backing from the people above you on
22 the ladder?

23 A. Oh, yes. Yes, it's just --- it's just that there's certain things I don't have the
24 authority to negotiate. There comes to a certain point, I can't --- just like when Jim
25 called me on the north barrier. And then Laine called us. No, we don't have the

1 authority --- I don't have the authority to tell you, yes, go ahead. You can submit it,
2 but I'm going to tell you in the submittal in writing, no. That's my job, I don't have the
3 authority to say, yes, you can for any leniency at all. And after I --- typically, after I've
4 done that, I get support all the way up the ladder and they have to make some sort of
5 a change to compromise and come in with the bounds of the law.

6 Q. Can you identify or share any experience you've had on a particular case that
7 couldn't be resolved between you and the company and it was kicked up the line?

8 A. Well,. this one right here. I just went over that several times. And everybody
9 up the ladder supported it. Seal it, is the first thing I told Jim, you're going to have to
10 seal this all the way up the ladder, even after the negotiations.

11 Q. As I understand it, the first thing was we want to move the bleeder evaluation
12 point out to a certain point and continue mining. That was excepted. And when they
13 said, no, we can't do that, so then sealing came into effect?

14 A. No, we never accepted that. We never ever accepted moving that out and
15 ventilate it.

16 Q. No, you said we told them no and they accepted that.

17 A. Okay. I'm with you, I'm with you.

18 Q. And then went to a seal. So it wasn't like you said no and they went to Bill ---

19 A. Yeah, up the ladder.

20 Q. --- and he said no. They accepted the no, at least on Bill's level, that they
21 couldn't --- they wouldn't move the evaluation point, so they said, well, we'll seal.

22 A. No.

23 Q. Then it was to get approval for the seal.

24 A. They want to hear --- they want to be certain on things that are controversial.

25 They want to hear it from Knepp or AI. And typically AI and Knepp tells them no as

1 well. Something like this is a piece of cake. I mean, you just you can't ventilate it,
2 you can't get back there, you know, seal it.

3 MR. TEASTER:

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

5 A. You know, we got some I'm adamant on, on methane, but, you know, you got
6 to --- due the methane some of these places we were giving them three, three-and-a-
7 half percent. That's a place they can negotiate.

8 MR. TEASTER:

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

10 UNIDENTIFIED SPEAKER:

11 Yeah. Jeff, I got a couple questions. Ernie was just talking
12 about these approvals. It sounds like you try to take everything at hard ---. I don't
13 want to say a hard line, but a firm line on things that are submitted. Do you ever have
14 anything that went up the chain and got approved that you didn't agree with?

15 A. Happens all the time. Not all the time, it happens. What I was saying like
16 evaluation points, two-percent points, MPLs in gobs. Aberdeen, you know, I can show
17 you letters I wrote Aberdeen that I'm the hardest prick in the world. But, you know,
18 under their constraints you wind up giving them, you know, four percent on a bleeder
19 tap only for this panel, the next panel's got to come down to three-and-a-half because
20 the ventilation side.

21 UNIDENTIFIED SPEAKER:

22 Well, that's actually covered by the law, not the plan; correct?

23 A. But that has to be in the plan.

24 UNIDENTIFIED SPEAKER:

25 For the percentage of methane?

1 A. Yes, it does, for the gob. Yes, it does. Evaluation point in the gob, not the
2 two- percent point in the gob.

3 UNIDENTIFIED SPEAKER:

4 So you guys put the limits on the methane in the vent plant?

5 A. Yes.

6 UNIDENTIFIED SPEAKER:

7 So if you allow four percent in the evaluation point, at what
8 point would it become an imminent danger?

9 A. Judgment call by the inspector.

10 UNIDENTIFIED SPEAKER:

11 So we would just leave it up to different personalities, I guess,
12 in the district?

13 A. Yeah, some of them would write it at 4.1.

14 UNIDENTIFIED SPEAKER:

15 Even though the chemistry of the methane in the atmosphere
16 isn't changing?

17 A. Right.

18 UNIDENTIFIED SPEAKER:

19 It depends on who's there ---?

20 A. That's exactly right, even if it was two percent, you know, it's so --- what's the
21 right --- you can't get anything concrete on gas in the gobs from anybody.

22 UNIDENTIFIED SPEAKER:

23 Well, we don't go on the gobs.

24 A. You know what I'm talking about.

25 UNIDENTIFIED SPEAKER:

1 A. Been there, done that.

2 UNIDENTIFIED SPEAKER:

3 Okay. I've never seen the methane concentrations in the
4 plan.

5 A. Oh, yeah, I'll show it to you on all of 'em.

6 UNIDENTIFIED SPEAKER:

7 And you have a copy of a plan that allowed four percent or
8 was it negotiated back to three?

9 A. We had a panel that got into some methane at Aberdeen, two panels back.
10 Got into methane problems, couldn't get vertical holes in, had to run the wall. That
11 one tap we allowed four percent for the rest of that wall. It was in the plan, everybody
12 knew about it. Ray knew about it, everybody up the ladder knew about it.

13 UNIDENTIFIED SPEAKER:

14 Ray Charles?

15 A. Yeah, Ray Charles. We'll sing a song. The guy that was over --- at Stickler's
16 job know. Went back down to ---.

17 UNIDENTIFIED SPEAKER:

18 McKinney.

19 A. McKinney. Thanks.

20 UNIDENTIFIED SPEAKER:

21 Four percent at a time.

22 A. Hey, don't condemn us, Morgantown had four-and-a-half at the same time.

23 UNIDENTIFIED SPEAKER:

24 We'll talk to ^{Ex. (b)(6) and Ex. (f)} about that when we're done with yours.

25 All right.

1 A. You know, that's when the shit hit the fan.

2 UNIDENTIFIED SPEAKER:

3 What do you think, Jeff --- and Joe may have asked this, I
4 don't know. You know, look at this four-entry development and then pulling three
5 blocks on the --- or two blocks on the way out, leaving one way in, one way out.

6 A. Hey, you go talk to 'em. You go talk to headquarters. We got memos on two-
7 entry mining and bleeder systems where you got seven and eight connected panel,
8 panel, panel, panel, panel, two-entry panels that there's only one way in and one way
9 out. And Bob Elam said, shut your fucking mouth. I'm not --- I'm not --- I'm trying to
10 answer you but that's the boat we're in. We have brought that to everybody's attention
11 way back to Bob Elam.

12 UNIDENTIFIED SPEAKER:

13 So would I be ---?

14 A. It's no different on the great big longwall district where one man's got to go
15 back there. Big John Turner had to squeeze through cribs and walk sideways or a
16 3,000 foot or 4,000 foot one line in/out panel, the distance --- the concept is the same.

17 UNIDENTIFIED SPEAKER:

18 Would it be accurate then to say you didn't always get the
19 support from headquarters?

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

21 UNIDENTIFIED SPEAKER:

22 Okay. Why do you think, Jeff, in your opinion, because you
23 kind of had some conversations with Billy and ---. When you had this bump in the
24 north barrier and it bounced it sounds like maybe twice, but it was severe enough that
25 they didn't want to mine it anymore. They pulled out of the north barrier. Why would

1 we give approval to second mine the south barrier, when it's identical?

2 A. Look I told you, I don't do those numbers. All I know was that they redesigned
3 the pillars. And whoever made the decisions here on the ground control said it was
4 okay based on the redesigning of the pillars.

5 UNIDENTIFIED SPEAKER:

6 I just have one more question, Jeff. When you read the law,
7 if you read whether it's in 371 or whether it's in --- I forget what section it is, about
8 maintaining bleeder entries for your ---.

9 A. Uh-huh (yes). 334, 332, whichever one.

10 UNIDENTIFIED SPEAKER:

11 It says --- it doesn't say --- I know that word travelable has
12 been thrown around. But I think the intent was, or if you read the law it just says
13 maintain bleeder entries free of water or other obstructions. So how do we kind of
14 take that to mean, well, if it's just travelable, because that kind of throws that section
15 of the law out. I think they intended for it to be travelable.

16 A. No, I disagree I think you guys are getting off on a tangent that --- look at it
17 from this point. You're granted an evaluation point in lieu of travel.

18 UNIDENTIFIED SPEAKER:

19 Right.

20 A. Okay. The law permits that. And we gave them across the board, not just us.
21 I mean, we talk about it in meetings, everybody does. And it's in lieu of traveling to
22 the deepest point of penetration. And it had nothing to do with from that point outby.
23 The travelability is you're not going to go from the evaluation point inby. And from
24 that point you have to get there. You have to get to that evaluation point from the
25 mains to that most outby evaluation point that you're going to. Wherever that is, at

1 the deepest point from the mains to that evaluation point, you have to get there.
2 That's the concept that we have. It's not that just because there's some water behind
3 you, that's going to stop you. You have an approved evaluation point, you have to get
4 to it. And to that point you have to maintain to that point until you get granted another
5 evaluation point. And that concept of, you know, coming up and what's the total water
6 or ten crosscuts.

7 UNIDENTIFIED SPEAKER:

8 Yeah, I'm with you on that ---.

9 A. But as far as --- I'm telling you that's the concept to look at. If you want to
10 harp at plan versus plan. Text, I can agree that text-wise they're not verbatim
11 identical. But the concept to that is to get to that evaluation point. That was the point
12 of that. We tried to separate in the ventilation plans a long time ago where it says ---
13 across the board we got a general statement in there it'll say something like the
14 bleeder entries be maintained according to the approved roof control plan. I think
15 that's what you guys are getting at. It refers back to the roof control plan that says no
16 damn water, no obstacles.

17 UNIDENTIFIED SPEAKER:

18 Well, that's what the approved roof control plan says now.

19 A. Yes, they do, and they have for a long time. But the only thing I'm trying to
20 point out is, the compatibility between them is that your concept needs to be that's for
21 the bleeder entry that's travelable to the evaluation point, not from the evaluation point
22 put scuba gear ---. You don't know how many times I've had to deal with radical
23 inspectors that say, hey, they're not getting to the deepest point of penetration. I think
24 they need to put some floaters on and drive and float in there like a float tube. From
25 what --- now, wait go look at our ventilation plans across the board. When we do

1 these moving evaluation points, we don't do 'em for the fun of it at a gassy mine. It's
2 a rare instance that we do it at a gassy mine. We realize that gassy at the SPONCOM
3 at the high CO mines we don't want 'em. And we raise hell to get entries back there in
4 the bleeders. But a typical non-gassy mine, what's the real issue? Even if you got
5 back there, the air's going to be good. So, yes, we are liberal at the non-gassy mines,
6 but the gassy mines we are not.

7 UNIDENTIFIED SPEAKER:

8 So you guys look at the elevations before you ---?

9 A. Yes, elevations, pitch of the seam, everything. The same thing on longwalls
10 when they're like this and the bottom entry does this. You know, you got your bows
11 and rolls even though it's lifted up on --- it's on a ---. The same thing we look at. I'm
12 not ---hey, I'm not trying to be offensive, I'm trying to answer your questions, so don't -
13 --. I mean, keep asking me, I'm going to answer you. I just don't know how to tell you
14 any differently. And I'm not trying to be rude to you, but, hell, I've been doing this shit
15 for a number of years now. I don't really know how to answer you.

16 UNIDENTIFIED SPEAKER:

17 Yeah, the four percent kind of threw me off a little bit.

18 A. No, it was --- you asked me --- I was answering the question about one that I
19 disagreed with.

20 UNIDENTIFIED SPEAKER:

21 Right. Let me ask you this, Jeff, are there any others that
22 come to mind?

23 A. You know, we have 'em all the time. Because I take a hard line. I've been
24 back in 'em. I worked in the fucking coal mines. I know what it's like to be back there
25 as a fire boss walking through a damn entry, this much water to get to a bleeder

1 evaluation point. Been there, done that. And, you know, that's my job just trying to
2 protect that single guy and the multiples. You know, when I go --- when I go to the
3 mine and do weeklies with 'em, I'm walking with 'em on their weeklies on my EO-1s. I
4 know what they're going through. I'm seeing the conditions. You know, I try to get this
5 in writing in the plans.

6 UNIDENTIFIED SPEAKER:

7 Do you guys ever look at leaving two entries open?

8 A. You'll not get two entries open because of the loss of coal.

9 UNIDENTIFIED SPEAKER:

10 Well, is that our concern?

11 A. No, but the thing about it if two entries --- if one's been doing it and you get
12 through it for one forever ---.

13 UNIDENTIFIED SPEAKER:

14 Well, one's been doing it until you have a fall.

15 A. Well, if you have a fall, you're going to have to clean it up, depending on the
16 system.

17 UNIDENTIFIED SPEAKER:

18 Unless the guy didn't buy that ---.

19 A. Well, that's what I'm telling you, depending on the system. Are you talking a
20 single-panel wraparound? Are you talking a flow-through, where you got bleeder
21 entries on the back?

22 UNIDENTIFIED SPEAKER:

23 I guess the loss of coal is their argument?

24 A. Yes. But we can't --- we can't say, you have to have two when one has been
25 substantial for years. Outside of --- outside of this case. Outside of this case, not just

1 here. I talked to Stanley all over, typically one takes care of it up against the barrier.
2 I've begged, begged them to have multiple entries in bleeder entries. What the hell
3 for, they tell me. And I can't argue against it. And nobody --- you can't either. You
4 got a two-entry longwall panel, panel, barrier, panel, two entries on the headgate, two
5 entries on the tailgate. You're pulling the longwall, how many panels do you have ---?

6 UNIDENTIFIED SPEAKER:

7 Yeah, that's a whole different issue, too.

8 A. No, it's not. If you got --- if you got panel, panel, panel, panel ---.

9 UNIDENTIFIED SPEAKER:

10 No, I'm saying that's a whole different issue that I don't agree
11 with.

12 A. Okay. But still on the back end, the drop from that wall to the back end is
13 those two entries. So you only need two entries for the drop, but you got all that
14 resistance. And my argument is that resistance, put that fan at the back, have
15 multiple entries for parallels, put your drop back at the back of the taps, can't get it.
16 They come in here, oh, no, we're slow, or we're behind on development.

17 UNIDENTIFIED SPEAKER:

18 You hear every excuse in the world.

19 A. Yeah.

20 UNIDENTIFIED SPEAKER:

21 That's all I got, Jeff.

22 UNIDENTIFIED SPEAKER:

23 Let me ask you, you mentioned earlier that you thought
24 Murray mines was getting favoritism from a lot of their plans sometimes maybe from
25 higher up. Is there other mines, other operators that stand out that they can get in the

1 plan if they wanted if ---?

2 A. No.

3 UNIDENTIFIED SPEAKER:

4 So you disagree with 'em?

5 A. No,. It's just the --- I think it's more like the tactics that they use. They wait
6 until the last minute and submit just terrible ---. Let me just go show you the one that I
7 had --- I went on vacation last week. The week before last I had two letters or three
8 letters from one mine, West Ridge, for one subject. All three submittals were
9 different, cut-off maps, nothing compatible. I laid it out and I said, this is wrong, you
10 can't do this, unacceptable. Reitze negotiated, negotiated and negotiated. Put your
11 head through that wall was easier than talking to them and getting a good submittal

12 Ex. (b)(6) and Ex. (b)(7)(C) I've talked to him, talked to him and talked to him. It does no good.
13 Reitze wrote, what, a three or four page disapproval letter, finally, and just --- you
14 know, just look. Here it is in writing, like the law says. You know, we tried on good
15 faith to negotiate. Look, if you submit this, it will get approved. I can go back there
16 and show you the garbage.

17 UNIDENTIFIED SPEAKER:

18 No, I just want to ---.

19 A. No, as an example, that's the --- you say Murray versus anybody else, then it
20 becomes that were spending so damn much time on Murray mines, Murray mines,
21 Murray mines, that everything else is getting --- because they're calling, we need it, we
22 need it, we need it. That's what I'm trying to get across for the favoritism.

23 UNIDENTIFIED SPEAKER:

24 Do Mr. Davis or Mr. Knepp get a lot of phone calls from any
25 other operators other than Murray's that need the plans approved or something? They

1 do get calls quite often. There's just not enough of us to take care of the paperwork.
2 And they'll get calls and Al or Knepp will come and say, you know, what's the status of
3 this plan. Well, I got 37 of 'em on my desk, which one do you want me to work on?
4 Well --- and I know, I work with all these operators continuously, what's priority, who
5 needs something tomorrow, I've got --- it's critical management, you know, I'm working
6 on this one because they need it tomorrow. And I know that somebody needs
7 something Monday, I'm so damn busy I'm not going to work on it until Friday. And
8 something will happen that they may need it several days in advance and say, hey,
9 can you please put mine in priority.

10 But as favoritism, I don't see anybody outside of what I've described to you.
11 No, most everybody else --- all our operators know what a bind we're under, what a
12 workload we're under, typically get plans in two, three weeks in advance. If they get in
13 a bind, they call us and say, hey, this happened, can we give you a submittal, can you
14 get it to us by a certain time. Get it to us and we'll do the best we can. It's not, we
15 want it now.

16 UNIDENTIFIED SPEAKER:

17 Very well.

18 MR. TEASTER:

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

20 UNIDENTIFIED SPEAKER:

21 Yeah. Hey, Jeff, you said that about six to eight months ago
22 you were told to answer the 2000-204 form deficiencies in writing?

23 A. Yeah, in memo form.

24 UNIDENTIFIED SPEAKER:

25 Who told you?

1 A. Reitze.

2 UNIDENTIFIED SPEAKER:

3 So before that there was no --

4 A. You know look ---.

5 UNIDENTIFIED SPEAKER:

6 --- orders or anything?

7 A. No --- policy is we're supposed to do it. I know I'm supposed to do it. I don't
8 have the Ex. (b)(6) and Ex. (b)(7)(C) time to do these types of ---. I can call these guys up and say, hey, I
9 took care of this. What these guys are saying is not my issue. I think what they're
10 trying to point out is, we're so Ex. (b)(6) and Ex. (b)(7)(C)

11 MR. PAVLOVICH:

12 Jeff, please ---.

13 A. I'm sorry. I can't help it.

14 MR. PAVLOVICH:

15 I mean, there's a lady present.

16 A. I'm sorry. I'm sorry.

17 MR. PAVLOVICH:

18 If you're talking to me and you, that's fine.

19 A. I'm sorry.

20 MR. PAVLOVICH:

21 Okay. I mean ---.

22 A. Ma'am, I'm not trying to be rude, that's just me. If you go in the coal mines,
23 you're going to hear it all the time, but I'm not trying to be disrespectful.

24 MR. PAVLOVICH:

25 I mean, I'm not mad, Jeff, I'd just ask you to ---

1 A. I say it too much. Okay.

2 MR. PAVLOVICH:

3 --- please tone that down, okay?

4 A. What I'm getting to is that certain things they're not getting help with. What
5 those are is management issues. But from my level, I can't agree. I will not agree
6 with that. I think I work to the best I know how and have an open mind with all the
7 inspectors and all the supervisors. I think it's something above me that they're
8 complaining about.

9 UNIDENTIFIED SPEAKER:

10 Okay. When you said that Laine Adair and Poulson called
11 you about the bump in the north barrier, ---

12 A. Uh-huh (yes).

13 UNIDENTIFIED SPEAKER:

14 --- do you remember what's the date? I mean, I know you're
15 not going to say, you know, what date, but was it ---?

16 A. No. No, I don't recall. You know, Reitze writes all that stuff down. So if you
17 want to know times probably five minutes before it's in his logbook. Yeah, he writes
18 all that stuff down in his logbook. I don't. I don't.

19 UNIDENTIFIED SPEAKER:

20 Did you have any notes that you turned in to any of these --- I
21 know that you've had like the Senate, Miller and IG and all that. Did you have any
22 notes that would have reflected any of that information that you turned into any of
23 them?

24 A. From that, no, I didn't write anything.

25 UNIDENTIFIED SPEAKER:

1 in the district, one of the questions was specifically, directly, what response was there -
2 -- what knowledge was there in the district of the March bump. And the response from
3 the district was a phone call from Laine Adair or Poulson for Reitze, and your name
4 was never mentioned. And your explanation of that, I guess, is that you don't keep the
5 notes and Reitze does?

6 A. Yes, I don't --- I'm telling you, I don't recall writing anything down. I've told
7 you what I recall.

8 UNIDENTIFIED SPEAKER:

9 I understand that you don't write it down.

10 A. No.

11 UNIDENTIFIED SPEAKER:

12 But when this request came in, Reitze didn't come to you or
13 Billy or Knepp didn't come to you and say, hey, did you have any knowledge of this
14 bump in March. They didn't ask you that?

15 A. They knew I did, they knew I did. But I think the request was in writing.

16 UNIDENTIFIED SPEAKER:

17 Okay. My only other question was, in response to the
18 question that the guys ask you about you commenting on this layout of mining the
19 barriers. And you said you went to Billy and voiced an opinion. But it sounded like
20 that was only after the north barrier was mined. You didn't go to him when you first
21 saw the whole entire thing, ---

22 A. No.

23 UNIDENTIFIED SPEAKER:

24 --- North and South?

25 A. No.

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UNIDENTIFIED SPEAKER:

Then why wouldn't you have expressed an opinion about the north the same as the south? What was different about the south?

A. When --- my concern was, if you line that up, I mean, it's where it bounced. But my concern at the time was, they had sealed the west because of numerous roof falls where they are. I mean, I think they're marked and it showed on the map. Now I'm telling you looking at it from the map. I don't know what the severity or how high or what, other than assuming that they're above the zone ---. But there was a layout there and you can look at it on the vent one, that there was in the west mains, where it had bad area. And it was --- beside that bad area was beside where it bounced and we stopped mining associated with that, you know, me looking at it ,hey, you got a fall, you got a fall zone. That's how I looked at it.

UNIDENTIFIED SPEAKER:

So your concern that you voiced to Billy wasn't the fact that you had the longwall gob to the north, the longwall gob to the south, and here we're going to mine into two barriers in between all this gob? That wasn't ---?

A. No, you're asking me two different questions. I went to Billy and I asked him, are we going to do this. And he said it was okay. That's all I asked him. You're asking me what my opinion was ---.

UNIDENTIFIED SPEAKER:

Well, I think that was the original question was, what was your opinion when you first saw it. And your response was ---?

A. Well, that's my opinion, ---

UNIDENTIFIED SPEAKER:

I understand.

1 A. --- but I didn't tell Billy this, I just asked Billy, are we going to mine this. You're
2 asking me what my opinion was, this is my opinion. I didn't tell Billy, hey, Billy, this is
3 my opinion. I asked, Billy, are we going to mine this? And he said, yes. I didn't say,
4 hey, my concern is all ---. But my opinion is, the reason I went to him, are we going to
5 mine it, is I looked at that and I saw some falls in the mains. And it was beside where
6 it fell on the north barrier retreat. That was my opinion of it. I didn't say, Billy, here's
7 my concerns, like I just told you. I just asked Billy, are we going to mine it. And that's
8 when the pillar designs got changed.

9 UNIDENTIFIED SPEAKER:

10 And I don't have any questions.

11 BY MR. TEASTER:

12 Q. Jeff, a question that I had initially phrased, were the longwall gobs on the right
13 and left of those west mains. And a lot of people when they looked at that west mains
14 stuck up there with gob on both sides, that we should've never been mining up there.
15 And I asked you what your initial thoughts were, and you said crazy.

16 A. Yes, sir, and I told you I thought that we could develop it only. I think I told
17 you that I thought ---.

18 Q. But the first thing you said was crazy.

19 A. Yeah.

20 Q. And then you went on to say that you could develop it later on. But you went
21 to Billy ---. I asked you if you shared that with anybody. You said you went to Billy.

22 A. No, I went to Billy --- the only thing I did to Billy is when they were going to
23 retreat this right here.

24 MR. PAVLOVICH:

25 The south barrier.

1 A. The south barrier.

2 BY MR. TEASTER:

3 Q. Okay.

4 A. I went to Billy --- you asked me what I thought of that. And I told you I thought
5 it was crazy. And I also said developing I thought was okay. After this occurred, and
6 this was in conjunction --- mine was in conjunction with Billy's. The only differences
7 was his was later than mine.

8 Q. Okay.

9 A. Okay. And my name is not on his. And I don't --- I think his name is on mine.

10 Q. All right.

11 A. Billy's name is on mine, mine was first. I didn't sign Billy's, so I don't know
12 what Billy did. I did go to Billy and ask him, are we going to mine this. And he said,
13 yes, that the numbers were good. I didn't go into any detail, I just went into Billy and
14 said, are we going to allow this, and he said yes.

15 Q. Okay. Just going back just for a moment to this bleeder evaluation point.
16 When you go into the water as far as you want to go into it, you can. But you got a
17 single entry and you have a roof fall, and let's say it's in between where the section
18 starts and where the water starts. What do you do if you got a roof fall on that?

19 A. They'd have to repair it, rehab it, clean it up, or back up and start all over or
20 seal it like we did here because of the bounce.

21 Q. Okay. And if you read this requirement here, it's highlighted there. It's got
22 roof falls and water in the same. It don't say nothing about --- anything about
23 elevations. It says, you have no obstructions such as roof falls or ---.

24 A. I told you, I said you'd have to clean it, rehab it ---.

25 Q. Clean it or ---.

1 A. Rehab it, or back up and start all over.

2 Q. Then how would you --- the point is, how do you differentiate between
3 accumulations of water based on that requirement, because it's got two requirements,
4 if you got obstructions such as roof falls or accumulations of water.

5 A. Well, I've explained to you, sir, that due to dip ---.

6 Q. No, I'm talking about this requirement. This is not in the plan. This is a
7 requirement that's in the ---.

8 A. But we've got that covered. That's what I keep trying to --- maybe I'm not
9 getting your --- getting your point. We've got that covered in the roof and the vent.
10 And when you don't --- if you have a roof fall you got to clean it and go over it. You
11 got to rehab it, go over it or clean it and rebolt it.

12 Q. That's because the plan says --- the plan says you got to do that; right?

13 A. To the deepest point of penetration, wherever your evaluation point is.

14 Q. Okay.

15 A. I just, you know, I think we're covering that base. And if you have something -
16 -- even if it's a roof fall and they don't want to clean it, we make them come out by the
17 roof fall. If it's a single-panel wraparound, ---

18 Q. Uh-huh (yes).

19 A. --- they're out of there. They would have to seal --- Bowie, we made Bowie do
20 it over and over and over. Joe remembers Bowie doing it. They back up, seal,
21 because of roof falls, you know, single wraparound. If the roof fall impedes getting to
22 the deepest point of penetration, you seal it, start all over. I mean, I can show you
23 several of them. Especially Bowie, that was routine at Bowie.

24 MR. TEASTER:

25 Joe, do you have anything else?

1 MR. PAVLOVICH:

2 No.

3 BY MR. TEASTER:

4 Q. Jeff, that's all we have. Is there anything you'd like to share with us that we
5 haven't asked?

6 A. No, I'm sorry I say the F word too much. Just don't wash my mouth out with
7 soap.

8 UNIDENTIFIED SPEAKER:

9 That's okay.

10 A. I'll get those other that I ---.

11 BY MR. TEASTER:

12 Q. Okay.

13 A. Those 2000-204s.

14 Q. Now, we'll be back tomorrow, if you can get them tomorrow.

15 A. I'll just get 'em right now. It's easy for me to get 'em.

16 Q. All right.

17 A. That way you can put them in your records or whatever you want to do.

18 UNIDENTIFIED SPEAKER:

19 He can get them to us in the morning.

20 MR. TEASTER:

21 Well, if he wants to get them tonight ---.

22 A. I got them laying there by my desk.

23 MR. PAVLOVICH:

24 Oh, you got them already?

25 A. Yeah, I've already got 'em. I've done 'em. I'll just give them to you and show

