

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
LARRY RAMEY

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
JANUARY 24, 2008

1 BY MR. PAVLOVICH:

2 Q. Let me explain a little bit, I think you probably are pretty much aware of this
3 but, you know at Crandall Canyon, usually after an event of that type, MSHA does an
4 internal review and you're well aware of that. In this instance because Richland
5 Stickler and Kevin Stricklin were both onsite, they elected not to do an internal review
6 with MSHA people heading it up but they asked for some people to come out of
7 retirement, meaning Ernie and I, and call this an independent review since we're no
8 longer affiliated with MSHA. And the team behind you here and of course AI to your
9 left, because Ernie and I couldn't do it ourselves, they were --- we asked for their
10 assistance in participation on this group and Ex. (b)(6) and Ex. is our attorney. So that kind of
11 gives you a little background of why were here, okay. What we'd like to do Larry is
12 record this interview if that's okay with you. Our intent is if there should be some
13 discrepancy or discussion about what was said, we could go back and listen to the
14 tape and see; is that all right?

15 A. Fine.

16 Q. Okay. I have a brief statement to read for you and then we've got some
17 questions for you, okay? The secretary's assigned this group the task of evaluating
18 MSHA's performance during the period preceding the August 6th, 2007 coal bounce at
19 Crandall Canyon Mine and the subsequent rescue effort. We will also be evaluating
20 issues that were raised during this time period regarding Bob Murray and his
21 interaction with MSHA.

22 This is not an investigation or review of any individual person. It's an
23 administrative review of MSHA's actions as an agency. This evaluation will be
24 presented to the secretary in the near future. It's intended that the results of the
25 evaluation will be made public. The interview is being conducted to gather

1 information for this assignment. We also intend to interview a number of other MSHA
2 employees. So that we may obtain unbiased information from all persons to be
3 interviewed we ask that you not discuss this interview with anyone until all the
4 interviews have been completed. And we anticipate that some time around the
5 second week of February. Okay. You are a management person or are you
6 bargaining unit now?

7 A. I'm still a 13.

8 Q. Okay. So you're not real sure if a conference officer is a bargaining unit or ---
9 ?

10 A. No.

11 Q. I believe a conference officer is a bargaining unit. A COR.

12 MR. PAVLOVICH:

13 Do you know, Ex. (b)(6) and Ex. (b)(7)(C)

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

15 I don't know. But I mean, for purposes of this interview, let's
16 assume you are bargaining unit. Do you want a representative?

17 A. No.

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

19 Are you sure?

20 A. Yes.

21 BY MR. PAVLOVICH:

22 Q. Okay.

23 A. I guess I could call Blake Henna (phonetic) out of retirement.

24 Q. You can or any representative you would like. I think Blake would be one of
25 the best you can get.

1 A. I mean, might as well go for the best. You better strike that from the record. I
2 don't want Blake getting ahold of that.

3 Q. Larry would you state your full name for me, please?

4 A. Larry Wayne Ramey.

5 Q. Okay. What is your present title, Larry?

6 A. I'm the conferencing litigation officer.

7 Q. And how long have you been the COR here in Denver?

8 A. I accepted that position the last of November of 2007.

9 Q. Prior to coming to Denver as a COR, where was your duty station and what
10 was your title?

11 A. It was in Delta, Colorado and I was a field office supervisor.

12 Q. And how long had you been the supervisor there?

13 A. Approximately from 2000.

14 Q. How long have you worked for MSHA, Larry?

15 A. Since 1982.

16 Q. And has all that MSHA experience or all the years with MSHA been here in
17 the west.

18 A. No. I worked --- I started out in Richlands, Virginia and I transferred in April of
19 1984 to Price, Utah.

20 Q. To Price, Utah. And spent several years as an inspector in Price?

21 A. Yes.

22 Q. Okay. Are you --- do you have any other duties here in District 9?

23 A. Yes. I'm a Director of Mine Rescue in District 9 and also I'm over the mine
24 emergency team.

25 Q. Okay.

1 A. Or MSHA mine rescue team.

2 Q. So you have an MSHA mine emergency team here in District 9 made up of
3 inspectors or employees from District 9?

4 A. Yes.

5 Q. And you're also over the Blue Goose?

6 A. Yes.

7 Q. And the maintenance of equipment for the mine rescue?

8 A. Yes.

9 Q. Had you ever met Bob Murray before the accident on August 6th?

10 A. No.

11 Q. Had you ever been at any of the mines that Murray now owns?

12 A. Yes.

13 Q. After he took over the mines or prior to?

14 A. Both.

15 Q. Okay.

16 A. The Crandall Canyon used to be called the Genwal and it was owned by the
17 Jeff brothers out of Buchanan, Virginia. And I use to inspect it when I was at Price.
18 And of course it was just a little, one section mine. It wasn't in there that far. And then
19 when I left Price, I never went back there. And then in April, I think it's April or May of
20 last year, my supervisor, Bob Cornett sent me on special detail with Randy Gunderson
21 to Price and we inspected Aberdeen and West Ridge Mines, which is owned by Bob
22 Murray.

23 Q. And so those were Murray mines at the time?

24 A. Yes.

25 Q. And so you traveled with Randy Gunderson and made an inspection at West

1 Ridge and Aberdeen. Was that a one day inspection or a full EO1 inspection?

2 A. No. I was there for approximately, close to two weeks.

3 Q. Two weeks?

4 A. Yes.

5 Q. At both mines?

6 A. Yes.

7 Q. A total of two weeks at both mines?

8 A. Back and forth. Yes, more time spent at Aberdeen than West Ridge.

9 Q. Can you tell us what the purpose of that special request by Bob Cornett was?

10 A. I think he wanted me to go and just oversee what was going on at the mine or
11 if there was something I could add to the inspection part of it. Just more or less, travel
12 with Randy and ---.

13 Q. Is that something that's normally done out here? Would Bob have had
14 another supervisor come over to Delta and inspect some of your mines occasionally?

15 A. No. It hasn't happened.

16 Q. Never happened before?

17 A. No.

18 Q. And you hadn't been asked to do this before other than this one time or have
19 you?

20 A. Well, they had the belt initiative going on.

21 Q. But this wasn't part of the belt initiative?

22 A. No.

23 Q. So what areas of those mines did you look at, Larry? Were you given any
24 instructions to look at specific things?

25 A. One of the instructions was to look at their ventilation system, bleeder system

1 and that.

2 Q. So there was concern maybe about the bleeders and ventilation?

3 A. Yes.

4 Q. And so did you, when you did those inspections, did you find any issues with
5 the bleeder system or ventilation system?

6 A. No. Nothing major.

7 Q. So the ventilation system primarily was in pretty good shape?

8 A. Right.

9 Q. What about the rest of the mine. How did they look?

10 A. Not good.

11 Q. So did you write some citations or orders in other areas other than ventilation?

12 A. I think in the less than two weeks we were there, we issued like 16 D2 orders.

13 Q. Sixteen (16) D2 orders?

14 A. Yes.

15 Q. In two weeks time?

16 A. Less than two weeks, yes.

17 Q. At both mines?

18 A. Most of them were at Aberdeen. I think we issued, maybe one --- and I'm the
19 one that issued it, I think I issued an imminent danger and a D2 order at West Ridge
20 on an EO2 by myself.

21 Q. What were --- primarily what were these orders for? What kind of violations?

22 A. Accumulations. A lot of them were 400s, not maintaining the escapeways.
23 Big part of it was accumulations, inadequate rock dust, I think were some. Majority of
24 them was accumulations.

25 Q. Okay. So you didn't find what Bob Cornett initially asked you to go over and

1 look at was ventilation problems but you found a lot of other problems?

2 A. Yes.

3 Q. And so did you report that back to Bob in any particular ---?

4 A. Yes.

5 Q. And what was the end result of that?

6 A. Bob supported it a hundred percent.

7 Q. So your violations were all upheld and ---?

8 A. Yes.

9 Q. And there was no repercussions on you for you being a heavy hitter or
10 anything like that?

11 A. No.

12 Q. Okay.

13 A. The only people that complained was the operator.

14 Q. Had you been at those mines any time prior to that? When you worked out of
15 Price or ---?

16 A. No.

17 Q. Not anytime soon.

18 A. No, because actually when I was in Price, I don't even think either one of
19 those mines were even operating. No.

20 Q. Okay.

21 A. No, so I was ---.

22 Q. You didn't have any comparison prior to Murray as opposed to after Murray?
23 It was just bad after Murray, you knew then?

24 A. Right?

25 Q. Have you ever been asked or instructed not to continue with enforcement

1 action there or to vacate enforcement actions at mines under your jurisdiction or that
2 you were inspecting?

3 A. No.

4 Q. Never?

5 A. No.

6 Q. So, pretty much if you write imminent danger orders or D orders, they're
7 supported by the District?

8 A. Well, not a hundred percent.

9 Q. Okay. What percent wouldn't be?

10 A. Well, I think, I mean there's been a few changed.

11 Q. Okay.

12 A. Not that I personally issued but some of my inspectors have, where I've been
13 with them.

14 Q. And how did you --- how did that change go about? How were you instructed
15 or how was the change made?

16 A. It went through the conferencing.

17 Q. So it was changed in conference?

18 A. Yes.

19 Q. And had you had an opportunity to comment on that before it was changed?

20 A. Sometimes you did and sometimes you didn't.

21 Q. Okay. Were you notified afterward that it was changed by a conference and
22 were you given reason as to why it was changed?

23 A. Yes.

24 Q. And did you feel those reasons were valid?

25 A. No.

- 1 Q. You didn't?
- 2 A. No.
- 3 Q. Did you have any recourse?
- 4 A. Yes. I wrote memos stating my disagreement.
- 5 Q. So you wrote memos to who?
- 6 A. To the District Manager.
- 7 Q. And did you get any response from those memos?
- 8 A. Sometimes yes, sometimes no.
- 9 Q. So you would write, have you written many of these memos?
- 10 A. No.
- 11 Q. So a few?
- 12 A. Yes.
- 13 Q. And when you say sometimes yes, sometimes no, you just, some of them
- 14 were just ignored or ---?
- 15 A. Probably got lost in the paperwork.
- 16 Q. You don't know what happened to them; right?
- 17 A. No.
- 18 Q. Okay. And the ones you got a response on, basically what did that response
- 19 say?
- 20 A. Appreciated the input, but it stands.
- 21 Q. It stands as changed?
- 22 A. As modified, yes.
- 23 Q. How did that affect your ability to enforce actions in your area of supervision?
- 24 A. Well, it has a trickle down effect to your inspectors, but you just tell them, hey,
- 25 just do what you think is right and keep going.

1 Q. So did they continue on with their activity in lieu of having things changed or
2 because of having things changed they still continued?

3 A. I mean there's no doubt that it bothers people. I mean, you know. But yeah, I
4 think it does have an impact how you reply back and being in this job now, I try to, you
5 know, do it a little bit better I think.

6 Q. Okay.

7 A. Just let them know beyond a reasonable doubt why you're changing. You
8 know, just don't just say it's being changed. I mean, give them a good reason, give
9 them some court cases and then talk to them. Say hey, here's what I'm thinking, what
10 do you think, you know.

11 Q. Okay. Did you ever have any knowledge about a phone call between Al Davis
12 and Jim Poulson and Jerry Taylor on October 31, 2006?

13 A. No.

14 MR. PAVLOVICH:

15 Do you have that note, Ex. (b)(6) and Ex. (b)(7)(C)

16 BY MR. PAVLOVICH:

17 Q. While Ex. (b)(6) finds that let me ask you this, you ever see any favoritism for
18 operators as (b) as having violations changed or reduced or is it pretty much standard
19 across the board? Did you ever see Peabody get more attention or Arch? Arch get
20 more attention or is it pretty much equal there?

21 A. Well I guess, yeah, there are some operators out there that demand more
22 attention. I mean, take for instance, West Elk.

23 Q. When you say demand more attention, do you mean from your aspect as a
24 enforcement supervisor?

25 A. Yes.

1 Q. Or do they get preferential treatment because they're a big operator?

2 A. I wouldn't say that. I think they request more in depth meetings. You know
3 that thing.

4 Q. You don't see where they have a hotline to somebody up here that you write a
5 heavy paper, they can get it changed?

6 A. Well, sometimes you think that.

7 Q. Sometimes you would think that?

8 A. Yeah.

9 Q. Would you have instances of why you would have thought that?

10 A. Well, I mean there's been times that we've issued Ds and, you know, they've
11 called, they went outside the chain and made a phone call directly to the District and
12 then there was meetings set up, you know, at the mine or up here. And sometimes
13 we, you know, we're involved and sometimes we weren't.

14 Q. And what would the results of those meetings be? Would you be encouraged
15 to back off on enforcement activities?

16 A. No.

17 Q. Okay. So you didn't see any --- I mean, they might have a meeting.

18 A. Right.

19 Q. Some discussion you might be in it, you might not, but it didn't come after
20 where, Larry, you better quick issuing Ds or anything like that?

21 A. No, no.

22 Q. Did you ever have any kind of instruction like that is maybe you should
23 reconsider your enforcement posture?

24 A. Ah.

25 Q. Is that a yes or a no?

1 A. Well, I think anytime, you know, if you're a strong enforcer, there are times
2 when you're met with and, you know, say you need to look at, you know, your
3 enforcement actions or ---.

4 Q. Would you say that that has happened more frequently with you with the
5 change of district managers from Jack Kuzar to Al Davis or has it pretty much been
6 about the same?

7 A. The same.

8 Q. It's been the same? So Jack Kuzar also told you to back off on enforcement
9 at times?

10 A. Very seldom.

11 Q. So Al's also very seldom told you that? Is that a yes or a no? Or you don't
12 recall?

13 A. Don't recall.

14 Q. I'll let you off easy, Ramey, because I like you. Ever heard anything about a
15 meeting? And I've mentioned this 10/31/06 meeting? Do you see some highlighted
16 notations there about Poulson and Jerry Taylor talking about Larry Ramey? Just two
17 heavy handed for us.

18 A. Jerry Taylor?

19 Q. Yeah, do you know who Jerry Taylor is? Does he work for Murray Energy?

20 A. Jerry Taylor?

21 Q. Maybe he's one of their safety guys?

22 A. I'm not sure.

23 Q. Well you know who Poulson is; right?

24 A. I know who Poulson is, yeah. Using too many orders, 15D2s in October.

25 Q. Did anybody ever talk to you about that, Larry? That discussion there?

- 1 A. No.
- 2 Q. Never heard anything about having that --- anybody having that discussion?
- 3 A. Not with me, no.
- 4 Q. Okay. I mean there was nothing that ever came and said, Larry, these people
5 said you're using too many D orders? Never heard that?
- 6 A. No.
- 7 Q. From AI?
- 8 A. No.
- 9 Q. Or from Cornett or anybody? Have you ever been criticized for using too
10 many D orders?
- 11 A. Myself, personally?
- 12 Q. Yeah.
- 13 A. Let me think. I don't know it to be criticism, it might, you know, look at it, you
14 know, closer. But is it really necessary or something, you know.
- 15 Q. Okay.
- 16 A. Maybe something of that nature, but not ---.
- 17 Q. Can you tell me who asked you that? Is this kind of action really necessary?
- 18 A. Jeez, probably everybody I work for once in a while.
- 19 Q. All right. Were you detailed to the Price field office for awhile as acting
20 supervisor?
- 21 A. Yes.
- 22 Q. And that was while you were the supervisor in Delta; right?
- 23 A. Yes.
- 24 Q. And what was the reason for that?
- 25 A. Well, I think that was the time when I went to Aberdeen.

1 Q. Okay. So you were acting supervisor then?

2 A. Yeah, yeah.

3 Q. How long did you stay over in Price acting?

4 A. Like I'd say less than two weeks.

5 Q. Just two weeks?

6 A. Yeah. It wasn't very long.

7 Q. Did you ever have any trouble with anybody as far as enforcement actions or
8 anything like that?

9 A. No.

10 Q. Okay. So you never really did any kind of analysis of violations or anything in
11 any of Murray's mines other than these two weeks of inspections you did; right?

12 A. No.

13 Q. Okay. Do the actions of the COR in the District affect the enforcement
14 attitude of work groups here?

15 A. Yes. I think they do.

16 Q. Okay. They affect it positively or negatively?

17 A. Both. Both ways. More negative. I mean, you know, I'm not talking about
18 myself. But, yeah, I mean there definitely was a problem ---

19 Q. Okay.

20 A. --- with communication and changing good paper. Paper that should have
21 been upheld.

22 Q. Does that problem still somewhat persist?

23 A. Not with me. I don't know, you know.

24 Q. Okay. So now that you're the COR, one of the CORs because there are two;
25 right?

- 1 A. That's correct.
- 2 Q. Since you know those pitfalls, you'll try and improve on that?
- 3 A. Definitely.
- 4 Q. Okay.
- 5 A. Definitely.
- 6 Q. And you say sometimes you were asked about a violation prior to the
7 conference being held as far as to provide additional information or all the time?
- 8 A. No. I mean there was times when I was never contacted.
- 9 Q. Prior to the conference?
- 10 A. No.
- 11 Q. And had been in recently like in the last year or two years?
- 12 A. That's been for years.
- 13 Q. So it's always been like that? You might get contacted by someone ---
- 14 A. You might and you might not.
- 15 Q. --- and you might not.
- 16 A. Yeah. Sometimes the inspector might get contacted, sometimes they
17 wouldn't you know, that was a big complaint that the office had.
- 18 Q. Okay. So your office made complaints about that?
- 19 A. Yes.
- 20 Q. Was there anything done to correct it?
- 21 A. No.
- 22 Q. Okay. Were you always informed as to changes that were made or what the
23 status of a conference --- so that's how you knew a conference had been held. Did
24 you get something on it?
- 25 A. Afterwards.

1 Q. After the fact.

2 A. Right.

3 Q. And you knew then one was held but you didn't know prior to it.

4 A. Right. Now prior, you know I mean we would get where the operator would
5 request the conference and, you know, the secretary or ---.

6 Q. Okay.

7 A. When I was without one, you know we'd gather up the stuff and send it.

8 Q. Okay.

9 A. And then that was it.

10 Q. But you weren't solicited to provide information?

11 A. I wasn't, no.

12 Q. And you didn't feel that you could? Or could you have when you sent that
13 information in?

14 A. Sure. I'd like to have had the opportunity to hear what the operator's
15 argument was.

16 Q. Okay.

17 A. You know like in the conference, and then you can come back and say, no
18 that's not the way it is or whatever.

19 Q. Okay. So you never had that opportunity to hear what the operator presented
20 prior to the decision being made?

21 A. Majority of the time, no.

22 Q. Okay. Since you come up here as a COR, have you been given any specific
23 instructions on how to conduct those activities?

24 A. Yes. I went to training.

25 Q. Okay. How about from AI?

1 A. I'd communicate with Al.

2 Q. Okay.

3 A. And communicate with Don Gibson prior to --- actually, you know, I'll do all the
4 research, get back with the inspector and supervisor, comments, hold the conference
5 and then go and sit down with them and discuss the packet.

6 Q. Have you been instructed to modify or vacate any citations or orders since
7 you became a COR that you didn't agree with?

8 A. No.

9 Q. Okay. Have you ever been involved in a plan approval process at all Larry?

10 A. Well, you know, when Kuzar was in the District we had an opportunity, you
11 know. A lot of times we would come up and sit and be involved.

12 Q. So as a field office supervisor, you might be called to meetings about plans
13 and other things?

14 A. Yes, yes.

15 Q. Was it normal that you would get a copy of a planned addendum prior to it
16 being approved and asked for your comments or any opinions you had?

17 A. It used to be that way, yes.

18 Q. It used to be done that way?

19 A. Yes.

20 Q. Pretty much on all planned addendums or plans that were --- or sometimes
21 when they felt your opinion was needed?

22 A. Yeah. I wouldn't say all the time, but the majority of the time. Especially like
23 out of the belt area and stuff where it was real critical, you know, with all the methane,
24 ground control problems and stuff that we had.

25 Q. Okay. How about with the last few years? While you were in Delta, were you

1 getting these plans in advance before approval?

2 A. No.

3 Q. So you weren't getting to provide any comments on plans?

4 A. Majority of the time, no.

5 Q. No. So the first time you'd know the operator submitted a plan would be when
6 they sent it already approved to put in your uniform mine file?

7 A. Correct.

8 Q. You ever know the operator having the plan in hand before you did?

9 A. There has been a few occasions.

10 Q. Sometimes that happens?

11 A. The inspectors. We're told that they had that.

12 Q. So the inspector goes to the mine, and says you got a problem here and they
13 say well we got a plan but he'd never seen it and you hadn't seen it?

14 A. Right. That has happened.

15 Q. Would they call you and say, Larry, do we have this plan in the office and you
16 couldn't find it or did they tell you about it later on?

17 A. Well, normally what I'd do is call the District and, you know, say hey, West
18 Elk's got a plan here, we don't have a copy of it. Or you know, West Elk's going to
19 give us a copy of it.

20 Q. So you would actually ---.

21 A. Where's our copy.

22 Q. So you would actually call somebody here?

23 A. Right.

24 Q. And who would that normally be?

25 A. Well, depending on if it was ventilation or roof control, ---

1 Q. So if it was ventilation ---

2 A. --- you know, ground control.

3 Q. --- would you call Reitze or ---?

4 A. Right.

5 Q. And if it was roof, would you call Billy Owens?

6 A. Right. And then the health ---.

7 Q. What would they say? Did they ever say we don't know how you don't have
8 one, we sent you one or ---?

9 A. Or, yeah. Or we don't know why you don't have it or something like.

10 Q. So they'd send you one?

11 A. Right, right.

12 Q. Did that ever cause you any problem?

13 A. No, I wouldn't say it was major problems. I mean, it's not like it was
14 something that was real major.

15 Q. Minor problems. And I don't mean coal mine. Larry, I want to show you
16 drawings of a copy of a plan that was approved for mining the south barriers of
17 Crandall Canyon and I know you're familiar the area I'm talking about. You are
18 familiar with the area; right?

19 A. Yes.

20 Q. Okay. This is a copy of the roof control addendum that was approved for
21 pillar mining in the south barrier. This is a copy of the ventilation addendum that was
22 approved for mining in the south barrier. And I just draw your attention to the area
23 where the offset entry, number four offset entry is. You can see the vent plans says
24 that the barrier can be mined through that area along with three pillars where that
25 offset is. Well, the roof control plan shows no mining of the barrier allowed and also

1 that eight pillars need to be left there. If you were a field office supervisor or an
2 inspector, how would you interpret mining could be done through that area when you
3 look at those two plans?

4 A. Well, first, when I would review this, I would have a question. And I'd get
5 ahold of the District and find out why the plans didn't coincide.

6 Q. So you'd be concerned about that?

7 A. Oh definitely, yes.

8 Q. So you wouldn't just say, well, this one is stronger than that one so I'll enforce
9 this one or anything like that?

10 A. No. I have a big --- I mean, I'd have a big question.

11 Q. Okay. It's not like either one would be okay or whatever?

12 A. No.

13 Q. Okay. And you would try and report something like that to the District; right?

14 A. Oh, I definitely would, yes.

15 Q. Okay. Are you pretty familiar with bleeder systems that are approved in this
16 District, Larry?

17 A. For the Delta mines, yes.

18 Q. And do you feel that those bleeder systems are adequate and designed to
19 work well?

20 A. Speaking for the Delta, yeah, pretty good.

21 Q. Okay.

22 A. Majority of mine is like Bowie is bleederless, so they seal as they go. We had
23 problems with West Elk, you know, here a few years ago. And then the last time they
24 caught on fire, then they went more --- you know, they went more to sealing those off
25 to not leaving such a big district, which really helped.

1 Q. Okay. Do you have any mines that have floating evaluation points in the
2 bleeders, like it says, you know, we allow water to build up here and you only examine
3 to the toe of the water as it builds up?

4 A. Not in Delta, no.

5 Q. Don't have any of those in Delta?

6 A. No.

7 Q. Do you think, how do you think that shakes out from an enforcement attitude
8 to have a flow of evaluation? Do you have a problem with that or do they seem to be
9 okay if you had one?

10 A. Yeah, I would have a problem with it.

11 Q. You would? What?

12 A. Well, I think the thing about when you're talking about floating water and stuff,
13 I mean, there's --- there's a lot of ways to --- like at the mines that I have, they all have
14 the pumps. Air pumps and stuff. And they keep it pumped down.

15 Q. So they keep the water out of the bleeders?

16 A. Yeah. I mean, that's what a bleeder's for, is to move noxious gases and
17 explosive gas and stuff. So yeah, I'd have a problem with water.

18 Q. So your roof control plan basically says, no standing water in bleeder entries;
19 right?

20 A. As for?

21 Q. For the most part it's a standard?

22 A. Right.

23 Q. But in your vent plan in this case, for the south and the north barrier was
24 approved. It said --- well, you'll have to read it.

25 A. Okay.

1 Q. Bleeder system proposed a wrap around bleeder top to bleeder.
2 Measurements points will be located at the deepest point of penetration of the edge of
3 the accumulated roofed water. The recovery of this managed planned will be done in
4 accordance with the approved roof control plan. So it says here at the toe of the
5 accumulated water. So basically, as water would build up in this area, you would only
6 have to do your examinations of the bleeder to the toe of the water. Do you think
7 that's a concern where you have a mine that hadn't had a history of methane?

8 A. Yes.

9 Q. Does it matter?

10 A. No.

11 Q. So if it has methane or no methane you would still be concerned about that
12 kind of a plan?

13 A. Yes.

14 Q. Do you find that plans like that are easier to get through in mines here that
15 don't have a history of methane?

16 A. I can't comment on it. I have no comment on that.

17 Q. You don't know.

18 A. Because I don't know.

19 Q. Okay. Did you ever make comments or your inspectors make comments on a
20 2204 form as far as adequacy or inadequacy of the roof control and the vent plan?

21 A. Yes.

22 Q. Do they ever check the block that says inadequate or deficient and write a text
23 there?

24 A. Yes.

25 Q. As to what they thought was deficient?

1 A. Yes.

2 Q. How does the district respond to those? Do you get responses on those?

3 A. Yeah.

4 Q. All the time you say?

5 A. I would say, as far as I know, all the time. You know it might be a quite a bit
6 of a time lag from the time you send it in until the time you get a response. But
7 normally you get a memo back stating ---.

8 Q. In your case, you normally would have gotten the memo back?

9 A. Yes.

10 Q. And usually it would address your issue or in some way we're looking at it or
11 we'll do something or it's not an issue?

12 A. Correct.

13 Q. But you would get something back you feel?

14 A. Yes.

15 Q. Okay. Do you ever have any trouble understanding enforcing plans due to the
16 large number of addendums?

17 A. Yes.

18 Q. And how do you try and remedy that situation, or can you?

19 A. There's not much you can do about it. I mean, you take West Elk for
20 instance, I mean, my gosh I mean, if you look at --- look at their ventilation plan, it's ---
21 .

22 Q. Is there a lot of addendums?

23 A. Yes.

24 Q. Did they not incorporate those into a base plan on a regular basis?

25 A. When they come up for review.

1 Q. Six months review?

2 A. Or when they try to get them to, you know, incorporate a lot. But they'll have
3 addendums for everything.

4 Q. Do they have site specific addendums?

5 A. Yes.

6 Q. So when that job is accomplished, do you have any way to notify Denver that
7 that is accomplished and that site specific addendum needs to come out of the plan or
8 out of the UMF?

9 A. Most of the time --- let me think back, most of the time they put a statement in
10 there, once that plan or that addendum is accomplished to let them know here in the
11 District, and then we know and we take it out of the mine file.

12 Q. Okay. So do you normally do that?

13 A. Yes.

14 Q. Okay.

15 A. Well, we try. Sometimes we don't.

16 Q. Okay. Is it hard to know when all those site specific plans are completed or
17 would your inspectors normally know?

18 A. Inspectors ---.

19 Q. Normally know?

20 A. Yeah. They normally know. They're pretty good about it.

21 Q. Larry, you've been out here a lot of years and you've inspected all over Price,
22 you seen a lot of longwall mines and all that. Is it common that you would mine, do
23 retreat mining in barrier pillars where you got longwall gobs similar to what was being
24 done at Crandall?

25 A. That's the first time to my knowledge.

- 1 Q. So you've never seen ---?
- 2 A. I've never saw that.
- 3 Q. You've never seen that before here?
- 4 A. I'd have to honestly say no. I just --- I've never seen that.
- 5 Q. Would you be concerned about something like that with high cover?
- 6 A. Yes. Very concerned.
- 7 Q. When you were in Price or Delta, either one, did you ever have any
- 8 interaction at all with the BLM people?
- 9 A. In Delta, yes. In Price, no I don't think so. Not in Price.
- 10 Q. So was it kind of a regular thing in Delta that you'd meet with them or just
- 11 have occasion to?
- 12 A. No. I used to deal with them a little bit at McClain.
- 13 Q. Okay.
- 14 A. McClain Canyon. And then when McClain blew up a couple years ago, they
- 15 were there, and you know, they more or less just came in as advisors and granted
- 16 approvals for drilling the, you know, holes and stuff like that.
- 17 Q. Okay. So it was on a emergency thing that a ---?
- 18 A. Yeah.
- 19 Q. But, it wasn't that you would report things to them or they would report things,
- 20 any kind of an agreement like that that you know of?
- 21 A. No, no.
- 22 Q. How familiar are you with bumps, Larry?
- 23 A. Pretty familiar.
- 24 Q. Have you ever been in a bump ---
- 25 A. Lots.

- 1 Q. --- as an inspector in Price and in Delta or around this area?
- 2 A. Delta, Price.
- 3 Q. Everywhere.
- 4 A. Glenwood Springs, Mid Continent.
- 5 Q. Have you ever investigated bumps?
- 6 A. Yes.
- 7 Q. Okay. You'd know of accidents and injuries that occurred then because of
- 8 bumps?
- 9 A. Yes.
- 10 Q. You know if bumps, or bounces, I'll call them ---
- 11 A. Bounces and bumps.
- 12 Q. --- bounce, bump.
- 13 A. Yeah.
- 14 Q. I'll call it interchangeable, because and I don't know if you have a ---.
- 15 A. Same thing.
- 16 Q. To you it's also the same? You don't have a specific interpretation of one or
- 17 the other? Okay.
- 18 A. Yeah.
- 19 Q. Okay.
- 20 A. Both the same.
- 21 Q. Do you know if they're recorded on mine maps under your jurisdiction?
- 22 A. No.
- 23 Q. They're not?
- 24 A. No.
- 25 Q. Do you know of any regulation that might require them to record a bounce?

1 A. Not unless it causes roof falls or impeded travel or ---

2 Q. Okay. So if you had a bounce ---?

3 A. --- stop production or something like that. A bursts.

4 Q. The regulation says, roof falls or bursts.

5 A. Yeah, out bursts.

6 Q. That impede travel, stop production for so long, blow out --- damage
7 ventilation control. Do you understand that?

8 A. Right.

9 Q. Should be recorded on a mine map. Have you ever seen any bumps or
10 bounces recorded on a mine map?

11 A. Yeah.

12 Q. Recently or prior to Crandall Canyon?

13 A. No. Like Elk Creek and West Elk. They used to like record them. Especially
14 like on a tailgate blockage.

15 Q. Okay. So they would show those on a mine map similar to what they would
16 show their roof falls?

17 A. Yeah. Yeah, they just like pencil it, or draw it in.

18 Q. Okay. How would you determine if a bump was reportable, Larry?

19 A. Well, most of the --- the operators and I'm only speaking for Delta, where they
20 were pretty good about notifying us ---

21 Q. Okay. So if they have one ---.

22 A. --- on major bounces. And then sometimes they notify us just to get us in the
23 loop, you know. They could have a bounce on the tailgate and it wouldn't completely
24 close it off. You could still, you know, like the floor would come up and they would
25 call, and call it like tailgate blockage.

1 Q. Okay.

2 A. We would go investigate it.

3 Q. So are these bounces pretty common out here?

4 A. Yes.

5 Q. Has there been a lot of effort and a lot of work to preventing bounces or do
6 you think there's more work toward shielding people from the effects of a bounce?

7 A. Well, speaking in Price, when I used to be at Sunnyside and stuff, Bureau of
8 Mines and stuff did a lot of research and you guys are probably familiar with it. You're
9 probably familiar too as when they came and put these seismograph things and all
10 this, but you know, they'd always tell you the next morning, well you had one. You
11 know.

12 Q. Something we already knew.

13 A. I mean, we all knew. I mean, we knew how it worked. I mean, you know, I
14 think they did quite a few studies.

15 Q. So you never found the means of ---

16 A. No.

17 Q. --- predicting to your knowledge, you never found the means of prevention?

18 A. Not to my knowledge, no. They always tell you that you had one, but I never
19 seen anything where they ---

20 Q. Never predicted.

21 A. --- they say you was going to have one.

22 Q. Okay.

23 A. Now, the only place I know that you could bet that something was going to
24 happen was at Mid Continent. You know, if you go on the face and it was straight up
25 and down and tight, you wouldn't hearing anything, then you better be careful.

1 Q. Okay. Were you ever aware that when they mined the north barrier at
2 Crandall Canyon that they had a pretty severe bounce?

3 A. No.

4 Q. Are you aware of that today?

5 A. Yes.

6 Q. And how did you become aware of that?

7 A. I heard it at the mine when we were there on the ---.

8 Q. When you were there on the rescue attempt?

9 A. Yes.

10 Q. Did you ever see any pictures of that bounce or hear anything about the
11 extent of it?

12 A. No. The only thing I heard was it was pretty massive.

13 Q. Okay. Who was telling you about it?

14 A. Just ---.

15 Q. The company maybe?

16 A. Well, I mean, you heard a lot from the workers.

17 Q. Workers?

18 A. And of course your own people, you know that kind of thing. Not so much the
19 company people.

20 Q. There's a kind of a map and the purple lines kind of show the pillars that
21 bounced or the corners or sides of the pillars that bounced and you'll see several
22 photographs in there if you want to scan through there very quickly that show some of
23 the extent of that bounce. And of course this arrow kind of shows where you're
24 looking at or where the photo was taking at.

25 A. It looks like what I saw when I first went in there.

1 Q. Does that look like a pretty significant bounce to you?

2 A. Yes.

3 Q. Would you think that if someone said, Larry, I had a bounce and it blew out or
4 damaged a couple stoppings, would that be something that should be reported to
5 MSHA?

6 A. Yes.

7 Q. And you as a field office supervisor, if someone called and said we had a
8 bounce that some stoppings were damaged and maybe we're concerned about
9 traveling the bleeder, would you send somebody out to investigate that bounce?

10 A. Definitely, yes.

11 Q. So you would have done an investigation of it?

12 A. Yes. Probably went myself, too.

13 Q. Okay. How long have you been the Director of the MEU team in the west?

14 A. I think ---.

15 Q. Would you say it's been since its inception?

16 A. Yes.

17 Q. Okay.

18 A. What three years?

19 Q. Three years.

20 A. Two, three.

21 Q. Did you have a lot of influence in selecting the MEU team members?

22 A. Well, to be honest, we pretty much --- the people that --- we put out an e-mail
23 or whatever and actually we brought everybody that pretty much --- yeah, everybody
24 that volunteered.

25 Q. Okay. So you --- pretty much, the people that volunteered, that's the ones you

1 got?

2 A. Right. Right.

3 Q. What kind of equipment do you have available for you?

4 A. Right now we have BG4s.

5 Q. Okay. How about vehicles?

6 A. We have a Blue Goose.

7 Q. And it is well maintained?

8 A. No.

9 Q. And starts every time?

10 A. No.

11 Q. No?

12 A. No.

13 Q. I wonder what --- it's under your jurisdiction; isn't it?

14 A. I know.

15 Q. Can't you get that kind of working all right?

16 A. I'm telling you, it's been a nightmare. Our biggest problem right now is, we're
17 so spread out, and you know, the equipment is strung out throughout the district and
18 the thing that ---.

19 Q. So everybody keeps their apparatus at their duty station which may be
20 Gillette, Delta, Aztec, Price?

21 A. That's correct and the reason for that is we don't really have a central station
22 until the building in Price gets built.

23 Q. Okay. So their building a station in Price gets built?

24 A. Yes.

25 Q. Got any satellite phones, stuff like that? Chromatograph, gas analysis?

- 1 A. Gas analysis would be here in Denver.
- 2 Q. So here in Denver?
- 3 A. Yes. No satellite phones.
- 4 Q. No satellites.
- 5 A. Other than the one that's on the MEO.
- 6 Q. Okay. What kind of training did you have to prepare you for a situation like
- 7 Crandall Canyon as far as MEO training?
- 8 A. I don't guess, other than experience.
- 9 Q. Okay. So really no formal training of any kind?
- 10 A. No formal specific training.
- 11 Q. Are you also an apparatus wearer now?
- 12 A. Yes.
- 13 Q. Okay. So you have the training to wear an apparatus suit if need be?
- 14 A. Yes.
- 15 Q. Okay. Although you normally would not; right?
- 16 A. Correct.
- 17 Q. Were you a member of the team back east before you became the
- 18 coordinator here?
- 19 A. I was a member of Pittston, Pittston Coal Company.
- 20 Q. Pittston Mine. Okay. So this is from your industry days, but not the MSHA
- 21 MEU team in Pittsburgh?
- 22 A. Not MSHA. No.
- 23 Q. Okay.
- 24 A. As a matter of fact, they didn't have it when I was there.
- 25 Q. Okay. So you were selected as the coordinator here because of your

1 involvement in mine rescue training and contest knowledge of mine rescue prior
2 activities here?

3 A. Correct.

4 Q. How many emergencies has your team here in the west responded to, Larry?
5 Can you briefly give me an idea?

6 A. Okay. We responded to the one at McClain ---

7 Q. Okay.

8 A. --- when the mine blew up. We responded to West Elk, and then the Crandall
9 Canyon.

10 Q. Deserado?

11 A. Deserado. And I think that's --- oh, and Bear Canyon.

12 Q. Bear Canyon?

13 A. Yeah.

14 Q. Like I said, have you ever seen anything like this bounce that occurred at
15 Crandall Canyon?

16 A. Not to this magnitude, no.

17 Q. So most of the bounces you would have seen, would you describe them as
18 being one or two pillars bounced down and some material on the floor? Maybe
19 partially filled the entry?

20 A. Yes.

21 Q. Never saw one where the entries were totally full like this?

22 A. No.

23 Q. Nor that extent?

24 A. No.

25 Q. You ever cleaned one up like this, Larry, in any of your experience or been

1 associated with some kind of a clean up activity of a bounce like this?

2 A. No. Not to that magnitude.

3 Q. So usually if it's a tailgate blockage, they kind of mine past it. You don't go in
4 and clean the material out; right?

5 A. That's correct, yes.

6 Q. How were you notified of the accident of Crandall Canyon, Larry?

7 A. Mr. Davis called me.

8 Q. Okay.

9 A. Early that morning.

10 Q. Okay. And what did he tell you? Do you remember?

11 A. He said that there had been a serious accident at Crandall Canyon and for me
12 to get my team together and head that way.

13 Q. Okay. Did you know anything more about it other than a serious accident?

14 A. He said that there was a --- I think he did say that there were six or seven
15 people or something missing.

16 Q. Okay. So you know that.

17 A. But there were some people missing. Yes.

18 Q. So did you then contact all your team members?

19 A. Yes.

20 Q. And told them to respond and bring their equipment?

21 A. That's correct.

22 Q. And when did you leave for the mine?

23 A. I went to the field office and got a hold of Brad Allen, and like I said, it was
24 real early in the morning. He was on his way down. I was getting our equipment or
25 BG4s and all that stuff. And when he got there we headed to Price and had Peter

1 Saint, who was in Aztec. Gary Jenson, I called him. He was in Las Vegas. Randy
2 Gunderson was enroute to the mine. Jim Martin was actually on vacation up in
3 Wyoming, I think, close to the Colorado border. And then Scott Markby (phonetic)
4 was headed that way and Hillary was here in Denver and she was contacted and
5 headed out.

6 Q. Okay. What time did you get to the mine, Larry?

7 A. I'm thinking I got to the mine, it was afternoon. I don't know exactly the time.

8 Q. One or two o'clock? Something like that?

9 A. Probably.

10 Q. Were you with Brad Allen?

11 A. Yes.

12 Q. Okay. And do you remember, did you get any kind of briefing when you got
13 there?

14 A. When I got there, it went in to MEO and they kindly brought me up to date a
15 little bit on the map. You know, while it was going on.

16 Q. Okay. So you knew --- was there any work going on at the time,
17 underground?

18 A. Yes.

19 Q. What was going on?

20 A. Energy West Mine Rescue Team was underground along with the companies
21 mine rescue teams.

22 Q. Were you briefed as to what they were attempting to do?

23 A. Yes.

24 Q. Okay. What was it?

25 A. They were exploring the area, they had explored down in here so far, they had

1 backed out. And they were actually up at these sealed areas here to actually knock a
2 hole in this stopping.

3 Q. Okay.

4 A. As a matter of fact, I think that's ---

5 Q. So they were knocking ---

6 A. --- what they were doing.

7 Q. --- a hole in the number one seal at the time you got there?

8 A. Yeah. And they thought about going into this area here, that they might be
9 able to travel this area.

10 Q. So did you dispatch anybody underground to travel with him, any of your
11 guys?

12 A. At that time, Randy Gunderson was already underground and Brad Allen
13 suited up and headed underground.

14 Q. Okay. How about Gary Jenson, was he underground?

15 A. No.

16 Q. He was not?

17 A. Gary was enroute.

18 Q. He was in route from Vegas or somewhere?

19 A. Yes.

20 Q. Okay. All right. So who was in charge when you got there for MSHA?

21 A. Bill Taylor. I'm pretty sure it was him.

22 Q. Bill Taylor was? He was assuming the lead role?

23 A. Yes, yes.

24 Q. And so what did you feel your duties were? Did Bill Taylor assign you any
25 duties?

1 A. I more or less just took charge of the mine rescue persons that was under me
2 and we talked and more or less, you know, the normal mine rescue communications.

3 I did attend the briefing upstairs.

4 Q. Okay. You got a briefing upstairs?

5 A. And that 's when I met Mr. Murray.

6 Q. Okay. So they had a briefing upstairs when you got there sometime?

7 A. Yes.

8 Q. And that was your first meeting with Murray?

9 A. Right.

10 Q. And you found him to be a cordial and friendly individual?

11 A. He wasn't --- no.

12 Q. No?

13 A. Not at that.

14 Q. What was your impression at that time of Mr. Murray?

15 A. Well, he was a dominator that's for sure.

16 Q. Okay.

17 A. I mean ---.

18 Q. So did you feel he was kind of ramrodding what was going on here and you
19 should --- I mean, he was taking charge of the action that was going on?

20 A. Yeah. He was pretty much the spokesman.

21 Q. Who went to that meeting with you from MSHA?

22 A. I'm pretty sure Bill Taylor was there. I'm not sure whether Ted was there or
23 not. But I know Bill was in there.

24 Q. At some time later that day, did the organizational structure change for
25 MSHA?

1 A. Yes. As Mr. Davis arrived and Cornett.

2 Q. So then they assumed to be the lead role or lead person for MSHA as these
3 other people arrived?

4 A. Yes. Right.

5 Q. How about when Stickler and Stricklin showed up? Would they then have
6 been in command?

7 A. Yes.

8 Q. So there was no doubt in your mind that Mr. Stickler was the top of the
9 command chain for MSHA?

10 A. Correct.

11 Q. Okay.

12 A. Yes.

13 Q. What did you feel about the organizational structure when --- did you feel that
14 it was well organized?

15 A. Yes.

16 Q. Okay. And how did you and your rescue team merge into that structure?

17 A. Well, we were --- I mean, we were instructed on what was going to take place,
18 we were included in --- you know, after the meetings, you know, they would come and
19 we would get in the Blue Goose and whatever, they'd update us on what projections
20 were going to be, what we were going to be doing. What was going to be expected.

21 Q. Were you ever involved in the planning process of what plans were going to be
22 done?

23 A. No.

24 Q. Were you ever involved in the approval process of approving the company's
25 plans on what actions will be done?

1 A. No.

2 Q. So you had no involvement prior to the approval. After the approval, you
3 were given a copy of the plan that said this is what we want you and your guys to do?

4 A. Yes.

5 Q. And you were basically working in conjunction with inspectors?

6 A. Yes.

7 Q. So your rescue guys were underground with some rescue, some inspectors
8 and that's how it was expected to be organized?

9 A. Correct.

10 Q. So how were you, how were those people being briefed that went
11 underground?

12 A. Well, like I said, we were briefed in the Blue Goose.

13 Q. Okay. So the whole team that was going underground would be brought in to
14 the Blue Goose and given a formal briefing of what they were to do?

15 A. And then we were given copies of that approval or whatever.

16 Q. So mostly was it they were given a copy or mostly were they briefed in detail
17 of what to do?

18 A. We were briefed and --- both. Both.

19 Q. So you're saying they were briefed and given a copy?

20 A. Yes.

21 Q. And that would be the inspectors and your team members?

22 A. Right. Correct.

23 Q. How about when they came outside?

24 A. When they came outside?

25 Q. Yeah.

- 1 A. Most of the time they would come in the Blue Goose and discuss ---.
- 2 Q. Okay. Was there a formal debriefing as to what happened during that shift?
- 3 A. Yes.
- 4 Q. There was?
- 5 A. The majority of the time there was.
- 6 Q. And how did that debriefing go?
- 7 A. Most of the time it was in the Blue Goose.
- 8 Q. I mean, what was discussed?
- 9 A. Concerns what went on. And another thing it was our ---.
- 10 Q. When you say concerns, what kind of concerns?
- 11 A. The amount of bouncing, bump, you know, bouncing going on, clean up.
- 12 Q. Okay. So these inspectors were coming out and one of the things they would
- 13 discuss on the debriefing was their concerns for the bouncing underground?
- 14 A. Well, yeah. We talked about it.
- 15 Q. Okay. And how was that taken by the management people then, from MSHA?
- 16 A. Very serious.
- 17 Q. It was?
- 18 A. Yes.
- 19 Q. So Stickler was there to hear the debrief?
- 20 A. Not all the time. No.
- 21 Q. How often?
- 22 A. He was there all the time except when he was in a press conference or down
- 23 with the ---.
- 24 Q. Which was everyday; right?
- 25 A. Right. Right.

1 Q. So he was like, not there?

2 A. Yeah. In and out.

3 SHORT BREAK TAKEN

4 BY MR. PAVLOVICH:

5 Q. I guess you spent quite a bit of time in the command center over there at
6 Crandall during the rescue operation, or did you not?

7 A. Not a lot of time. I mean, I was in the ground quite a bit.

8 Q. Okay.

9 A. And was on top of the mountain. No I didn't ---.

10 Q. Okay. So ---?

11 A. I didn't spend a lot of time.

12 Q. So you weren't there a whole lot. That time you were in there, did it appear to
13 be well organized, orderly, everything running smoothly?

14 A. Yes, at the most. Yes.

15 Q. Who was usually in there when you were there?

16 A. Well, we always had the stenographer or the person taking ---

17 Q. You had a log person?

18 A. Log person. Most of the time we had somebody from tech support was in
19 there. Then we had the peer support people. Most of the time they were in there.

20 Q. Okay. Who was in charge, the log person?

21 A. No, the supervisor that was on duty that shift.

22 Q. Okay. So there would always be a supervisor in there on the day shift?

23 A. Day shift, night shift, graveyard.

24 Q. Okay. The company had their own command center or was it a joint one?

25 A. No, they had their own.

1 Q. Okay. And we say MSHA workers were briefed on their plans that were
2 approved the work plans for the day when they showed up?

3 A. Yes, prior to going underground.

4 Q. And so what time did you usually get there?

5 A. I normally got there about 6:30, a quarter to 7:00.

6 Q. Okay. At what time did the inspectors --- what time were they going
7 underground?

8 A. They went at the changes of the shift. Whatever the shifts was.

9 Q. They were going underground seven o'clock.

10 A. 7:00 or after. It was a big thing. The big problem up there was transportation.

11 Q. Okay.

12 A. It was really hard to get in and it was hard to get out.

13 Q. So would they hot seat it to change out underground?

14 A. Yes.

15 Q. Or were they ----?

16 A. No, its hot seat.

17 Q. Was there ever a time that you guys underground came out before the other
18 guys came in that you know of?

19 A. No.

20 Q. You don't think that ever happened?

21 A. I can't say it never happened, but the majority of the time it was hot seat.

22 Q. So you were --- you would get there at quarter to 7:00, and your guys would be
23 ready to go underground; is that right?

24 A. My guys?

25 Q. Yeah, your rescue guys.

1 A. If we were going to go that shift, yes.

2 Q. If you were going to go?

3 A. Right.

4 Q. There was shifts when they didn't go underground?

5 A. The majority of the time they always --- we had at least two --- most of the
6 time I had two rescue people that went and then the backup. And then what helped, at
7 first it was pretty tough, with just my people because only --- like I said with everybody
8 getting there and stuff. And then when Virgil brought his team out and we went really
9 pretty good. And there was times that we'd have like three people underground and
10 one guy outside.

11 Q. How were the miners being briefed on the plans?

12 A. I would assume the company was debriefing them.

13 Q. You never saw that happen?

14 A. I didn't attend it, no.

15 Q. How about the debriefings? Were the company people ever being debriefed
16 when they came out ---

17 A. Again, I can't comment on that.

18 Q. --- or were they just kind of working the shift?

19 A. I would have to say they were probably being briefed and debriefed because
20 of --- they went to the location and did their work assignments and stuff.

21 Q. But you didn't --- you never saw or heard any?

22 A. The only time --- a couple of times when I was underground, you know, when
23 they get there to the fresh air base or whatever, they say okay. So many people go
24 down here and start this and this and that.

25 Q. So you would get there quarter to 7:00, go in the Blue Goose and people that

1 were getting ready to go underground first, would be there and you would give them a
2 briefing?

3 A. I would give them?

4 Q. Yeah. Would you give them a briefing?

5 A. No.

6 Q. Who gave them the briefing?

7 A. Whoever was on the previous shift or that shift and whatever ---?

8 Q. Who would that normally have been when you got there?

9 A. Bill Taylor was normally there.

10 Q. So Bill was giving them a briefing?

11 A. Or either he was in the meeting.

12 Q. Bill was in the meeting?

13 A. The morning meeting and after that he would come.

14 Q. Who was briefing them?

15 A. The people going underground?

16 Q. Yes.

17 A. Well, it probably was like whoever was on graveyard.

18 Q. Okay. Give me a name.

19 A. Ted Farmer, Don Gibson.

20 Q. So Ted Farmer and Don Gibson giving the dayshift guys briefings?

21 A. Right. What had went on the previous shift and this is what we're looking at
22 on this shift.

23 Q. And so you heard the same thing when they came out? Asking them what
24 they encountered and what all was done.

25 A. Right.

1 Q. And that would usually be by who? Did you ever do any of these briefings or
2 debriefings?

3 A. With my teams, yeah.

4 Q. You did?

5 A. Yes.

6 Q. So you did a separate one with your guys?

7 A. Right.

8 Q. So your guys were briefed by you and the inspectors were briefed by Ted?

9 A. They were briefed by me and Virgil.

10 Q. Debriefed by you and Virgil when they came out?

11 A. Majority of the time, yes.

12 Q. And what would you do with that information that you gathered from them?

13 Who would you pass that on to?

14 A. Most of the time it was already in the log book. It wasn't really ---.

15 Q. Nothing. There was nothing to say, it was already reported once ---

16 A. Right.

17 Q. --- is what you're saying?

18 A. Right.

19 Q. Do you think all the inspectors were also getting those debriefings when they
20 came? I mean, I'm not talking team members, I'm talking the other guys that were
21 from Price like Donny Durrant, Simway, they were all getting debriefed and briefed,
22 too?

23 A. As far as I know, yes.

24 Q. Did you ever go underground, Larry?

25 A. Yes.

1 Q. And what did you observe underground?

2 A. I observed the cleaning, a lot of things going on. Setting of the --- first off they
3 were setting those wooden posts then they went to the dukes. Just typical rescue
4 stuff. Monitoring. Taking hour readings, gas readings.

5 Q. So you were you actually doing that or were your people doing that or the
6 inspectors doing that?

7 A. Both.

8 Q. So you took some.

9 A. I went underground with them.

10 Q. What was your instructions as far as taking air readings?

11 A. We were given specific locations where they wanted air readings.

12 Q. And how often were you to take those and report them?

13 A. Whatever was in the plan that they wanted.

14 Q. What was it, do you remember? An hour, two hours, five hours?

15 A. Most of the time it's like every hour.

16 Q. Every hour?

17 A. Yes, of different locations.

18 Q. How about any measurements that they wanted taken, too?

19 A. Measurements of the entry.

20 Q. Development advance right in number one I imagined?

21 A. How far that they loaded.

22 Q. So were you ever taking any of those measurements?

23 A. Not me personally.

24 Q. Not you. Did you ever observe your guys or any guys under there taking
25 those measurements every hour?

- 1 A. Yes.
- 2 Q. How did they do it? They had a regular ruler?
- 3 A. A regular ruler?
- 4 Q. Yes. Like a 12 incher?
- 5 A. Tape measure.
- 6 Q. Do you remember where they were measuring to, Larry? Was it to the tail of
7 the miner, to the bumper of the miner?
- 8 A. I think we took it to the --- I'm thinking I helped Gary Jensen. I think we went
9 to the end of the boom to the miner.
- 10 Q. End of the boom? The discharge boom. Okay. Not to the bumper?
- 11 A. No. I think it was the boom.
- 12 Q. Okay.
- 13 A. Then we counted 23 or 32 foot ----.
- 14 Q. The length of the miner, you added to that. Then someone would go to the
15 phone and call that out every hour?
- 16 A. Yes.
- 17 Q. And did anybody ever explain to you what the purpose of that was, hourly
18 footage and reading?
- 19 A. Well, I think it was the --- what was getting done.
- 20 Q. Was changing that much every hour?
- 21 A. No. Slow going.
- 22 Q. So there was some hours it didn't move at all?
- 23 A. Right. And then sometimes it --- I mean, off and on. Sometimes it would go
24 pretty good and then other times you would sit there for hours.
- 25 Q. How long would it normally take once you took a cut to then go up and set the

1 rock props, and the chain link and the wire ropes and advance that up? Can you do
2 that in less than an hour? Make a cut and do all that.

3 A. No, sometimes it took longer.

4 Q. So it would almost never then be more than three foot advance every hour, at
5 the best conditions?

6 A. No. It could be more than that.

7 Q. Would it take more than enough cut to set one prop?

8 A. Yes, we set more than one prop.

9 Q. Early one or later on did it slow down just to one prop at a time?

10 A. You know what, I don't really remember being honest with you.

11 Q. About how many days did you go underground between the 6th and the 16th?

12 A. Gosh. Probably over --- way over half of that.

13 Q. Out of ten days you were underground at least five days?

14 A. Just about ---.

15 Q. Did you feel any bumps or hear any bumps while you were down there?

16 A. Oh, yes.

17 Q. Were you concerned about that at all?

18 A. Yes.

19 Q. Did you express that concern to anyone?

20 A. Yes.

21 Q. Who?

22 A. Well, actually a lot of them was going on when Mr. Stricklin was with me.

23 Q. Mr. Stickler went underground?

24 A. Stickler, yes.

25 Q. And it was bumping while he was there?

1 A. Yes.

2 Q. So you didn't need to tell him it's bumpy because you think he automatically
3 knew?

4 A. Yeah. He was right beside them so ---.

5 Q. Was there ever any concern for the safety of the rescue workers because of
6 those bumps?

7 A. Well, yeah. We were all concerned about the safety.

8 Q. Okay. Was there ever any thought about what are we doing in here? Maybe
9 we shouldn't be up in here with this bumping going on?

10 A. I've --- it was probably in the minds of people. I mean, I know it was in mine.

11 Q. Was it ever in your mind that you maybe you thought we don't need to be in
12 here, and I'm concerned about my guys being here?

13 A. Yes, I have to admit it was a concern.

14 Q. Okay. Did you ever discuss that with anybody?

15 A. Probably by telling my guys to be particularly extra careful. You know let's
16 watch what we're doing.

17 Q. So mostly talking to your men?

18 A. Yes. Virgil and --- you know.

19 Q. Did you ever bring that up to Al or Kevin or Richard Stickler that I'm
20 concerned for my people down there? Maybe we needed to be doing something else?

21 A. Not to my ---.

22 Q. Okay. Did they ever ask you?

23 A. No.

24 Q. So they never came and said, Larry, tell me what you think? Do we need to
25 keep doing this or we need to do something else? Did you ever feel like they would

1 welcome your comments or be approachable to that?

2 A. The only thing that Richard ever asked me was the day he went underground
3 with me when we took those two miners, you know, where the one guy's father was in
4 there and the other guy's brother was in there.

5 Q. So you took two family members in?

6 A. First time.

7 Q. Okay.

8 A. We were up in the entry and he looked at me and he was like, let me ask you
9 a question, Larry. Okay. Did you ever see anything like this before? Same thing I
10 told you earlier, no.

11 Q. Okay. That's all he asked you? Did you ever see anything like this?

12 A. Right.

13 Q. So you were the one that modified the K Order and allowed the family
14 members to go in?

15 A. No.

16 Q. Who did?

17 A. I'm not sure who modified it.

18 Q. Do you think anybody modified it?

19 A. I don't know.

20 Q. Did you ever ask Mr. Stickler or anybody else, why are these family members
21 going into this mine where we got all this emergency work going on?

22 A. Nope.

23 Q. You didn't ask. Did you think that was normal that when you're in a fire or an
24 explosion or something that you normally take family members in and kind of show
25 them what's going on?

1 A. No.

2 Q. Did you think it was appropriate here to do that?

3 A. I thought it was a little odd.

4 Q. A little?

5 MR. TEASTER:

6 Odd, unusual?

7 A. Yes.

8 BY MR. PAVLOVICH:

9 Q. Larry, was anybody doing any kind of an evaluation of the number and
10 severity of bumps that were going on while this rescue was continuing that you know
11 of?

12 A. The tech support guys when they came in, they started, you know, doing some
13 research and stuff. And a matter of fact, after the fact that after Gary and them got
14 killed, matter of fact on Tuesday the day before the funeral, we went underground. I
15 went with them and Poulson and we went back into these areas. Back out here and
16 we put in those ----.

17 Q. Sag stations?

18 MR. TEASTER:

19 Conversion.

20 BY MR. PAVLOVICH:

21 Q. Conversion stations?

22 A. Yes. You know where you put ---.

23 Q. This is after the second accident, after the accident on the 16th?

24 A. Yes.

25 Q. Did they do any of that prior to the 16th?

1 A. They were doing a bunch of stuff up in there and I wasn't with them when they
2 were doing them, but I know they were doing different things.

3 Q. So did you assume --- I guess you were underground several days. The tech
4 support guys you saw underground several days; right?

5 A. Yes.

6 Q. Did you assume that they were evaluating the situation to make the call
7 should we continue with this or should we stop?

8 A. I felt that they were underground to gather data and be able to communicate
9 to ---

10 Q. To kind of make that recommendation if you need be.

11 A. --- Richard and Kevin and Al and them, like where should we go?

12 Q. Do you think there was a lot of dependence that was being put on the tech
13 support guys by Richard and Kevin and Al that if it gets really too bad they'll come out
14 and tell us it's time to stop?

15 A. I can't honestly say that. I don't know.

16 Q. Okay. You don't know. You never heard anybody say or nobody ever asked
17 you, Larry, do you think it's too bad, should we stop?

18 A. No.

19 Q. So you were aware that bumps were continuing to occur?

20 A. Yes.

21 Q. Some pretty severe that you blew out stoppings occasionally? Broke the
22 shafts on the miner? Covered up the miner in some instances? Knocked the power
23 on the power center?

24 A. There was some times when they hit pretty hard.

25 Q. Ron Paletta getting knocked down, ever heard of that?

- 1 A. No. I don't think I heard that one.
- 2 Q. Did you ever --- Number Four entry where they were loading into that and it
3 bounced and refilled with coal?
- 4 A. The one up here?
- 5 Q. Yes.
- 6 A. Yes. And that it --- that's when they decided to come down to Number One.
- 7 Q. Okay.
- 8 A. And that was shortly right after.
- 9 Q. It was a pretty severe bounce?
- 10 A. I guess it was a pretty good bounce.
- 11 Q. You ever go in and look at that while you were underground?
- 12 A. In the Number Four?
- 13 Q. Yes.
- 14 A. Yes. I spent a lot time up in this area here. And then some in this area.
- 15 Q. Okay. What did you think of the support that was being installed?
- 16 A. To be honest, I questioned the support.
- 17 Q. So you questioned it as far as its ability to withstand the bump and contain a
18 bump?
- 19 A. The pressure. Especially the severity of those bounces.
- 20 Q. Was it really designed for that in your opinion?
- 21 A. Well, I mean, it's hard to say. I mean, it's just a gut feeling. So it was just me.
- 22 Q. Did you ever express that to anybody that you think this ---?
- 23 A. Yes. I talked to Al about it once.
- 24 Q. What did they say?
- 25 A. He was like yeah, you know, I understand. I'll take your concerns and stuff.

1 Q. Had you ever seen that kind of system used anywhere to minimize the forces
2 of a bump or contain a bump?

3 A. Well, not --- well, I've never been in a bounce that severe. I mean, like in
4 tailgate blotches and headgate and stuff like that, where they actually would set cribs
5 and timbers and dukes.

6 Q. To try and control something like this?

7 A. Right.

8 Q. You ever seen those blown out?

9 A. Oh, yes.

10 Q. Cribs and dukes and timbers and ---?

11 A. Yes.

12 Q. So you've seen those blown out?

13 A. Yes.

14 Q. Have you ever seen these kinds of jacks blowing out prior to this like at
15 Aberdeen or anywhere?

16 A. No.

17 Q. What did you think that the wire rope was being tied off at the end just
18 wrapped around the last one and clamped?

19 A. No comment.

20 Q. Did you question the plan at all and say maybe we should do something else
21 with this? Anchor it some way?

22 A. Well, to be honest with you, I don't know what you would anchor it to.

23 Q. Were you involved at all in the decision to use that type of support?

24 A. No.

25 Q. Nobody came and asked you, Larry, do you have any ideas about what we

1 should use here?

2 A. No.

3 Q. Did you ever hear about anybody saying that they thought some of those
4 moved or were knocked out by shuttle car?

5 A. I think that there was a few of them that were hit.

6 Q. Did you ever hear that 30 feet were knocked down at the Crosscut 120 by a
7 shuttle car?

8 A. I don't know how many but, I did hear that the ---.

9 Q. Do you think if a car would knock them out that a bounce would knock them
10 out?

11 A. Yes.

12 Q. I guess I asked you earlier and you started to answer to me, maybe we got off
13 onto something else. But I was asking you about, do you think anybody ever sat down
14 and analyzed, hey look, one o'clock we had a bump, at two o'clock we had a bump, at
15 four o'clock we had a bump, here is what the severity is? Do you think someone was
16 making a list like that and analyzing the times or severity?

17 A. If they were I wasn't aware of it.

18 Q. You weren't aware of it?

19 A. No.

20 Q. You weren't doing that? None of your guys were doing that?

21 A. There was a record of the bounce and stuff because like when they would
22 have major bounces and that, they would call out and it was logged in.

23 Q. How were they instructed on that because you would --- probably being more
24 familiar with bounces than I am, I might call out and say I had a big bounce. And you
25 might say that was nothing. How was it coordinated so that pretty much everybody

1 was calling out the same thing? Was there ever any effort to do that? It was kind of
2 left up to the person's discretion that was there?

3 A. I can't honestly comment.

4 Q. So if Otis Matthews was down there who worked in District 4, if he called out a
5 bounce it might be not much, but if Donnie Durrant called out a bounce, would you
6 think that was more significant or what?

7 A. Probably so.

8 Q. No instructions were given or however that was so that there would be some
9 uniform reporting of bounces?

10 A. Like I say, if there was I wasn't ---.

11 Q. You weren't aware of it?

12 A. I wasn't involved.

13 Q. None of your guys ever came and said, they gave us instructions and here's
14 what to do?

15 A. No.

16 Q. Did you ever send any of your team members home, Larry?

17 A. Yes.

18 Q. You did personally?

19 A. On as a rotation.

20 Q. Okay. Did you ever send them home because there was some performance
21 issues, or ---?

22 A. No.

23 Q. Did any of them ever get sent home because of issues?

24 A. Yes.

25 Q. Would you care to share that name with me, please?

1 A. [redacted] got sent home.

2 Q. Okay. Do you know why he got sent home?

3 A. I was told, I guess his professionalism. He supposedly made some

4 derogatory statements or whatever.

5 Q. So did you ask [redacted] that?

6 A. Yes. [redacted]

7 Q. What did [redacted] say?

8 A. He denied it.

9 Q. Was there any other conflict with [redacted] there other than some one made these

10 allegations that he said this? [redacted]

11 A. I found out later that [redacted] -- of course I knew that [redacted] used to be the [redacted]

12 [redacted] I think that the superintendent or the mine Forman, Peacock I

13 think was his name, used to be [redacted] I guess he was maybe the

14 mine foreman stuff and I guess him and [redacted] clashed a lot.

15 Q. So you think Peacock didn't like [redacted]?

16 A. I can't comment one way or the other. I don't know.

17 Q. Were you ever underground with [redacted]

18 A. Yes.

19 Q. Did you ever see conditions such as dusty roadways and things like that that

20 you felt needed to be corrected?

21 A. Yes. [redacted]

22 Q. Did you discuss those with [redacted]

23 A. Yes.

24 Q. Did he also identify things that he felt needed to be corrected?

25 A. Yes.

1 Q. Did you take those concerns to any company people and ask them would you
2 correct these please?

3 A. Yes, I did.

4 Q. And who were those company people?

5 A. It was the foreman that was on site.

6 Q. Whoever the foreman was, did he thank you for bringing that to his attention
7 and he would take care of it immediately?

8 A. No.

9 Q. What was his response then?

10 A. Well, I mean, he had some negative responses and ---.

11 Q. What were they?

12 A. We'll get to it. We'll get this in. As a matter of fact, the day that happened, I
13 was totally responsible for saving this is what we're going to do.

14 Q. The day that what happened? ^{Ex. (b)(6) ar} got sent home?

15 A. The day before we had an incident.

16 Q. The day before ^{Ex. (b)(6) ar} got sent home you were responsible for telling these
17 people to correct these conditions?

18 A. Yes. ^{Ex. (b)(6) and Ex}

19 Q. But who took the blunt of the blame for that ^{Ex. (b)(6) and Ex} for you?

20 A. Well, I guess they --- I mean, that's a funny thing. When I came outside it was
21 they more or less put it on ^{Ex. (b)(6) and Ex} It wasn't ^{Ex. (b)(6) and Ex} I'm the one that ---.

22 Q. They the company people?

23 A. Yes. I'm the one that said this is what we're going to do.

24 Q. They were already complaining about ^{Ex. (b)(6) ar} the day before because he asked
25 them to clean out the rock dust and do ---?

1 A. That's correct.

2 Q. They said he did, but you were actually the one that did it?

3 A. Yes.

4 Q. Is that what you're saying?

5 A. I'm the one that told them.

6 Q. So you told them to clean it up and you agreed with that? I mean, you just
7 didn't take ^{Ex. (b)(6) and Ex. (b)(7)(C)} word that, hey, Larry, they need to do this, well I'll go tell them. You
8 looked at it yourself?

9 A. Oh, yeah.

10 Q. So you agreed that it should have been cleaned up and taken care of?

11 A. Actually I'm the one that told them to do it.

12 Q. Okay. So you were the one that made the decision?

13 A. Yes.

14 Q. Okay. And I realize you told them to, but you made the decision that it
15 needed it?

16 A. Yes.

17 Q. Well, then did you ever clear that up when they were blaming ^{Ex. (b)(6) and Ex. (b)(7)(C)} ? Did you
18 go to Al or anybody and say hey it was me?

19 A. Yes. I told Al and Richard and Kevin.

20 Q. Okay. And so what happened then, they said, send ^{Ex. (b)(6) and Ex. (b)(7)(C)} home?

21 A. No. We discussed it. I told them the same thing I told everyone in here that
22 I'm the one that told them, you know, they needed respirators and they needed to wet
23 the roadways down, rock dust and this and that. And then they said good, that's what
24 we need.

25 Q. Then the next day they said ^{Ex. (b)(6) and Ex. (b)(7)(C)} was derogatory to people underground and

1 send him home?

2 A. Yes. Now, I didn't know anything about that until --- and I didn't go
3 underground that day. It seemed like --- I think I went up on the mountain that day
4 and when I came back Bob Cornett said I need to talk to you and [REDACTED] And that was
5 the first time I heard --- was the same time [REDACTED] had heard.

6 Q. So Bob Cornett told [REDACTED] to go home?

7 A. That's correct.

8 Q. And was there any discussion?

9 A. Yes, there was some discussion.

10 Q. Was it a heated discussion?

11 A. It got a little heated with [REDACTED] yes.

12 Q. Okay. And did Bob then go back and come back and tell him or is that it, just
13 go home now, we don't want you here?

14 A. That was pretty much ---.

15 Q. So he told him once and that was it ---

16 A. Yes.

17 Q. --- to your knowledge?

18 A. Yes.

19 Q. Did you try and defend [REDACTED] or did you just say go on your way, [REDACTED]

20 A. No. I tried to defend him.

21 Q. Was he helpful to the operation in your opinion?

22 A. Yes.

23 Q. So he was somebody you would count on?

24 A. [REDACTED] is one [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C)

25 Q. Okay. So being one of [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C) someone you trust?

1 A. Yes.

2 Q. If he'd come out and told you, Larry, this is bad. You would have said I agree.

3 I mean, you had faith in what he said?

4 A. I would --- yes. I would have no reason to doubt him.

5 Q. Did you ever meet any of the family members, Larry --- well, I guess you
6 escorted the two underground?

7 A. Those are the only two I ---.

8 Q. Okay. You never went down to the family briefings ---

9 A. No.

10 Q. --- or any of that?

11 A. No. There was only those two.

12 Q. Did you know --- did they go in repetitively several days or just that one time?

13 A. No. They went in pretty repetitive.

14 Q. Pretty repetitive?

15 A. Yes.

16 Q. Were they actually doing work in there or just kind of looking around?

17 A. No. I've never observed them doing any work but ---.

18 Q. Okay. Did you ever hear about the press going in?

19 A. Yes.

20 Q. Were you there?

21 A. No.

22 Q. And what did you hear about the press going in?

23 A. Probably the same things you guys heard. They allowed the press to go under
24 and Gary escorted them in.

25 Q. Did you ever talk to Gary Jensen about the night the press went in or the day

1 they went in?

2 A. You know if I did, I don't remember it.

3 Q Gary ever tell you anything about being confrontational with the press or
4 Stickler or Murray of anybody?

5 A. No. Not to my knowledge.

6 Q. No. Do you think that complied with the K Order, taking the press in there?

7 A. I don't really have a comment on it.

8 Q. So if they moved any material it was what fell into their boots?

9 A. Carry it out.

10 Q. Were you a --- do you have any information concerning the drilling of
11 boreholes?

12 A. Do I have any information?

13 Q. Did you have any? Were you being briefed on what was going on with the
14 boreholes, Larry?

15 A. Yes.

16 Q. Were you aware that low oxygen was obtained from Number One borehole?

17 A. Yes, I was.

18 Q. And when did you find that out? Do you remember?

19 A. When Virgil and I pulled the sample.

20 Q. So you and Virgil were there and you pulled the sample?

21 A. Yes, we pulled the sample.

22 Q. What did you think when you pulled the sample of seven percent?

23 A. I mean, immediately what came to my mind is that we had communication
24 from --- this is what pretty much exactly what we were getting that night when we went
25 into this area here.

1 Q. Okay. So about the same reading in the seal that we got right up here at
2 Number One?

3 A. Yes.

4 Q. So you thought this barrier may have been breached or one of them had been
5 breached maybe?

6 A. Yes, I figured --- well, I just pretty much had the good feeling that there was
7 communication.

8 Q. Did you ever think that or anyone ever tell you, well, Larry, this borehole
9 drifted over and punched into there? Into there, I mean, main west.

10 A. No.

11 Q. Nobody ever suggested that to you?

12 A. I don't think that was ever brought up.

13 Q. Okay. You think they were convinced that it actually punched down
14 somewhere in the south barrier entries that were being mined?

15 A. Yes.

16 Q. Nobody tried to play that off as well it probably hit the gob, or ---?

17 A. No, I never heard that.

18 Q. Okay. Do you know how the miscommunication occurred where it was
19 reported to be 20 percent at 11 o'clock and at one o'clock in the morning it was seven
20 percent?

21 A. I heard about that, too. I think the reason was is that they were talking about
22 when they were blowing down the steel, you know, the air --- compressed air.

23 Q. Yes. Well, that actually started later.

24 A. Well, no, I mean ---.

25 Q. Oh, okay. When the drilling was going on?

- 1 A. Yes. They were drilling down.
- 2 Q. So you think it might have been high oxygen content still in the drill steel
3 where they drew the sample and got 20 percent and then later on it ---?
- 4 A. Yes. There was different theories going around about that.
- 5 Q. Okay. Larry, with what you saw, I mean, you said you've been in bumps
6 before, you seen material fly off the ribs before?
- 7 A. Yes.
- 8 Q. Feel the vibration in your feet or get knocked down or whatever?
- 9 A. Yes.
- 10 Q. Both of those?
- 11 A. Both.
- 12 Q. Okay. A lot of dust?
- 13 A. Yes.
- 14 Q. Disorientated?
- 15 A. Yes.
- 16 Q. Hard to find your way around?
- 17 A. Yes.
- 18 Q. And that was in a pillar --- maybe one or two pillar bumps or something like
19 that or less?
- 20 A. Yes.
- 21 Q. Okay. With the number of pillars it bumped here, would there be a
22 tremendous amount of force?
- 23 A. Tremendous.
- 24 Q. Would there be a lot of dust?
- 25 A. Yes.

1 Q. Would you be oriented, disoriented, knocked down?

2 A. Probably disoriented, knocked down.

3 Q. Did you ever think that when you saw the forces or the effect of this bounce,
4 and also the seven percent oxygen and that borehole, that was probably no chance
5 those men were alive?

6 A. I can only pray those people are alive.

7 Q. So did you ever think about that?

8 A. Yes.

9 Q. Okay. Did you think that their chance of survivability was fairly low?

10 A. Yes.

11 Q. Did you ever think along the way that maybe we're just in a more of a
12 recovery operation than we are a rescue operation?

13 A. Yes.

14 Q. Did you ever evaluate your risk that your guys were under by cleaning up in
15 Number One as opposed to the possibility of rescuing live people?

16 A. Yes.

17 Q. And did you ever voice those concerns to anyone?

18 A. Maybe a few of the people. My team members or something.

19 Q. More your peers or team members not to the management?

20 A. Right.

21 Q. Not to the people making the decisions?

22 A. No.

23 Q. Did you think those people wanted to hear concerns like that?

24 A. I really don't ---.

25 Q. Did they ever ask you your opinion on it?

1 A. No.

2 Q. Did you ever hear of miners that elected not to work up in the face?

3 A. Yes.

4 Q. How many did you ever hear of, numerous or one?

5 A. No, I think there was several miners that didn't want to be up there because of
6 the bumping.

7 Q. Because of the bumping. You heard that?

8 A. Yes.

9 Q. And did you ever seek those miners out and ask them, what are your
10 concerns?

11 A. No.

12 Q. Did anybody in MSHA that you know of?

13 A. I can't comment because I don't know.

14 Q. You don't know?

15 A. No.

16 Q. Nobody ever told you, hey, I went and talked to those guys and man they were
17 scared or something?

18 A. No.

19 Q. Well, would it be safe to say that miners that work in these mines are kind of
20 like experts on bumps?

21 A. I wouldn't say they're experts. I think they would be knowledgeable.

22 Q. Okay. They'd be pretty knowledgeable. Maybe nobody's an expert, but they
23 would be knowledgeable. So if they were scared would you put some pretty good
24 weight on that as opposed to say me being scared? Because I would be scared in
25 there. You think those miners being scared might be some valuable information?

1 A. Yes.

2 Q. But to your knowledge, nobody ever went and interviewed them or questioned
3 them or asked them about it?

4 A. Not to my knowledge.

5 Q. Do you think they should have maybe?

6 A. I think it would be a good idea to discuss safety concerns.

7 Q. Has Ex. (b)(6) and Ex. (b)(7)(C) quit the team?

8 A. Yes.

9 Q. And what was his reason for quitting the team that you know of?

10 A. The e-mail that he sent Mr. Davis and me was what went on and lack of
11 support. I mean, if you want a copy of it, I can give it to you.

12 Q. Okay. So he actually sent an e-mail of resignation?

13 A. Yes.

14 Q. Yes, we would like to have a copy.

15 MR. PAVLOVICH:

16 We don't have it; do we?

17 UNIDENTIFIED SPEAKER:

18 No, sir, we don't.

19 A. If you're demanding it?

20 BY MR. PAVLOVICH:

21 Q. I am. And so you did try and defend Ex. (b)(6) and Ex. (b)(7)(C)

22 A. Yes.

23 Q. But that kind of fell on deaf ears. You were still sent back?

24 A. Yes.

25 Q. Was there ever any other controversy with other mine rescue team members

1 and with the inspectors that were there?

2 A. Not to my knowledge. I think there was some hearsay about --- he was
3 underground a lot and they brought him back. He used to work at Deer Creek. You
4 mentioned his name earlier.

5 Q. Gunderson?

6 A. No, not Randy. Randy is on my team.

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

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

9 Q. Okay. You think there was some controversy between Ex. (b)(6) and Ex. (b)(7)(C) and ---?

10 A. Well, I heard, you know, just some rumors and stuff.

11 Q. Was this with Ex. (b)(6) or with someone else?

12 A. I'm thinking it was with both. I'm thinking he had a little encounter with Ex. (b)(6) and Ex. (b)(7)(C)
13 and some of the management people underground.

14 Q. Okay. So he had some issues. Was he sent home also?

15 A. He did leave the mines for a few days, but then they brought him back.

16 Q. Okay. You don't know a particular reason why?

17 A. No.

18 Q. I guess when your guys were underground, Larry, your MEU guys, were they
19 performing different duties than the regular inspectors were?

20 A. Yes.

21 Q. What were those duties?

22 A. There was times that we ran tygon tubing. We put in sampling pumps. We
23 breached the seals. Anywhere where that --- actually we went in this area up here and
24 installed CO2 monitors and that kind of thing.

25 Q. So there was some projects that were specially designed for the mine rescue

1 guys. I mean, they needed them to do it; correct?

2 A. Right.

3 Q. As opposed to the regular inspectors?

4 A. Right. Yes.

5 Q. And when they weren't doing special projects, were they normally just taking
6 air readings, measurements, that sort of thing?

7 A. Yes.

8 Q. Were they also kind of overseeing --- I know, you know, Gary Jensen was up
9 there when the second bump occurred. What was his role at that time? Was he just
10 kind of overseeing the safety of workers in there?

11 A. That and also taking the readings.

12 Q. Okay. Taking measurements, readings?

13 A. Right.

14 Q. So he might have been up there taking measurements for all we know; right?

15 A. Yes.

16 Q. Okay. You said you spent some time in the command center, maybe not a lot
17 of time, but you were there obviously with Bill Taylor and whoever was on the log
18 book; correct?

19 A. Right.

20 Q. Did you ever hear anything about those guys threaten to get fired or replaced
21 if they didn't do things right?

22 A. No

23 Q. Never?

24 A. No.

25 Q. Was there specific ways they were told to enter things in the log book that you

1 know of?

2 A. They changed their reporting several times. I think.

3 Q. When they changed their reporting several times, it was in relation to what?

4 A. To make it I guess more user friendly, more understandable.

5 Q. But what actual information was changed for user friendly? You said footage,
6 the amount of footage that was being developed. Was it air measurements? Was it --
7 - what was it? I mean, there's a lot of entries in that log book. Do you know?

8 A. I think one time they had a problem with the footage. One shift would report
9 this. The next shift would come back so then they --- they wanted to get it right.

10 Q. So they made a specific policy of how that footage should be reported?

11 A. Yes.

12 Q. And you saw that being entered in there maybe with a block around it and
13 highlighted?

14 A. I'm not sure how he entered it, but I know that was a concern.

15 Q. Do you know if they were also entering bumps in the similar way?

16 A. No.

17 Q. No. So nobody was really looking at that, it was more footage?

18 A. I know that footage was a big concern.

19 Q. Okay. Footage was a big concern?

20 A. Yes.

21 Q. Major concern would you say?

22 A. It was to be put in there right.

23 Q. Okay. Accurate or your replacement would put it in right?

24 A. Well, I don't know about that.

25 Q. You never heard of that? Never even heard a rumor of that? I'm surprised.

- 1 A. Maybe rumors.
- 2 Q. You maybe heard a rumor of it?
- 3 A. Well, I mean ---.
- 4 Q. But you didn't put any stock in it. You weren't worried about getting fired?
- 5 A. I don't think --- I think if anybody would have said anything it was just ---.
- 6 Q. You didn't go out and start taking better notes because of it; did you, because
- 7 of that rumor?
- 8 A. I didn't take notes.
- 9 Q. Okay. Did you ever think there was an awful lot of people in the mine, Larry?
- 10 A. Yes.
- 11 Q. Too many maybe for what was going on?
- 12 A. Yes.
- 13 Q. How was that being controlled, or was it being allowed? I'll ask that.
- 14 A. I guess we were allowing it.
- 15 Q. Did you ever express concerns about that, as you got people all over the mine
- 16 here doing all kind of work?
- 17 A. I think several of us questioned it.
- 18 Q. More than just you?
- 19 A. Yes.
- 20 Q. Other people questioned it to?
- 21 A. Yes.
- 22 Q. You heard people question it?
- 23 A. Right.
- 24 Q. And who did they question that, too? Who did you bring that to someone's
- 25 attention that maybe there's too many people in here?

- 1 A. I bought it to Bill Taylor and Mr. Davis.
- 2 Q. So you brought it to Al and told him and what did Al say?
- 3 A. Well, he kind of agreed.
- 4 Q. He agreed?
- 5 A. Yes.
- 6 Q. So that took care of the problem?
- 7 A. No, that didn't take care of the problem.
- 8 Q. So he agreed we got too many people underground, but ---?
- 9 A. It's something we'll look into.
- 10 Q. Did it ever get to where it was any better?
- 11 A. I think a little bit later they did start controlling.
- 12 Q. Maybe controlling the number of people in the face?
- 13 A. Cutting back some of the people. Well, in the entire mine.
- 14 Q. You think they did that. So there was like the day of the 16th there was only
15 70 in there?
- 16 A. There was a bunch of people in there.
- 17 Q. How about check in check out, Larry. Was it a pretty good, accurate check in
18 check out system?
- 19 A. I think it was pretty good.
- 20 Q. Was there an MSHA person there at the portal or somewhere where the log
21 book was that can kind of controlled entry in and out of the mine, to make sure
22 everybody that went in was supposed to be going in?
- 23 A. I don't think we have an MSHA person in charge of that.
- 24 Q. So pretty much anybody that wanted to go in the mine that was onsite, I'm not
25 talking a reporter, but if I wanted to go in I could go in and look around?

1 A. No, you had Conspec and you checked in with them. Then there was a guy
2 down from Conspec and then when you went to the top of the hill there was another
3 guy there.

4 Q. So I would have to sign in three times?

5 A. Yes. About three different times then you had the check in check out board,
6 that was at the mine portal where the bathhouse was.

7 Q. So you check in then you signed the book there. You had another guy you
8 checked with. Then the Conspec guy, too?

9 A. Actually there was three people before you ever got to the check in check out
10 board.

11 Q. So it was rather repetitive in nature would you say? Do you think that
12 everybody that ever went in when they would come out checked with all three of those
13 people?

14 A. No. We still have problems

15 Q. Still problems with it?

16 A. Yes. We still have problems with it.

17 Q. Maybe there should have been just one check in check out?

18 A. That might've helped. We did have problems with that.

19 Q. So did they ever know exactly who all was in the mine all the time and who
20 was out of the mine, or did you know of problems that occurred because of that?

21 A. Yes, we had problems with that. Yes.

22 Q. Larry, as field office supervisor in Delta, did you have any problems
23 accomplishing your required inspection activities?

24 A. Any problems?

25 Q. Yes. Did you have enough manpower to do it?

1 A. Well, I had adequate manpower as long as we --- you had to take in
2 considerations as far as special projects, that always hurt.

3 Q. So initiative ---?

4 A. Vacations, sickness any of that stuff.

5 Q. So if you didn't have to do initiatives, special projects, reporting, going out and
6 checking seals 100 times and all this other stuff, you had enough people to do the
7 work?

8 A. Yes.

9 Q. But when you had to do all those other things, how did that affect your work?

10 A. It put a lot of pressure on us.

11 Q. Do you think you were able to truly do the inspection work you needed to do
12 because of all that other work?

13 A. No, it affected us. I mean, I did a lot of inspections myself.

14 Q. You did inspections yourself to try and keep up?

15 A. Just to try to keep up. And you got to realize that in my office I have 22 spots
16 a month that I had to do.

17 Q. So you did a lot of those plus EO-1s?

18 A. Yes.

19 Q. Is that really the job of the supervisor to be making inspections?

20 A. No.

21 Q. So you took that upon yourself to try and get your work done?

22 A. Yes.

23 Q. Do you think that all those things serve to provide additional protection to the
24 miners? All those special projects and initiatives and information gathering events or
25 were they detrimental to the safety of the miners?

1 A. I don't think that's for me to answer.

2 Q. What was your feelings on that? I know you got a feeling about it.

3 A. Sure, there are some of the projects I would question, yes.

4 Q. That maybe the safety of the people could have been better served if the
5 inspectors devoted more time to an EO-1?

6 A. I think when you're doing an EO-1 that's ---.

7 Q. So this other stuff is kind of distracting to the inspectors, harder for them to
8 keep up with?

9 A. Some of it, yes.

10 Q. Are you pretty knowledgeable on the Miner Act, Larry, and all the
11 requirements of the Miner Act?

12 A. I hope so.

13 Q. You think all your inspectors are? They all pretty much enforce it exactly the
14 same way?

15 A. Yes, except my new people.

16 Q. Okay. Now, they haven't learned it all.

17 MR. PAVLOVICH:

18 Ernie, you got any questions?

19 MR. TEASTER:

20 Just a few.

21 BY MR. TEASTER:

22 Q. Going back to that number of inspections that you were making, Larry. Were
23 you able to do what you were required to do as a supervisor in terms of traveling with
24 the inspectors and all the things you were required to do as a supervisor, reviewing the
25 notes and those things? Could you keep that up as well as making inspections that

1 you were making?

2 A. Not in a 40 hour work week, no.

3 Q. If you were doing it, you were putting in a lot of extra time.

4 A. Yes.

5 Q. When you went underground with Mr. Stickler, you said there was bumping
6 occurring. Did Mr. Stickler make any kind of comments about what is going on or
7 what's --- anything at all about the bumps? Any concerns that he raised?

8 A. Yes. He made concerns about the bumping and the magnitude of it. I mean,
9 the entries were totally filled.

10 Q. I meant the --- that was from the one that occurred on the 6th. But I meant
11 was bouncing occurring, as I understood you to say, while you all were underground?

12 A. Yes.

13 Q. Did he make any observation about that was --- about any particular bounce
14 or bump?

15 A. Other than it seems like its pretty active or something to that nature. I mean,
16 just regular talk like if you and I were under there. It's bumping pretty good.

17 Q. Did he ever ask you, was that a severe bounce, or was that ---?

18 A. No. Like I said earlier that he asked me is if I had ever seen anything like this
19 before and I told him no.

20 Q. Did you and Gary Jensen ever raise any safety concerns to Tommy Hooker, if
21 you can recall?

22 A. No. Not to my knowledge.

23 Q. This company person that Ex. (b)(6) ar had worked with previously, Gary Peacock?

24 A. Yes.

25 Q. Do you know if Gary was one of the company people that complained about

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

1

A. No. I don't know that he was, no.

2

3

Q. Did you ever hear that a company person had said that they were going to get him at the bottom of the hill if they didn't get him out of there and more or less beat him up or whatever they were going to do at the bottom of the hill?

4

5

6

A. No, I didn't hear that.

7

Q. You never heard that?

8

A. No.

Ex. (b)(6) at

9

Q. Was you aware that [redacted] had raised the issue that morning about smoke coming off of one of the diesel powered ram cars or anything?

10

11

A. No.

12

Q. What's the difference between dukes and rock props?

13

A. Nothing.

14

Q. They're the same?

15

A. They're the same.

16

Q. I thought that you was going to --- but I never have heard them called dukes.

17

A. Well, at Sunnyside they called them dukes, rock props.

18

Q. Going back to your visit to Price as an acting supervisor. When you were sent there, were you given an estimate of how much time you would be there?

19

20

A. Yes. A couple of weeks. It was for a couple of weeks.

21

Q. So you think the time you were there was not cut short because of the enforcement action that you had taken?

22

23

A. No.

24

Q. You talked about some of this equipment some of the personal protective equipment that these companies require the miners to wear. Do we ever provide that

25

1 for our inspectors when they're in those areas to wear?

2 A. I said that, or you're asking me a question?

3 Q. I'm asking you a question?

4 A. Do we provide?

5 Q. Right.

6 A. Well, I guess like metatarsal boots, we provide that.

7 Q. I'm talking about from bounces. I'm sorry. I didn't ---.

8 A. Oh, you're talking about like body armor, gear. I've never seen any of that
9 that MSHA provided, no.

10 Q. Are you aware of any requests that was made to provide that equipment by
11 the inspectors?

12 A. The only time I heard about the body armor was the day on the ITS training.
13 Barry Grosely in Price brought up the thing and I guess in Aberdeen they're requiring
14 the full body armor now to go on.

15 Q. Right.

16 A. He made a statement that shouldn't MSHA be providing that or something.
17 They agreed that wasn't the time to be discussing that because this is just ITS training.
18 And to be honest with you, that's the first time I heard about it.

19 Q. You also mentioned earlier that sometimes the district manager had meetings
20 that you were involved with and sometimes you weren't. Were there ever any
21 occasions that a meeting was held with a district manager at the mines in your area or
22 at a mine in your area, where you're you not made aware of that prior to that meeting?

23 A. No.

24 Q. Do you know why you would be excluded from some meetings at mines under
25 your jurisdiction?

1 A. Probably if it had to do with me. They had a complaint against me. I was
2 probably excluded.

3 Q. Did you ever get any results of those meetings that you were excluded from or
4 not involved with as to what transpired during the meeting?

5 A. I don't ever remember a meeting that I was excluded from.

6 Q. Well, you had said earlier, if I remember correctly, that there was ---
7 sometimes you were involved in the meetings and sometimes you were not.

8 A. I was talking about like district meetings. Like when they came over on a
9 specific item like a violation or plan amendment or something, not a specific --- at the
10 mine thing of where they --- complaining about over enforcement or something like
11 that. Not that. Clear it up. I was talking about occasions of like you issued a D order
12 and they came over and expedited a hearing conference, a plan amendment or
13 something like that.

14 Q. Did you --- you may have answered this earlier --- did you ever get any
15 indication from any of the senior management here in the district office that you were
16 issuing too much paper out at the Delta field office?

17 A. I guess I have discussed that the Delta office issued more paper than anybody
18 in the district.

19 Q. Was that a compliment you think?

20 A. I took it as a compliment.

21 Q. Do you think that was intended?

22 A. It could have been.

23 Q. But you didn't take it as you need to slack off with the paper?

24 A. No.

25 Q. The imminent danger order that you issued at Aberdeen when you were there

1 for that two week period ---

2 A. West Ridge.

3 Q. --- West Ridge. I'm sorry. What did that involve? Is that accumulation of
4 coal or methane?

5 A. No. That was high concentration of methane on the longwall, on the tailgate.

6 Q. What concentration did you get do you recall?

7 A. I think it came back about three and a half or four percent on the bottle
8 samples. But the further that we --- you know, as you headed back the higher it got.
9 I'm sure there was an explosive mixture a few feet inby, but we didn't go past the
10 plane of the shield. So we were picking up three and a half, four percent.

11 Q. Were you ever aware of a policy that when you encounter methane, such as
12 you encountered there at West Ridge, that you had to come back and call the district,
13 or call Arlington, or something before you can take that type of action of shutting it
14 down?

15 A. No.

16 Q. Never heard of anything before?

17 A. No, I don't think. Since I've been inspecting?

18 Q. Within the last two or three years?

19 A. No. I can't recollect it.

20 Q. Going back to the rescue effort, were you aware of any expirations on the top
21 of that rubble?

22 A. Down these entries?

23 Q. Uh-huh (yes).

24 A. Yes.

25 Q. What do you know? How many do you know about?

1 A. I was just told on the initial expiration that they went as far down in there as
2 they can get. Then they came back. I think as they went the worse it got. They went
3 several crosscuts from what I understand down in there.

4 Q. You're not aware of any expiration over in Number Four entry?

5 A. In this one?

6 Q. Yes.

7 A. I'm not exactly sure in which entry, but I do know on the initial expiration they
8 did go down in there.

9 Q. I think the initial expiration was zigzagging over. But primarily Number One,
10 Number Two, in that area. There was another one that went up in Number Four entry.
11 They got up to somewhere around 127. You was not aware of that?

12 A. I didn't know exactly 127, but I do know that they went up pretty good ways
13 inby there where they actually had to crawl on their hands and knees.

14 Q. Were you privy to any discussions at all about whether or not that might be
15 something they needed to pursue, maybe continue to try it, or ---?

16 A. No, like I say, that had been accomplished prior to me getting there.

17 Q. The initial one, but these other ones were conducted on like the 10th of
18 August. There was a ---.

19 MR. PAVLOVICH:

20 Did you ever talk to Peter Saint about it? Do you know Pete?

21 A. Yes. I wasn't aware that they went up ---.

22 BY MR. TEASTER:

23 Q. You wasn't aware that Pete ever went up the Number Four entry?

24 A. Not to my knowledge. I don't think anyone was told to go. That's news to me.

25 MR. PAVLOVICH:

1 BY MR. TEASTER:

2 Q. Larry, we got a lot of indication that people didn't feel that they were being
3 briefed either before going in or when exiting the mines. And yet you felt confident
4 that everybody was being briefed and debriefed. Do you have any explanation for
5 why these people would think they were not being briefed or debriefed when you think,
6 in fact, that they were?

7 A. I can only speak from what I saw and what I did with my team members.
8 Now, I can't speak for the other shifts, you know, because I wasn't there all three
9 shifts.

10 Q. What shift did Peter Saint work?

11 A. I think he worked different shifts. I think he started out day shift and I think he
12 worked afternoons and graveyard. I'm not, but I would have to go back in the log and
13 find out because we were rotating them on different shifts. Like I say the only --- I
14 don't know why.

15 Q. There was also one other expiration that didn't involve a rescue team
16 member, I think, they went up Number One and the only thing that stopped them was
17 that they said they couldn't go further than they could communicate. And when they
18 got to that point they came back. You were not aware of any that?

19 A. I guess not.

20 MR. PAVLOVICH:

21 Did you ever see a plan approved to do the expiration in
22 Number One?

23 A. Not that I'm aware of.

24 MR. PAVLOVICH:

25 Were you getting copies of all the plan approvals?

1 A I thought I was. The only expiration I remember what we did a little bit in here.
2 Then as we went under apparatus and stuff and then --- you know. I don't remember.

3 MR. PAVLOVICH:

4 That's not it. Like Ernie says the 10th of 11th or something
5 like that.

6 MR. TEASTER:

7 No they were not under apparatus.

8 A. Maybe that's why I wasn't briefed on it. They didn't have anything to do with
9 the apparatus.

10 MR. TEASTER:

11 What other --- go ahead, Joe, if you have something to follow
12 up with that?

13 BY MR. PAVLOVICH:

14 Q. I guess I'm just asking, how were you kept in the loop, Larry, of what was
15 going on? I mean, you were manager of the MEU team. And I realize it wasn't all
16 MEU guys' underground, but for the most part you had guys every shift.

17 A. Right.

18 Q. How are you being kept in the loop of the plan approval process, the plan
19 dissemination, what was going on, what kind of concerns. Was it pretty much left up
20 for you to find out for yourself?

21 A. Well, like I say when I got there, I would go in the MEO or whatever.
22 Whoever the supervisor was on shift would say this is where we're at. This is what
23 we're doing.

24 Q. But you weren't involved with the people making the decisions; right?

25 A. No.

1 Q. They didn't consult with you and say, Larry, we got a plan here about doing
2 this, what do you think?

3 A. There was two meetings that I attended. The first meeting was when I got
4 there the first day.

5 Q. Okay.

6 A. I went up there upstairs where the company was meeting. That's when I met
7 Mr. Murray. I was instructed to call him Mr. Murray. But anyway ---.

8 Q. Wait a minute. You were instructed to call him Mr. Murray?

9 A. That's the truth.

10 Q. Who instructed you to do that?

11 A. Let me think. He used to be --- I know him real well.

12 Q. Does he work for MSHA?

13 A. No, he works for the company.

14 Q. He works for the company.

15 A. Yes. He said, I would appreciate it in the future if you would address him as
16 Mr. Murray.

17 MR. TEASTER:

18 How did you address him to begin with?

19 A. I think maybe I said Bob a couple of times. I guess that offended him. It's just
20 one of those things. And then the next time that I attended a meeting with the
21 company was when Jack Kuzar came out.

22 BY MR. PAVLOVICH:

23 Q. Which was after the second accident?

24 A. Yes.

25 Q. So maybe you weren't invited to attend these meeting because you called

1 Murray, Bob?

2 A. Maybe so. Could have been. Anyway Jack was on duty that day as the head
3 MSHA person. And so they came in with a plan and I'm trying to think exactly what it
4 was. It was something to go into this area here. To do something I think.

5 Q. After the second accident?

6 A. After the second --- right. And they had some type of plan that they wanted to
7 go in here and get something or do --- it was something. I forget now exactly. It was
8 something that really didn't need to be done.

9 Q. During the rescue operation underground, you were involved in one meeting
10 and never really got to review plan submittals, give your opinion or valuation based on
11 --- for the safety of your people. You basically got the plan afterwards said here you
12 follow this. You have your guys participate.

13 A. Essentially, yes.

14 Q. Yes. Okay.

15 MR. TEASTER:

16 Larry, when I used to be on MSHA's rescue team, our
17 supervisor basically stayed on the surface and was privy to the meetings and never
18 was involved in anything other than, you know, just kind of overseeing everything for
19 the rescue team. Do you see your role being different than that?

20 A. Well, I guess so. I wasn't in the meeting.

21 BY MR. PAVLOVICH:

22 Q. Were you there with Virgil quite a bit, you and Virgil together?

23 A. Yes.

24 Q. Was Virgil being consulted on plans, do you know? I mean, he wasn't coming
25 to you and saying, Larry, they called me to a meeting and they're going to do this plan,

1 what do you think, or I told them it was okay or any of that kind of stuff? He wasn't
2 involved in that planning process either?

3 A. No, I don't remember Virgil going to any of the meetings?

4 Q. What's Virgil's job? Is he like the supervisor or the manager of the eastern
5 MEU?

6 A. Yes.

7 Q. So he wasn't being included in any of this either, plan approval process,
8 negotiations on plans, meetings on plans?

9 A. If he was I didn't know about it. I didn't see him.

10 Q. When you were at these other events, like West Elk and Deserado and
11 McClain Canyon, were you involved in the planning and the process and the approval
12 of expiration of those events for your team?

13 A. Yes.

14 Q. So you were?

15 A. Yes.

16 Q. What was different this time?

17 A. I don't know.

18 Q. What do you mean you don't know --- you just weren't invited and you said
19 okay.

20 A. I just wasn't invited.

21 Q. Did you ever go to AI and say AI I think I ought to be knowing what's going on
22 here. My rescue guys are down there, you know?

23 A. No.

24 Q. You didn't do that?

25 A. You don't question stuff.

1 Q. You don't question stuff. Then why would you not question stuff? Were you
2 discouraged from questioning stuff?

3 A. No. I just ---.

4 Q. Were you encouraged?

5 A. I figured that if they wanted you they'd ask you.

6 Q. So you figured if they wanted you they would have asked you? Virgil didn't
7 have any more comments in that either. Did you and him ever talk about some of the
8 things going on?

9 A. Oh, sure.

10 Q. Your concerns.

11 A. Yes.

12 Q. Nobody to talk to about it?

13 A I guess we talked to each other. As far as that it's not like we went and talked
14 to anybody else unless he did. He might have said something to Jeff or somebody
15 else. Virgil spent a lot of time up on the mountain, too. He and I went underground
16 quite a bit, too.

17 Q. So you had plenty of time to see what was going on and know what was going
18 on. And talk to people as far as you wanted too, I guess or if you thought you could.
19 You just didn't think you could?

20 A. I guess, yes.

21 MR. PAVLOVICH:

22 Sorry, Ernie, butting in on you. Go ahead.

23 BY MR. TEASTER:

24 Q. The apparatuses were maintained on the surface in the event that they were
25 needed for the rescue workers underground. And I said there was some concern

1 because there was low oxygen working inby there. Do you think there would have
2 been adequate time if there had been something of disruption of ventilation that would
3 allow that low oxygen to come out, that we could have got those apparatuses
4 underground in time to be of any benefit for those --- that those rescue team members
5 could then go on and help those people out?

6 A. With the number of people underground, no. The only apparatuses that we
7 had underground was apparatus wearers themselves. We didn't have extra
8 apparatuses underground. We only had --- the wearers took theirs in and then brought
9 them out. What apparatus we had bits were in shop.

10 Q. But the rescue team members did not take a rescue --- if they were going to
11 go under there without any specific use for apparatus they didn't take it with them?

12 A. No, they always took them with them.

13 Q. They always did?

14 A. As far as I know, yes.

15 MR. PAVLOVICH:

16 So you're saying when the gas wasn't in, even if they were
17 just taking measurements and stuff, they had their apparatus on? The night Gary
18 Jensen was killed did he have his apparatus underground?

19 A. No. I don't ---.

20 MR. PAVLOVICH:

21 So then they didn't always take them?

22 A. No. I don't think Gary did. Because --- I'm doubting he did.

23 MR. PAVLOVICH:

24 Scott Johnson he didn't have his underground; did he? Can
25 you remember Otis taking --- well, you weren't there.

1 A. Otis wasn't underground that night.

2 MR. PAVLOVICH:

3 No, he was outside. Do you remember him loading the
4 apparatuses in the truck and taking them underground when he heard of the accident?

5 A. You know what, I don't know.

6 MR. PAVLOVICH:

7 Okay. So up to this point you thought they were taking
8 apparatuses in everyday when they went. Is that your answer?

9 A. I was trying to think of a day that we didn't take them.

10 MR. PAVLOVICH:

11 Well, I could see if they were going behind the seal or going
12 to extend that hose up through the seal or something, when you had to go under
13 apparatus they would take them. On other days when they weren't anticipating going
14 under apparatus would they have taken them?

15 A. I think we were taking them and leaving them at this door right here. When
16 they went into this return it went over in these areas here. That's what I thought, but I
17 could be wrong.

18 MR. PAVLOVICH:

19 When you went in Virgil did you take an apparatus?

20 A. If we were going to go into this area here, yes. We did go in here one day and
21 extend some tygon tubing from ---.

22 MR. PAVLOVICH:

23 To those seals?

24 A. From some seals down here and ran it all the way up and come up to this door
25 here.

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MR. PAVLOVICH:

You wore your apparatus?

A. No, we didn't take in apparatus. We were only on the intake.

BY MR. TEASTER:

Q. The rescue team members, did you give them specific instructions to take their apparatus with them?

A. If they were going to be in these areas over here.

Q. I'm talking about as a routine. I understand if they're going to go do something where there's potentially a need for donning apparatus, but I'm just talking about in case a need would come up, take your apparatus with you so you'll have it readily available.

A. I think for quite a few shifts, like I said, but maybe there were times that they didn't. But I was under the impression that we did take them.

Q. Did you give that specific instruction that you recall?

A. I don't know that I gave that specific instruction I think, we started doing and we just kept doing it.

MR. PAVLOVICH:

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

UNIDENTIFIED SPEAKER:

I don't have anything, Larry.

MR. PAVLOVICH:

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

do you have any questions?

UNIDENTIFIED SPEAKER:

Just a couple, to clear something up. Larry, you said that you seen, I believe you did while we was doing your interview here, that you seen cribs

1 and timbers and cans knocked out by bumps. But you said you hadn't rock props
2 knocked out by bumps. Does that mean because you don't have much experience
3 with the rock props or have you seen places where they failed when a bump had
4 occurred?

5 A. Most of the time like the only experience with rock props was at Sunnyside,
6 when I inspected there and they put them right along the stage loader and stuff. It was
7 not really in a bounce area.

8 UNIDENTIFIED SPEAKER:

9 Did you have any conversations with the guys from tech
10 support like Don or Zelanko?

11 A. That day I went in with them on Tuesday, the day before the funeral, I traveled
12 --- I think that was their names. We went under and did those --- put those evaluators,
13 or whatever you called them.

14 UNIDENTIFIED SPEAKER:

15 I guess before the accident of the 16th, they were there most
16 of the time. Did you have a chance to talk to them then?

17 A. No. Other than small talk. Nothing really to do with what was going
18 underground or anything like that.

19 UNIDENTIFIED SPEAKER:

20 And so there was never no mention that, hey, I've seen other
21 types of roof support knocked out from bumps or anything like that?

22 A. No.

23 UNIDENTIFIED SPEAKER:

24 Not discussed.

25 A. The only time I ever discussed anything was, you know --- and even with the

1 company that first meeting we had was I bought up the arches and that was it.

2 UNIDENTIFIED SPEAKER:

3 Okay. Did anybody mention anything to you about having
4 any delays in getting to the mine site?

5 A. Yes. That's what I'm saying. We did have delays in getting --- transportation
6 was a nightmare.

7 UNIDENTIFIED SPEAKER:

8 I mean, where you notified him of the accident, he was
9 coming --- he went to his field office to get his vehicle and equipment and everything
10 like that. Did he mention anything that he was held up there for a while?

11 A. The initial?

12 UNIDENTIFIED SPEAKER:

13 Uh-huh (yes).

14 A. He was traveling from Trinidad. His car blew up. I guess he blew the motor
15 or something in his car and he ended up having to be late.

16 UNIDENTIFIED SPEAKER:

17 He didn't say nothing about his supervisor down there wanted
18 him to fill out timesheets and other information and staying in the office about four
19 hours to do some paperwork or anything like that?

20 A. Not to me he didn't say that.

21 UNIDENTIFIED SPEAKER:

22 Did you ever have that problem? You mentioned about three
23 or four events that you guys have had to go to. Did you ever have any problems with
24 them being released from that job to come as part of the mine rescue team?

25 A. No.

1 UNIDENTIFIED SPEAKER:

2 Ex. (b)(6) and Ex. (b)(7)(C) Just one other thing and this is out of curiosity. Do you know
3 if Ex. (b)(6) and Ex. (b)(7)(C) was invited to stay for Gary's funeral or not, or any of the mine rescue team
4 members?

5 A. He was not invited. And that was some of the issues that came up and was
6 concerns.

7 BY MR. PAVLOVICH:

8 Q. What was your --- I'm sorry. I didn't hear you, Larry, what was your answer on
9 that?

10 A. There was issues and concerns about that.

11 Q. That Ex. (b)(6) and Ex. (b)(7)(C) was ----.

12 A. Well Ex. (b)(6) and Ex. (b)(7)(C) A lot of the people were sent home.

13 Q. So team members and people like that were sent home prior to Gary's
14 funeral?

15 A. Yes.

16 Q. They weren't allowed to go?

17 A. Wasn't that they weren't allowed to go.

18 Q. They just weren't here anymore?

19 A. They were sent home and they could go when they --- I guess they gave us
20 eight hours administrative leave or something. But if they wanted to go to the funeral,
21 they had to bear their own expenses.

22 Q. So Ex. (b)(6) and Ex. (b)(7)(C) was back in Aztec sent home. He couldn't hardly go to the funeral;
23 could he?

24 A. No.

25 Q. Why was that done?

- 1 A. I was told that the decision was made.
- 2 Q. Who told you that?
- 3 A. Mr. Davis.
- 4 Q. He told you he made the decision?
- 5 A. He didn't say he made the decision. He said the decision was made that
- 6 those people were to go home.
- 7 Q. And who else went home in addition to Ex. (b)(6) and Ex. (b)(7)(C)
- 8 A. A lot of people went home. I'm not sure ---.
- 9 Q. How many people did you have there that weren't from Price?
- 10 A. One of my guys.
- 11 Q. Ex. (b)(6) and Ex. (b)(7)(C) he was already gone. You already sent him home.
- 12 A. Right Ex. (b)(6) and Ex. (b)(7)(C) (phonetic) was the ---.
- 13 Q. He's not a rescue guy?
- 14 A. No.
- 15 Q. I mean, the rescue guys.
- 16 A. You're talking about mine rescue people that was there?
- 17 Q. What about Ex. (b)(6) and Ex. (b)(7)(C) was he still there?
- 18 A. No.
- 19 Q. You sent him home, too?
- 20 A. Everybody had left except myself and Jim Martin and Randy Gunderson ---.
- 21 Q. Well, they live there?
- 22 A. They live there.
- 23 Q. So all the rescue guys that were not from Price was sent back to there
- 24 respective duty station before Gary's funeral? They were not allowed to stay for the
- 25 funeral?

1 A. To the best of my knowledge, yes.

2 Q. Did you find out about that prior to them leaving?

3 A. Yes.

4 Q. And did you question that all and say why can't they stay for the funeral?

5 A. Yes.

6 Q. And what was your answer?

7 A. I was told that was the decision was made.

8 Q. No reason for it, just that was the decision we made and that's it.

9 A. Essentially, yes.

10 Q. And did you stay or did you come home?

11 A. I stayed.

12 Q. So you stayed for it. The guys couldn't.

13 A. Yes.

14 MR. TEASTER:

15 Did you ever hear of the administrator making any kind of
16 comment that we could justify you standing around here until after the funeral? Never
17 heard that?

18 A. No.

19 UNIDENTIFIED SPEAKER:

20 Q. Larry, when you didn't go underground, were you in the booths or were you in
21 the MEU truck? Where did you stay?

22 A. Well, in the MEO and I went up on the mountain. On the drill side of it. And
23 that took about a --- and that took three hours or more to get up there. I mean, you
24 could actually see the drill sites from the mine, but you had all the way down and go
25 through Orangeville and come all the way back and get up on top of the mountain to

1 get back to the drill rigs, the drill holes. There were several days I went up there and
2 we actually pulled samples and did things ---.

3 UNIDENTIFIED SPEAKER:

4 When you went underground, did you do a whole shift with
5 your guys, or did you ---?

6 A. There was times when we were underground a lot. I mean, long hours.
7 Especially in the area over by the seals when we were going to install tygon tubing and
8 the pumps and breach the seal again. And go in and install stuff. So yeah, there was
9 some long hours that we were underground.

10 UNIDENTIFIED SPEAKER:

11 Did the people in command center give you copies of all the K
12 Orders and modifications?

13 A. There wasn't really a lot of modifications on the K Order, or you know, like the
14 plans that the company was submitting and MSHA was signing off on.

15 UNIDENTIFIED SPEAKER:

16 Did you get copies of those? They were part of the ---.

17 A. Pretty much. The copies were available.

18 UNIDENTIFIED SPEAKER:

19 Like when they debrief you they say here is the new one. This
20 is what we did today. One was signed to ---.

21 A. We actually had a clip board and I am the one that went in got it that we
22 actually started putting them in that and keep them in order and such. Because you
23 know, we had them laying here and there. It was kind of a mess. So we kind of got a
24 little structure.

25 UNIDENTIFIED SPEAKER:

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I just have a few more follow up on the [REDACTED] issue.

You're his supervisor out of Delta; correct?

A. I was, yes.

UNIDENTIFIED SPEAKER:

And in that time how long had you supervised [REDACTED]

A. I think [REDACTED] been working for me probably a couple of years.

UNIDENTIFIED SPEAKER:

In that time, did you ever have any other issues where there was questions about his professionalism, or attitude or anything like that?

A. Yes. I've gotten complaints from operators.

UNIDENTIFIED SPEAKER:

Would that have been more about his inspection attitude?

Did they consider him to be a heavy hitter, or was that what the complaint was about rather than not being professional?

A. No, it was enforcement. He was a very strict enforcer. Very good inspector, very good.

BY MR. PAVLOVICH:

Q. Was he ever characterized by anybody in this District as being overzealous?

A. I've heard the rumors.

Q. You've heard the rumors?

A. Yes.

MR. TEASTER:

You said he was a good inspector?

A. A very good inspector. Very knowledgeable. Very good inspector.

UNIDENTIFIED SPEAKER:

1 Would you ever question him being professional or not?

2 A. No. I traveled with ^{Ex. (b)(6) at} a lot. I never had a problem with his professionalism.
3 His personality might be a little different than other people or something, but I didn't
4 have a problem with him.

5 UNIDENTIFIED SPEAKER:

6 That's all I have.

7 UNIDENTIFIED SPEAKER:

8 I just have a couple of questions for you. You mentioned that
9 during the debriefings several inspectors expressed concerned about the bump
10 activity and that management took those concerns seriously. Can you just give me an
11 idea of what --- first of all, when you say management, who was that you're referring to
12 and what they did that suggests to you they took those concerns seriously.

13 A. Well, I think it would be like myself, Bill Taylor, Al Davis, Kevin, Richard. We
14 all knew that there was some bouncing, severe bouncing going on. And that was the
15 concern pretty much of anybody that was going underground. And what actually was
16 taking precautions or whatever, I guess at the time they felt they were doing
17 everything that needed to be done as far as the installation of the rock props, wire, the
18 ropes, trying to stay out of harms way.

19 UNIDENTIFIED SPEAKER:

20 And kind of as a follow up to what you said that you told your
21 guys to be extra careful underground, I'm just trying to figure out what kind of extra
22 precautions you had in mind? Did you give them anything specific? Did you tell them
23 if you hear two bumps followed by a bump it's time to come out? I mean, what kind of
24 precautions did you have in mind when you said take extra --- be extra careful?

25 A. One thing is always stay somewhere where you cannot be pinned in. You

1 know what I mean. Stay out of the way of the ram cars, don't get up real close to the
2 miners, stay out of that, if you're in a returns and stuff let somebody know where
3 you're at. Just don't go wondering around in areas you don't need to be going.

4 UNIDENTIFIED SPEAKER:

5 Okay. That's all I have.

6 BY MR. TEASTER:

7 Q. Larry, there was an occasion where [REDACTED] had initiated some
8 enforcement action involving roof supports at West Elk. And before that issue was
9 resolved, the District had some District people go over there and take a look at that
10 and they basically said that [REDACTED] was in the wrong. That it wasn't that bad. Are you
11 familiar with that situation?

12 A. I'm just thinking and I may be wrong now. But I think it was down in their
13 mains that got down to the B seam, but it was along some sealed areas. But it was
14 actually in the mains. And I think that was something about the plates were falling off
15 or something. I'm not exactly sure, but I think that was the area.

16 Q. Do you know why the District would not send you over to take a look, you
17 being his supervisor as opposed to sending some District people over to look at that?

18 A. Again, I think that was probably at a time when actually the company called
19 the District and went to the District and not to me.

20 Q. I know. But the District could have just as easily notified you. Because from
21 what I understand the District people that went were over in the Price area somewhere
22 and just went down there. What I'm normally accustomed to is the supervisor is your
23 first line unless it involves him?

24 A. Right.

25 Q. Do you have no feeling for why they would not have contacted you other than

1 they contacted the District?

2 A. No.

3 BY MR. PAVLOVICH:

4 Q. Does that happen a lot, Larry?

5 A. I wouldn't say a lot. I mean, it happens.

6 Q. Pretty frequently? Does it happen a lot when you issue a D Order or an
7 imminent danger order or shut part of the mine down? Does that happen pretty much
8 all the time?

9 A. When you issue a D Order or an imminent danger, they're pretty quick to call?

10 Q. So when you say not all the time, you're meaning during normal days, but
11 would you say pretty much all the time when you issue every paper that they don't like
12 they call the District.

13 A. I wouldn't say all the time, but the majority of the time. They would call and
14 question.

15 Q. They would do this repetitively I guess. If you issued me one today and I
16 called and you issued me one next week and I call again. So why would I keep calling
17 the District? Am I getting some satisfaction when I call?

18 A. Sometimes yes, sometimes no.

19 Q. If I'm not getting any I wouldn't keep calling would I?

20 A. No, I guess.

21 Q. So what's your answer? Do they get satisfaction when they call the District as
22 far as these enforcement actions go? First of all, how do you know they called the
23 District? Do they tell you or does the District tell you?

24 A. Most of the time they'll tell you.

25 Q. Okay. They'll tell you we're calling the District or we called the District.

1 A. Right.

2 Q. And that's all you ever hear?

3 A. And then sometimes they would call me.

4 Q. Did you ever get a call from the District that says they called us?

5 A. Yes.

6 Q. And what does that call consist of?

7 A. More or less fill us in on like what's going on.

8 Q. Did they ever tell you you're wrong? Change the violation based on what the
9 operator said?

10 A. No.

11 Q. Never?

12 A. I wouldn't say never.

13 Q. So if we looked at your violation history out of Delta and the orders were
14 issued would very seldom would we see one changed because --- is that true?

15 A. You might see some change from the conferencing or ---.

16 Q. No I mean, from the call from the operator? Before the conference is held I
17 would imagine; right?

18 A. I'm trying to think that maybe ---.

19 Q. Would it be vacated or would it be reduced from a D to a 104A?

20 A. I mean, there --- seven years might have been a few.

21 Q. So in your opinion not many?

22 A. Not that I can just start quoting them off.

23 BY MR. TEASTER:

24 Q. Was those calls more prevalent with West Elk than the other mines?

25 A. I would say, yes, West Elk called a lot more.

1 Q. Was there any or many occasions where the inspector was going to take
2 action and before they did they called and then there was no action taken as a result
3 of the District's involvement at the mine?

4 A. There might have been sometimes that that could have happened. Not an
5 ongoing process no.

6 Q. Thank you.

7 MR. PAVLOVICH:

8 Larry, I think that completes the questions we have for you.
9 We appreciate your time today and your patience with us on our questioning and we
10 certainly appreciate your efforts there at the mine. We all do that, and there are
11 probably several of us in this room that have been mine rescue team members and
12 trainers or whatever so we appreciate the work you do in that regard in trying to
13 maintain a team and keep up especially with the distance that you have and some of
14 the difficulties that you have. But we commend you for that and the work you tried to
15 do here and your efforts. And thank you for your time. Once again if there is
16 something that you think of that we hadn't asked you or you want to clarify, come to us
17 later, you know, we'll be here or give us a call or e-mail, whatever. And if we think of
18 anymore questions for you we'll try and get in touch with you. And we ask that again
19 you don't discuss any of these questions with anyone else until we're finished with our
20 interviews. Okay? Appreciate it. You got any other last comment or anything else
21 you want to let us know about prior to finishing?

22 A. No.

23 MR. PAVLOVICH:

24 Okay. Thank you, Larry.

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