

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
TED FARMER

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
DECEMBER 7, 2007

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MR. PAVLOVICH:

Let me explain a little bit, I guess, to start out. First of all, we asked --- we're taping all the interviews, and that's for our purposes. We --- if we should have some disagreement as we write the report, we can always go and listen to the tape, make sure that everybody's got their stories straight and that we've listened properly and get everything right. So is that all right with you?

A. Yeah. Not a problem.

MR. PAVLOVICH:

The next thing is, you know, Ernie and I are both retired and we both spent quite a bit of time with MSHA over the years and I left about three years ago, he about five and a half. So we were asked to kind of come out of retirement and actually the Secretary of Labor's Office hired us because Mr. Stickler and Kevin Stricklin both were onsite. You're familiar that usually when an accident like this occurs, there is an internal review done, and you've reviewed those with your employees and seen them before. So that they wouldn't have to take internal people to head up the review who also worked for Mr. Stickler, they asked Ernie and I to come back to head up what's called an independent review.

A. Okay.

MR. PAVLOVICH:

And we're no longer employed by MSHA, so they're saying we're independent. And our report will not go to MSHA for its comments and reviews, but it will go the Secretary's office when we finish it.

A. Okay.

MR. PAVLOVICH:

So that's kind of how we're involved. The people that you're

1 A. Nope, I don't.

2 Q. All right. Would you state your full name, Ted?

3 A. Ted E. Farmer.

4 Q. And what is your present job title?

5 A. I'm a field office supervisor in Price, Utah for MSHA.

6 Q. How long have you worked with MSHA?

7 A. Twenty-three (23) years, approximately.

8 Q. Twenty-three (23) years. Okay. And how long have you been a field office
9 supervisor?

10 A. A little over 12 years.

11 Q. Twelve (12) years. Okay. Who is your immediate supervisor?

12 A. Right now, it's Donald Gibson, who's acting AD --- ADM.

13 Q. Okay. And who was your supervisor at the time of the Crandall Canyon
14 event?

15 A. Bob Cornett.

16 Q. Okay. Ted, could you tell us a little bit about your background and experience
17 prior to coming to MSHA?

18 A. My granddad owned a little coal mine --- well, it's Trail Mountain now, and it
19 was called Trail Mountain Mine. I started going underground when I was three years
20 old. At 12 years old, I was drilling on a duty drill. I had to stack up coal finds so I
21 could even stand up and lift that sucking thing, it was so heavy. At 14, I was loading
22 holes and shooting them. At 15, we were --- a cousin and I were contracting, getting all
23 the coal out and it was all, at that time, horse and buggy. We had a track and the
24 horse brought it out and it was --- the coal was given to local people, you know, they
25 bought for their stoves and things like that. Then we'd haul --- we'd even haul it off the

1 mountain and deliver it to them if they didn't come up to the minesite and get it. We
2 went back east in 1962, back to St. Louis, and got us a little Joy loader. And we built -
3 -- I believe it was the first diesel piece of equipment that went underground in the coal
4 mine because we had all kinds of inquiries, at least my grandpa did, about --- from
5 Germany and Australia and places around, you know, how he was doing it. It wasn't
6 ventilated, it had no fan systems. Rock dust, I didn't know what that was until I went to
7 a big mine and it was white at Kaiser Steel. So I mean, that's --- that was my
8 background. You know, when I was a young kid, you know, we'd --- they'd take us
9 underground. It was kind of family oriented and they'd bring in the dirt and we'd make
10 stemming devices or dummies, what we'd called them. We just sat there and do it.
11 There was no federal inspectors, but state inspectors. And when they'd come on the
12 property, my granddad would come down underground and get me and take me out in
13 an area where there was caves and water and he'd set me down and take my light
14 away from me, so I wouldn't wander around and get caught. So I understand a lot of
15 what happens.

16 Q. Okay.

17 A. That's basic experience, you know, with a little cutting machine, I think they
18 call it short walls. We had the cutting machine, the duty drill, explosives.

19 Q. Did you work for any of the big mines around here?

20 A. Yes, I did. Yeah, I've worked for Kaiser Steel. I worked for a Wilberg. I
21 worked in metal/non metal mines up in the State of Washington.

22 Q. Most of your mining is in this area?

23 A. Yeah.

24 Q. Okay. Most of your MSHA or all of your MSHA experience is in this area, in
25 the Price area?

1 A. Right.

2 Q. Okay. So you're very familiar with the scenes here, with the mines here, with
3 the type of mining with what goes on here?

4 A. Yeah.

5 Q. Okay. Were you responsible for inspection activities at any of Murray Energy
6 or Bob Murray's mines?

7 A. Yeah, when they first came in, I had West Ridge Mine and the Crandall
8 Canyon Mine. And then they --- I think they came in like August or something like
9 that. And first of October, District took those mines and gave them to field office 2.

10 Q. And do you know why that was?

11 A. My understanding was that because I have ^{Ex. (b)(6) and Ex. (b)(7)(C)} that work at West Ridge
12 Mine and they didn't want to --- you know, Murray was doing a lot of stuff like
13 accusations and things and they didn't want, at that time, to have ^{Ex. (b)(6) and Ex. (b)(7)(C)} get
14 involved and me involved with Murray and kind of a conflict of interest, things like
15 that.

16 Q. Well, how long had ^{Ex. (b)(6) and Ex. (b)(7)(C)} been working at West Ridge?

17 A. Well, the one, probably two years.

18 Q. So for two years, you had those mines ^{Ex. (b)(6) and Ex. (b)(7)(C)} worked there, and there
19 weren't any problem ---

20 A. Until Murray came in.

21 Q. --- until Murray came in and then there was a problem?

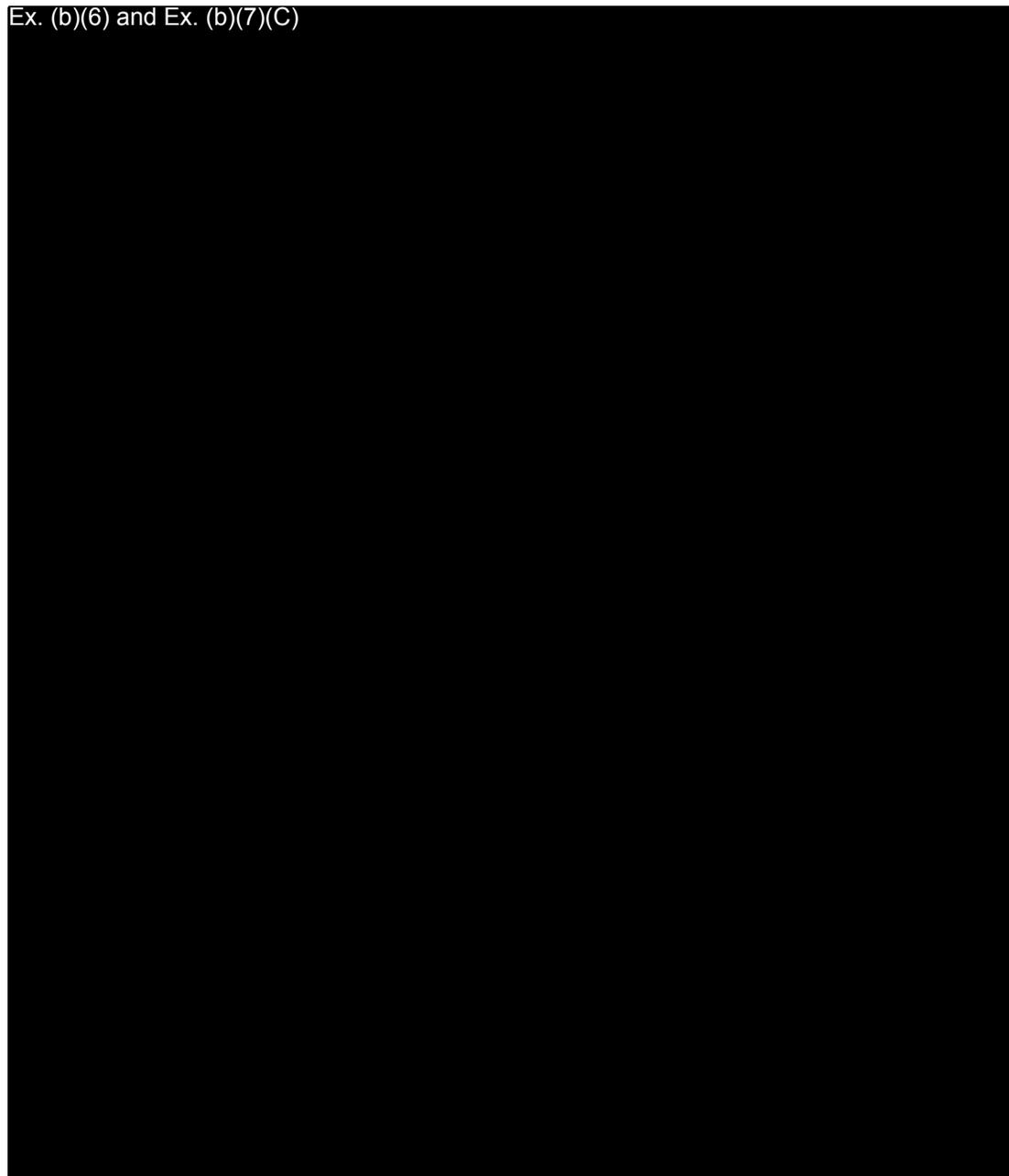
22 A. Yeah.

23 Q. Do you think that there were some other underlying factors involved as to why
24 the work mines were switched to workgroups?

25 ^{Ex. (b)(6) and Ex. (b)(7)(C)}

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

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Q. What --- you obviously --- when you had Crandall Canyon prior to this change in supervision over it, what did you think of the mine? What kind of shape was it in, Ted?

A. Prior to them --- Murray taking over?

Q. Yes.

1 A. It wasn't a bad mine. You know, it was just --- kind of had the same problems
2 over all the mines. You know, it was about --- you know, they didn't get any more or
3 any less violations. There weren't many, it didn't seem to me like a lot of
4 unwarrantables there. You know, over the course of a year, they had older men there,
5 more responsible people I believe. When Murray took over, he got rid of all of the
6 older people and put these young guys in as his top managers over there. And so
7 when they seemed to leave --- I hadn't been back until --- oh, probably it was
8 December of 2006, and I went back there and it was a mess. And so I think it was a
9 lot better operation, a lot safer operation when Tower Resources had the mines.

10 Q. Prior to Murray coming in?

11 A. Yeah.

12 Q. I think you made a statement in a transcript; you called it a disaster area ---

13 A. Yeah.

14 Q. --- when you went in, in December of 2006?

15 A. Yes.

16 Q. What do you mean by that?

17 A. Well, what happened is it was during the Christmas holidays, and I don't think
18 they figured anybody would be up there during the Christmas holidays and one of their
19 employees called, and he said that I needed to kind of come up and take a look at
20 what was going on. He didn't want to file a complaint, he just said that they were ---
21 the bosses were 4,000 tons short of making a bonus and that we need to just come up
22 and kind of take a look at the beltlines and things like that. So there was Mark
23 Schumway, and then a trainee, Bill Bordea, and then Rick Boyle that was in the office.
24 And I says come on guys, let's just go take a look. Even though it wasn't my mine,
25 you know, I felt that well, we wouldn't bother anybody, we'd just go up and take a look

1 and see what was going on. We got to the mine and nobody was outside and we sat
2 at the portal for a little bit, told Conspect and everything, and we'd kind of made up an
3 idea of what we wanted to do, how we wanted to attack it. And I told them I'd take the
4 beltlines if they'd go down, and Rick and Mike go down and get the face area, you
5 know do permissibility, those kind of things to make sure they were doing things right.
6 Coal was coming off the belt, they cleaned it. Afterwards, they weren't mining, but
7 you know when it's coming off the belt, and I walked the belt and see it, you know. I
8 guess gremlins were shoveling, I don't know. But I walked down to --- I walked the
9 beltline and I had to wait until we get up to number three belt to call them and tell
10 them, you know, get the belts off. The belts were rubbing into structure, bad rollers,
11 you know accumulations and on the --- I think it was the number one belt. Well, I
12 walked the number one, number two, number three, number four, number five and
13 number six belt and met Mike at the number seven belt. And he explained, you know,
14 that --- what was going on, you know, the issued violations all the way down the belt. I
15 think I issued six or something like that. And when I got down there, Mike says that
16 they had them down on an order. There was, I believe, four entries that --- and a belt
17 entry and a return were pretty good, but 1,000 feet outby that, from where they were
18 mining and the intake entry was solid black. You couldn't even see if there was any
19 coal there, according to the guys, you know. And you know, I didn't go down and look
20 at it. The guys just explained it to me, what went on and everything and they had the
21 rock dust samples that they had taken and things like that. And from what I seen on
22 the beltline, that's why I called it a disaster. I mean, you know --- and these bosses
23 were running shuttle cars and stuff like that according to this guy during lunch breaks.
24 They were more intent on getting their bonuses than they were on taking care of the
25 mine. And I was in that area. I thought it was First South, but reading everything, it

1 was in this --- I believe it was the Main West, about right in the area where they had to
2 pull out, you know, that area.

3 Q. So it was in the ---- mining in the North Barrier ---

4 A. Yeah.

5 Q. ---- is that where it was at?

6 A. Yeah.

7 Q. So you're referencing then the North Barrier development?

8 A. The one that they shut down.

9 Q. And they were developing at the time; right or retreating?

10 A. I think they were retreating. It seemed to me like ---.

11 Q. They were retreating then?

12 A. I believe. I can't recall.

13 Q. You didn't get all the way up to the face?

14 A. No, I didn't get all the way up to the face.

15 Q. Now, let me ask you again about the switching of field offices. Was it --- do
16 you remember here in your time with MSHA where workgroups have ever been
17 swapped like that?

18 A. Yeah, because of the numbers of people that each field office had over years
19 we'd get --- you know, I used to have some of those mines and we made switches
20 because of personnel and how big the mines were. I had smaller mines and he had
21 the larger mines, had gassy mines, more gassy mines and that and we tried to make it
22 equitable.

23 Q. So you might swap a mine or two mines or three mines, ---

24 A. Yeah.

25 Q. --- usually not the whole workgroup?

1 A. No.

2 Q. This time did you swap the whole workgroup mines, or did you just swap these
3 couple mines?

4 A. Just these two mines.

5 Q. Just these two mines.

6 A. The Murray mines.

7 Q. Okay. Just the Murray mines. It wasn't a swap of the whole workgroup?

8 A. Uh-uh (no).

9 Q. Okay.

10 MR. TEASTER:

11 Ted, ^{Ex. (b)(6) and Ex. (b)(7)} after he was --- this issue at the allegation at the
12 mine had been settled, did he go back to another Murray mine and did he shut it down
13 for a period of time?

14 A. Not to my knowledge. Well, yeah, he probably --- he probably --- I can't
15 remember, but he was on a belting issue at one time with Don Gibson and they went
16 to different mines. And I can't remember if he went to one of them or not. He could
17 have done --- he could have shut them down. You know, I can't recall that.

18 MR. TEASTER:

19 You mentioned earlier about shutting a section down for some
20 period of time, was that prior to that?

21 A. Yeah, that was when we had the mine. That's when we had the mine. I think
22 it was the 1st of September or something like that. He went up and done the
23 inspection on the longwall and they had 80, I think there were around 80-some
24 hydraulic hoses, high pressure hoses that was bad. And so he shut them down and it
25 took them that long, I think around five days to get them all changed out.

1 MR. TEASTER:

2 Ex. (b)(6) and Ex. (b)(7)(C)
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12 BY MR. PAVLOVICH:

13 Q. So when you went out there in December of '06 on that complain, the mine
14 was not assigned to you at that time, it was Bill's mine; right?

15 A. Yes.

16 Q. And was Bill not working then?

17 A. Yeah, I think he was on holiday, you know, I didn't want to disturb him at
18 home.

19 Q. So you just grabbed some guys in the office and took them there and went out
20 to investigate the complaint that you had?

21 A. Right.

22 Q. Okay. Did you feel that prior to Murray coming out here that you had a better
23 relationship with the management at that mine, any of these mines?

24 A. Oh yeah. Yeah, absolutely. Definitely.

25 Q. Were the mines similar in compliance to other mines, or were they different

1 prior to Murray coming?

2 A. They were similar.

3 Q. And after he came out, did they seem to be different, to your knowledge?

4 A. I think attitudes, to my knowledge, the attitudes changed, you know, because
5 we didn't inspect it other than in December, but from what I hear from the inspectors
6 and everything, yeah, definitely. You know, I mean, when you get 20-some violations
7 in three-quarters or four-quarters of one mine, I mean orders, you know, and it's never
8 --- you know, that amount of orders have never been laid on in anybody in this
9 country, you know, it's quite an eye opener to me, you know, so ---.

10 Q. Would you say that the enforcement attitude of both workgroups here in Price
11 are pretty similar, or is one stronger than the other?

12 A. I think my workgroup's stronger. I think they have a little better knowledge like
13 Donnie Durant, Frankie Markasek, you know, they've been superintendents, mine
14 managers. Frankie was a mine manager at Kaiser Steel, Donnie, you know, a
15 superintendent and those two men, I would put up against anybody in the country as
16 far as longwall experience. They're the most knowledgeable people I've ever met in
17 longwall.

18 Q. So you think if we evaluated all of the citations issued between the two
19 workgroups, yours would show that there were more citations, more hard paper, more
20 D's issued than the other group?

21 A. No.

22 Q. You don't think so?

23 A. Not when Murray took over.

24 Q. No, I mean just in general.

25 A. In general.

1 Q. Just talking about in general.

2 A. In general, before Murray came ---.

3 Q. At all your mines, not just the Murray Mines, any mines, ---

4 A. Yeah.

5 Q. --- would you say that your workgroup's harder hitters than the other
6 workgroup, or no?

7 A. I think --- I guess there are inspectors that are hard hitters in both groups and
8 then there's inspectors that are really weak.

9 Q. In both?

10 A. They need their butt kicked.

11 Q. In both or ---?

12 A. In both.

13 Q. Okay. So you wouldn't say that there's a whole lot of difference between the
14 two workgroups?

15 A. No, just ---.

16 Q. It's just difference in inspectors, individual inspectors?

17 A. Yeah.

18 Q. Okay. Had you ever met Mr. Murray prior to the accident on August 6th that
19 you remember?

20 A. Oh, yeah. I met with him when he first came. I can't exactly remember the
21 day, but it was probably in September of 2006.

22 Q. And what was the gist of those meetings, I guess?

23 A. Well, he wanted to meet with me and Bill Taylor and talk with Bob Cornett, so
24 I went up to the mine. Bill wouldn't go up to the mine because he felt that he would
25 have cameras and recorders and stuff like that. He was really paranoid with him

1 because he heard some bad stories. So Bob and Bill were on a phone, phone link,
2 and I was at the mine and we was talking about ---.

3 Q. Now, wait a minute. You went to the mine to meet with him personally?

4 A. Yes.

5 Q. But Bill and Bob wouldn't go to the mine?

6 A. Well, Bob was in Denver, but Bill wouldn't go to the mine, no.

7 Q. They refused to go to the mine?

8 A. Yeah. He didn't want to go up and talk with him personally.

9 Q. So he was just on a telephone?

10 A. Yeah.

11 Q. Okay. Go ahead then. So what was the --- how did that work out?

12 A. Well, it worked pretty good. I mean, they explained, you know, what their
13 position was in safety and all this and what they were planning on doing and blah,
14 blah, blah, you know, that kind of stuff. And then all of the sudden, he gets into a rant
15 about getting rid of somebody from MSHA and that he didn't do it, but you know, he's
16 being accused of it. Then he got on Ex. (b)(6) and Ex. (b)(7)(C) you know, and saying --- you
17 know, really got boisterous about him, and told him that, you know, he didn't need to
18 be an inspector because of all of these allegations and this stuff. In other words, he
19 had him convicted before, you know, anything and he just ranted and raved. And then
20 after they hung up, you know, he looked at me and he says, I think you got something
21 to say, don't you, and I said yeah, I do. I said I'll tell you right now everybody's told me
22 their experience, I'm going to tell you mine. I told him my experience. And then I
23 says, Mr. Murray, I'll tell you what, I says I haven't heard one good thing about you
24 from MSHA or Industry other than the Coal Age magazine that showed you as the
25 man of the year or something like that, but I'm here to tell you, you can prove

1 everybody wrong as you operate these mines. He said you're kind of blunt; aren't you.

2 And I says well, that's how I see it. He said thank you very much, and I left.

3 Q. Did he ever call MSHA the enemy in any of that conversation, do you know?

4 A. Not to me personally, but you know Ex. (b)(6) and Ex. (b)(7)(C) would come back and tell me in
5 their meetings and that, that MSHA was the enemy, Utah Power & Light was the
6 enemy, everybody was the enemy.

7 Q. Oh, everybody?

8 A. Yeah, anybody that had any competition with him was the enemy. And when
9 Bob and I went back --- Bob did come over and me and him went up and talked to
10 Bruce Hill and they were going through their spiel again. And Bob says well, that's
11 good, but you know, if we're the enemy, how are we going to be able to do what you're
12 asking. And Bruce Hill got very, very defensive and cut the conversation off right
13 now. He said well, we ain't here to talk about that and everything. Well to me, you
14 know, if we're the enemy, we can't --- you know, there's not going to be any working
15 relationship with them. I'll tell you right now, I mean, I get along well with him. I, you
16 know, communicated with Bruce over a period of time, you know, and that. But you
17 know, I haven't had any, you know, real problems with him because I just expected to
18 comply and just go with that. You know, I don't ---.

19 Q. Did Bruce's attitude change after Murray came in?

20 A. Well, he was one of Murray's people that he brought out.

21 Q. So he brought him out here? Bruce wasn't here before?

22 A. No.

23 Q. Okay. So you didn't really know him before Murray brought him in?

24 A. No.

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

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

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Q. How long have you known Lane?

A. Oh, geees, 11, 15 years.

Q. And he had been in management in at these mines with Andalex?

A. Yes.

Q. And what did --- how was the working relationship that you had with him then?

A. Pretty good. You know, I got along with him, I got along with everybody. I mean, we were able to communicate and talk over issues. You know, if they had issues, they'd come down, we'd look at maps, things like that. And you know, we got along with him really well.

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

Q. Did Lane have the ability to seem to get more plans through Denver and more things wanted than other people in the area?

1 A. Lane and Jim Poulson could go through the District and basically get anything
2 they wanted.

3 Q. Why do you say that, Ted? How were they --- what influence did they have in
4 the district?

5 A. I'm not sure, but it just seemed like --- well, you know, and I seen it at Crandall
6 Canyon, you know, things that happened and it just seemed like anytime they wanted
7 something and Bill and I would discuss it, you know, with co-workers, you know, and
8 say about this and this, you know, about Aberdeen and the things that they were doing
9 there. And then they'd turn right around and say vacate this, vacate that. It really
10 frustrated Bill, and he would talk to me about it. And we'd try to figure out, you know,
11 how can we do these things. But I think all the company has to do is call Denver and
12 they pretty well get what they want, you know.

13 Q. This particular company or any company?

14 A. I think any company.

15 Q. Any company?

16 A. Yeah, I do. You know I've just --- I experienced it myself, you know.

17 Q. Well, let me ask you this, was that that way when Kuzar was here?

18 A. Absolutely not.

19 Q. And so when Mr. Davis came, you seen a change in that the companies now
20 can kind of get what they want where they couldn't before?

21 A. Yes. Don't get me wrong, Mr. Davis is a very good man and a very nice

22 gentleman. But as a manager Ex. (b)(6) and Ex. (b)(7)(C)

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

but I got along

24 with him good. He encouraged enforcement.

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

1 A. When he was out here, Kuzar, you ain't kidding he did. He backed me up to
2 the hilt.

3 Q. Okay. Was it more difficult for operators to get plans that you thought were
4 more questionable, or that shouldn't have been approved?

5 A. Yep.

6 Q. They couldn't get them?

7 A. Yep.

8 Q. And when Mr. Davis came, did it seem like he backed up enforcement as
9 much as Mr. Kuzar did?

10 A. No.

11 Q. It didn't? Did it seem like companies had an easier shot at getting plans that
12 you questioned or you had problems with?

13 A. Yeah.

14 Q. For any kind of plan that they wanted?

15 A. Any kind of thing. It's like okay, we're on these --- on respirable dust. Okay.
16 Respirable dust they keep pushing and say, okay, do your sampling, do your
17 sampling, and then they got into the --- oh, what do you call them? Anyhow, where
18 they have one out of compliance and so then they --- I can't remember the word
19 they're using right now. But one mine, the Deer Creek Mine, has a lot of those and I
20 don't know how many e-mails I've sent saying, you know, if they're so much out of,
21 you know, compliance and they're on the six point standard, and a milligram standard,
22 and a three milligram standard, we ought to be doing something different. You know,
23 we ought to be making them cut back on their 40-foot cuts, we ought to probably look
24 at brattice instead of tubing, blah, blah, those kind of things. But apparently, from
25 what I understood from the dust people, Deer Creek Mine went over there and its back

1 to business as usual. I mean, so why are we doing respirable dust? You know, why
2 are we doing this special emphasis program and everything? As far as I'm concerned,
3 you know, what good is it if a coal company can come and say, you know, we're going
4 to do this and we're in this new coal seam and everything blah, blah, blah, and not try
5 to make adjustments to their plans or anything like that. You know that's frustrating,
6 but you know, that goes Bill --- Bill Knepp and Bill Reitze, both. You know, I've
7 communicated with them all saying, you know, something's got to be done here. And
8 we're still on the point six and a one point something on the core standard on
9 respirable dust, but we continue to allow them do the longer cuts. You know, it's
10 frustrating to me. You know, if we're going to do a job, let's do it and let's try to protect
11 these guys. And that's just --- it's just you'd like to pull your hair out, you know.

12 Q. So with some of the things that you weren't being supported from the District,
13 it was frustrating, is that what you're saying?

14 A. Right. But you know, I don't know if that was because they have lack of
15 manpower or things like that, people to do the jobs over there. I don't know what their
16 situations are over there. But from my point of view, where I sat, you know, I felt that
17 you know, we really needed the help, and we're not getting it.

18 Q. Okay. So you're not saying it was anything special with Murray's mines or
19 Andalex, or --- it's just everybody ---

20 A. Yeah.

21 Q. --- could kind of get what they wanted?

22 A. Yeah.

23 Q. A lot easier to deal with getting plans through Denver than before?

24 A. Yeah. And it just seemed like, you know, Al, you know, came over a couple
25 times to the Skyline Mine and we were, you know, having a little problem up there with

1 management and getting them to comply and everything. And they'd come over, but
2 he would never even stop and say what he was doing at those mines. And you know,
3 that bothers me.

4 Q. You mean he came to Price, went to the mine and you didn't even know he
5 was here?

6 A. Yeah, a couple times.

7 Q. A couple times, more than once?

8 A. Oh, yeah.

9 Q. And what would be the result of those visits?

10 A. I have no idea what ---.

11 Q. Did you ever get a call later that said hey, Ted, you're screwing up?

12 A. No. Nope.

13 Q. He'd just go to the mine and you or none of your people would know he was
14 there ---

15 A. Yeah.

16 Q. --- until after the fact?

17 A. Yeah, until after the fact.

18 Q. Who would usually tell you that, the operator?

19 A. Selected people. Yeah.

20 Q. The operator would tell you Al Davis had been over here, and ---

21 A. Yeah, he's been over here.

22 Q. --- we met with him or had a visit, but you didn't even know about it?

23 A. Uh-uh (no).

24 Q. Was there any reason for that, Ted?

25 A. I was thinking it was --- they were going to start doing the same thing that they

1 were doing over in the Delta Office. And that was in Delta, the inspectors and the
2 supervisor would meet with the coal operator with Bob and Al in what they called ---
3 the inspectors called a hugging session.

4 Q. Okay.

5 A. You know, because they felt --- the mine was feeling like they was being
6 picked on, things like this and so--- and there was a lot of animosity between the
7 inspectors and the coal companies and I seen that when --- over at the last fire they
8 had over there, the animosity between that.

9 Q. West Elk?

10 A. Yeah.

11 Q. The West Elk fire?

12 A. Yeah. But I didn't want to get into that hugging session and everything.

13 Q. The hugging session is like everybody feel good now, all of a sudden we're
14 friends or what?

15 A. I guess. You'd have to talk to Larry and his people. Because Larry was telling
16 me, you know, he said well, don't get in that hugging session group.

17 Q. Okay. Ted, do you or your inspectors ever get a chance to review plan
18 submittals prior to being approved?

19 A. No.

20 Q. You never do?

21 A. No.

22 Q. So an operator submits a plan to Denver, Denver approves it and they send
23 you the approved copy and that's it?

24 A. Yes.

25 Q. And that's all you get? You never get a chance to comment on them?

1 A. No.

2 Q. They never call you and say Ted, somebody submitted this, what do you think
3 about it?

4 A. Well, no, they don't do that. I'll get a call that'll say, you know, they're
5 submitting --- we're reviewing up for their six-month review, you got any comments?

6 Q. For a six-month review, but not on an individual plan that's sent in?

7 A. No. That never happens.

8 Q. Has it ever happened, ever?

9 A. Not as long as I've known --- known it.

10 Q. So even when Kuzar was here, it didn't happen?

11 A. Yeah. I had one of the ventilation guys come out, and it was at the Crandall
12 Canyon Mine, and they were trying to get the plan approved there and then he came
13 out because of them taking so long and he sat down and had it done in three days, but
14 that was the first time he had been to that mine he told me in ten years.

15 Q. Okay. Who was that?

16 A. That was Jeff Fleschman.

17 Q. That's back when Jeff was still working in ventilation?

18 A. Yeah, ventilation.

19 Q. In ventilation?

20 A. Yeah.

21 Q. Okay.

22 A. And so he --- you know, I told him --- I says, well, how can you really
23 understand what's going on by just looking at the maps when you don't get a feel for
24 things? And he says, well, my supervisor absolutely does not want us out in the field.
25 That's what he told me. And it's very seldom that we do have, you know, one of the

1 people come out and take a look at the mines.

2 Q. How about if your inspectors fill out that 204 form, you know, the review for
3 the vent and the roof that goes in the inspection report every quarter, do they ever put
4 any deficiencies identified on that form?

5 A. Yeah, sometimes they do. And we had quite a talk with them in the last ---
6 well, before Crandall Canyon, about not putting things in that, you know, such as the --
7 - telling them the plan isn't adequate in ventilation if we're on a point six and a point
8 one --- or a one point-something standard. We ought to put --- be putting those type
9 of things in there.

10 Q. Okay. They weren't putting them in?

11 A. No.

12 Q. Did they tell you why they weren't, Ted, putting them in?

13 A. I think they just didn't think of it. You know, as far as, you know, when they
14 look at things, well, ventilation plan is adequate but they're not looking at the point six.
15 You know, its like ---.

16 Q. Did they ever tell you, we put stuff like that in before, Ted, and we never get
17 any response?

18 A. No.

19 Q. Nobody ever told you that?

20 A. No.

21 Q. Had you ever seen --- had you ever put anything in that form and got a
22 response from Denver that said yes, Ted, we appreciate it, we're going to change the
23 plan because of your comment?

24 A. No, not that I'm aware of.

25 Q. You never got that?

- 1 A. Yeah.
- 2 Q. Did you ever put anything in the form like that when you were inspector?
- 3 A. Inspector, yeah.
- 4 Q. How about, did you ever see any of those come across your desk in a report
5 that said deficiencies?
- 6 A. Uh-uh (no).
- 7 Q. No, none of your inspectors ever checked deficiencies and identified?
- 8 A. Well, yeah, they have on --- plans on occasions.
- 9 Q. Okay. Did they ever get any response?
- 10 A. I don't think so.
- 11 Q. You never got ---?
- 12 A. I never got a response back.
- 13 Q. Nobody ever called you and said, Ted, your inspector put this in here, we've
14 got a problem, can we help you or anything like that?
- 15 A. No.
- 16 Q. No. So it's just you put it in there and send it on and that's it?
- 17 A. And you do that, and I hate to say that, but you do it to cover your butt. I
18 mean, that's basically the result of ---.
- 19 Q. So you kind of do it to cover your butt never expecting to get anything back?
- 20 A. Right.
- 21 Q. Is that what you're saying, never get anything accomplished or done?
- 22 Q. Okay. Did you ever know of a time when an operator had an addendum to the
23 plan, approved addendum, in hand prior to you getting it in the field office?
- 24 A. Oh, yeah.
- 25 Q. Surely not.

1 A. Yes.

2 Q. Often?

3 A. Well, more than I'd like to see.

4 Q. Well, one is more than you'd probably like to see, but is this something that
5 you would think happened fairly frequently here?

6 A. I don't know how frequent, but it's stuff that I think happened just a couple
7 weeks ago. I got to think about it.

8 Q. So you have seen it happen?

9 A. Oh, yeah, absolutely.

10 Q. And how did you find out that the operator had it, when the inspector goes to
11 the mine and ---?

12 A. We're going to issue the paper and they pull out this plan and say, hey ---.

13 Q. And you know that you haven't got one in Price yet?

14 A. Yeah. And we haven't got it, because they'll come back and say, hey, this
15 isn't --- you know, they're saying they got this plan and they have a copy of it, and we
16 go through the UMF and ---.

17 Q. So it's not like it's been sitting in their mailbox in Price for a week and they
18 haven't check it. You just hadn't got it yet?

19 A. Yeah. What happens is each day I go through the mail and any plan
20 approvals or addendums to plans, they give me two copies. The one copy, we give ---
21 you know, the Secretary puts in the UMF. The other copy I put on the inspectors' desk
22 and tell them okay, put this in the mile file packet. This is some new things for you to
23 look at.

24 Q. Okay. So you think maybe the approval was FAXed to the operator the day it
25 was approved, but they dropped it in Pony Express mail to Price from Denver and it

1 took a week to get here?

2 A. Yeah. And lately it seems like, you know, we've been getting copies of them
3 on the fax.

4 Q. Okay. Sometime now you're getting copies of them on the fax?

5 A. And then we get the hard --- the original copy, you know, in the mail because
6 it does take a little longer, about five days I'd imagine for it to get here.

7 Q. Does that create problems from you and for you as the supervisor and for your
8 people when the operator has a plan before you do?

9 A. You know, it doesn't create a problem other than the guys coming back and
10 say I felt so stupid. You know, here I am trying to do something ---.

11 Q. It's kind of embarrassing?

12 A. Yeah. You know, I felt really dumb.

13 Q. And you feel like the operate gets ---?

14 A. Gets a chuckle out of it, yeah.

15 Q. And he gets more satisfaction out of Denver than you do?

16 A. Well, sometimes I do think that. But you know, I don't know. You know, it's
17 just something that they seem to get things, because you know, they need it right now.
18 So they'll work on it maybe before they go home. They'll fax them a copy over so that
19 they can get to work on it and then we're just kind of left out of the thought process
20 maybe.

21 Q. Okay. Nobody ever really asks your opinion on plans then?

22 A. No.

23 Q. Have you ever been instructed, I think ---

24 A. Well, ---.

25 Q --- earlier --- go ahead.

1 A. You know, they do say, well, do you have any problems with their plan. But I
2 haven't seen their plan other than the one that they have. You know, I don't see the
3 one that they have submitted. So I don't know if I have problems with what they're
4 submitting or not, you know.

5 Q. Okay. You mentioned something before about having violations vacated and
6 stuff. Has anyone from Denver ever instructed your or your inspectors to vacate a
7 violation?

8 A. Not my field office that I'm aware of. You know, unless it was from the
9 conferencing officer.

10 Q. It wasn't just Bob Cornett or someone called and said Ted, vacate this
11 violation?

12 A. Nothing like, I know that happens in the other field office, but I haven't ---.

13 Q. But not in your office?

14 A. Not in my office.

15 Q. And you have heard of it happening ---

16 A. Yes.

17 Q. --- in the other workgroup?

18 A. Yeah.

19 Q. The other workgroup, Bill's workgroup you said?

20 A. Right.

21 Q. And you know it happened in that somebody actually told you or showed you,
22 or ---?

23 A. Yeah, Bill sat me down, and again we talked about it. There was one at West
24 Ridge that Randy had issued and they was --- you know, they called and told him to
25 vacate it. He thought it was a good violation. I looked at it and I thought it was okay.

1 But you know, I can't remember exactly what it was and everything. And then there
2 was, I think, one at Aberdeen. We have to confide in each other. I mean, we're not
3 the best of friends and in fact [REDACTED]

4 Q. Who's that?

5 A. Bill Taylor.

6 Q. Oh, okay.

7 A. But we do work well together, you know. I mean --- and so we were able to sit
8 down and talk with one another and try to help each other out. And so that's just how I
9 feel. So he let's me in on what's going on a little bit when he gets frustrated.

10 Q. Okay. When you say you're not the best of friends [REDACTED]

11 [REDACTED], does that ever cause any conflicts in the office between the two
12 workgroups?

13 A. Not the two workgroups, just between me and him.

14 Q. Between you and him?

15 A. Yeah.

16 Q. Do you think your inspectors know about those?

17 A. Oh, yeah. I mean ---.

18 Q. So then would it not affect them also?

19 [REDACTED]

20

21

22 A. Yeah, when everybody was around in the office. I mean ---.

23 Q. Do you think that would affect the attitude of your inspectors and his
24 inspectors if you two don't get along?

25 A. Well, it ---.

Q. That's a yes or no, Ted.

1 A. Yeah. I'm sitting here trying to think, you know, because --- yeah. Sure it
2 would. Yeah, it would. Sure.

3 Q. So you're saying you think --- I mean ---?

4 A. Yeah. And that's why we've been ---.

5 Q. If you two can't get along and you're the leaders of the office, ---

6 A. Right.

7 Q. --- do you expect the guys to get along or are they going to take Ted's side or
8 Bill's side?

9 A. Yeah.

10 Q. You think that ever happened?

11 A. Yeah, I believe so. I believe, you know, when we had that blowup and
12 everything and then I changed attitudes and haven't had anything, you know --- let it
13 get out of hand. You know, I just --

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

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

14

15

16

17

18 A. Yeah, but he doesn't think so. So ---.

19 Q. How long ago was this?

20 A. Oh, it's been a couple of years, yeah.

21 Q. Well, I realize everybody doesn't always get along all the time.

22 A. I got a short fuse at times, you know. I do, so ---.

23 Q. Does Bill also?

24 A. Yeah, he does, and then he won't let go of it. What happened, you know, he
25 following me around and kept picking at me, picking at me and I said leave me alone,

1 just get out of here, you know, I don't want to talk to you. But he just followed me into
2 my office and then I had had enough, I just ---.

3 Q. And you say Bob Cornett dealt with that issue?

4 A. Oh, yeah.

5 Q. He didn't just let it ---?

6 A. Yeah. Bill got right on the phone and told him, you know, that I was going
7 whoop on him.

8 Q. Okay. Do you think the workload between the two workgroups is
9 commensurate with the number of people you each have? Is it fair?

10 A. Not right now.

11 Q. It's not?

12 A. No.

13 Q. Why do you say that?

14 A. Well, he has what is it, six inspectors and I got three.

15 Q. Okay. You both have the same number of mines and MMUs?

16 A. Yeah.

17 Q. So the mines and MMUs --- or MMUs are divided equally?

18 A. Pretty much.

19 Q. But he's got twice the inspectors you have?

20 A. Yeah.

21 Q. Did you ever talk to anybody about that?

22 A. It don't do no good. I mean, I have --- I mean, it's just like now. I mean, I got
23 a mine, Deer Crest Mine is 13 miles --- 13 and a half miles underground. I'm the only
24 inspector there. I've been asking for help to get it done for this quarter and they keep
25 telling me you're going to get it, you're going to get it, you're going to get it. Well,

1 finally after, what, two months, I'm going to get somebody from back east to come and
2 help.

3 Q. When you say you're the only inspector, you're making the mine yourself?

4 A. Yeah.

5 Q. You are?

6 A. Yeah.

7 Q. As a supervisor, you're out making Deer Creek Mine this quarter?

8 A. Yeah, me and the diesel specialist and a trainee.

9 Q. Okay.

10 MR. TEASTER:

11 How many trainees do you have?

12 A. I have three trainees and two of them are back at Beckley right now and I've
13 been sitting down. They got one more course, but I'm trying to get them their AR card
14 a little bit early before they finish their last card.

15 BY MR. PAVLOVICH:

16 Q. So you see some light at the end of the tunnel, but you've had a hard go the
17 last couple of years then with being short of people?

18 A. Yeah, we have. You know, we were able to kind of maintain our head above
19 water a little bit until Frankie got hurt and you know --- and that --- and it's kind of went
20 downhill from there.

21 Q. Okay. Did you ever have any disagreements or problems with the District
22 CLR, conference officer?

23 A. No.

24 Q. Okay.

25 A. I mean, you know, we'll talk about it and everything and I said well, I kind of

1 don't agree blah, blah, blah, but I say, you know, that's okay. It doesn't affect the way
2 we do business. I get along well with Ned.

3 Q. Okay.

4 A. You know, most people --- a lot of people don't, but I do. You know, I can see
5 where he's coming from and he has a job to do and you know sometimes it upsets the
6 employees a little bit because, again, it's that pride issue.

7 Q. Sure.

8 A. But if we're wrong, we're wrong, and we just need to deal with it and move on.

9 Q. So you think for the most part, the changes that Ned makes are justified to the
10 best that you can tell me?

11 A. Yeah,.

12 Q. I mean, it's not just something giving away the farm? I mean, ---.

13 A. Yeah. It did appear this week or last week, you know, I got a couple of them.
14 You know, and he is pretty well right, you know, in what he was saying. You know,
15 had some good arguments and stuff like that.

16 Q. Are the explanations he provides back in writing for a change, you feel they're
17 adequate?

18 A. Yeah.

19 Q. They document why the change was made?

20 A. They are more so now than they have been. There for a long time, we never
21 got any comments back. You know, it was just, you know, vacated or modified or
22 something like that.

23 Q. Oh, okay. You never got comments back?

24 A. No.

25 Q. Now, you do get them?

1 A. Yeah.

2 Q. How long have you been getting them back now?

3 A. Probably a year, maybe a year and a half.

4 Q. Just a year or so, a year and a half?

5 A. Yeah.

6 Q. Prior to that, you weren't getting --- you were just getting the thing back, that it
7 was changed?

8 A. Yeah.

9 Q. No justification, no comments?

10 A. No. We had asked that --- asked for something like that in the past. If there
11 was things that we all needed to know, if CLR would, you know, give us a list and that
12 so that we could better do our job, you know, compared to that. And again, you got
13 one CLR and all these things going on, you know, and he's six months behind right
14 now.

15 Q. Yeah.

16 A. You know, stuff like that.

17 Q. You seen a lot more conferencing going on here lately?

18 A. You ain't kidding.

19 Q. Especially since the price of a citation went up?

20 A. Yeah, I've never seen them before ever look at a non S&S violation to
21 conference.

22 Q. But now they're doing it?

23 A. Now, it's constant. You know everything you write, they're doing it. And
24 they're ---.

25 Q. Are they keeping you guys tied up in court any, Ted, or is it pretty much

1 getting handled at the CLR?

2 A. We're seeing more going to court than we have before, since recently.

3 Donnie just got back from court, so yeah, we're seeing more of it. We really are.

4 Q. Did you ever have an opportunity to see the plan that was submitted from
5 Crandall Canyon to mine these barriers before it was approved?

6 A. No, I did not.

7 Q. When you first heard or saw that there was a plan approved to develop the
8 North Barrier and retreat it, what did you think about that, Ted?

9 A. I never seen it.

10 Q. No. I mean, after you saw it approved.

11 A. Well, the first time I seen it approved was the day of the accident, you know.

12 Q. Oh, okay. Then maybe I'm asking you the wrong question. This wasn't your
13 mine?

14 A. This wasn't my mine.

15 Q. So you really didn't look at the uniform mine file for this mine? You really
16 didn't know that that had been --- okay. I'm sorry. Well, let me ask you this. You've
17 got --- I don't know how old you are, but if you started mining when you were three
18 years old, you've got quite a bit of experience her. Okay.

19 A. Yeah.

20 Q. You went in the mine at three. You've been all over these coal seams, all
21 over these mines. And have you ever seen anybody mine barriers similar to this?

22 A. No.

23 Q. You never have. With the cover in this area, the bump potential, the large
24 longwall areas, would you have anticipated somebody would have wanted to mine
25 barriers similar to that?

1 A. Absolutely not.

2 Q. You wouldn't have?

3 A. I don't think anyone in their right mind would have submitted that.

4 Q. Then why do you think it was submitted? Don't know?

5 A. I, you know, think it was just the need to keep that mine open and keep those
6 employees there employed, so that whenever they was able to get the Lila Canyon
7 Mine open, they could use that workforce over there.

8 Q. Do you think --- and again, it's all conjecture, opinions, whatever. Do you
9 think maybe somebody wanted to mine that and the people at the mine who were
10 knowledgeable figured they couldn't do it, but maybe they submitted the plan to
11 Denver in the hopes that it would be denied, and it ended up being approved?

12 A. No.

13 Q. You think they really wanted to mine it?

14 A. Yeah.

15 Q. Lane Adair and these --- Peacock and the rest of them names that keep
16 popping up, I mean, they actually wanted to mine those barriers?

17 A. Yeah.

18 Q. Did you think?

19 A. But that's just my opinion.

20 Q. Okay. That's fair enough. So you never even really knew they were mining
21 the barriers --- well, I guess you did when you went there December 26th. Weren't
22 they up in the barrier?

23 A. You know, I didn't see the face, you know, so I can't really ---.

24 Q. Yeah, but you knew --- if you looked at the map before you went in, and you
25 did if you walked the belts because you certainly wanted to find your way --- I mean,

1 you could follow a belt to find your way, but you wanted to know where they were
2 mining; right? Which section they were mining?

3 A. Yeah.

4 Q. So you saw that they were mining the North Barrier?

5 A. Yeah. And I can't recall, you know, what ---.

6 Q. You don't remember thinking, wow, what are they doing in there?

7 A. No, not ---.

8 Q. Because this is where you guys went; right?

9 A. Yeah, we went in here.

10 Q. You went up in what we're calling the North Barrier?

11 A. Yeah.

12 Q. Just to the north of the Main West section?

13 A. No, I didn't have any real problems in here, you know, as far as, you know,
14 what they were doing. I mean, ---.

15 Q. I mean, as far as --- and you know, this mine had developed Main West and
16 then these two large longwall areas and of course, this was accessed and they had
17 two large protective barriers on either side of Main West. So the day you came in on
18 the 26th, you may not have been looking at this mine prior to, but when you actually
19 came in, you were in this North Barrier where they were removing that barrier; right?

20 A. No, they was leaving --- they was leaving this.

21 Q. No, no, I mean, they were removing the big barrier that had been there?

22 A. This one here or this here, this barrier here. You're talking about this barrier
23 here?

24 Q. Yeah. What I'm saying is that we had five entries here in Main West. Okay?
25 And then you had these longwall gobs out here and you had a barrier that was solid

1 coal there and a barrier that was solid coal to the south. Now, what they were doing
2 was they came in and were mining out that barrier. Okay?

3 A. Yeah.

4 Q. Did that kind of surprise you that they were in there mining that barrier out?

5 A. You know, it never even dawned on me.

6 Q. Didn't think about it?

7 A. Didn't think about it.

8 Q. Okay. Did you think about the man of cover that might have been over in that
9 area?

10 A. No, because we was in the cover. You know, I didn't know how much cover
11 they was under. You know, I really didn't take a look at it.

12 Q. So you didn't look at it, you didn't look at the map when you ---?

13 A. No.

14 Q. And when you looked and saw they were mining in that, what was an old
15 barrier that had been left to protect, you know, from the longwall, you didn't really
16 think, why are they in here mining this?

17 A. No. You know, I didn't even ---

18 Q. You didn't think about it?

19 A. --- notice that. Yeah.

20 Q. Okay. Was that the last time you were in this mine, ---

21 A. Uh-huh (yes).

22 Q. --- December up until the ---

23 A. The accident.

24 Q. --- the accident in August 6th? December of 2006 was the last time you were
25 in the mine? Had you --- had anybody ever talked to you about anything going on at

1 the mine since that time?

2 A. No, just violations, you know, stuff like that.

3 Q. Did anybody ever mention about a bump which had occurred in the North
4 Barrier?

5 A. No.

6 Q. What's your criteria, Ted, in Price for requiring of the operators when a bump
7 should be reported?

8 A. If it met the, you know ---.

9 Q. And you don't need to quote them all for me,.

10 A. Just basically if it stopped production, if it affected ventilation, you know,
11 basically that was it for them reporting. I mean, that was the basic criteria.

12 Q. Okay. Do they report a lot of bumps in this area?

13 A. No.

14 Q. They don't? Seldom?

15 A. Seldom.

16 Q. Do they have a lot of bumps in this area?

17 A. Yeah. We're learning that, that there's --- you know, I think we have misread
18 or done something that isn't right because what --- they do not report to us and have
19 not been required to report to us anything unless it met that criteria. I mean, it's
20 thumping all the time. I mean, if it bumps and busts the ranging arm and they can get
21 it fixed within an hour, they don't call. You know, I've seen ---.

22 Q. Wouldn't that stop production?

23 A. Yeah, I never thought of that.

24 Q. Would it impede the passage of men?

25 A. No.

1 Q. You don't think they --- I guess what you're saying is --- or you tell me what
2 you're saying, and I'll just rephrase and you say I'm right or wrong. But do you think
3 there's a lot more bumps that occur out here that are reportable according to what the
4 law says, but they haven't been reported?

5 A. Not under, you know, the criteria that, you know, I've looked at, you know,
6 what I've been going on, you know.

7 Q. So you think they didn't report as many as they had?

8 A. Yeah.

9 Q. Okay. I mean, you've inspected here. You've been around here a long time.
10 You've been in bumps before?

11 A. Oh, yeah.

12 Q. So you've seen a lot of bumps?

13 A. Yeah.

14 Q. You've investigated a lot of bumps?

15 A. Yeah.

16 Q. Do you think that there's a lot of bumps that go on in these mines that's never
17 been reported to MSHA because they don't really want you to know about it?

18 A. You know, I really don't know how to answer that because I, you know, would
19 hope that they would be honest enough to let us know.

20 Q. Well, your guys are at the mines ---

21 A. Yeah.

22 Q. --- pretty regular? I mean, ---

23 A. Yeah.

24 Q. --- if they find out that production has ceased on the longwall for a day or two,
25 would you normally think, why?

- 1 A. Well, yeah, they would come and ---.
- 2 Q. They would look as to see why?
- 3 A. They would look at it and see why and then come back and talk with me and
4 that. I'm positive on that.
- 5 Q. Okay. You've seen a lot of bumps, as you said, you've been in bumps. Have
6 you ever been knocked down by one?
- 7 A. No. I've been hit by them.
- 8 Q. You've been hit by them?
- 9 A. Yeah.
- 10 Q. Coal flying off the rib ---
- 11 A. Uh-huh (yes).
- 12 Q. --- hit you? Did it hurt you?
- 13 A. Yeah, I mean, it stings.
- 14 Q. I shouldn't have asked that. Of course, it did.
- 15 A. Daggummit.
- 16 Q. Okay. Have you ever seen --- you said maybe a ranging arm broke off a
17 shear?
- 18 A. You know, I haven't seen it, you know, but I've heard a lot of it.
- 19 Q. You've heard of it?
- 20 A. Yeah.
- 21 Q. You ever seen a shear broke in half or heard of it?
- 22 A. I've seen one covered up so bad that you couldn't even see it. I mean, had
23 about two foot of --- when you'd crawl up along the face with two foot between you and
24 the roof, you know, for 400 or 500 feet.
- 25 Q. Did anybody in this Price area ever record on a map where they've had an

1 outburst?

2 A Not that I'm aware of.

3 Q. Okay. And as an inspector, as a supervisor, you never required people to
4 record that?

5 A. No.

6 Q. Are you now familiar with the fact that they do need to be recorded on the
7 mine map?

8 A. Uh-huh (yes). Rob Paletta issued a violation on it at one of the mines, and
9 they were talking about it and reasons why.

10 Q. Okay. And so you agree that the regulation requires not only roof falls but
11 also outbursts of coal ---

12 A. Yeah.

13 Q. --- or rock to be reported? Okay. Do you think that would help you if you
14 looked at a mine map and could see where they've had a lot of bumps that you might
15 be more aware of what's going on?

16 A. Absolutely.

17 Q. Like you would roof fall?

18 A. Yeah, absolutely.

19 Q. Okay. Do you know why that would have never been required here? I mean,
20 this is probably the most bump-prone country of the mining in the U.S.

21 A. It's probably because we're so used to it. We've never really, you know ---
22 and it really doesn't --- you know, it's just one little occasion like where a roof falls, you
23 know, you're having to go around and you're cleaning it up and things like this in a
24 bump. I mean, we're just so used to it, maybe that's why we didn't even think of it.
25 You know, I mean, it's just ---.

1 Q. How about a bump that breaks equipment in half?

2 A. Well, ---.

3 Q. You're not used to that; are you?

4 A. Oh, yeah.

5 Q. Okay. All right. So that would be common?

6 A. Yeah. You know, I've been in bumps where, you know, it puts the miner right
7 to the roof, you know, and you have to dig the miner out. You know, things like that. I
8 mean, they used to spit at you all the time when you'd go up and sit your props in the
9 face. I mean, it was just like a shotgun hitting you all the time. You know, you'd have
10 to run and put it in and it was just spitting at you, you know, just like this, constantly.

11 Q. So basically you just went on about your business and it's just the way of life
12 here?

13 A. Yeah. I mean, it just was something that was normal to us. I mean, you
14 know, once I got out of grandpa's mine, I got, you know, like at Kaiser, you know that
15 was --- you know, we had a lot of that, you know, thumping and bumping and spitting
16 and spitting, stuff like that. So ---.

17 Q. Kind of familiar with it? I mean, it's just ---?

18 A. Yeah. You live with it and it doesn't --- you know, it concerns you, but you're
19 not afraid of it. I mean, that's a hell of a thing to say but I mean, it's just something
20 that ---.

21 Q. It doesn't hurt you if you're not in the wrong place at the wrong time?

22 A. Yeah. Yeah.

23 Q. Do you know Steven Falk with BLM?

24 A. Yeah.

25 Q. Did you ever talk to him about Crandall Canyon?

1 A. Not Steve, no.

2 Q. You've been here a long time, Ted. Have you ever known of any relationship
3 between MSHA and BLM, as far as communicating information or anything?

4 A. Absolutely not.

5 Q. Never? I mean, they did their thing at the mine, you did your thing, you might
6 see them at the mine sometime?

7 A. You'd see their vehicle or you'd see them, but you wouldn't even
8 communicate. You know, it's just like ---.

9 Q. You mean, they had their thing to do and you had yours?

10 A. Yeah. Yeah.

11 Q. Okay.

12 MR. PAVLOVICH

13 Can we take about a ten-minute break?

14 MR. TEASTER:

15 Yeah, let's do.

16 SHORT BREAK TAKEN

17 BY MR. PAVLOVICH

18 Q. I think you've said you already probably didn't review these plans after this
19 mine was put into Bill's workgroup, so you wouldn't have a whole lot. But did you ever
20 recognize in plans, Ted, inconsistencies between the roof plan and the vent plan?

21 A. Yes, I have.

22 Q. What do you usually do when you see something like that?

23 A. Like, if it's --- I'll call the supervisor and say, hey, you know, what do we ---
24 we've got this and we've got this. And they seem to try to get on it and work it out.
25 And make sure that it's consistent.

1 Q. Okay. So you've seen that before?

2 A. Yeah, and I think that they ---.

3 Q. They pretty much oversight, you think, just on their part up in Denver?

4 A. Yeah. I think, again, with all the plans and everything and the timelines and
5 everything that they do, you know, sometimes those kinds of things get missed.

6 Q. Okay.

7 A. But I don't see a lot of it. I really don't.

8 Q. You familiar with the bleeder system that was approved in the South Barrier
9 when this was mined, meaning this number four entry being a bleeder?

10 A. No, I'm not familiar with that why they even did that.

11 Q. Okay. Would you call that a wrap-around bleeder, Ted?

12 A. I wouldn't even call it a bleeder.

13 Q. Okay. Did you know that there was a clause in that plan that said as water
14 builds up in that gob area, that the evaluation point would only be to the toe of the
15 water?

16 A. No, I'm not aware of that.

17 Q. Do you have any mines that are like that in your workgroup? Where they can
18 --- kind of floating evaluation point, as water's building up inby, you can ---?

19 A. We'll have some, I believe, in some areas that --- you know, in --- as they
20 come out, you know, that are longwalled. They might have evaluation points, because
21 the area has caved and it's got bad on them, where they didn't think it was going to.
22 And so when they came out, they had to put the ---.

23 Q. Maybe they changed it then, but it's not normally just as ---

24 A. No.

25 Q. --- as it gets bad, you can keep moving outby it?

- 1 A. No.
- 2 Q. They have to ask for a specific request?
- 3 A. Right. Right.
- 4 Q. Did you know this one said, you know, as the water increases, that you only
5 inspect to the toe of the water?
- 6 A. Nope, I did not.
- 7 Q. You never heard that before?
- 8 A. Uh-uh (no).
- 9 Q. This is the roof control plan that was approved for mining the South Barrier?
- 10 A. Uh-huh (yes).
- 11 Q. Okay. And you can see that this showed leaving these pillars ---
- 12 A. Uh-huh (yes).
- 13 Q. --- between number three and number four to so-call protect this number four
14 entry, but that the barrier could be slabbed to the south, plus the two blocks ---
- 15 A. Yeah, they could ---.
- 16 Q. --- could be mined out?
- 17 A. They could slab this 20 foot ---
- 18 Q. Okay.
- 19 A. --- and leave a little bit, then slab, slab, and slab.
- 20 Q. Okay.
- 21 A. Yeah.
- 22 Q. And then also right here where this offset was, there was to be no retreat
23 mining in that area. They'd leave a full eight pillars and not slab the barrier?
- 24 A. Uh-huh (yes).
- 25 Q. Okay. The ventilation plan to mine that barrier shows pretty much the same

1 thing up here, but when you get to where the offset was, you can see they only
2 required to leave five pillars. And it appears you could slab the barrier and mine that
3 first pillar?

4 A. Uh-huh (yes). Right.

5 Q. Would you think that's an inconsistency in between those two plans?

6 A. Yep.

7 Q. If you had seen that, would you have tried to bring that to someone's attention,
8 or questioned anybody in Denver about it?

9 A. Absolutely.

10 Q. Okay. Which one would you enforce, Ted?

11 A. This one.

12 Q. So you would try to enforce the most stringent?

13 A. Right.

14 Q. Would the operator argue that he's got a plan to do the other?

15 A. Yeah.

16 Q. And somehow, it would have to be resolved by Denver, I assume?

17 A. Right.

18 Q. You ever have any trouble, or your inspectors have any problems with or
19 understanding plans when there's a great big large number of addendums that are ---

20 A. Oh, yeah.

21 Q. --- attached to that plan?

22 A. Yeah, I don't --- you know, I don't know how we can keep that all in our heads.

23 You know, because they --- you review that plan at the very first, and you spend the
24 whole day going through it and looking at it. And then, a couple days into your

25 inspection, you get an addendum. And then you get another addendum. And you get

1 another addendum. You know, and our plans, our ventilation plans, are mostly
2 addendums. And I just don't know how you can keep that all straight ---

3 Q. Okay.

4 A. --- with all these addendums that come in.

5 Q. I think you already said earlier, that you'd never really seen barrier pillars,
6 barrier mined out, similar to what you've seen here; is that true?

7 A. Yeah, not anything like this.

8 Q. When you look ---.

9 A. That small of pillars, you know, barriers.

10 Q. Okay. When you looked at this map, when the accident happened, because I
11 don't think you paid much attention to it before, were you kind of shocked that they
12 were actually mining those barriers out? Or did it look like something that would be
13 normal?

14 A. I come in the office and I looked at --- I went over on Barry Grosely's wall
15 where the map was at. And they were all standing there. And I looked at it. And I
16 says, guys, those guys are dead. And they says kind of why? And I says, because
17 what's happened is they have --- being a coal miner ---

18 Q. Uh-huh (yes).

19 A. --- knowing what I'm doing, they have robbed everything that they possibly
20 could on this barrier.

21 Q. Uh-huh (yes).

22 A. And when that shifted, that cracked that over into the gob, the bad air's come
23 over and it's got them. I didn't know it was so full of material, or anything. But it was
24 my feelings that since they hadn't heard from them and everything, that they had
25 busted into this.

1 Q. Okay. So you felt more than likely, they had a bounce that broke the barrier,
2 or they cut into the barrier, and they were --- they are already dead from the low
3 oxygen?

4 A. Yeah, I didn't think they'd cut into it, but I think they robbed enough of it. I
5 think my own opinion is --- and having done it myself, is they took more than the 20
6 foot.

7 Q. Okay.

8 A. You know, it ---.

9 Q. Even though it says that 20 foot, it's common that people would take more?
10 Because nobody's ever going to find it; right?

11 A. Right. We had that happen just last week at a mine and we caught it.

12 Q. Really?

13 A. Yeah.

14 Q. They actually had taken more than allowed in the barrier?

15 A. Yeah.

16 Q. Or slabbing?

17 A. No, the inspector called it fanning. Me, I just called it robbing, you know.

18 Q. Okay.

19 A. But they had went in and took 30 feet, and they'd only been allowed 20.

20 Q. Okay.

21 A. And that's just my feeling. I mean, you know, I've done it. I just know their
22 push for production, so they could get their bonus and things like that, I just --- you
23 know, that's just a feeling, but --- and I just felt that this had broke, and they got in and
24 hopefully that's what happened. Because, you know, it'd been hell to be buried alive.

25 Q. Well, that's true.

1 A. But that's just my feelings. Because I looked at it. You know, there's not no
2 barrier. I mean, there's --- I think there was 80 foot here and 55 foot here. You know,
3 that ain't going to hold up under 2,500 foot of cover.

4 Q. That little bit's holding the whole mountain up is what you're saying?

5 A. Right.

6 Q. And it's not going to stand?

7 A. Right. I mean, it's ---.

8 Q. In your experience, that won't work?

9 A. Yeah.

10 Q. Well, did you ever question them why was this approved?

11 A. Well, after I seen it, yeah.

12 Q. Yeah.

13 A. I talked to Kevin Stricklin about it. You know, he asked me what I felt and I
14 told him. I says, you know, Kevin, I'd like to be optimistic, but I don't think that they're
15 alive, because of this situation. You know, I remember one time, I believe it was Deer
16 Creek, they'd went up and got real close to a barrier, just on an entry ---

17 Q. Uh-huh (yes).

18 A. --- and it bounced and killed a guy. I think they was 40 feet into the barrier.
19 And I don't know if --- I can't remember if they was driving the entries up in there or
20 something like that, but it killed him. And so I just --- I can't imagine why anybody
21 would go along with that.

22 Q. Okay.

23 A. And ---.

24 Q. Especially knowing the conditions you have here; right?

25 A. Yeah.

1 Q. Ted, when you had this mine, were they mining the South Mains out?

2 A. Yes.

3 Q. Were they pillaring those South Mains?

4 A. Right. Uh-huh (yes).

5 Q. What about where they've mined those barriers off toward the longwall
6 extraction rooms there? I mean, it appears like not only did they pull the entries out,
7 but they also mined some rooms. See like here, they mined some rooms over to the
8 longwall extraction face, the old face.

9 A. Uh-huh (yes).

10 Q. And then pulled those pillars?

11 A. Yeah.

12 Q. Do you think --- how do you think about that?

13 A. Well, I think we were screwed up. I think we should have just came right
14 straight out and not ---.

15 Q. You think they just should have mined the entries ---

16 A. Right.

17 Q. --- with pillars that were on the original development ---

18 A. And not ---.

19 Q. --- and not mined out to those barriers?

20 A. Right. Because --- and I didn't bring this to nobody's attention, but to me, what
21 they were doing is trying to extend the life of the mine.

22 Q. Uh-huh (yes).

23 A. And that's the only reason they were doing that. I mean, they were trying to
24 do that and ---.

25 Q. Had you ever been in that area when they were mining that?

1 A. Not ---

2 Q. Had any of this South Mains ---?

3 A. --- down in here, that I've been in there. Yeah, I've been in the intakes. I've
4 traveled with the inspectors. I've been down in the face areas and looked. No. But it
5 didn't ever --- it seemed like, you know, I never was into these areas. I was always in
6 the straights.

7 Q. What do you think about how they would examine those seals after they
8 passed them?

9 A. Well, what they did --- they come back over here and allowed them to put
10 evaluation points --- oh, where were they? Over in here. We were able to get down in
11 here ---

12 Q. Okay.

13 A. --- for a ways, for a while. And then eventually it got bad. I think we were in
14 here. And then we could --- had an evaluation point here and one here and one here.
15 And that's how they allowed them to ---.

16 Q. So they said you can evaluate all of these seals ---

17 A. Yeah.

18 Q. --- and the air passing all the seals but from one evaluation point back there?

19 A. Yeah.

20 Q. Is that common out here to do that, mine pass seals and just say we'll
21 evaluate them some other way?

22 A. Not to my knowledge. I mean, this is kind of unique. You know, I've never
23 seen it like this. You know, and nothing like that.

24 Q. Okay. Do you know if they ever had any bumps in that area as they were
25 coming out, or bounces?

1 A. I hadn't heard anything, other than --- you know, it would, you know, pop and
2 everything, you know, when I was down there. You know, I mean, it's just regular
3 mining. But nothing real hard or anything that broke equipment or anything like that.

4 Q. Okay. Nothing that made them back up and leave a couple rows?

5 A. No, not to my knowledge.

6 Q. Not that you knew of? How were you notified of the accident that happened at
7 Crandall Canyon on the 6th?

8 A. Bill Denning gave me a call. It was around four o'clock in the morning. He
9 said that they had --- I can't remember the exact words. But anyhow, that there were
10 six miners that hadn't been accounted for. And I told him, Bill, I said, it's Taylor's
11 mine, but we'd better give him a call. And I got up and come over to the office to see
12 what I could help with.

13 Q. Okay. So you told him to call Taylor, but you came into the office?

14 A. Right.

15 Q. Okay. And did you subsequently --- how did you respond then, did you call
16 any of your people?

17 A. No, my people were all there.

18 Q. Okay.

19 A. And we'd just --- everybody just kind of sat around for a little bit and then told
20 them go ahead and ---.

21 Q. Okay. So your guys were there ready to go to their own mines. Did you tell
22 them, just hang around, guys, let's wait and see what happens? Or did you send them
23 out?

24 A. No, I just sent them out.

25 Q. You sent them out ---

- 1 A. Yeah.
- 2 Q. --- to their regular mine?
- 3 A. Yeah. Right.
- 4 Q. Okay. You --- and then what caused you to respond to go out there?
- 5 A. Mr. Davis called and said he wanted that --- the MEU vehicle up there.
- 6 Because they still hadn't heard anybody --- from anybody, but he kind of told me ---.
- 7 Q. What time? What time was that, Ted?
- 8 A. Oh, I think --- it's in my notes. I can't --- oh, it was around ten o'clock, eight
- 9 o'clock, something like that.
- 10 Q. Okay.
- 11 A. I'm not --- but anyhow, he told me to hang around and look. Yeah, I think it
- 12 was about 0830, and shortly after, he --- Joy Lynn, the secretary over there, called me
- 13 and said Al wanted to get that MEU vehicle ready to rock and roll. And he called me
- 14 back a few minutes later and told me to get it up there.
- 15 Q. So did you drive it up?
- 16 A. Yes, I did.
- 17 Q. Okay. So you drove the MEU unit?
- 18 A. Yeah.
- 19 Q. Okay. What time did you get to the mine?
- 20 A. It was probably --- let's see, it took me probably 45 minutes to get up there. It
- 21 took me another 45 minutes or an hour to get the dumb thing running.
- 22 Q. It wouldn't start?
- 23 A. Oh, my God, no. It's been a piece of junk ever since we got it.
- 24 Q. So the Blue Goose?
- 25 A. The Blue Goose would not start.

1 Q. How old is that vehicle?

2 A. Well, Kuzar got it when he was here, so --- but ---.

3 Q. Five, six years?

4 A. Yeah, it's not very old, but ---.

5 Q. But you can't get it started?

6 A. Couldn't get it started. We've had nothing but trouble with the batteries and
7 the charging system on it since we got it. What it was is kind of built in somebody's
8 back yard, and they have GM parts, Ford parts, Chrysler parts, Cummings --- I mean,
9 you can't get any parts for it, because they're outdated. Things like, I mean, it's just ---

10 .

11 Q. Really?

12 A. Yeah, and so anyhow, we --- I got a pair of jumper cables out and put them on
13 it to ---.

14 Q. Where do you keep it at?

15 A. It's up here in a --- I don't even know if it's in the shed. I drove it down. But
16 it's in a shed up here a contractor has right now that we lease until our new building
17 gets built, but ---.

18 Q. Okay.

19 A. When I brought it off the mountain, the lights didn't work, the back lights. One
20 light came on like the brake was on. It wouldn't have any brake lights. If you put the
21 brake on that goes around the driveline, you got it down in the third position, it'd kill
22 the engine. And so I just parked it out there. And I didn't even put it in the shed. I
23 says, I hope somebody blows this sucker up or burns it down. Because I'm not driving
24 it anymore. It's too dangerous. I mean, you never know what's going to happen with
25 it.

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MR. TEASTER:

Other than that, was it in pretty good shape?

A. Other than that, they were able to, you know, use it. You know, it worked well when it was up there, but it's just --- in fact, I just barely got it parked up on the minesite ---

BY MR. PAVLOVICH:

Q. Okay.

A. --- and the engine died, and I couldn't get it started. I mean, I thought, you know, what did I do to make it die, you know. And so I tried to start it, and I couldn't get it started. But it just happened to be in position. And so I just then began to set it up, you know, and that.

Q. So it took you a good hour to get it started, before you could even leave to go?

A. Right.

MR. TEASTER:

How long have you had it?

A. About five years, something like that.

BY MR. PAVLOVICH:

Q. Okay. So then you took it up there, so you're there at the mine?

A. Yeah.

Q. Did anybody --- who was in charge at that time ---

A. Well ---.

Q. --- for MSHA?

A. Bill Taylor.

Q. So Bill was already there?

1 A. Yeah.

2 Q. And did Bill assign you any duties?

3 A. No, I walked up to the safety room, and he was meeting with Energy West
4 Mine Rescue crew who had been in there looking at things. And they were looking at
5 maps and talking about different things that they could do or couldn't do ---.

6 Q. Okay.

7 A. And I asked him --- I did ask him --- I says, you know --- I mean, I just looked,
8 and I thought, you know, this is strange, because no company people are here.

9 Q. Yeah.

10 A. So I walked up to where Bob Murray's group was and I sat down right beside
11 Bob and just said, hey, Bob, don't you think --- or Mr. Murray, don't you think that you
12 ought to be down there, you know, working together as a team? I says, you guys are
13 doing your thing, they're doing their thing, and they might be doing things that you
14 have no idea what's going on. And he says, that's a good idea. So he walked down
15 with me and told Bill that he's bringing his staff down and everything.

16 Q. So they kind of had two command centers going?

17 A. Yeah.

18 Q. The MSHA command center and the company command center?

19 A. Right.

20 Q. Did that continue on through the operation, pretty much?

21 A. No, it started to where they were --- you know, once --- oh, excuse me --- it
22 seemed like once everybody got there, then the only people that communicated with
23 the Murray group was Mr. Stickler and Al Davis. And so I, you know ---.

24 Q. How about Kevin?

25 A. Yeah, he was involved, but he was kind of in the background a little bit, it

1 seemed to me like. You know, I mean, he tried to ---.

2 Q. Okay.

3 A. You know do ---.

4 Q. When you say the only people that --- so would the Murray group then say
5 come on up, we've got a plan. And Mr. Stickler, and Kevin Stricklin and Al Davis
6 would go up to their room and discuss the plan behind closed doors, or something?

7 A. Yeah, something like that. You know, where they didn't even invite Bob
8 Cornett, the assistant district manager, in the meetings.

9 Q. So Bob wasn't even in the meeting?

10 A. No.

11 Q. You feel it was kind of ---?

12 A. I thought it was ignorant. And here's a man with knowledge and everything,
13 and they weren't using him.

14 Q. Okay.

15 A. They didn't communicate with anybody. They didn't communicate with the
16 inspectors. I've asked my inspectors, you know, when they come out of the mine --- I
17 mean, I asked them, I says, did anybody ever talk to you about what's going on
18 underground? They says, no. Not a soul asked them what was going on
19 underground. Ron Paletta, when he was down there in that second bounce, if people
20 would have went down there and looked at it and talked to him about what's going on,
21 maybe things would have been different. But nobody even talked to Ron and asked
22 him, you know, what happened during this bounce. And he was down there, and he
23 couldn't see two foot in front of his face, according to what he said, you know, he told
24 me. And we would --- Bob and I would --- at least two plans I know, that the company
25 would bring down to us. And I worked an afternoon shift. And they would bring this

1 plan. We had a meeting around seven o'clock every day just to kind of get an update
2 of what's going on. And they brought this plan, and one plan said that they could go
3 beyond the roof support, the dukes, if they had, you know, trouble. I mean, they could
4 go beyond them and they didn't have to, you know, stay behind them. And Bob and I
5 both says absolutely not. You know, if you got a problem with the miner, you got
6 things in a cutting head and everything, let's get the roof support at least up to the
7 miner itself.

8 Q. Uh-huh (yes).

9 A. Well, the next day --- and you know, and they didn't bring it back for us to look
10 at. So the next day, we come back, and it was all --- that plan had been approved by
11 the district manager. The other time, the other one was --- they came to us and they
12 says we want to allow, you know, as many people as we can get down in that area, in
13 the face area, or in that --- where --- the rescue area.

14 Q. Right.

15 A. And Bob says no, that's ridiculous. You know, we just need, you know, six or
16 seven people down there. We don't want any more than that, because you know,
17 there's a potential there. They didn't bring it back to us. Next evening we came, and
18 it was approved by the district manager. They could take any --- 1,000-something
19 people down there. You know, and ---.

20 Q. So nobody was soliciting your input, or ---

21 A. They ---.

22 Q. --- or Bob's or even taking it for any merit?

23 A. No.

24 Q. They were just doing their own thing?

25 A. What the hell was we there for?

1 Q. I don't know.

2 A. What was the inspectors there for?

3 Q. Well, what was ---?

4 A. Nobody wanted to communicate with them.

5 Q. What was their instructions to be there for? Did they get any instructions?

6 Did you get any instructions?

7 A. All we got --- instructions we got was report to Arlington. They were to report
8 to me every hour what the air readings were and gas readings and how much
9 advancement they'd got. And that was basically it. And ---.

10 Q. That was your job?

11 A. And they had a --- yeah. And they had a plan. They had a plan, or they would
12 have this plan that was approved for what they were doing. We'd give that to
13 inspectors, and say okay, make sure they follow this plan. I think it was Frank or
14 Donnie, one of them told me that --- I think it was Dale, Dale Black, who was killed.
15 He didn't even have a copy of the plan for four days.

16 Q. Dale Black didn't? And he was up there managing for the company?

17 A. Yeah, he was ---.

18 Q. And at times running the miner?

19 A. Yeah, he was running the miner, because nobody else --- everybody was too
20 scared to do it. I mean, you got six guys, but nobody listens --- nobody listened to
21 him. You know, what --- they didn't come, and to my knowledge, they didn't even talk
22 to the 12 men that refused to go underground. Why they were concerned, or why they
23 didn't want to go under there. What was the problem?

24 Q. Okay. So you knew there was --- you said 12. You knew there was 12 people
25 refused to go underground or asked to be taken out?

1 A. Yeah, they said they ---.

2 Q. Did anybody talk to them from MSHA that you know of?

3 A. Not that I'm aware of.

4 Q. Nobody went and ever asked, ---

5 A. Nope.

6 Q. --- why are you afraid, or what's the problem?

7 A. I asked one guy ---.

8 Q. You think nobody cared?

9 A. You know, I don't know. I think people were so intent on pleasing the families
10 and the governor and congress and everything, that they lost focus of what we were
11 really there. I mean, there was so much pressure put on people. I mean, it was just
12 like us. I mean Bill, he couldn't even get away from the phone. All he did was answer
13 questions to Arlington. I mean, and me too. I mean, I'd go there and they'd want to
14 know what size drills are on the hill? What kind of drills are on the hill? What the hell
15 does that matter? You know, what kind of generator, I mean ---.

16 Q. What brand name?

17 A. Yeah, what brand names? What kind of miner did they have underground?
18 What kind of shuttle cars? Things like that. And so you'd have to go to the company.
19 That took time away from the people in the company to give you that information,
20 their engineers. You know, things like that. And then we'd send it, you know, send it
21 off to Arlington. And it had nothing to do with the rescue operations. What does is
22 matter what kind of miner you got? What does it matter the kind of drill you're drilling
23 the hole down in, or the brand, the make, the model?

24 Q. Right.

25 A. The thing of it is, is that you're trying to rescue people. And it just --- you

1 know, ---

2 Q. So you think all this up, or this was being driven by headquarters and
3 somebody else's rather than the people that really need to be driving the operation?

4 A. Yeah, absolutely.

5 Q. Did you realize --- who did you feel was heading this up for MSHA, this
6 operation?

7 A. Nobody.

8 Q. Nobody? Who were you --- who do you feel like was in charge for MSHA?
9 Let me ask you that.

10 A. You know ---.

11 Q. Anybody? I mean, was nobody in charge? Was it just ---?

12 A. I think Kevin Stricklin was the most sensible, most honest person up there that
13 wanted to get the job done, but I believe his hands were tied.

14 Q. By whose?

15 A. Stickler.

16 Q. So you think Stickler --- basically, Kevin was trying, but Stickler was just
17 overruling him, or ---?

18 A. That's my opinion. You know, I never heard the conversations, but this is
19 what I seen, you know.

20 Q. Okay. That was your opinion. Did you ever talk to Stickler while you were
21 there?

22 A. Oh, yeah.

23 Q. Okay. Did he seem concerned with any of your --- or interested in your
24 concerns?

25 A. Not that I'm aware of, you know, I mean, when he let the press under --- I

1 mean, that was total ridiculous, and he just wouldn't even listen. I mean, when Gary
2 Jensen jumped into his face, you know, I thought Jerry --- I mean, Gary was a little
3 redhead, and you could tell when he got mad, because you know, it'd start getting red
4 from his neck up.

5 Q. Uh-huh (yes).

6 A. You know, and Gary had a fiery temper, you know. And he was right in
7 Stickler's face, just like this, telling him you're absolutely wrong in what you're doing.

8 Q. Gary was telling him?

9 A. Yeah, you know, after I told him. I says, you know, this isn't right. And then
10 Gary just says you are absolutely wrong in what you're doing. I have never seen this,
11 you know, before in my rescue. And Gary had been on mine rescue teams for years.

12 Q. Uh-huh (yes).

13 A. And I just could see that it might get a little out of hand. And I just kind of
14 went like that to Gary and kind of put it on his mouth and says he's the boss. And
15 Stickler says, well, I don't mind a difference of opinion, you know. And I said to
16 myself, I says, well, you didn't know you were just about ready to get your neck broke.
17 You know, because this man was mad. You know, I mean, he was upset. And ---.

18 Q. Was this out on the surface or underground?

19 A. Yeah, it was on the surface.

20 Q. On the surface?

21 A. They didn't go underground. Once in a while, I mean --- okay.

22 Q. So this happened on the surface, and do you think it was something that --- I
23 mean, you recall it, obviously, but you think it was something that Mr. Stickler would
24 recall about Gary in his fact like that?

25 A. Listening to his testimony in Congress, I wondered if he was even there at

1 times.

2 Q. Okay.

3 A. Especially with the press. You know, that upset me a little bit. Because I
4 don't think he was honest.

5 MR. TEASTER:

6 Specifically, what are you talking about when he was in
7 Congress, talking to Congress?

8 A. Well, they were trying to get him and pin him down and say whose decision
9 was it to allow the press go around. And it seemed like he ran around in a circle. I
10 don't think they ever really got an answer. You know, that, well, it was a joint decision,
11 or it --- you know, it really never came down to the fact that he was the man that made
12 the decision.

13 Q. Yeah.

14 A. He didn't take responsibility for it.

15 BY MR. PAVLOVICH:

16 Q. Did he tell you that, Ted?

17 A. Absolutely.

18 Q. So when you and Gary --- or Gary confronted him, you were there, did
19 anybody ask whose decision this is?

20 A. Well ---.

21 Q. How did it come about? He said it's my decision. I mean, what made you
22 think it was his decision?

23 A. Well, what happened is a group of people came up and some of the Energy,
24 or ---

25 Q. Murray?

1 A. --- Murray bunch.

2 Q. Okay.

3 A. And asked who they were, and they said they were the press. And I says
4 you're not allowed up here. And they says, well, we're going to go underground. I
5 mean, the mine ---.

6 Q. They were up at the minesite?

7 A. Yeah, they were by the MEO vehicle.

8 Q. Okay.

9 A. I says, you're not allowed to go underground, I says, therefore, you're not
10 going to go underground. We don't allow the press underground. You know, those
11 kinds of statements. And explained to them that the --- explained to the company that
12 the (k) order hadn't been modified or anything. And I says so you'll just have to stay
13 here. And they says, well, Mr. Stickler said we could do it. I says he hasn't said
14 anything to me. Nobody's going nowhere until that thing's modified.

15 Q. Okay.

16 A. Well, then Mr. Stickler drove up in his car, rolled down his window and looked
17 at me. And he says we're allowing those people to go underground. And I says,
18 you're allowing them to go underground. And he says yes. And I says ---.

19 Q. How did he know you were stopping them? Had someone called him?

20 A. I don't know, he just ---.

21 Q. Oh, you don't know? He just pulled up and said that?

22 A. He just pulled up, you know.

23 Q. And said that right off?

24 A. Yeah, and I walked over to him, and he says --- I says, what's going on? And
25 he says we're allowing these people --- you know, we're allowing the press to go

1 underground. And then he went and parked his vehicle. And when he got out, that's
2 when Gary ---

3 Q. Okay.

4 A. --- and I --- you know, both said absolutely not, and then Gary really got vocal
5 with it.

6 Q. And then what did Mr. Stickler say? I'm allowing them to go?

7 A. Yeah.

8 Q. He did?

9 A. He says they're going underground. And their whole focus was to get on the
10 ten o'clock news. Because I heard the reporters talk about that. You know, we' got to
11 get on the --- you know, and then when we got up there, and they was doing their
12 SCSR test and everything, the one guy says we're not going to make the ten o'clock
13 news.

14 Q. Okay. Did they then rush through the SCSR training so they could?

15 A. Absolutely. Absolutely. I mean, --- and that's when I told Gary. I told Gary,
16 he was there. And I says Gary we've got to stay close to these people. I says we'll
17 stay kind of behind, but make sure they all stay together, that they don't get separated
18 and if they get in trouble, you know, let's get them back in a group and get them out of
19 here. Okay. So we went underground, Mike Shumway was down there. And he
20 stopped them, because we was behind. And he says, no one is allowed down here
21 while we're cutting, or ---.

22 Q. Who was with the news people, Murray?

23 A. Murray and his ---.

24 Q. Stickler?

25 A. Nope.

1 Q. No, Stickler didn't go in? Just Murray and some of his managers?

2 A. And the press.

3 Q. And how many press people? Do you remember, Ted?

4 A. There was one, two, three, four --- probably six.

5 Q. Okay. Six press people, plus Murray and some of his guys?

6 A. Uh-huh (yes).

7 Q. So that's nine or ten all together?

8 A. Uh-huh (yes). Plus with me and ---.

9 Q. Plus you and Gary?

10 A. Yeah.

11 Q. So 12 people?

12 A. Yeah.

13 Q. And Mike Shumway tried to stop them and what happened?

14 A. Yeah, I walked around to Mike, placed my hand on his shoulder, and he says
15 what in the hell's going on --- kind of like that, and I told him, I says, Mike, it's out of
16 our hands. Mr. Stickler said these people could be here. And he says --- Ted, he
17 says, we can't mine, you know, or move this coal, because you know, they should be
18 up where the command center is --- 120, something like that. I says, Mike, it's out of
19 our hands. And the testimony in congress from ^{Ex. (b)(6) and Ex. (b)(7)(C)} said that I told Mike to --- I
20 overrode Mike and told him to get the miner in and start bumping the floor. You know,
21 and I don't know where ^{Ex. (b)(6) and Ex. (b)(7)(C)} got that information, but that wasn't true. This is what I
22 told Mike to say, it's out of our hands, Mr. Stickler. They were shining their lights, you
23 know, this young guy was trying to get this miner around the corner. You only got 15
24 feet wide because of the rock props.

25 Q. Was it a miner or shuttle car?

1 A. Shuttle car.

2 Q. Shuttle car.

3 A. He was trying to get it around so we could get behind the miner. And Gary
4 kept hollering at the reporters to get their lights out of his eyes. You know, he knocked
5 a couple of the props off. He had to --- he was backing up and forth, backing up and
6 forth, trying to get around. And these lights are in their eyes ---.

7 Q. So he actually knocked down some of the rock props?

8 A. Yeah, on the ---

9 Q. While he was going that, when the ---

10 A. When the press was ---.

11 Q. --- reporters? Because the reporters were shining their ---?

12 A. Yeah.

13 Q. Okay.

14 A. Well, I mean they've got these big, bright lights ---

15 Q. Well, yeah, I understand.

16 A. --- and they're trying to get everything going.

17 Q. So he knocked some out?

18 A. Yeah. And so once he kind of got around, Bob Murray said to him, he says to
19 the reporter, he says, this guy isn't a shuttle car operator. I don't know where we got
20 him. Then he told the boss. He says, get another shuttle car operator. And I don't
21 know if this has anything to do with this ethnic background or not. It was a little
22 Mexican kid.

23 Q. Okay.

24 A. All right. You know, and we went up to the pile where he was showing them
25 with the stick and everything --- what was going on. After he got through with his spiel

1 loveable old Gary, he went over and grabbed one of those lights from the reporters.
2 He borrowed it and got up on the coal pile. And he says in defense of that young man,
3 can you see? Can you see? Can you see? To every one of them. Even to Bob
4 Murray. And he says, and that's what that man was trying to deal with while you were
5 making a thing. You know, in the testimony in Congress, it says the press, it didn't
6 delay anything with the press there. Well, it did. You know, in the fact that here they
7 are, a big, long line of us going down there. These guys are running through the
8 center of a roof bolter because they can't get around this crowd so that --- and these
9 kids were on the run. You know, they were trying to do the job and these guys were in
10 their way. You know, material cars, you know, had to stop and wait for us to get by.
11 Those kinds of things. And if something would have happened down there with those
12 guys, you know, we would really have been in deep crap. I mean, it bounced down
13 there just a little bit. It thumped a little bit. And every one of them kind of went to
14 their knees. And I kind of smiled. Because it was nothing compared to what they
15 could have been. But they shouldn't have been even down there.

16 Q. Okay.

17 A. Because it put everybody --- it put my inspectors at risk. It put the rescuers at
18 risk, in that, if something would have happened, they would have had to help those
19 reporters get their hind ends out of that mine. Because there's no way in hell, that
20 they would have ever remembered how to get them on and exchange them, and
21 things like that.

22 Q. Okay.

23 A. This is my feelings. And the guys would come up to me. And they're young
24 kids. I've been in a scouting program for 30-some years on the district level and
25 everything, these kids, a lot of them know me. They'd come up and say, Ted, why are

1 you allowing these people in here? You know, how come, Ted, you're doing this?

2 Ted, how come you're doing it, you know?

3 Q. And this was the miners?

4 A. This was the miners. The last kid that talked to me, he says, Ted, go outside
5 and put up a circus tent and take these F'n monkeys and put them in there. You
6 know, and that was their feelings. I mean, they --- you know, it was just --- well, I just -
7 -- you know --- I think I lost a good friend needlessly. And him and Franky come up to
8 me that very day. They put me on dayshift. And Franky first said, Ted, how come we
9 are allowing every one of those men to be under there? Allowing that --- I mean, that
10 amount of people by the miner? He says, it's not safe. And I says, Franky, I don't
11 care what the plan says, you're the man. You kick their butts out, if you feel it's
12 dangerous. And Gary got --- you know, said the same thing to me. I says it's out of
13 my hands. Here's the approved plan. Gary went up and talked to Bill Taylor. Bill
14 Taylor showed him the plan. He says it's out of our hands. I was standing on the
15 stairway going up and Gary come down and [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C)
16 [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C) And went underground. And I says, you [REDACTED] Ex. (b)(6) and Ex. (b)(7)(C) You know, I thought he
17 was just teasing me. The last time I seen him, he was on a hospital table. And I ---
18 and then I --- anyhow, I'm angry. I guess you can tell that.

19 Q. I understand. So what do you feel was the organizational structure of MSHA
20 there onsite? What was the role? Who was in charge?

21 A. Murray.

22 Q. Murray?

23 A. I think so.

24 Q. He'd basically tell them what he wanted to do and they agreed to anything he
25 wanted?

- 1 A. Yeah, other than, you know, he didn't want to drill another hole and they says
2 go ahead and drill another hole. You know, stuff like that, but as far as, you know ---.
- 3 Q. So you never had any involvement in the plan approval process?
- 4 A. Only those when they'd bring it down, and then we'd reject it. And somebody
5 else would approve it, so ---.
- 6 Q. Okay. Hey, I'm not all knowing. I ain't, you know, I'm no engineer. I'm no ---
7 but I know something, you know, about these mountains. I know what you can mine.
8 If you mine it, you know, you can mine it safe, but you got to only mine what the
9 mountain allows you to.
- 10 Q. How much time did you spend underground while you were there, Ted?
- 11 A. Just with the press that one day.
- 12 Q. Just that one day?
- 13 A. They wouldn't let me go underground.
- 14 Q. Who's they?
- 15 A. Al Davis and the group. They said you need to be out here answering this
16 phone. That was my instruction.
- 17 Q. So Al Davis and Richard Stickler and Kevin Stricklin said you stay outside and
18 answer the phone?
- 19 A. Well, Kevin Stricklin didn't, or ---
- 20 Q. Okay.
- 21 A. --- Stickler. But my instructions from ---
- 22 Q. From Al?
- 23 A. --- from Al was to stay out there and take care of business out there.
- 24 Q. So mostly you stayed in the command center ---
- 25 A. Yeah.

1 Q. --- in the vehicle, the Blue Goose?

2 A. The night before the fatal, I told Bob Cornett. I says I'm worthless out here. I
3 says there's no supervisor underground. I says that's ridiculous. I says I'm going
4 underground tomorrow.

5 Q. Had there ever been a supervisor underground?

6 A. No.

7 Q. Just the men? The inspectors and the rescue members, ---

8 A. That's it.

9 Q. --- the rescue team members, never had a supervisor ---

10 A. No, sir.

11 Q. --- down there with them to ---?

12 A. Just there at first, Larry Reamy (phonetic) went down.

13 Q. Okay. But he was really as a mine rescue trainer. I mean, ---

14 A. Yeah.

15 Q. --- it just so happened he was a supervisor , too, but ---?

16 A. Right. But he was in charge with mine rescue. But then the rest of the time,
17 he sat outside there and patted himself on the back and told everybody how great he
18 was. But he wouldn't go underground.

19 Q. Okay.

20 A. Ex. (b)(6) and Ex. (b)(7)(C) at Wilberg. But
21 some supervisor should have been down there. They have --- you know, Franky told
22 me, he says, you know, it was getting real quiet. I think if a supervisor would have
23 been there. And I mean, I'm not positive, but I think maybe Franky would have went
24 up and said something to --- instead of waiting, going on a phone, saying hey, it's
25 quiet. He could have conferred with somebody as, you know, the supervisor who

1 would have been there and conferred with him and said, hey, Ted, it's getting quiet, or
2 hey, Joe Blow, it's getting quiet down here, what do you think? Maybe we ought to
3 pull them back, or something like that.

4 Q. Did the guys down there that were in there ---- did they --- do you think they
5 would have ever felt comfortable stopping the work, or pulling anybody out of there?

6 A. Yeah.

7 Q. Or was that pretty much beyond what they felt their possibilities were, Ted?

8 A. I think so. That it was beyond their power. Even though you tell them, hey,
9 you know, do what you got to do underground. You know, I think as an inspector, you
10 would be hesitant, because of the powers to be up there saying what are you stopping
11 this for. You know, and because of all what was going on this top was give us these
12 air readings and then tell us how much footage you got, and how many props you put
13 in.

14 Q. Do you think the biggest thing Mr. Stickler was worried about was footage?

15 A. Yeah.

16 Q. And number of props?

17 A. Yep.

18 Q. Did it seem like a bit of overkill to demand that every hour?

19 A. Yep.

20 Q. I , what were you going a couple feet?

21 A. Yeah.

22 Q. Every hour? I mean, ---.

23 A. But then Arlington wanted that same information. We had to call every hour
24 on the hour, and if we didn't, they would call and say where's this report.

25 Q. Did you ever know of anybody in the command center that kind of got chewed

1 out for maybe not having the right information, or anything like that?

2 A. Yeah.

3 Q. You did? Who was that?

4 A. Ex. (b)(6) and Ex. (b)(7)(C) at the time. He just got his AR card.
5 But because they weren't putting down exactly what Stickler wanted, but he never told
6 us what he wanted. They chewed him out. And Ex. (b)(6) told me that. So when I --- you
7 know, when I had the opportunity, I went out and talked to him, and I says, hey, Mr.
8 Stickler, we'll do anything you want us to do, but we got to know what you want us to
9 do. You tell us what you want in that book, we'll do what you want in that book. But
10 we can't read your mind. And he says, yeah, I did get a little excited. And I says, well,
11 I'll do whatever you want me to do. And that left it. But we had to know what he
12 wanted, because we couldn't do it.

13 Q. Did you know that there was a lot of bumps continuing, or bounces continuing
14 underground during this operation?

15 A. They would call out and say, you know, there's a bump. You know, they
16 would. They would call that out. And we knew that was happening, yeah.

17 Q. Did anybody ever sit down and analyze it, and say is that a bump this time,
18 bump this time, bump this time, no?

19 A. No.

20 Q. Nobody ever cared about that?

21 A. Not that I'm aware of. I mean, they ---.

22 Q. Well, if Mr. Stickler came in there when you were in there, did he say, Ted
23 how many bumps have we had in the last couple hours?

24 A. Nope.

25 Q. What would he ask you?

- 1 A. What the footage was.
- 2 Q. What the footage is? That's basically all he wanted to know?
- 3 A. How many props in?
- 4 Q. Was he pretty much there all the time?
- 5 A. Yeah, he was there every day.
- 6 Q. Every day? But for most of the day, or most of your shift?
- 7 A. No, he was off talking with the families, or the governor, or whoever, you
- 8 know, I ---
- 9 Q. The media or something?
- 10 A. Yeah.
- 11 Q. Well, do you think you could do all three? If you were up there running that
- 12 operation ---
- 13 A. Absolutely not.
- 14 Q. --- could you spend a couple hours a day talking to the families and a few
- 15 more hours talking, plus trying to run this?
- 16 A. The thing of it is, is a person should have been there onsite all the time and
- 17 taking care of business. I mean, I know the families are concerned, but the main thing
- 18 is, is that delayed, you know, rescue efforts. Or they could ---.
- 19 Q. Do you think someone else could have had the job of doing that?
- 20 A. Yeah, I do. I mean, you had Bill Denning down there with the families, 24
- 21 hours. And then another press person, I mean, from MSHA, down there, you know,
- 22 basically 24 hours a day. And why they couldn't give that information and things, you
- 23 know, I don't know. I just --- but I just don't think that ---.
- 24 Q. So you don't think that anybody ever evaluated the number of bounces or
- 25 bumps or anything that was happening, and said maybe we should stop this effort?

1 A. Not to my knowledge.

2 Q. Okay. Did you ever voice any concerns about the safety of your people down
3 there to anybody, Al Davis or anybody, that you were concerned?

4 A. No, I didn't. Because I felt the men I had down there --- well, I did --- excuse
5 me, I --- what they did is at one time, they decided to send all our guys home.

6 Q. All your guys home?

7 A. Yeah. And use the guys from back east that had came out underground. At
8 that time, I told Al. I says Al, I says, this is not a good decision. I says you're taking
9 men that knows these mountains away and putting men that work under 600 foot of
10 cover. I says they don't know these mountains. A. couple days later, they made the
11 decision. Al came up and says we need to bring your people back because they
12 ain't ---

13 Q. So for a while there, they actually sent your guys away?

14 A. Absolutely, yeah.

15 Q. All the inspectors from here that knew the area?

16 A. Right. Knew the mine, everything.

17 Q. How about you? Did they send you home, too?

18 A. No, they put me on dayshift.

19 Q. So they put you on dayshift sitting in command center, and sent your
20 experienced inspectors ---?

21 A. Well, they kept me on afternoons, but --- at that time, and they sent all the
22 experienced inspectors home.

23 Q. And then a few days later, they brought them out?

24 A. Yeah.

25 Q. Brought them back, why?

1 A. Because they knew the mountain. And they told --- Al told me we're bringing
2 them back. We need somebody that really knows what's --- what these mountains are
3 doing.

4 Q. Well, but what difference did it make? What could you do any different?
5 Stand there and watch it bounce?

6 A. With our guys?

7 Q. Yeah, it didn't give them any authority to say ---

8 A. No, they didn't.

9 Q. --- we've determined that's enough.

10 A. Yeah, they didn't do that, but I --- my feelings was is that whole ---.

11 Q. Do you think the guys from the east got scared?

12 A. I don't know, no ---.

13 Q. Okay. You never heard of that?

14 A. Never heard of that.

15 Q. Okay.

16 A. But I think my feelings was that if anything could be detected that was going to
17 be serious, that these guys would know. You know, you can't know when it's going to
18 bounce, or anything like this, but these guys know that --- you know, if it gets quiet,
19 you know, different things will happen, that it might be building up. Things like that. I
20 felt more comfortable with them being there knowing that at least they had knowledge
21 enough to pull people out if they had to. But they never had the authority to do it that
22 I'm aware of. Of course, they'll say, oh, you do, you know, they had the authority. But
23 nobody really come up and told them, hey, if it gets this way, get your butt out, other
24 than myself. You know, I mean, I did tell them. Nobody talked to the mining crews as
25 they went underground. I caught them outside and I told them as they was going

1 underground. I says, don't get into the ribs. Don't turn the cutting head on. You know,
 2 nobody told them that. You know, nobody sat down and had a prior meeting with the
 3 crews that was going in there to do things. You know, saying, hey, this is the things
 4 that we want to do or we don't want you to do, and things like that. They just --- get
 5 your little butts under there and put it up and ---.

6 Q. Did you --- I think you wrote somewhere in your notes about there was a
 7 conflict between the inspectors and the mine team members. Do you remember
 8 anything about that, Ted?

9 A. No, not in mine. I don't think so.

10 Q. It says page 78, is what it says here.

11 UNIDENTIFIED SPEAKER:

12 It's in the transcript.

13 MR. PAVLOVICH:

14 Oh, it's in the transcript.

15 UNIDENTIFIED SPEAKER:

16 Would it have been about Ex. (b)(6) and Ex. (b)(7)(C)?

17 A. Oh, that was MSHA's mine rescue.

18 BY MR. PAVLOVICH:

19 Q. Yeah, MSHA's mine rescue.

20 A. Yeah, there was --- what happened is apparently, you --- and I had this
 21 happen to me at another time, but Ex. (b)(6) and went underground and him and Ex. (b)(6) and Ex. (b)(7)(C)
 22 you know, at one time. And they ⁽⁷⁾ came out and they said that this was --- it was a
 23 mess underground and all this. And that there was dust so thick in the air that they
 24 was wearing masks and everything. And they had to shut them down to get water on
 25 the roadway. And I talked to Ex. (b)(6) and Ex. (b)(7)(C). And Ex. (b)(6) and Ex. (b)(7)(C) says, they weren't wearing any

1 respirators or masks or anything. And it was --- yeah, it was a little dusty, but he says,
2 you know, you're moving out that much material around, and they're not mining
3 materials, they're moving around to get in there. But they wanted to stop the rescue
4 efforts to water a roadway. And then another day, when they really had conflict was
5 basically [REDACTED] was there and [REDACTED] basically said, you know, called
6 the --- was very derogatory towards the men, some of the things that he did, some of
7 the miners, themselves, was ready to strangle him.

8 Q. What did he do?

9 A. You know, was going to stop the rescue efforts for one reason or another,
10 because they didn't comply with this, or they weren't complying with a citation or
11 regulation. And [REDACTED] told him --- pulled him aside and told him, he says [REDACTED] I
12 understand what you're saying, but we're in a rescue mode and we're --- you know, we
13 need to get on with the business at hand. I mean, these violations are --- these things
14 that you're looking at ain't that critical, basically, to --- you know, to stop a rescue
15 effort. And then they came out and him being so derogatory towards the men, you
16 know ---.

17 Q. Did he actually talk to the miners?

18 A. He just told --- according to [REDACTED] he just basically told him to look at these
19 lazy, you know, bums and things like this, it's the most rotten workforce I ever seen.
20 Things like that. He was just being derogatory. And [REDACTED] come out and told me.
21 He says, I'm going to kill him. He said I'm going to --- him and [REDACTED] both says
22 we're going to meet him down here in a parking lot off mine property and we're going
23 to beat him to death. And I says, well, don't do that guys. Let me see what I can do.
24 And I went and talked to Al Davis. And told him, hey, you know, I think we need to,
25 you know, solve this problem, one way or another so their way of dealing with things is

1 to just send him down the road. Not explaining to him the reasons why he was being
2 sent back, you know. And so then afterwards Ex. (b)(6) and Ex. (b)(7)(C) or something like
3 that, Ex. (b)(6) and Ex. (b)(7)(C) But anyhow, there was that conflict. And once that was gone, you
4 know, that was --- you know, it seemed to go a lot smoother.

5 Q. So you didn't --- from what your people --- it wasn't about --- did you think he
6 was trying to do things for the safety of the people working there, and ---?

7 A. No.

8 Q. You don't think that was it?

9 A. It was just to delay. He --- that's my opinion. It was the same way at a mine
10 fire at Bear Canyon. We were setting in temporary seals and he was under there.
11 And they were doing permissibility on the machines that they were using and stuff like
12 that. You know . And you're in the fresh air. You're on an intake, you're not on a
13 return. They was having them rock dust behind the temporary seals, and you're trying
14 to seal it off to get, you know, so it doesn't burn and that. And you're delaying that
15 process. And I traveled with him here a couple weeks ago. And you know, he stops.
16 He doesn't want --- he wants to make it hard on a company. You know, stop the chain
17 on --- I mean, stop and lock and tagged the longwalls out to go and take an air reading
18 and got in the pan. And why he gets in it, you know, that's the most dangerous place it
19 is, but he gets in a pan to take his air reading. But he shuts the longwall down. And
20 he shuts the production. You know, those kinds of things. And I think that's his
21 mentality. That's just my feelings.

22 Q. Yeah.

23 A. Because I've dealt with the man.

24 MR. TEASTER:

25 What about Ramey, Ramey was with him when he made a lot

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of those calls. And ^{Ex. (b)(6) and Ex. (b)(7)} is his supervisor. Was he questioned or --- in that part of the discussion?

A. No.

MR. TEASTER:

Was it ever discussed with Ramey?

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

Q. Okay.

A. I'm --- you know.

Q. You discussed an incident in which Murray walked out on the families including ^{Ex. (b)(6) and Ex. (b)(7)(C)} who were trying to ask him questions? Was this something you observed, Tim?

A. Yes.

Q. Where was this at, at the mine?

A. No, it was down at the school, the junior high school in Huntington.

Q. Okay.

1 A. It was the very first day when they told me to travel with him. Make sure ---
2 you know, go with him and everything when he met with the press and with the
3 families.

4 Q. Uh-huh (yes).

5 A. And I got there and I --- or, it wasn't at the junior high, it was at the old folk's
6 center. I thought it was at the high school, and I went there. And by the time I got
7 there, he was just finishing up with his talks to the family. And then he preceded to go
8 out and Ex. (b)(6) and Ex. (b)(7)(C) tried to stop him and to say --- you know, ask him some questions,
9 and he just walked off. And of course, they have known me over the years, you know,
10 because we're from the same county, and we've got relation and stuff like that,
11 marriages, and so they came up to me and asked me, you know, what was going on.
12 And I basically told them we were doing everything we could. And they says well,
13 what happened. And there was a map on the wall. And I says, let's go take a look at
14 the map. And you're coal miners and take a look at that. And I says, hey, we're doing
15 everything that we can. And I says, well, we don't trust him and we don't trust a word
16 that he's going to --- that he says, and stuff like that. And I says, hey, I'm going to get
17 back up to the mine, but be assured, we're doing everything that we can.

18 Q. How about --- when you were at the mine, but were you also going down to the
19 family center during the days, or occasionally?

20 A. No, that was just the first day.

21 Q. The first day you went down?

22 A. The first day.

23 Q. Okay. Was there some reason you went down? Did they ask you to come
24 down and help, or you just went down on your own?

25 A. No, Al Davis and --- called me and told me I needed to be with him when ---.

1 Q. Okay. So Al asked you to come down there with him?

2 A. Yeah, because nobody was there. You know, nobody from --- everybody was
3 on their way ---.

4 Q. Oh, Denning wasn't there or anybody yet?

5 A. No.

6 Q. Oh, okay. All right.

7 A. No, they were all on their way, and this was all happening while they were out.

8 Q. How about the Hispanic people? Did they have any --- were getting any
9 satisfaction, anybody talking to them there?

10 A. I couldn't --- I come back and talked to Al, because there was only one little
11 Spanish gal that was sitting kind of with the group, and the rest of them were sitting
12 around the walls of the center on chairs. And I told Al, I says, Al, I don't believe they
13 understand what's going on. We need somebody there that has --- you know, can
14 speak Spanish. Because I feel that that's what's happening. They're not getting
15 communicated to. And he says, we'll get right on that.

16 Q. Okay. And you know they brought somebody in then?

17 A. Yeah. Uh-huh (yes) .

18 Q. All right. Did you normally work the afternoon shift, Ted?

19 A. Yeah, I worked all the afternoons, other than that one day when that ---.

20 Q. Which one day was that, the 16th?

21 A. Yeah, that's the day that it ---.

22 Q. And why did you and Bill swap that day, do you know? Or did you swap?

23 A. Yeah, well, they sent Bill home. Told him --- told me that he needed to rest.
24 And I says, well, I need to rest. I don't want to come on dayshift. Because of all my
25 notes say the political BS that was going on. I mean, you're so involved in doing

1 nothing, answering questions to Arlington and that.

2 Q. So is that what you were talking about, as far as political was just ---

3 A. Yeah.

4 Q. --- just having ---?

5 A. All this ---.

6 Q. In the evening shift, you didn't have to do that?

7 A. Not as much, because, you know, everybody went ---.

8 Q. Once they went home, then they didn't care?

9 A. Yeah, once they went to bed, yeah, they had people there, but ---

10 Q. Okay.

11 A. --- you know, it was basically, well, we need this piece of equipment number
12 or something like that, and --- but it wasn't everything that was happening. You know,
13 he was only getting one call from Arlington instead of 50 from different people
14 throughout ---.

15 Q. Okay.

16 A. And that's all Bill did was stay on that phone.

17 Q. So Bill was stressed out?

18 A. Yeah, I think so.

19 Q. And you said you were stressed out, too. You didn't want to work dayshift.

20 Who swapped you anyway, Al?

21 A. Yeah, Al and he basically said that he needed somebody that knew the
22 mountains on dayshift. And I told him I'd rather not. And he says, well, we'd like you
23 to. And then Kevin came up and said, hey --- I says, okay, we'll take the dayshift. So I
24 did the dayshift. Then I got home and heard it on the news that this --- another one
25 had happened and men were injured. And I jumped in my car and went up there. I

1 was real proud of my men, because every one of them showed up without me even
2 having to tell them. I was, you know --- you know, I was real proud of them being
3 there.

4 Q. Ted, when you --- I guess you made a statement to the action investigation
5 team when you were visiting Franky in the hospital after he was injured. And it quotes
6 you stating the rest of the time, we were just trying to --- meeting and trying to figure
7 out if we wanted to continue on with it, or not. Do you remember anything like that?

8 A. Oh, continuing on with the rescue operation?

9 Q. Well, we assume.

10 A. Yeah.

11 Q. Is that what you were referring to?

12 A. Yeah. Right.

13 Q. You guys were --- who was meeting?

14 A. Well, it would have been Al and Stickler and Stricklin.

15 Q. So was there actually some discussion as to stopping or continuing on?

16 A. Stopping and/or continuing. You know, after that ---.

17 Q. This is after the accident?

18 A. Yeah, after ---.

19 Q. Never before?

20 A. No.

21 Q. Do you ever remember anybody talking to you?

22 A. No.

23 Q. Or any discussions ---

24 A. No.

25 Q. --- by anybody, prior to the accident of the 16th, that said, you know, maybe

- 1 we should stop this?
- 2 A. No.
- 3 Q. Never?
- 4 A. Never.
- 5 Q. Did you ever think you should have stopped it, Tim?
- 6 A. Well, my thoughts on it was that it wasn't going to do us any good. I mean, ---
- 7 .
- 8 Q. What wasn't going to do you any good?
- 9 A. Because ---.
- 10 Q. Did you mention that to Stickler or Al or anybody?
- 11 A. No, that was just my own thoughts.
- 12 Q. All right. That's what you thought?
- 13 A. Yeah.
- 14 Q. Okay. Nobody ever said don't even talk about it, Ted?
- 15 A. Yeah. No.
- 16 Q. You just didn't?
- 17 A. I just didn't feel that ---.
- 18 Q. Well, let me ask you this? Have you ever seen a bump like this, Ted?
- 19 A. Absolutely not.
- 20 Q. Have you ever seen one ---
- 21 A. Not to this magnitude.
- 22 Q. --- to the extent of this?
- 23 A. No.
- 24 Q. Never?
- 25 A. Not like this. I mean, I've seen them where they --- like I said, I've see them

- 1 where they've come up first ---
- 2 Q. Okay.
- 3 A. --- a couple hundred feet ---
- 4 Q. Okay.
- 5 A. --- but nothing, you know, a thousand feet.
- 6 Q. A. thousand.
- 7 A. You know, that ---.
- 8 Q. Have you ever seen this many pillars bump before?
- 9 A. No.
- 10 Q. What's the most ---
- 11 A. Not that amount.
- 12 Q. --- you ever saw, four or five, three, four?
- 13 A. Yeah. Yeah. A couple hundred feet, you know, and that's about it. You
- 14 know, it's nothing like that.
- 15 Q. You've never seen entries packed full before?
- 16 A. I've seen entries packed full.
- 17 Q. But not for this distance?
- 18 A. Not that distance.
- 19 Q. How about the barrier moved over into the middle of the entry in that number
- 20 one? Have you ever seen that before?
- 21 A. No, I haven't. I just ---.
- 22 Q. You never seen anyone to this extent or magnitude?
- 23 A. No, I think we just --- that mountain just sat. Sat down and shifted this --- I
- 24 mean, just didn't have nothing else to do --- it could do, ---
- 25 Q. It doesn't hold it?

- 1 A. --- because we've taken so much, yeah.
- 2 Q. With that said, oh, go ahead, you were finishing?
- 3 A. Well, if you take a look at it. You know, in hindsight, you know, I wish I had
4 had better foresight. But the first time it bumped, you know, it filled those entries up.
- 5 Q. Uh-huh (yes).
- 6 A. So how much pillar do you have left? Not much.
- 7 Q. Uh-huh (yes).
- 8 A. And then it did it again.
- 9 Q. Uh-huh (yes).
- 10 A. So we really didn't have a pillar, whatsoever, in that area, where those ---
11 where they were mining.
- 12 Q. So it just kept doing it?
- 13 A. Yeah, because it did it twice. It filled that entry up, twice, clear to the brim.
14 And so the first time, you know, when I was down with Murray and everything, I looked
15 in there, and you could look in on both sides of that pillar, 10 to 15 feet, ---
- 16 Q. Okay.
- 17 A. --- you know. So how much pillar did you have left? And then it did it again.
18 Of course, this one hadn't been disturbed, but still, you had to take a lot of that to fill
19 that 20 foot entry up again as high as it did. And so really, we didn't have --- we
20 should of really ---.
- 21 Q. Is this in the number four entry you're talking about?
- 22 A. Yeah, down here.
- 23 Q. Number one entry?
- 24 A. Number one.
- 25 Q. You say it --- the original bump filled it up. You cleaned it out, and then they

- 1 had another bump that filled it up again?
- 2 A. Yeah, that's the one with Ron Paletta.
- 3 Q. Oh, that was in number four?
- 4 A. Well, that's where he was at.
- 5 Q. He was in number two in front of the feeder?
- 6 A. Right.
- 7 Q. Just let me refresh. Okay?
- 8 A. But it did fill this entry up again, my understanding was.
- 9 Q. Well, I think ---.
- 10 A. And that's why we come back ---.
- 11 Q. I think what they were doing here, Fred, is they were running scoops up
12 number four, and loading material out with scoops and then hauling it out. And they
13 didn't have a belt to dump it on, so they would just fill in the crosscuts. And Ron was
14 standing here in front of the feeder which had been sent in, but it hadn't been started
15 yet ---
- 16 A. Right.
- 17 Q. --- when the scoops were out of here, this bumped and filled this entry back up
18 to the top and knocked Ron down. Is that the time you're referring to?
- 19 A. Yeah.
- 20 Q. It was the first night?
- 21 A. Well, I understood that you know, my understanding, like ---
- 22 Q. Say it.
- 23 A. --- I wasn't underground, but my understanding was, was that they had got
24 down here to 121, something like that ---
- 25 Q. Where a, in number one entry?

1 A. In number one entry.

2 Q. Okay.

3 A. And then it filled that up again, because then they had to back the miner out to
4 redo it.

5 Q. Okay. I mean, if that's your understanding, ---

6 A. I mean, that was my understanding.

7 Q. --- that's what someone told you; right?

8 A. Yeah, that's what somebody told me.

9 Q. Somebody told you that number one bounced, too, and filled back up?

10 A. Yeah.

11 Q. That they had done some cleaning in number one?

12 A. Yeah, they had done some cleaning, and gotten about 100 feet, and then they
13 had to pull back.

14 Q. Okay. Did anybody ever tell you about number four?

15 A. No.

16 Q. Nobody ever told you number four entry was cleaned up about 300 feet and it
17 bounced and filled the entries back up?

18 A. No, they told me it was number one.

19 MR. TEASTER:

20 That was another bump, Ted, and we're aware of a bump that
21 they brought the miner in ---.

22 A. Uh-huh (yes).

23 MR. TEASTER:

24 And then they had a bump and they had some roof material to
25 fall on top of the miner and covered up that left side of the miner before they could get

1 this area back here straightened up. And then once they got the miner running and
2 that cleaned up, they backed the miner out. And then came in and bolted that.

3 But ---.

4 MR. PAVLOVICH:

5 I don't think that's what Ted's referring to. I think he's of the
6 understanding somebody told him it bumped in number one. Okay?

7 A. Yeah, that was my understanding.

8 BY MR. PAVLOVICH:

9 Q. And nobody ever told you ---?

10 MR. TEASTER:

11 The one that knocked Paletta down?

12 A. Yeah.

13 BY MR. PAVLOVICH

14 Q. And nobody ever told you it bumped in number four?

15 A. No.

16 Q. Okay.

17 A. That was just my understanding. That's what ---.

18 Q. Ted, do you think there was a lot of misleading information passed around
19 here during this event?

20 A. Yeah, because MSHA didn't sit down as a team and work things out.

21 Q. So they didn't sit down as a team and briefed people, or debrief people as to
22 what really happened?

23 A. No.

24 Q. Everything was word of mouth?

25 A. Uh-huh (yes).

1 Q. You happened to hear that from somebody that Ron got down and it bumped
2 in number one?

3 A. Yeah.

4 Q. When it really bumped in number four?

5 A. Yeah.

6 Q. Nobody told you that?

7 A. No.

8 Q. And how would you even know what was really going on down there then? I
9 mean, if somebody's not debriefing your guys?

10 A. We don't know.

11 Q. Was the company debriefing their miners, you think?

12 A. No.

13 Q. No one asking them nothing either?

14 A. No.

15 Q. Just guys sitting out there in the office saying this is what we ought to do?

16 A. The only thing they asked him was on the 16th, when that other one
17 happened. And they got everybody together in the shop, put a paper up on the wall
18 and let the little bell boy tell them what he seen, what he observed. That was the only
19 time that I ever seen them get anybody together, any miner.

20 Q. Okay. Well, I started to ask you earlier, Ted, about had you ever seen
21 anything like this, and you said no. You've been in bounces before?

22 A. Uh-huh (yes).

23 Q. You've seen the effects of bounces before. Could you imagine the magnitude
24 of the force when this thing bounced?

25 A. I cannot imagine it. And especially when they --- I heard it lasted for four

1 minutes, and if it did that, you know, I've never ---.

2 Q. Okay. Knowing that, and seeing what you saw at the time you went in there,
3 was those entries packed full? You obviously knew that when number one borehole
4 went through, they found seven percent oxygen there?

5 A. Yeah.

6 Q. Did you think there was really any chance at all these men survived that first
7 bounce?

8 A. Nope.

9 Q. So did you feel from the start, Ted, that this is a recovery instead of a rescue
10 operation?

11 A. Yeah, I did from the very first.

12 Q. Did you ever tell anybody that?

13 A. I told Kevin, you know, a couple days later.

14 Q. You told Kevin that?

15 A. You know, I told him --- that's when I told him I thought --- I wish I had been
16 more optimistic, but I --- you know, I believe that this is what happened, and ---.

17 Q. So was this like two or three days into the operation?

18 A. Oh, yeah.

19 Q. It was before the 16th bounce ---

20 A. Yeah.

21 Q. --- that you told Kevin that? What did Kevin say?

22 A. You know, he just listened to me.

23 Q. Did he say well --- well, don't talk yet, Ted, we can't give up hope here, or
24 something?

25 A. Well, yeah, you know, he says, you know, we're still in a rescue mode, you

1 know. And so --- and again, I still think a lot of that was the pressure the families were
2 putting on people. You know, when they come out and says well, we heard a little
3 something in the one hole. You know, that shouldn't even --- to me, shouldn't even
4 have been said until you absolutely have definite --- you know, it puts people's hopes
5 up and ---.

6 Q. Ted, do you think maybe they weren't --- I'm not saying they were lying to
7 them, but they weren't telling the families the real truth of what was in there?

8 A. Yeah.

9 Q. Do you think they were trying to build up and keep positive when ---?

10 A. That's why they kept drilling these holes. There was no real sense of keeping
11 drilling. You know, they says, well, we'll go back here.

12 Q. Do you think the miners could have found their way back there, if it'd bounced
13 like that?

14 A. Absolutely not.

15 Q. Have you ever seen the dust in a bounce?

16 A. Yeah.

17 Q. Did you ever get disoriented in the dust?

18 A. Didn't even know where the hell I was at. I just stayed right there.

19 Q. Chances to be just better to walk into the gob there; wouldn't it?

20 A. Yeah. Yeah. You don't dare move.

21 Q. Because you can't see where you're going?

22 A. Well, that and ---.

23 Q. You don't know where you are?

24 A. And you don't know what happened around you. If you walk into a cave or ---.

25 MR. TEASTER:

1 Do you want some water?

2 A. Yeah, please --- a cave where, you know where --- or the --- you know ---.

3 BY MR. PAVLOVICH:

4 Q. So you don't know? I mean, there's rock over your head, or ---

5 A. Yeah.

6 Q. --- anything? I mean, there could be all kinds of hazards that --- unforeseen,
7 so you just stand still?

8 A. Right.

9 Q. How long does it take the dust to settle out, if there's no ventilation?

10 A. Gosh, it seems like forever, but usually, to me, it seemed like, you know, 15,
11 20 minutes to where you can feel comfortable.

12 Q. So in 15, 20 minutes, if you still had your light on, you might be able to see
13 enough to find your way somewhere else?

14 A. Yeah. You don't even know if you're standing up sometimes.

15 Q. It knocks you pretty hard, huh?

16 A. Yeah, but you're standing. You know, I've never been knocked down, but you
17 know ---.

18 Q. Did you feel like some of the risks --- I mean, you've kind of done a risk
19 versus value thing there for me already, in that maybe the value of continuing wasn't
20 so great, if you thought these guys hadn't survived. Did you ever feel the risks that we
21 were taking with our guys in number one wasn't worth the value of recovering bodies?
22 Did you ever put it that --- did you ever think about it that way, I'll just ask you that?

23 A. No, I didn't. I just --- you know, I just wish that I'd known some of these other
24 things, you know, and that we would have, you know, again hindsight, looked at where
25 their bounces were. You know, when they reported, hey, we had a pretty tough one,

1 and things like that. And kind of started --- and recorded that. And that would have
2 probably gave us an idea whether it was worth continuing on or not, but I wish we'd
3 have done that. But whether, you know, I didn't think of it.

4 Q. Did you ever see rock props used to control rib bounces before?

5 A. Not rib. In fact, I told them, you know [redacted] worked up at West Ridge. He
6 works on a longwall.

7 Q. Uh-huh (yes).

8 A. And prior to that --- this accident happening, they had a bounce up there on
9 longwall. They was using those rock blocks. And it threw them clear across the entry.

10 Q. So [redacted] was working at West Ridge, and they were using rock props on
11 the rib, and they had a bounce and it blew the rock props clear across the entry?

12 A. Right.

13 Q. And he told you that?

14 A. Yeah. And so on the day that they was deciding what kind of support to put in
15 there ---

16 Q. Okay.

17 A. --- Mr. Murray said he thought maybe going with a six-point crib would be a
18 good thing.

19 Q. Okay.

20 A. And I --- you know, I thought that was a good idea. And I told him either that
21 or cans. I says because, you know, at West Ridge, this happened, you know, it blew
22 those rock props clear across the rib.

23 Q. You told him that?

24 A. Yeah, I told him.

25 Q. That you saw --- or you heard of rock props being blown clear out?

1 A. Right. I told Lane Adair. I told our roof control specialists.

2 Q. You told Mike Gauna ---

3 A. Murray.

4 Q. --- and Joe Zelanko that?

5 A. Uh-huh (yes). Yeah, told them. But they was in the attitude, you know, they
6 was going to put the rock props in. And it was ---.

7 Q. They already decided?

8 A. Yeah, they had decided that.

9 MR. TEASTER:

10 Whose idea was that, initially, do you know?

11 A. I think that was Lane Adair.

12 BY MR. PAVLOVICH:

13 Q. Okay. Just because he had them onsite?

14 A. I think so. And he'd used them before and things like that. But I think Mr.
15 Murray, if people would have listened to him, I think maybe --- you know, again, I'm
16 not an engineer ---

17 Q. Okay.

18 A. --- and I'm just a plain old dumb coal miner, but I can't see taking 30, 40-ton
19 jacks and pushing them out and up. I think it needs to settle.

20 Q. Okay.

21 A. I mean, you're putting those 40-ton jacks every two feet. And you're pushing,
22 you're pushing up. And if we would have had cribs or something like that, and a pillar
23 around to let it settle, to me, that would have been a heck of a lot better. But I don't ---
24 you know, that's just my old, dumb thoughts, or as I look at things. You know
25 because ---

1 Q. Have you ever seen cribs blown out in a bump or bounce?

2 A. Well, I've seen the cans tip ---

3 Q. Okay.

4 A. --- and I've seen ---.

5 Q. You've seen cans, pretty much, blown out too then?

6 A. Yeah, and ---.

7 Q. Okay.

8 A. You know, but I've never seen a crib, you know, blow clear across the entry in
9 one of those . You know, it might disturb it a little bit, but I mean, it's never been blown
10 clear across the entry like these rock props did. I've never seen that, but ---.

11 Q. Okay.

12 A. But in defense of, you know, MSHA's people, they had never dealt with this
13 amount of cover. They said that. And so they was taking, probably Lane Adair's
14 word, you know, as an engineer and that, that you know --- this is --- these are some of
15 the things that, you know, would be best out here.

16 Q. Let me ask you, Ted, did you ever feel like, if this thing bumps hard enough,
17 it's going to take those rock props right out of there?

18 A. Well ---.

19 Q. I mean, you saw a shuttle car knock them out; right?

20 A. Right.

21 Q. How much can they withstand from the side?

22 A. Nothing from the side. And that's why I couldn't understand the cables and
23 everything. But I decided, hey, these guys are engineers, you know, mining
24 engineers. They've went to school. They've been in this industry for a long time. You
25 know, my experience has just been from the ground level. You know, I'm not a mining

1 engineer. And I relied on them. I relied on what they were telling me. Even though,
2 I'd heard of and seen different things, you know, conditions, with those rock props, and
3 my feelings of pushing it up, you know, and things like that. I thought, hey, these guys
4 got the education in that area, so I'll rely on that. You know, I trust them.

5 MR. TEASTER:

6 But you did suggest that they use cans?

7 A. Yeah.

8 MR. TEASTER:

9 Cribs? So you did feel out what you thought might be a little
10 better?

11 A. Right.

12 MR. TEASTER:

13 And they apparently considered it and decided against it?

14 A. Right.

15 BY MR. PAVLOVICH:

16 Q. Did anybody ask you, Ted, or ---

17 A. I just ----.

18 Q. --- did they solicit it, or did you just volunteer it?

19 A. I volunteered it.

20 Q. Do you think they really cared about voluntary comments? Anybody that was
21 in charge there?

22 A. Well, they didn't discuss it. You know ---.

23 Q. I mean, they didn't say, Ted, you've been around here a long time, tell us what
24 you think, sincere? You know, give us your honest opinion.

25 A. No, they were --- what they were doing was sitting around there saying this is

1 what they were going to do.

2 Q. Okay.

3 A. You know, with the rock props. And Mr. Murray says, well, why don't we go
4 with the six-point crib?

5 Q. Okay.

6 A. And I says, you know, I think that's a good idea. And you might want to even
7 consider cans, because of what happened up at West Ridge with the rock props.

8 Q. Okay.

9 A. And I told them that.

10 Q. And you said that in the meeting?

11 A. Yeah, and ---.

12 Q. Who was in that MSHA meeting for MSHA?

13 A. The two ---

14 Q. The two guys ---?

15 A. --- specialists.

16 Q. So it was Joe Zelanko and Mike Gauna?

17 A. Uh-huh (yes).

18 Q. Was Al Davis in there?

19 A. Well, I can't remember who was all ---.

20 Q. Okay.

21 A. I should have wrote it in here.

22 Q. Was Kevin in there?

23 A. I don't think Kevin was.

24 Q. Was Stickler in there?

25 A. No.

- 1 Q. So ---
- 2 A. I think the two ---.
- 3 Q. --- this was the two guys from tech support?
- 4 A. Yeah.
- 5 Q. Plus Murray?
- 6 A. Uh-huh (yes).
- 7 Q. Plus Lane Adair?
- 8 A. Uh-huh (yes).
- 9 Q. Plus ---?
- 10 A. Probably, I can't remember who all else ---.
- 11 Q. Mostly company people though?
- 12 A. Yeah, probably.
- 13 Q. Any --- Bob Cornett, maybe? Was Bob in there?
- 14 A. Boy, he could have been, ---
- 15 Q. Okay.
- 16 A. --- but I don't know. I don't recollect.
- 17 Q. But you actually told them, you said, just what happened at West Ridge, you
- 18 blew these props out?
- 19 A. Right.
- 20 Q. Did anybody say what?
- 21 A. No, nobody ---.
- 22 Q. Nobody said anything?
- 23 A. Not anything. I was real proud of Bob Murray at that time, but again, he relied
- 24 on the experts. You know, I mean, he did a lot of stupid things. But at that time, I
- 25 thought that idea was really good. But they even blew him off. And that was funny,

1 because you don't blow him off, you know. But anyhow ---.

2 Q. Ted, have you ever received any training from MSHA in handling a mine
3 emergency, like running the command center, how you direct a workforce, how you
4 brief, how you debrief? Have you ever had any of that training?

5 A. No.

6 Q. How do you know about it?

7 A. Well, ---.

8 Q. How do you know what to do in an emergency then?

9 A. I learned it ---.

10 Q. Firsthand?

11 A. Yeah. First one I went on, I went up there, and I didn't even know you had to
12 have approvals to do anything.

13 Q. Okay. Where was this at?

14 A. That was up at Deserado. I had a mine fire. They called me up to go up on a
15 weekend.

16 Q. How long ago was that?

17 A. Oh, that was when Kuzar was here.

18 Q. Oh, okay. So it wasn't --- you weren't at Wilberg? You weren't at ---?

19 A. No, and I --- I'd quit. I'd worked for MSHA, and I'd quit just before Wilberg ---

20 Q. Okay.

21 A. --- and then I come back.

22 Q. So basically, everything you knew about mine emergencies, running a
23 command center is where you'd been at Deserado, or some of the other mines here?

24 A. Yeah, I was ---.

25 Q. West Elk? Were you ever up at West Elk?

1 A. Yeah, West Elk.

2 Q. How did those command centers and operations run compared to this one?

3 A. At Desardo, I had never seen it run, because everybody left.

4 Q. Okay.

5 A. And just sent me there. And me and an inspector. And I tried to find out what
6 was going on and Kuzar ripped my butt, because I wasn't on the phone. So I sent the
7 inspector underground, and we did some things without approval, but I didn't, you
8 know ---

9 Q. Okay.

10 A. --- didn't know they had to have --- at West Elk, I started learning there. And
11 then the second event at West Elk, I seen the command center not work at all. In that
12 the company was up here, Agency was down here, and everybody hated one another.

13 Q. And that was at West Elk?

14 A. Yeah, management had no use for MSHA. MSHA had, basically, no use for
15 them, I think. I mean, the local MSHA.

16 Q. Of course, you didn't have any people trapped there either; right?

17 A. No.

18 Q. This was just to try and save the mine where you had a fire ---

19 A. Right. There was no communication ---

20 Q. --- or something like that. Okay.

21 A. --- until I got over there, and then I just went up and told them. I says I don't
22 care what you think of me, anything like that, but we need to work together. And I was
23 there when they --- when we got the thing sealed off. And everybody leaves me when
24 we get right to where we're going to seal it. You know, get the last block in.
25 Everybody decides to go home and leaves me there.

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MR. TEASTER:

All the district people, you mean?

A. Yeah. Yeah, I was the only one there when ---.

BY MR. PAVLOVICH:

Q. So if something bad happens, it was your fault; right?

A. Well, I probably wouldn't have been around, but I mean it's just funny. I mean, it just happens that way. It happened at Desardo. It happened at West Elk. This last time, it happened up at Skyline. Everybody stays around and gets all the overtime. And then they call me in at the last minute ---

Q. When everything bad happens?

A. --- and then everybody cuts out on me. They think well, he's dumb enough, he can ---.

Q. Ted, let me --- what we did, was we took a --- the logs. These were the log books from the ---

A. Uh-huh (yes).

Q. --- command center. And of course, I'm sure you're real familiar with those, because it seems like there's blocks around certain notations in here. And they always seem to be something about footage. Do you know why that is?

A. Basically, so when --- to me, it was --- I think, the guys were doing it so that we could, and Stickler could go right to this book and find out the footage and everything. So that's why he ---.

Q. So that was highlighted?

A. That was highlighted.

Q. Were you also highlighting bumps; you know?

A. No.

1 Q. No, nobody cares about ---?

2 A. Just the information that he wanted and then ---.

3 Q. Okay. And that was really footage.

4 A. And then we could also hurry and quickly give that, so that we could give it to
5 Arlington when they called ---

6 Q. Okay.

7 A. --- or when we called them.

8 Q. So it was for ease of you to find that?

9 A. Right.

10 Q. Arlington ever ask you, you having any bumps?

11 A. Nope.

12 Q. You were there on the 16th? What we did was take that log, and we also took
13 the University of Utah log, and we tried to compare when there was a bump, that ---
14 but on the 16th, you see, starting 3 --- 12:03 a.m., there was somebody reported some
15 bumps, but you wouldn't have been there, but from 8:30, 8:31, 8:45, 8:50, 9 o'clock,
16 10:02, 10:04 and these may be the same one. These were fairly small. But you can
17 see where they're occurring, 119, 119, 119?

18 A. Nobody said a thing to me.

19 Q. Here's one that says seismic event recorded, University of Utah, 1.5 bump at
20 miner in the number one entry, right rib covered the body of the miner. They backed
21 the miner out and back cleaning up. Barrier held. This bump was also reported by
22 Peter Saint at crosscut 120 and Rodney Adamson in number three entry.

23 A. Uh-huh (yes).

24 Q. That's 10:05, so you're there ---

25 A. Uh-huh (yes).

- 1 Q. --- doing all these; right?
- 2 A. Right.
- 3 Q. Okay. All right. At 10:13, Peter Saint says there's a bump. At 10:18, there's
4 a small bump, 10:25, small bump, 10:33, small bump. Peter Saint also says 10:42,
5 small bump, 11:08, small bump. Here's 12:05, had four small bumps.
- 6 A. Okay.
- 7 Q. 12:45 bump between 117 and 18. 12:57, bump, bump. Here's one at 1838.
8 Okay. This is the big one?
- 9 A. Yeah.
- 10 Q. These were in the logs?
- 11 A. Yes.
- 12 Q. Okay. Do you remember ---
- 13 A. Well, I don't remember anything.
- 14 Q. --- anything about it? I mean, it seems like a lot of frequency there of
15 bumping going on. I mean, did ---?
- 16 A. Never. This 1.5 magnitude, you know, nobody really ---.
- 17 Q. I mean, the one that Gary and those were, you know, ---
- 18 A. It's funny we didn't have somebody here ---.
- 19 Q. --- was 1.6?
- 20 A. Yep. Well, nobody, that I'm aware of, you know, ---.
- 21 Q. Well, if nobody was asking, did anybody really ---
- 22 A. Yeah.
- 23 Q. --- take notice after ten days?
- 24 A. And I didn't take notice, myself.
- 25 Q. Okay.

- 1 A. I really didn't. I should have though.
- 2 Q. Well, would you have done, and could you have done anything different?
- 3 A. Yeah, I think I could have done something.
- 4 Q. Okay.
- 5 A. At least, you know, jumped and hollered a little and got with my guys.
- 6 Q. Did you ever talk to your guys down there and say what's going on down
7 there, guys, I mean ---?
- 8 A. Yeah, I did.
- 9 Q. Okay.
- 10 A. Frequently.
- 11 Q. Okay. You tried to talk to them and say ---?
- 12 A. I'd try to meet them when they come out ---
- 13 Q. Okay.
- 14 A. --- and say, okay, guys, what's going on. And they'd say, well, it's getting
15 quiet, you know. And we've had a few little pings up high you can hear, things like
16 that.
- 17 Q. But, who --- if they had said, Ted, it's bumping like crazy down there, who
18 could you go to that cared? Anybody?
- 19 A. No, I couldn't have went anywhere, but other than told the guys let's pull them
20 out and let somebody else make that decision to put them back in.
- 21 Q. Had you ever talked to them about it?
- 22 A. The guys?
- 23 Q. Yeah, your guys? Pulled them out?
- 24 A. Yeah, I told them, you know, if it gets rough, you know, guys pull them out.
25 Get them out of there. I did do that.

1 Q. Of course, you know, your guys --- if I was in there, okay and Ernie, we might
2 have thought it got rough the first time it threw something off the rib, and pulled them
3 out, because we're not familiar. But your guys, it's like a way of life.

4 A. You're right.

5 Q. How bad is too bad? I mean, well, you know, if it's happening all the time, it's
6 like, gee, this number four entry filled back up for 300 feet. All these other bumps
7 happened. Any of them, somebody could have got hurt. If they had been standing in
8 the right place; right?

9 A. Well, Donnie Durant mentioned to me, when he --- when we --- I called him
10 and asked him if he could come back up. Well, even before that, he had called me
11 and said, Ted, he says, I don't want --- I don't have a death wish, but he says, I think
12 somebody needs to be up there with those men that knows the mountain. And then
13 next day, you know, they said let's go back up. He was concerned enough that, you
14 know, he called and said, hey, we need some people up there with some expertise
15 and, of course, it didn't help, but anyhow, he felt that concern.

16 Q. Okay. Ted, we'll get off on a different subject. Are you pretty familiar with the
17 requirements of the Miner Act, the seals, SCSR's, ERP's, breathable air, tracking of
18 miners, family liaison, family communicator, that sort of thing?

19 A. With the new Miner Act, you know, we try to keep up on it.

20 Q. Okay.

21 A. But you know, you don't know whether you're coming or going. I mean, well, if
22 they don't --- it's like breathable air. I mean, if they don't have a purchase order by
23 December 31st, then cite them, or ---.

24 Q. Does that keep changing?

25 A. Yeah, just --- I mean, and it's terrible to say, but you know, I wait --- you know,

1 I read it, but then I'd wait until they say do something about it when I get really
2 involved, involved with it, ---

3 Q. Okay.

4 A. --- when I really start studying it and everything, because it does change.
5 You know, and things changed so much that you're --- you know, they don't know what
6 kind of decisions they want to make on things. And so you --- so I have just said, well,
7 when this is ready to be implemented, then I'll put my energies towards that, and see
8 that we get it done. But my energies need to be in other places until this time
9 happens.

10 Q. Do you and Bill and all the other supervisors in the district, you think
11 understand it all the same way?

12 A. I don't think we understand the act at all, all the same way.

13 Q. Do you think your inspectors at all enforce it the same way, or understand it
14 the same way?

15 A. Nope.

16 Q. Have you had any training on it?

17 A. We have tried locally to do it, you know. We've had Don Gibson, who worked
18 out at the academy, come and give us things on, you know, citations and order write,
19 you know ---

20 Q. Yeah, but Don ---

21 A. --- lines.

22 Q. --- hadn't worked at the academy when the Miner Act was passed. He was out
23 here already ---?

24 A. Well, no --- yeah.

25 Q. But I mean, did anybody specifically come and say, let's --- training today ---

- 1 A. Oh, no.
- 2 Q. --- on the Miner Act?
- 3 A. No, no, no, no.
- 4 Q. They didn't?
- 5 A. No.
- 6 Q. It's just pick and choose and do the best you can?
- 7 A. We get a phone call or something and say this is what we're doing, then that,
- 8 but as far as the inspectors and everybody getting together and stuff ---.
- 9 Q. So you think it's being enforced pretty equally across the board here? Was
- 10 there a lot of confusion?
- 11 A. I think there was confusion until we stopped, you know, sat down, and said,
- 12 you know, I --- until I sat down and said, okay. Lifelines need to be installed now.
- 13 Q. Okay.
- 14 A. You know, and then we started enforcing it.
- 15 Q. Okay.
- 16 A. Or you know, SCSR's, you know, purchase orders, let's make sure they have
- 17 them. You know, those kinds of things.
- 18 Q. But that's kind of what you took on yourself to find out?
- 19 A. Yeah, you have to do that, you know, because you're told that, you know, you
- 20 fill out spreadsheet --- everything's spreadsheet now. I mean, so the spreadsheet
- 21 comes, and you look at it and says, okay. This is supposed to be implemented at this
- 22 time. You fill in when you did it at this mine.
- 23 Q. Okay.
- 24 A. And so I'd look at the spreadsheet. Okay. This is what I need to do. Then I'd
- 25 go to the inspectors and tell them. It took me a while to even find the spreadsheet,

1 but ---

2 Q. Ted, you've got a pretty small workgroup with three AR's, of course, you've
3 got some trainees. Do you guys have to do a lot of special emphasis programs and
4 projects, and different things like that?

5 A. --- you know, we do so many of those, that it's ridiculous. I mean, it takes our
6 guys away from doing their jobs. I mean, when this seal and this sheet came out and
7 things like that. I mean, we had been to the seals. We had to go back. And then we
8 had to go back, you know. What more can you do when you look at them first. Then,
9 you have the initiatives, you know, well, we want --- it's a numbers game. All they
10 want is numbers. How many people did you talk to on winter alert? How many people
11 did you talk to on prop? And these are things these guys are doing all the time. You
12 know, in my --- in their regular inspection work. And yet, we have to, you know, all go
13 out at once, and make sure that, you know, on a certain day, it's implemented and
14 kicked off. And it just takes away from --- to me, the inspection activities that we're
15 really required to do. We're --- our guys are being required to do so much, that I don't
16 know how --- how you can even keep it in your head, and even expect them to do
17 what the --- the job that they do do. The equipment, now, that they're going to require
18 us to be carrying. And you know, to check the seals, and stuff like that. We're going
19 to have to go down here on this desert and wrestle some of these wild burros, and
20 take them underground with us. I mean, I feel sorry for them. I mean, you look at that
21 instrument they got and everything to go behind those seals and take those samples
22 and everything ---.

23 Q. Let me ask you this, Ted, you've been a supervisor for several years. Do you
24 think that --- with these special initiatives, and special emphasis programs, and all this
25 stuff, that we've increased our commitment to providing a safe environment for

1 miners, or have we decreased our commitment for a safe environment?

2 A. I think with them, in all honesty, decreased, because we don't have the
3 presence where we need it. I mean, it's just like we do with the inspections. I mean,
4 we spend more time in returns than we do in the face, I mean, where the action is.
5 And very seldom are we going to have trouble in returns, that they'll have any seals,
6 or stuff like that. You know, I mean, might have a little float, dust in the air thing. But
7 we spend --- like Deer Creek, I mean, they got two returns, 13 and a half miles, so
8 that's 27 miles of return that they're walking. And so in the face areas, we spend
9 maybe three days, if we don't have any problems, and that's it. Then we're out doing
10 all this other stuff.

11 Q. Has there ever been a direction from Denver, or anybody that you know of
12 that says, three days max on an MMU per inspection? You ever heard that?

13 A. Oh, yeah, I've heard that a lot. I mean, I've heard that said ---.

14 Q. You have?

15 A. Yeah, you know, it'd only take you two days to do a section.

16 Q. Okay. And then where you supposed to spend the rest of the quarter at?

17 A. Yeah.

18 Q. In the outby area somewhere? Doing some special ---?

19 A. Running through to get it. Just the other day I was told. I says, hey, we've got
20 a hundred and ---.

21 Q. Who told you three days max on an MMU?

22 A. Well, it's just discussion of the staff meetings. You know, where you have a
23 Don Gibson ---

24 Q. Okay.

25 A. --- that will say, you know --- I mean, he's all in surface right now, I mean ---.

- 1 Q. Bob Cornett ever tell you three days max?
- 2 A. No, Bob has never told me that.
- 3 Q. So nobody's --- like Al Davis didn't say, Ted, you've got three days on MMU,
4 no more?
- 5 A. No, they just say ---.
- 6 Q. Okay. That's just something that's a discussion in ---?
- 7 A. A discussion and say, hey, you've got to go faster on --- at your mines. You
8 know, you need to get these inspections done.
- 9 Q. But would it just be between you supervisors talking about it?
- 10 A. Yeah. Yeah. And then we'd come back and talk to the guys at staff meeting,
11 and say ---.
- 12 Q. So was it some --- is that then some kind of a self-imposed rule, that you, the
13 supervisors thought up on your own, or --- ?
- 14 A. Well, I don't tell my guys that. You know, I tell them --- you know, my guys, I
15 says, I don't ---.
- 16 Q. Do you think the guys who's been told that think that directive came from
17 Denver, three days per MMU?
- 18 A. Oh, I'm sure they do.
- 19 Q. Okay. So you think that way. And if I asked an inspector and said how many
20 days are you given to make an MMU, he's going to tell me Denver says three days
21 probably; right?
- 22 A. Well, he'd say three days and I don't know whether he's say ---.
- 23 Q. And if I asked him, why would it be three days? Who would he say, Ted told
24 me, Bill told me?
- 25 A. Well, he wouldn't say Ted. I don't know.

1 Q. Okay.

2 A. I mean, my guys know, hopefully, that I've told them, you take the time that it
3 takes you to get the section done. I don't care if we get the mine done or not. Even
4 though there's pressure, and I do care ---

5 Q. Uh-huh (yes).

6 A. --- you know, that we get a complete inspection and everything. They do
7 know that, you know, I'm going to give them the time. And if they, you know, get it
8 done. I mean, goodness gracious, I've been inspecting here, and I've been on the
9 same belt line three times, and I've got to go on it again, you know, because of
10 problems on it. So you can't tell people, specifically, well, it's only going to take you
11 35 days to do this mine. That's what they're asking me. How many days is it to do
12 this mine? Well, on an average, it probably might take you 32, but you don't know
13 what kind of problems. And then they come back and they'll say, why isn't the mine
14 done. You know, so this is --- I know it's thrown out there on the three days, or two
15 days ---

16 Q. Okay.

17 A. --- you know, I know ---.

18 Q. Has there --- loss of inspectors over the last five or six years, between --- of
19 course, it used to be Price and Castle Dale and they had three workgroups, down to
20 two workgroups and merged those two offices, but you've still got significantly fewer
21 inspectors than what you used to have; is that true?

22 A. Right.

23 Q. Does that also hurt your ability to provide a safe environment for miners,
24 here?

25 A. Absolutely. I've talked to Mr. Davis about that. We was supposed to have

1 one more dust specialist and another electrical specialist. I thought, you know, I've
2 asked him about another diesel specialist. You know, we're --- I think he told me
3 today, we have over 13,000 pieces of diesel equipment in District 9 and one electrical
4 --- I mean, one diesel specialist.

5 Q. One guy?

6 A. You know, and they hired Ex. (b)(6) and Ex. (b)(7)(C)

7 Q. Okay.

8 A. --- and they said that they was going to put him in as electrical inspector. I
9 talked to Jim Kirk. I says, he's not an electrical inspector. I says Ex. (b)(6) and
10 ten times better candidate than Ex. (b)(6) and Ex. (b)(7)(C) Oh, no, we've got to have Ex. (b)(6) and Ex. (b)(7)(C) So they
11 hired Ex. (b)(6) and Ex. (b)(7)(C) as electrical inspector. Found out that he wasn't qualified to be an
12 electrical inspector. And so then they sent him back into the health specialist. But
13 because they had offered him that job as the electrical inspector, and then sent him
14 back, we lost the electrical inspector. Because they wouldn't tell him exactly why they
15 give him --- they did away with the electrical inspector. They didn't come right up and
16 tell him. He has no idea why they didn't give him that electric --- you know, they sent
17 him back as the health specialist. No one sat down and told him Ex. (b)(6) and Ex. (b)(7)(C) you're not
18 qualified to do the job. And then go ahead and hire another electrical man.

19 Q. So you lost the electrical position?

20 A. We lost the electrical position, and then we lost --- and so they're --- and the
21 health specialist, and so they say, well, we sent the health specialist to --- down to
22 McAlister, and we sent the electrical guy down there to McAlister. We have the ability
23 to have all these people, and they won't give us --- they don't push it. You know, they
24 don't say, hey, we really need another diesel specialist. We need another electrician
25 in this mine. You know, in these mines here. You know, and we need ---.

1 Q. Who doesn't push it, Denver or you and Bill?

2 A. Yeah, Denver.

3 Q. Oh, you and Bill have been crying for it?

4 A. Oh, my goodness, crying? We've been down on our hands and knees
5 crawling, you know, just --- and even Bob Cornett told me --- it was over maybe a year
6 or so ago, he went on vacation, and we was going to get another man. And Al
7 decided we didn't need another man, and so didn't push for it and so we lost the
8 position.

9 Q. Al just decided on his own you don't need a man?

10 A. Yeah. I mean, if you look at it, you know, they'll --- national will take a look at
11 it, and they give you this little quota. You know that. They --- well, you got this many
12 MMU's, you got this, this and this, but when you got 100 at Deer Creek, 114 pieces of
13 diesel equipment ---.

14 Q. That don't count.

15 A. That don't count worth a darn.

16 Q. How about all these special initiatives, does that count?

17 A. Yeah, it don't count. You know, inspectors go do it. And then try to figure out,
18 remember what's in the MMU, or the uniform mining file, and all these plans and
19 everything, and go out and do the job. And then turn around and kick them in the butt
20 for doing the job. And they don't give a damn about anything good they do. All they
21 do is look for criticism, and look how you can do things. They called us in, especially
22 to --- for performance appraisals, a meeting especially over in Denver. They basically

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

25 Q. So they called you and who, Bill?

1 A. All the supervisors.

2 Q. All the supervisors at Denver?

3 A. We had a special training session.

4 Q. Special training? The training was don't give everybody more than meets? Is
5 that what training you got?

6 A. Basically, that's the way I came away from it, you know.

7 Q. Who told you that?

8 A. Huh?

9 Q. Who told you that?

10 A. Well, that's just the way I felt when I came away from it.

11 Q. No, I mean, who was conducting the so-called class, ---

12 A. I can't remember.

13 Q. --- Al?

14 A. Al Davis was there, and they had somebody from ---

15 Q. Somebody from outside the district?

16 A. --- outside the district.

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

18

19 A. Well, that's the impression I got, because ---.

20 Q. They don't deserve anything more than meets?

21 A. Yeah, they don't --- you know, basically, that's the impression I got, you know.

22 And really, if you look at the standards, the way they're written, they don't even meet
23 the damn standards. They don't. I mean, if you look at it, they wouldn't meet one of
24 them as written.

25 Q. Okay.

1 A. And so these guys, the only thing that keeps them going is pride in
2 themselves and the work that they're doing for the miner underground. They have a
3 commitment for that. But the agency don't care. They could care less about these

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

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

6 getting bills constantly. He's worrying about it from OWCP, you know,
7 because OWCP ain't paying the bills, and he's getting all these dumped on his lap.

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

8 and all ---
9 instead of healing, he's sat there worrying constantly about well, are they going to pay
10 this bill, are they going to pay this bill, or why is this people billing me for this?

11 Q. Really?

12 A. Yeah, OWCP claim that Ex. (b)(6) and Ex. (b)(7)(C) over a year ago for some treatment is still not
13 been paid. You know, and Ex. (b)(6) and Ex. (b)(7)(C), the same way. Still hasn't been paid. He
14 paid it out of his own pocket. And so it just tells these guys, nobody gives a care
15 about you. You know, nobody cares of the type of job that you do. You know, I get an
16 e-mail, or we go to staff meeting, go out there and tell those guys, you know, what a
17 great job you're doing. Well, get off your butt, and tell them what a great job they're
18 doing. How much you appreciate them, and then reward them for what they're doing.
19 If they're not doing a good job, that's different. But these guys, you know, with the
20 workforce that we have, and the amount of time that these guys put in, I mean,
21 gracious, and not care a thing about them. It bothers me. Mike Shumway worked all
22 day. We had a head blockage last night, called him at home, he says I'm on my way.
23 He probably spent over 24 hours, you know, to take care of the men underground.
24 Nobody appreciates that. They don't. You know, these guys, you know, to me, all
25 deserve a metal of honor for the kind of work that they do, but all they can look at is to

1 criticize them about, oh, you're not getting this done. You're not getting this mine
2 done fast enough, or you didn't do this, or you didn't do this. You didn't dot your Ts
3 and you didn't --- or cross your Ts and dot your Is, Ex. (b)(6) and Ex. (b)(7)(C)

4 They don't see about the job that he's doing underground, and the protection he's
5 offering those men. They don't get off their butts and go underground to see what's
6 going on.

7 Q. Do you think with all the stuff you got to do, including the paperwork and
8 everything else, Ted, that it's just almost impossible for a guy to do everything perfect
9 like they want?

10 A. Absolutely, there's --- even me, you know, I like to go to the mine, but I get so
11 overwhelmed with everything that goes on, and tracking systems, and things like that,
12 to make sure these things are being done, that it takes so much time to do, you can't
13 get to the mine. You know, you have to --- you just have to say, the hell with it. And
14 that's what I've done here, to do this inspection of Deer Creek. I came in last Sunday,
15 worked ten hours on nothing but paperwork to get it done, so I could move on and get
16 to the mine. I worked Friday. You know, I'm working seven days a week right now.
17 And but why? Nobody gives a care, other than, hey, we met this little goal. And we're
18 going to come back, and they're going to say next quarter, well, well you did it this
19 quarter what this amount of people, why aren't you doing it now, you know. And these
20 guys are putting in overtime, you know, stuff like that. And well, I'm on a soap box.

21 Q. Okay. What's the status of this room?

22 UNIDENTIFIED SPEAKER:

23 I just bought us 'til 4:30.

24 MR. PAVLOVICH:

25 That's 15 more minutes?

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UNIDENTIFIED SPEAKER:

Yeah, it's still not enough time to finish up.

MR. PAVLOVICH:

I guess we'll have you on overtime today, too, Ted.

A. That's fine. But I don't mean to get on the soap box.

BY MR. PAVLOVICH:

Q. We've enjoyed listening to you anyway. I just --- you're telling it like it is. I mean, what --- that's what we want to do is get your opinions and feelings.

A. Sure.

Q. If that's your feeling about how it's been going, then that's your feeling. And nobody can tell you, Ted, you're feeling is wrong. I mean, let's face it. If that's how you feel, that's how you feel, and that's what I want to hear.

A. I've been a supervisor for 12 years. Nobody's given me any training other than the academy. Nobody's come down and said, hey, this is what you need to do. Nobody says, you know, this is how you fill out this paperwork. This is how you do that. It's all been by hunt and peck and things like that. And so you know, what I'm doing is just ---.

Q. Do we need to go over --- you've got questions?

UNIDENTIFIED SPEAKER:

Yeah, I think we probably all do.

MR. PAVLOVICH:

You all got questions? I know we got --- can we go over to the office?

A. No, that's close to you guys. We don't allow you guys in that office.

MR. PAVLOVICH:

1 We got our own office. We're not going into your office.

2 We're going into --- it just happens to be located in the same building.

3 A. Oh, okay.

4 MR. PAVLOVICH:

5 Will you mind joining us over there for a little while longer so

6 we can continue?

7 SHORT BREAK TAKEN

8 MR. PAVLOVICH:

9 Ernie, I've pretty much exhausted myself on questions. So

10 I'm going to turn it over to Ernie, he's got a few there.

11 MR. TEASTER:

12 You heard about the March 11th bump that they had up there

13 in North Mains. Have you seen these photographs and the extent of that area that

14 --- this is the face area up here and that's the extent of the pillars that were affected.

15 A. No, I didn't. I haven't seen these.

16 MR. TEASTER:

17 Just flip through those pictures there just to get a feel for what

18 side, what's the magnitude of the bump we had.

19 A. Well, that ain't bad. Yeah, I've seen things like that.

20 MR. TEASTER:

21 You've seen bumps like this?

22 A. Uh-huh (yes).

23 MR. TEASTER:

24 Would you say that's reportable under Part 50?

25 A. No.

1 MR. TEASTER:

2 No?

3 A. Yeah.

4 MR. TEASTER:

5 I couldn't tell whether it was humor or sarcasm.

6 A. Sarcasm. I'm sorry. I shouldn't do that. Yeah.

7 MR. PAVLOVICH:

8 What bump? This is not a bump.

9 A. Absolutely. Absolutely.

10 MR. PAVLOVICH:

11 Just some ribs falling.

12 MR. TEASTER:

13 Now, that was not called in to MSHA as best we can tell at
14 this point as a bump under Part 50, but the District was notified in a couple of different
15 ways. Did the District ever call anyone in the field office that you're aware of and seek
16 information in any way connected to this bump that you're aware of?

17 A. Not that I'm aware of. In fact, you know, I never even heard of it until I got up
18 on that up there at the rescue station.

19 MR. TEASTER:

20 How does it work when a bump is called in here? You have a
21 bump in one of your mines, how would they go about reporting that and how would the
22 District react to it?

23 A. Of this magnitude?

24 MR. TEASTER:

25 Of a reportable bump?

1 A. Bump? Well, they would now call the call center and then the District would
2 call us, you know, and say they had this event and then I'd send an inspector up, you
3 know, to investigate and he would make his report.

4 MR. TEASTER:

5 You'd draft a written report?

6 A. Uh-huh (yes).

7 MR. TEASTER:

8 And submit that to the district?

9 A. Yeah. It's not a real ---. It's just they're forms that they send out, you know,
10 and you just kind of fill the blanks in.

11 MR. TEASTER:

12 Would you put one in the uniform mine file?

13 A. Oh, yeah. Yeah. It would be in a uniform mine file because there would be
14 an event under EO-8, I think it is.

15 BY MR. PAVLOVICH:

16 Q. Does that look like a pretty extensive bump to you, Ted?

17 A. Yeah, it is. Massive one, you know?

18 MR. TEASTER:

19 If you have a magnitude --- a bump or bounce of that
20 magnitude, what impact do you think that would have on you if you were deciding
21 whether or not to approve a pillar retreat plan in the South Barrier?

22 A. Well, it'd have a lot of effect because then you could just see, you know, what
23 it's done here and you probably would really have some questions about it. You know,
24 your rift control people some ways of thought, you know, of not just taking Agapito's
25 word or the company's word and everything, you know, and that, that they've made all

1 these studies and things could be that. You know, that would be real important to me
2 to know.

3 MR. TEASTER:

4 Now, you indicated earlier that you thought that Lane Adair
5 was a pretty honest guy. If he had knowledge of this bump, which he did, I think he
6 took those pictures. I'm not sure about that, but I think he did.

7 A. Yeah.

8 MR. TEASTER:

9 And then not notifying MSHA that this was a bump under Part
10 50, do you think that's something that he would not do or ---?

11 A. No.

12 MR. TEASTER:

13 Obviously, he didn't call it in, but ---.

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

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

You know? Basically. That's just my
feelings.

21 MR. TEASTER:

22 So this would have been March of '07. This would have been
23 clearly after Murray ---?

24 A. Murray had it, yeah.

25 MR. TEASTER:

1 geared on that and even his people tried to tell him, you know, to use a seismic event,
2 but he just absolutely wouldn't do it.

3 MR. TEASTER:

4 Do you think he believed that it was an earthquake or that was
5 just something he was trying to say to cover up?

6 A. Personally, like I said, I just thought that this was an avenue of liability that he
7 could get out of, you know. I mean, if it's mother nature, he didn't do anything wrong,
8 you know, type of deal. So that was just my feelings.

9 MR. TEASTER:

10 Did you have any confidence that this roof support system
11 would provide the protection if a bump were to occur in the area it did?

12 A. I wasn't comfortable with it, but like I said, you know, with the engineers and
13 everybody saying that it was the type of roof support that, you know, they could use to
14 get in there and get those men out, you know, I went along with it. Because, like I
15 said, I'm not the smartest guy on the corner.

16 MR. TEASTER:

17 Knowing what you know now, as far as the number and the
18 magnitude of the bounces that occurred between the 6th and the 16th of August, have
19 you ever encountered that type of activity that occurred in such a short time frame?

20 A. Before, you know, anywhere else?

21 MR. TEASTER:

22 Yes.

23 A. No.

24 MR. PAVLOVICH:

25 You know there's ---?

1 A. I mean, you'll have the major one, you know, and then you'll have the pops
2 and bumps, you know, little ones and things like that, but nothing like you'd have one
3 major one and another major one. You know, you'd have smaller ones in between,
4 but ---.

5 MR. TEASTER:

6 So if you had a significant bounce and didn't continue mining.
7 Let's say, you stopped to do an investigation and you was down a couple of days, do
8 you think it would be --- is it common to have another bump in that interim at all? I'm
9 talking about another significant ---?

10 A. A significant one?

11 MR. TEASTER:

12 I'm not talking about thumps high up in the roof and popping
13 and stuff.

14 A. I can't recall right now of it doing that.

15 MR. TEASTER:

16 As I understand it, the one that occurred in number four on
17 the early morning hours, I think like 1:13 in the morning on the 7th. That one that
18 occurred and filled that entry back up was like a 2.2 on the Richter scale. And then
19 the one that occurred on the 6th was just a little less than four I think, 3.9 or something
20 like that. Just a little less than four, which is very significant. 2.2 is pretty powerful, I
21 would think, looking at some of the information that we've seen in terms of what kind
22 of energy is released when they're that size.

23 A. Yeah.

24 MR. TEASTER:

25 And then we had several in that time period at 1.2, 1.5, 1.6

1 and then I think the one on the 16th that resulted in those fatalities and injuries was
2 1.6 on the Richter scale. But if you have that information and --- you know, if you
3 have a mine fire explosion, you've got a lot of things you can look at to make a
4 determination as to whether it's safe to continue?

5 A. Right.

6 MR. TEASTER:

7 The same way if you've got something on the roof off. You're
8 looking at the roof falling down, the top's breaking up.

9 A. Right.

10 MR. TEASTER:

11 You can make a more informed judgment as to when it's time
12 to pull the plug. But do you have anything that might --- that we might look at as a
13 guide as to when it's time to call it quits involving the bounces?

14 A. Well, you know, looking at that and talking here and everything, you know, I
15 believe that one of the things, you know, we definitely missed was the recording of
16 where these bounces were occurring. You know, and making ourselves aware of as
17 much activity that was going on. Maybe we're a little desensitized, you know, in this
18 area because of them. But as far as when we pull out, I think those issues are, you
19 know, those type of onsite type of decisions. But by knowing the things that we know
20 that's coming out on this, you know, to plot things better, to look at things better, you
21 know, on these bumps and bursts or that. If we were doing that and really
22 concentrating in that area maybe that would --- I know it would help, you know, with
23 those decisions because you could plot that. And we missed it. I missed it, you know.
24 But that activity and everything --- I just don't know how you'd come right down and
25 say, okay, at this point, we pull them out, you know, like we do on a mine fire and

1 things like that. With this one here, you know, it's just do we do it or don't we, you
2 know. And you know, I don't know. I just ---.

3 MR. TEASTER:

4 Do you have any feel, Ted, for why --- you mentioned earlier
5 about your inspectors knowing these mountains and know what's going on with them.
6 Do you know why the inspectors, yourself and other people with knowledge of how this
7 mountain worked was not consulted as to what would work and what would not work?
8 I know you offered up some suggestions and it was not ---.

9 A. I don't know why nobody was consulted. You know, sometimes I get the
10 feeling that the engineering people and those who make decisions and that are like
11 the coal mine operator, the operator himself, and they know better than the miner in
12 the section that is working. You know, they know everything, you know. You know,
13 they'll bring suggestions to people that are top management and management will say
14 that ain't going to work. This is the way it's going to be, you know. I think there's that
15 type of mentality at times, you know, well, you're not an engineer and you don't know
16 anything. You're just a lowly inspector. You don't know anything. You know, I know it
17 all. I've heard comments at times that these --- from our people that these mine
18 operators don't know how to ventilate. I'm the only one that knows how to ventilate
19 these mines. And you know, that's a poor attitude and maybe that's the reason. I
20 don't know what their thinking is. That's just an opinion of mine.

21 MR. TEASTER:

22 Do you think some of that might carry over into why you're not
23 involved in roof control plans and ventilation plans?

24 A. Oh, yeah, we don't know anything.

25 MR. TEASTER:

1 they submit that, when they get into the plan they can look at that and you know, when
2 they get a response back and so I think that, myself, would be a better way to go than
3 to have the whole plan because if we were doing our job here, it would make their job
4 easier there to say; okay, this is what we need to focus on and whatever. But yet we
5 also have a report back from them that well, no, we're not going to do this or, yeah, we
6 are going to do this, and move on with it.

7 MR. TEASTER:

8 Well, do you think that the District's concerned about the
9 inspectors being overloaded is the reason they don't involve them in the process?
10 You said that could be.

11 A. That could be, but they sure like to put everything off on the inspector. I
12 mean, anything that they can think of that they ought to be doing that the inspector
13 can do for them, you know, they do that. You know, they'll send the inspector out
14 instead of going out.

15 MR. TEASTER:

16 I think Joe asked this earlier, but do you think the inspectors
17 are hesitant about putting stuff on that form because they just think it don't get the
18 attention that it deserves and they just check that adequate just because it's a
19 requirement of the review?

20 A. Yes. It's just an easy way to get the inspection done and closed out. You
21 know, knowing that probably nobody's going to answer it anyhow.

22 MR. TEASTER:

23 My experience has been that it's a lot better to address a
24 concern before it's approved than after the fact, ---

25 A. Right.

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MR. TEASTER:

--- because once it's approved, then you've got to go through a lot more hoops to try to get it changed if the company's not aware.

A. That's what we're --- like I said, that's what we've been doing in our field offices to make sure that these things that they are submitting does --- you know, has that information in it. You know, that we just can't leave them blank anymore like we'd been doing.

MR. TEASTER:

What are your thoughts when you go to a mine and find out the District manager's been at one of your mines and you don't have no knowledge? Does that ---?

A. Well, it ticks me off, I mean, really. I mean, ---.

MR. TEASTER:

It's somewhat of an embarrassment; isn't it?

A. Right. I wonder, you know, what I have done or what deals were being made, you know, behind my back as the supervisor, you know. I mean, there's a concern there, you know, that maybe something's being said or done that involves the field office that, you know, would need to come out. But you know, I don't like that. You know, I don't like secrets. You know, if it comes to my mines and what's going on there, I need to know.

MR. TEASTER:

When the other District people, such as the ventilation or the roof control or whatever comes out, do they normally notify you when they're going to be at one of your mines?

A. Yes.

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MR. TEASTER:

So it's only the District manager that would encounter that?

A. They don't come out much, so you don't have to worry. I mean, they don't. I mean, it's rare that you see them.

MR. TEASTER:

Do you know why there was not a supervisor or someone that was put in charge of the underground activities?

A. I have no idea.

MR. TEASTER:

Do you know if it was ever discussed?

A. No, I don't.

MR. TEASTER:

Do you know why the people were not briefed as they exited the mine each day?

A. Don't know.

MR. TEASTER:

Don't know if it was ever discussed or considered?

A. No.

MR. TEASTER:

Was the mine portal secured by an MSHA employee?

A. The portal?

MR. TEASTER:

Yeah.

A. No.

MR. TEASTER:

1 A. Yeah. So that they could --- they had to move it. They moved the tailpiece. I
2 believe it was the tailpiece they had to move over and get that belt all ready, so that
3 they could run coal on it. I know they were working on that.

4 MR. TEASTER:

5 Do you know how far outby the belt was affected by the
6 bounce?

7 A. I don't.

8 MR. TEASTER:

9 You mentioned that there was a change earlier about a year
10 and a half, a year, year and a half ago, when the CLR started to send in information as
11 to why they were changing the paperwork. Do you know what caused that change?

12 A. Probably the audit of, you know, the Ara Coal Mine in Darby, you know, what
13 came out of those investigations. You know, I know it got a lot better after that.

14 MR. TEASTER:

15 Do you [REDACTED] still work at the Murray Mines?

16 A. Yeah.

17 MR. TEASTER:

18 How do you think the uniformity on enforcement of the varied
19 standard is between the two workgroups in the Price field office?

20 A. We work real hard at that, building on our staff meetings and things like that to
21 make sure, you know, we go over different items of, you know, trying to consist in
22 what we're doing as inspectors out of these two field offices, so that if one goes to one
23 of my mines, you know, his goes to one of my mines, he's enforcing like we are and
24 vice versa so that we don't have the inconsistencies. We seem to have throughout
25 the Agency that kind of inconsistency in enforcing. We're trying real hard to make it to

1 where we can get as close as we can. You know, of course, you have personal
2 opinions coming in to decisions and stuff like that that might be a little inconsistent,
3 but we do try hard to train the guys during staff meetings on consistency issues.

4 MR. TEASTER:

5 How would you and Bill resolve an issue where you viewed
6 this one way and him another? How would you go about resolving it?

7 A. Well, we really haven't had that, you know.

8 MR. TEASTER:

9 You never had a ---?

10 A. Never had a problem, you know. But I'm sure if it did get to an impasse, we'd
11 go to the assistant district manager and get the information we need.

12 MR. TEASTER:

13 That's all I have.

14 MR. PAVLOVICH:

15 Ben? Kenny?

16 UNIDENTIFIED SPEAKER:

17 Yeah. Most of the mine, Ted, are related to the rock prop
18 stuff. The meeting that you relayed with the tech support guys and the company guys.
19 When did that meeting occur?

20 A. Oh, I think it's in my notes.

21 UNIDENTIFIED SPEAKER:

22 That was relatively early on, I think.

23 A. Yeah.

24 UNIDENTIFIED SPEAKER:

25 Were the rock props already being used or was this even prior

1 to them being started?

2 A. This was prior to them even starting. You know, it --- let' see. I don't think
3 they had any rock props down there. They were just ---.

4 UNIDENTIFIED SPEAKER:

5 Well, I guess in that meeting, I'm curious, did they discuss ---
6 did anybody discuss the width aspect of the entry that they were trying to keep that?

7 A. Down to 15 feet.

8 UNIDENTIFIED SPEAKER:

9 So that was possibly the reason why they weren't going to
10 consider the cribs or cans?

11 A. The thing is, is you didn't want to disturb that rib because that rib was part of
12 the support.

13 UNIDENTIFIED SPEAKER:

14 Okay. So that was discussed at least ---

15 A. Yeah.

16 UNIDENTIFIED SPEAKER:

17 --- in that initial meeting?

18 A. Yeah.

19 UNIDENTIFIED SPEAKER:

20 And the West Ridge experience that you related, when did
21 that occur? I mean, you said Ex. (b)(6) and Ex. (b)(7)(C) told you about that.

22 A. Yeah. It was a couple months prior to this event.

23 UNIDENTIFIED SPEAKER:

24 So fairly recent then?

25 A. It was fairly recent.

1 UNIDENTIFIED SPEAKER:

2 Okay.

3 A. But he didn't give me no specific date or anything.

4 UNIDENTIFIED SPEAKER:

5 And was that the yield pillar blowing out?

6 A. I'm not sure of that.

7 UNIDENTIFIED SPEAKER:

8 And do you know anything more about were they using wire
9 ropes or the mesh over there in conjunction with the rock props?

10 A. No.

11 UNIDENTIFIED SPEAKER:

12 Just know that the rock props weren't ---?

13 A. Yeah.

14 UNIDENTIFIED SPEAKER:

15 So you don't know anything about any set pressure or
16 anything that ---

17 A. No.

18 UNIDENTIFIED SPEAKER:

19 --- West Ridge might have been using that was different from

20 Crandall here?

21 A. No.

22 UNIDENTIFIED SPEAKER:

23 Anybody hurt in that West Ridge one?

24 A. No. No.

25 UNIDENTIFIED SPEAKER:

1 So as far as you know then, it wasn't reportable? I mean, it
2 was probably just something that happened that nobody knew about?

3 A. Blew them out and they went to work.

4 UNIDENTIFIED SPEAKER:

5 Okay. I guess my only other one then, was going back to the
6 Ex. (b)(6) and Ex. (b)(7)(C) conflict, and I'm just curious for my own clarification maybe, but the
7 disparaging remarks that he was reported to have made, was that about the miners or
8 to the miners?

9 A. About the miners. To the inspectors. Not face to face to the miners.

10 UNIDENTIFIED SPEAKER:

11 Okay. So Ex. (b)(6) and
12 miners that you know of?

13 A. Uh-uh (no).

14 UNIDENTIFIED SPEAKER:

15 He was just saying to somebody else these guys are lazy or
16 whatever it was?

17 A. Yeah.

18 UNIDENTIFIED SPEAKER:

19 So Ex. (b)(6) and Ex. (b)(7)(C) tells you that and then you relay that ---

20 A. To Al Davis.

21 UNIDENTIFIED SPEAKER:

22 --- outside?

23 A. Yeah.

24 UNIDENTIFIED SPEAKER:

25 You never talked to Ex. (b)(6) and directly about that ---

1 A. No, I didn't.

2 UNIDENTIFIED SPEAKER:

3 --- based on what ^{Ex. (b)(6) and Ex. (b)(7)(C)} had told you?

4 A. Yes. I just left --- well, I told Al and then he got Bob Cornett to go talk to ^{Ex. (b)(6) and Ex. (b)(7)(C)}
5 but I don't think they really told him. They don't want to tell people what's wrong for
6 some reason, you know, or could you --- instead of sending him home, you know,
7 could you do --- you know, keep your opinions to yourself or something like that
8 because I think, you know, we lost a ^{Ex. (b)(6) and Ex. (b)(7)(C)} you know. And ---.

9 UNIDENTIFIED SPEAKER:

10 And I guess I'm curious there is if he didn't say something to
11 the miners, what impact did what he was saying have?

12 A. The impact on --- you've got to understand; the impact that he had on the
13 inspectors is that these men, these inspectors, work with these men or around these
14 men, you know, monthly or daily or whatever and they have a lot of respect for him.
15 You also have to remember that I don't know if Donnie --- where Donnie is, but Ken
16 and myself and these we're related to a lot of people up there. Those two. The one
17 individual that was in the mine at the time during that deal was the son-in-law of my
18 cousin. I mean, I had two ^{Ex. (b)(6) and Ex. (b)(7)(C)} worked there. I mean, it's quite a
19 family-oriented environment in these mines. I mean, you also have to understand in
20 Utah years and years and years ago, you know, ^{Ex. (b)(6) and Ex. (b)(7)(C)}

21 ^{Ex. (b)(6) and Ex. (b)(7)(C)}
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25 ^{Ex. (b)(6) and Ex. (b)(7)(C)} So I mean,

1 it's quite a family environment. These guys, they're small communities. These guys
2 play together. You know, they go to church together, you know, all this kind of stuff. I
3 mean, they're really interactive. You know, it's not like you're --- you know, like the old
4 coal companies, you know, you're management and this and we don't associate with
5 you. It's quite a community involvement and so when you get disparaging about
6 people and start talking about people and these coal miners, you know, I get excited,
7 you know, because we feel that they're doing the best job that they possibly can. And
8 these kids were running like crazy trying to get things done because I seen them do
9 that, and here he's making disparaging words about these miners. That would have
10 got my hackles up, too.

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

11
12 MR. TEASTER:

13 Well, one of the things that we're looking into specifically is
14 that inspectors have been moved because of some of Murray's actions.

15 A. Yeah.

16 MR. TEASTER:

17 And ^{Ex. (b)(6) and Ex.} had a lot of activity underground as far as
18 enforcement of it?

19 A. Yes.

20 MR. TEASTER:

21 He was enforcing water on the roadways, rock dusting. There
22 was another issue or two that came up and then he brings them up and then he's gone
23 from the mine?

24 A. No. AI didn't even know about it until I talked to him. He didn't know that
25 there was a problem there. And I think Bob Cornett was the reason that --- but I don't

1 sense that there was anything that Bob Murray had to do with removing [REDACTED] you
2 know, from the mine property. I just don't see that. I think that Al was concerned that,
3 hey, you know, here we have a little conflict amongst the inspectors and so I'll deal
4 with it this way. Now, whether it was the right way or the wrong way, you know, he has
5 to --- he made that decision. But I wouldn't have sent [REDACTED] home. I would have just
6 took him over in the corner and explained to him, hey, you know, you're upsetting the
7 inspectors and you know, just keep your opinions to yourself, you know, towards that.
8 But when there's actual things there, you know, let us know. Those type of opinions
9 we don't need that to be voiced out loud.

10 MR. TEASTER:

11 Did you hear any company people voice concerns about
12 some of the issues that [REDACTED] had raised underground?

13 A. All I know is --- I'm trying to think who it was of the company came out of the
14 mine and just said that Phillip Cox, who was one of the foremen, was ready to strangle
15 him, you know, because of trying to stop him from getting ---.

16 MR. TEASTER:

17 A company person told you that?

18 A. Yeah. I'm trying to think of his name. I'm getting old.

19 UNIDENTIFIED SPEAKER:

20 Would it have been Peacock?

21 A. No. It wouldn't have been Peacock. It was --- it seemed to me like it was just
22 --- it might not have been --- it might have been just a regular hand, but I can't
23 remember who. But I do know they came and told me about it. It might have been
24 Bodee Allred. It seemed like it could have been Bodee Allred.

25 MR. TEASTER:

1 Was it something that he came to tell you specifically about or
2 is that just something that just came up in casual conversation?

3 A. It just came up in the conversation.

4 MR. TEASTER:

5 That's all I have.

6 MR. PAVLOVICH:

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

8 UNIDENTIFIED SPEAKER:

9 Ted, we've heard a lot of comments when people look at the
10 map and they say they can't believe anybody was mining in there and in those
11 hearings on TV. Since this is such a close mining community, does it seem out of the
12 ordinary that none of the miners complained prior to this event to anybody?

13 A. Yeah, it --- I think --- you know, it's odd that --- I think that because of what
14 Murray did, you know, with the people, moving the experienced people out and
15 putting, you know, Gary Peacock in and that --- even though Gary had some
16 experience, he didn't have any experience like the man that he moved and maybe ---
17 you know, I don't know what they would have --- maybe they never even took --- look
18 at it. You know, I just don't know why they would do that, but maybe they didn't look at
19 the map. Maybe they just went ahead and did it. But you know, most people, you
20 know, in hindsight when they look at that, you know, they say. yeah, we'd have never
21 done that. But maybe if this had never happened, they would have looked at it and
22 said different. Yeah, let's go get that coal. I just don't know.

23 UNIDENTIFIED SPEAKER:

24 You think they were intimidated for their job's sake, that they
25 were afraid?

1 A. I know the managers were, you know? Heck, he'd fire you one day and then
2 hire you back an hour later, you know, with these bosses just to show a point. And the
3 men, you know, they all needed jobs so what do you do?

4 MR. TEASTER:

5 Ted, don't you think it was unusual that nobody at that mine
6 ever mentioned, any of your people, about that bump in that North Barrier and how
7 bad that was and how it run them out of there?

8 A. Well, it depends on who was at the mine at the time because these guys trust
9 some inspectors and others they wouldn't talk to for nothing.

10 MR. TEASTER:

11 Well, I mean, just if somebody --- I mean, ---

12 A. I don't know ---

13 MR. TEASTER:

14 --- you know guys at the mine.

15 A. --- what they do.

16 MR. TEASTER:

17 Don't you?

18 A. Yeah.

19 MR. TEASTER:

20 I mean, wouldn't you think something like that would be told to
21 somebody?

22 A. Yes. You would think so.

23 MR. TEASTER:

24 Don't you think it's unusual that it wasn't?

25 A. Yeah.

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MR. TEASTER:

Especially where they were mining there that, you know ---?

A. Yeah. You would have thought that it'd had been all over the county that they had this big bounce up there.

MR. TEASTER:

Yeah, that's a pretty good size bounce; wasn't it?

A. Yeah.

MR. TEASTER:

I mean, if you look at those pictures, that's a pretty big bounce?

A. Yeah, you would have thought the way everything goes through these two counties that that would have been a normal, everyday type of conversation with people, you know.

MR. TEASTER:

They're mining these barriers over here which looks strange anyway and then they had one hell of a big bounce, but yet nobody knew anything about it. Nobody.

A. Well, I know. You know, that's weird because, you know, I can go, you know, like to Deer Creek and they'll tell me well ---.

MR. TEASTER:

Guess what happened over at such and such; right?

A. Yeah, they just had a big bounce on their wall or stuff like that.

MR. TEASTER:

Right.

1 A. They know that.

2 MR. TEASTER:

3 Sure. They all know.

4 A. Yeah, I hadn't thought about that. I really haven't because that would have
5 went like wildfire. It should have went like wildfire.

6 MR. TEASTER:

7 And I mean, you're saying this is a pretty small community
8 and I understand. I mean, everybody knows everybody here, everybody that works in
9 the mine has worked with somebody. Somewhere along the line, you'd think
10 somebody here would have told one of his buddies somewhere, man, we had a hell of
11 a bounce in there last night?

12 A. Yes.

13 MR. TEASTER:

14 I mean, it run us out of the section. We pulled out and sealed
15 it. That's not very common; is it?

16 A. No.

17 MR. TEASTER:

18 But in this case nobody knows anything?

19 A. Yeah.

20 MR. TEASTER:

21 I mean, that's ---.

22 A. That's odd because somebody's had to say something to somebody, but it
23 never got back to us because it just ---.

24 MR. TEASTER:

25 And none of your inspectors or anybody around the office

1 ever say anything about it?

2 A. None of my guys. Now, Bill's people, you know, I don't know because they're
3 the ones that were at the mine. You know? I don't know.

4 MR. TEASTER:

5 Well, even if one of Bill's guys would have said, I mean, with
6 something in the office this size, everybody in the office knows; right?

7 A. Oh, yeah. They'd know. Anytime they have a problem ---.

8 MR. TEASTER:

9 It's not like you keep one secret ---.

10 A. No. You can't keep nothing a secret, but apparently this was a pretty well kept
11 one. I don't know. Yeah. I never really thought of that. You're giving me a
12 headache. No.

13 UNIDENTIFIED SPEAKER:

14 You said there was two occasions when you was in the Blue
15 Goose on afternoon shift with Bob Cornett, and the company brought plans in and you
16 guys said no and then the next day, they were approved by Al Davis. And when you
17 came back to work knowing that they'd been approved, did Al ever give you any
18 feedback or reason why he overrode you guys?

19 A. No.

20 UNIDENTIFIED SPEAKER:

21 Did you ask him what kind of ---?

22 A. He approved it and we just left it at that because the sad part about it, my
23 feelings was, is whatever Lane Adair wanted, Al Davis would give to him. And why, I
24 don't know.

25 UNIDENTIFIED SPEAKER:

1 Would AI have necessarily known that you turned it down?

2 A. Probably not. But I did --- we did relay that information to the graveyard shift
3 in our briefing, that they had presented us a plan, we told them to revise it so that
4 they'd bring it to you. You know, this is what we've done. Whether that was passed
5 on to him, I have no idea.

6 UNIDENTIFIED SPEAKER:

7 Was there any written record of that, ---

8 A. No.

9 UNIDENTIFIED SPEAKER:

10 --- like that this plan was not approved, or ---?

11 A. Well ---.

12 UNIDENTIFIED SPEAKER:

13 The only thing you've got a record of is the ones that was
14 approved?

15 A. No. I put in my notes, the two occasions within my notes, and that's all I've
16 got is that we said no. We weren't going to approve it and then it was approved by AI
17 the next day.

18 UNIDENTIFIED SPEAKER:

19 And as far as like an official log, was there anything ---

20 A. No.

21 UNIDENTIFIED SPEAKER:

22 --- noted?

23 A. No.

24 BY MR. PAVLOVICH:

25 Q. Well, let me ask you this, Ted. Just a follow up on that. Usually, in my

1 experience in mine rescue, somebody writes out a plan ---

2 A. Uh-huh (yes).

3 Q. --- and at the bottom they sign it and they have a place for approved by
4 MSHA. And I guess that's what was presented to you; right? It was in paper or did
5 they just say, Ted, what do you think about it?

6 A. Right. No. They brought us a plan.

7 Q. So was it actually in writing?

8 A. Right.

9 Q. So when you guys said, no, we're not going to approve it, did you write
10 disapproved?

11 A. No, we didn't.

12 Q. What'd you do with it? Just say, here, take it back?

13 A. Yeah.

14 Q. We won't approve this?

15 A. Yeah.

16 Q. So there's no record of a disapproval of any plan?

17 A. No.

18 Q. The only plans we see in the book are the ones that says this is approved,
19 approved, approved ---?

20 A. Right.

21 Q. And ones that are disapproved there's no knowledge of?

22 A. Right.

23 Q. Is there any reason why you didn't disapprove it?

24 A. Well, put it like that?

25 Q. Yeah. I mean, why didn't Bob sign it, then say disapproved and give it back to

1 him? That way you have a record of what was disapproved and that something new
2 needs to be submitted. But you didn't have that record?

3 A. No. We never --- I don't think we ever ---.

4 Q. Nobody ever gave you instructions like that, Ted?

5 A. Yeah, I've never had those kind of instructions before.

6 UNIDENTIFIED SPEAKER:

7 Okay. Okay.

8 A. Yeah,

9 BY MR. PAVLOVICH:

10 Q. Did you even understand the plan concept under the K?

11 A. Of what they were doing?

12 Q. I mean, you know, I realize like a K Order says nobody can do anything
13 except ---

14 A. Right.

15 Q. --- to correct the condition as deemed appropriate by MSHA; something like
16 that. Okay. And the first few days, every time something was allowed to be done
17 underground, the K was modified?

18 A. Then they made it announced.

19 Q. Then they started doing plans.

20 A. They made the K Order generic basically to cover everything.

21 Q. Well, then the K Order says now the only time work can be done is if a plan is
22 submitted by the operator and approved by MSHA, which is okay because it keeps
23 you from modifying it all the time?

24 A. Right.

25 Q. Ted, have you ever seen that done before? Were you familiar with that

1 process?

2 A. I hadn't seen that done before.

3 Q. You'd never seen that done before?

4 A. The other one is everything we did was modify the K Order.

5 Q. So this was the first time ever that you'd seen a K Order modified to allow
6 plans to be submitted like that?

7 A. I got to think.

8 Q. Okay.

9 A. All right. I know they submitted the plans, but I can't remember not modifying
10 the K Order.

11 Q. A K every time?

12 A. Yeah.

13 Q. Every time?

14 A. I mean, ---.

15 Q. We used to do that years ago when we used to --- but then it's so much easier
16 to modify it once to say, you know, you submit plans and MSHA will either approve
17 and they'll all be covered under the K and then you keep a file of those ---

18 A. Uh-huh (yes).

19 Q. --- every one, whether it's approved, whether it's rejected.

20 A. I think we've done that. I'm trying to think. That's ---.

21 Q. You think maybe you've done that before but nobody's ever told you if
22 somebody gives you one, Ted, and you don't agree with it, reject it and keep a file of
23 it?

24 A. Yeah, nobody's told me that.

25 Q. So basically you just said no and handed it back?

1 A. Yeah.

2 Q. And there's no file of that anywhere other than what you had in your note?

3 A. Bob basically was the one that handed them back because he was ---.

4 Q. Okay. Bob handed them back.

5 A. We would just sit there and talk back and forth and he'd say. okay, we want
6 this back. You know, he was the spokesman.

7 Q. Okay.

8 A. But you know, I agreed with him.

9 Q. Okay. So Bob was there with you?

10 A. Yeah.

11 UNIDENTIFIED SPEAKER:

12 Okay. Ted, I know we talked you a lot about what a bump is.
13 Has there ever been any District 9 policy or guidelines or rule of thumb when a bump's
14 reportable and when it's not? Because I haven't had to deal with them in all my
15 career. And if you look at the forces that impede passage, I mean, what does that
16 mean? Does that mean if I only had one way out and now it's blocked, I'm impeded
17 as opposed to I got multiple entries and I can just walk around this thing, then I'm not
18 impeded? What's your opinion on that?

19 A. Oh, we've never been given, to my knowledge, you know, any direction on
20 that, but if it --- you know, it bounced in that --- say, in the intake and it impeded
21 passage, you know, it would be reportable. It doesn't matter whether it was in --- you
22 know, most of our sections right now are two entries, and so it wouldn't matter whether
23 it was in that belt line or the intake, you know, it's going to impede passage of men,
24 you know. So yeah, it would be reportable.

25 UNIDENTIFIED SPEAKER:

1 So impediment don't entrapped?

2 A. No.

3 UNIDENTIFIED SPEAKER:

4 Just so that you can walk around, then it's still impede of
5 passage?

6 A. Yeah. Uh-huh (yes).

7 UNIDENTIFIED SPEAKER:

8 Okay. And then the other thing seems kind of broad is that
9 one in there for production. Say the miner's in the number two entry. Nobody's
10 around and the bumps behind him and you've got to clean coal to get to it. So
11 technically, we're loading coal with a scoop.

12 A. That's right.

13 UNIDENTIFIED SPEAKER:

14 And we've lost production even if it takes an hour to load that
15 out. So is that a reportable one now? I see a lot of gray areas to me.

16 A. Yeah. We probably --- you know, we've never had that happen that I'm aware
17 of, but we would probably, you know, say, you know, shut your miner down and you
18 would have to report it even though it was mucking out, you know, behind the miner.

19 UNIDENTIFIED SPEAKER:

20 Like if you get one of these guys from --- you said there's
21 some people from the east coming to help now and inspect it. You'd have to tell them
22 some definite things. That'd be kind of hard to do; wouldn't it?

23 A. Yeah, I'm going to try to keep them out of those areas.

24 UNIDENTIFIED SPEAKER:

25 They'd probably appreciate it. Might be one of my guys.

1 A. I mean, you take like Deer Creek right now. You know, these guys wear flak
2 vests, or you know, vests like a flak vest or a bulletproof vest, things like that, you
3 know, just to keep from getting hit too hard. We had one a month ago up at Dugout
4 that hit him in the side of the face and busted his jaw. So you know, I don't know how
5 you control it, you know. I just don't. Unless you just stop mining in this country
6 because of the pressures. I mean, you're under 3,000 foot of cover in some of these
7 mines here and we're going to go deeper, you know what I mean. That's just if we
8 have the technology to do it, but we just --- I don't know how we're going to do it.

9 BY M. PAVLOVICH:

10 Q. Ted, has anybody tried to do anything to stop it or basically do we just put
11 more armor on the guys?

12 A. More armor on the guys. I mean ---.

13 Q. And that's been the mentality?

14 A. Yeah. Tech support even came out prior to this and went to Aberdeen Mine
15 and come back, and Bill's even got a copy of that, his report which was to put more
16 protection on the miners. You know, that was ridiculous, I thought, you know. I've
17 never liked --- I have never liked having to put body protection on men to keep them
18 safe. You know, if it's not safe enough for them to mine without, you know, helmets
19 and elbow pads, knee pad --- I mean, they look like --- sometimes they can look like a
20 motocross rider with all the protection they have on. It's just for those little small ones
21 that really come out and ---.

22 Q. Pieces hitting you like you were talking about and you said, hell, yeah, it hurts;
23 right?

24 A. Yeah. Yeah. Wow, I got away with that one. I mean, we've had the inspector
25 get hit in his hardhat and knock him down and break the bill of his cap, you know,

1 those kind of ---.

2 Q. Does your guys wear those protective armor, too?

3 A. No.

4 Q. So they're just at the mercy then; right?

5 A. Sitting ducks. The company does --- some of the companies will have, you
6 know, an extra vest down there for you if you walk up. But I've tried that. You know, I
7 won't do --- you know, walk up there unless the machine's off, you know, to get my air
8 readings up on the tailgate and things like that. And then when I observe the mining
9 process, I'll try to have a vest on when we go up where they have them required.

10 Q. Well, do these bumps usually happen just when you're cutting or when you're
11 stopped or anytime?

12 A. Mostly just when they're cutting.

13 Q. Usually when they're cutting?

14 A. Yeah.

15 Q. Of course, that's normal mining conditions?

16 A. Uh-huh (yes).

17 Q. You have one when it's cutting. If you stop cutting, then you might still hear
18 noise, but you don't usually see a bump?

19 A. You'll hear the back of the bump.

20 Q. Don't usually see a ---?

21 A. You'll hear a thump a little bit, but you know, it's not spitting out at you.

22 Q. Okay. I mean, it's like saying let's turn the fans off and mine in low oxygen
23 and everybody wear breathing apparatus.

24 A. Yes.

25 Q. That way if we get the oxygen low enough, the mine won't blow up either and

1 they'll all be protected with apparatus.

2 A. Yeah. Yeah.

3 Q. But we don't do that, but yet we do that with bumps?

4 A. Yes. And we've been doing that for 20-some years.

5 MR. TEASTER:

6 Why don't we provide that protection to our inspectors?

7 A. Too cheap, I guess.

8 MR. TEASTER:

9 Too cheap.

10 A. I mean, you know, we ask these guys. They're out in the field and everything
11 the type of equipment we get, you know, don't know. None of my guys trust the
12 Solaris instrument, you know, for gas checks. But they were the cheapest instrument,
13 you know, over the ITX and stuff like that. But I hear in other parts of the country, they
14 like, you know, the Solaris.

15 MR. TEASTER:

16 Well, I mean, if we have a longwall where the miners are
17 required to wear certain protective equipment and we send our people in there, do we
18 not require them to wear that and provide that equipment?

19 A. No.

20 MR. TEASTER:

21 Don't we have a policy that says that we will comply with all
22 company standards, policies, rules even if it conflicts with our view?

23 A. If we have the equipment, yeah. But if we don't have the equipment ---.

24 MR. TEASTER:

25 So you can circumvent that by not having the equipment?

1 A. Yes.

2 UNIDENTIFIED SPEAKER:

3 Has anybody, do you know, where they've requested or
4 requisitioned this equipment ---

5 A. No.

6 UNIDENTIFIED SPEAKER:

7 --- and somebody said no?

8 A. No.

9 UNIDENTIFIED SPEAKER:

10 So nobody's pushed it?

11 A. No, I don't think anybody's pushed that issue.

12 MR. TEASTER:

13 So if they wanted to use it, how would they --- would you use
14 company or have they been told to use the company's?

15 A. Yeah. The company has one provided for them if they want to use it. If they
16 don't want to use it, they don't have to.

17 MR. TEASTER:

18 What about goggles? Is that the same option?

19 A. Safety glasses. I don't think you'd find a man --- you know, it's kind of an
20 option, but you know, you won't find a man that don't wear safety goggles. I mean,
21 anymore in any of these mines. You know, it's just something that we absolutely do,
22 you know.

23 UNIDENTIFIED SPEAKER:

24 Ted, this is another one that will make your head hurt. The
25 whole time you've been out here, I mean, we keep hearing everybody checks on these

1 websites on the seismic events and I think it's a pretty common thing to do. Have you
2 ever known of any event where there was damage underground and everybody just
3 said it was a consensus that it was an earthquake?

4 A. No, because I don't even get on that internet to look at it because we can't
5 figure it out, you know, to look at seismic events. But you know, in this country, you
6 know, we're always --- you know, that register, apparently, will register all the time
7 that, you know, there's activity in these areas because we have a lot of faults in these
8 areas. And so there is a lot of activity, seismic activity, in this area. So whether it's
9 attributed to a bounce or an actual seismic event underground, you know, in the desert
10 here or on the mountain, you know, I don't know how they determine the difference
11 between that. I don't.

12 UNIDENTIFIED SPEAKER:

13 Do you know of any instance where MSHA --- or that there
14 was an accident in the mine and there was a consensus that had occasions where
15 they said it might be back in the gob and whether rock falls, that this accident was
16 caused because of an earthquake?

17 A. I think, yeah. I'm trying to think. I believe it was Cottonwood Mine. Maybe
18 Donnie can help because I think he was there at the time. But they had, you know, an
19 event that happened, you know, and it was similar like this but it was up behind their
20 wall along the --- and it filled the entry similar to this and they were able to pinpoint it.
21 It was a couple miles away. You know, a geological survey was able to pinpoint it. It
22 was an earthquake, you know, and it was a couple miles away and it just, you know,
23 hit that. And I think that was --- that's been quite a while ago, but I can't remember
24 exactly. But I think that's what I can remember on investigation or something like that,
25 that it was able to show that, you know, the seismic event happened here and then,

1 you know, we had this happen here. But we had a 5.8 earthquake here and the guys
2 underground never even felt it. Everybody in town felt it, but the guys underground; it
3 didn't disturb anything.

4 UNIDENTIFIED SPEAKER:

5 I'm just wondering like when I first saw this on TV, I'm
6 thinking, bump without knowing all the facts. And I'm just wondering why Murray was
7 allowed to go so long saying earthquake without some of our people correcting him?

8 A. Well, I think, you know, Stickler, you know, did get up and say that and he
9 also said they were pillar mining where he said that they weren't retreat mining. You
10 know, Stickler got up and said they, you know, were retreat mining and things like that.
11 Murray just got it in his mind and he just wouldn't drop it and I think our people did
12 later on down, you know --- well, I know they did, you know. But in those news articles
13 come out and say, you know, it wasn't a seismic event. You know, it was a bounce
14 and it was, you know, stuff like that. But it was later on down the road when Murray
15 would give them time to say anything.

16 UNIDENTIFIED SPEAKER:

17 Somebody took a long time coming.

18 A. Yeah.

19 UNIDENTIFIED SPEAKER:

20 Joe was talking to you about inspections and initiatives and
21 about being able to get work done because of all these outside requests. Do you have
22 any mines that are in a103(g) complaint?

23 A. I only have one right now. I had two that last quarter, but we got them off.
24 But we have a five-day spot right now.

25 UNIDENTIFIED SPEAKER:

1 know we got that hazard compliance data base ---

2 A. Yes.

3 UNIDENTIFIED SPEAKER:

4 --- that you got to fill things out in. I'm sure, just like you said,
5 it's a small community and you see people at Wal-Mart and you see people at church
6 and you see people at the grocery store. And I know this happened back home, they'll
7 see us and they'll say I've got this concern about this right here. How do you handle
8 those as far as being complaints?

9 A. You know, what I do is I'll just talk to the inspector and say when are you're
10 there, you know, take a close look at this. I believe the individual that called me was a
11 Ex. (b)(6) and Ex. (b)(7)(C)

12 I believe that. I think he wanted to do a better job
13 than what was happening and he was concerned. He told me he had talked to his wife
14 and his wife said, you need to call somebody. And Mike Schumway took the call first
15 and Mike said he recognized the voice and it was one of Ex. (b)(6) and Ex. (b)(7)(C) believe. You
16 know, I'm not for certain or anything like that. I wanted to, you know, keep that even
17 quiet for Murray and everybody that I possibly could and not fill out, you know, forms
18 and stuff like that to say, hey, we've received this complaint. But I did --- when I got
19 there, I said, hey, we did, you know, have a guy call us and tell us, well, they had
20 some concerns and they were right in their concerns. I believe he was Ex. (b)(6) and Ex. (b)(7)(C)
21 Whoever he was, somebody needed to pat him on the back for having the guts to do
22 it.

22 UNIDENTIFIED SPEAKER:

23 I'm sure that you handle every one that you get.

24 A. Yes.

25 UNIDENTIFIED SPEAKER:

1 And that's for your ---

2 A. Yes.

3 UNIDENTIFIED SPEAKER:

4 --- protection? Most of the complaints we go on, especially
5 when I was in eastern Kentucky, we never told them we were out there to investigate
6 to protect the guy's identity. But we still kind of logged it back home ---

7 A. Right.

8 UNIDENTIFIED SPEAKER:

9 --- to make sure that if anyone ever said anything at a later
10 date, we kind of had that record.

11 BY MR. PAVLOVICH:

12 Q. So here you don't have any policy on that, Ted?

13 A. What?

14 Q. On if you get ---?

15 A. No.

16 Q. If I called your house, okay ---

17 A. Yes. No.

18 Q. --- even if I said, Ted, this is Joe. You know, you know me, I work at so and
19 so. I'm real concerned about such and such, but I don't want you to tell anybody. You
20 wouldn't make some kind of written document about --- you don't have instructions to
21 make any written document and then verify that you sent somebody out to look at
22 that?

23 A. No.

24 Q. No?

25 A. No.

1 Q. And you never have done that?

2 A. No. Not in my whole career.

3 UNIDENTIFIED SPEAKER:

4 You see where that could come back and bite the District ---

5 A. Right.

6 UNIDENTIFIED SPEAKER:

7 --- that even though you did all the work, you don't have that

8 and I know what you're talking about.

9 BY MR. PAVLOVICH:

10 Q. Well, here's the thing.

11 A. So where do you put that file? Do you just keep it ---?

12 UNIDENTIFIED SPEAKER:

13 Our main secretary keeps a file of all complaints that come in.

14 It could be an anonymous telephone complaint.

15 MR. PAVLOVICH:

16 Right.

17 UNIDENTIFIED SPEAKER:

18 And if, say, an examiner calls in a complaint, well, if you go
19 out and say I got a complaint on the number three North bleeders, who called the
20 complaint in? Well, it was the examiner. So we may do it on the next inspection and
21 just say, hey, I'm going to go check this and I'm going to go walk the bleeders. And so
22 we try to investigate what the complaint was and we just make a --- we just have one
23 sheet that we just document when we received it, by who and it's kept confidential.

24 BY MR. PAVLOVICH:

25 Q. And then what we did about it. I mean, we, in District 7, Ted, we probably

1 wouldn't have seven or eight code-a-phones a year?

2 A. Yeah.

3 Q. But we probably do 150 to 200 anonymous complaints a year, ---

4 A. Yeah.

5 Q. --- which is a lot. And we had a form like Ex. (b)(6) and Ex. says. It was, you know, there's
6 a complaint. Here's what the complaint is. Here's who took it. Here's what time. And
7 then a blocked area, it said what was done about it. You know, I sent two inspectors
8 out. I did this. And we kept all those in a file just for that reason. Now, nobody ever
9 knew we had those. Nothing was ever FOIAed and we never, ever went out to the
10 mine and said we're here because of a complaint.

11 A. Yeah.

12 Q. It's just we went out.

13 UNIDENTIFIED SPEAKER:

14 Because the utmost priority is the confidentiality of the
15 person.

16 MR. PAVLOVICH:

17 Right.

18 BY MR. PAVLOVICH:

19 Q. And believe me, I mean, our operators in east Kentucky, if they found out you
20 made a complaint, Ted, they'd fire you in a heartbeat. I mean, probably much
21 different than ---

22 A. They would do it.

23 Q. --- people here.

24 UNIDENTIFIED SPEAKER:

25 But we did all of our inspection work under the 01 or the AAA,

1 triple A. So there was nothing different on the paperwork side. You just kind of went
2 to that area discretely.

3 A. Yeah.

4 BY MR. PAVLOVICH:

5 Q. But you guys have never done that here?

6 A. No.

7 Q. Okay.

8 A. Not to my knowledge.

9 Q. Well, you would know. I mean, you'd know because you'd be the one filling
10 out the form.

11 A. Maybe Ex. (b)(6) and E has. You know Ex. (b)(6) and Ex. might do it.

12 UNIDENTIFIED SPEAKER:

13 But it would just cover you, Ted.

14 BY MR. PAVLOVICH:

15 Q. You just can't have one workgroup doing it and one never does it.

16 A. Yes. But no, I've never done it.

17 UNIDENTIFIED SPEAKER:

18 We'll talk to the District.

19 MR. PAVLOVICH:

20 Okay.

21 UNIDENTIFIED SPEAKER:

22 That would just cover you because it sounds like you're doing
23 the work and you take those concerns very seriously, but just kind on the side if
24 maybe a man was killed in a mine and the wife calls and says, look, I know he called
25 MSHA two or three times and had concerns and no one ever went and checked it, you

1 could go back and say no, we went on the 3rd and the 15th and the 20th and we did
2 check it.

3 A. Yeah. We don't do that and that's a good idea. Never thought of it. Never
4 did.

5 UNIDENTIFIED SPEAKER:

6 And it can be very simple because --- simple form because
7 we had too much paper work to begin with. So that's just something quick and dirty to
8 keep a record of.

9 A. I appreciate that. I do.

10 UNIDENTIFIED SPEAKER:

11 We follow up on that, too, I can say for the District. You
12 mentioned --- I mean, we spoke of that new style of pictures that Ernie gave you about
13 the bump on the north mountain. We know that they called Denver, and said, you
14 know, we've had problems up here. We good bad roll, we're going to seal that. You
15 also mentioned something about a piece of, I guess, coal or something busted a guy's
16 jaw up at another mine. How do you find out about those things? Do they call you? I
17 mean, something happens and it's not one of those 12 immediately reportable acts, I
18 guess, that has to go to headquarters.

19 A. I find ---.

20 UNIDENTIFIED SPEAKER:

21 Do the mines call you, though, and tell you, hey, we had a guy
22 hurt?

23 A. No. I found that on the accident report that they send on this guy. You know,
24 I very seldom get a call from a mine operator saying I got this guy hurt in this bounce
25 or a rollover that broke this guy's back, or you know, like just recently happened. You

1 know, we got a guy up at West Ridge, the same way. He was in a bad line and I think
2 it broke his back and then this guy with his jaw. But that's never really reported to us.
3 We just look at it on the form.

4 UNIDENTIFIED SPEAKER:

5 Other than the 7001?

6 A. Yeah.

7 UNIDENTIFIED SPEAKER:

8 So you have to wait until you get the 7001 and this could be
9 up to ten days later and then you've got that guy that got a back broke. I mean, that
10 sounds pretty serious to me.

11 A. Uh-huh (yes).

12 UNIDENTIFIED SPEAKER:

13 And I agree with you, it would not be immediately reportable
14 that they have to call Arlington now.

15 A. Yeah.

16 UNIDENTIFIED SPEAKER:

17 But that's ten days, things has changed and you really out to
18 go examine it; don't you?

19 A. Yes.

20 UNIDENTIFIED SPEAKER:

21 I mean, to see what ---?

22 A. See what went on.

23 UNIDENTIFIED SPEAKER:

24 Do you think some of them, and you've already mentioned
25 this kind of maybe with Ex. (b)(6) and Ex. (b)(7)(C) chain, do you think they just intentionally won't

1 call you and let you know just to hide things so you can't exam them or something?

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

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

4
5
6
7 at. Things like that.

8 UNIDENTIFIED SPEAKER:

9 Ex. (b)(6) and Ex. (b)(7)(C) had a good analogy. If he told you the sky was blue,
10 would you believe him or would you go look?

11 A. I'd go look.

12 UNIDENTIFIED SPEAKER:

13 You mentioned earlier that Kent Norton was underground up
14 there. What was he doing --- what was he doing up there?

15 A. Kent kind of went underground. Him and even, I think, ---.

16 UNIDENTIFIED SPEAKER:

17 Fred?

18 A. Yeah. I don't know if Fred went --- I think he might have went underground
19 too, but I know Kent went underground basically to see what was going on. Kent was
20 a safety director at Deer Creek for years, a good mining man and I think he was just
21 concerned when he was there and he did all the records and everything. He wanted to
22 go underground and kind of take a look. That's probably why he was underground.

23 UNIDENTIFIED SPEAKER:

24 Okay. Were they assigned anything to do to go underground
25 and do that? I mean, I know he was talking about ---.

1 A. I'm not sure. I'm not really sure on the communications on that.

2 UNIDENTIFIED SPEAKER:

3 Who did they answer to --- or not answer to? Who did they
4 get assignments from, anybody at the mine or the command center or ---?

5 A. Probably the command center. I mean, probably, you know, somebody from
6 the command center, but I never, you know, dealt with him. I just let him do what he
7 wants because he's a good mining man.

8 UNIDENTIFIED SPEAKER:

9 All right. Two other real quickly. And Ex. (b)(6) and Ex. when I say this, I
10 didn't hear you. The rock props at West Ridge that got kicked out, did they have a
11 cable around them?

12 A. I don't know. I have no idea on that. Probably not because being on the
13 longwall and they're retreating.

14 UNIDENTIFIED SPEAKER:

15 Okay. My last one is ERP plan. I know that we talked about
16 you kind of had to learn on your own about all these. One of the things was provision
17 for the maintenance of miners like food and water underground.

18 A. Uh-huh (yes).

19 UNIDENTIFIED SPEAKER:

20 How do you guys out in this field office --- I guess you
21 probably don't know about the rest of District 9. How have you been enforcing that?
22 Is that part of the breathable air and they knock at the head until they get the
23 breathable air, or is that they should have already have that as soon as that was
24 approved?

25 A. My understanding was it come along with the breathable air, you know, as far

1 as the food. You know, they had --- they are providing quite a bit of water
2 underground right now, but as far as the food, I think it's coming with the breathable
3 air.

4 UNIDENTIFIED SPEAKER:

5 Okay. That's all I got.

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

7 I just have a couple of questions, too.

8 A. You're the lawyer. You can't ask me any questions.

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

10 I only have a few, but they'll make your head hurt, I think, the
11 last couple. You mentioned a discussion that you had, I think, either in Grosely's
12 office or with him where you and some others were looking at the mine map and you
13 said, those guys are dead. Who else was in there and when was that?

14 A. That was the very first day, the first morning. I believe Frankie and Ron were
15 there and there was a group of us, you know, and I'm not sure who was all there, you
16 know. But we was just standing around looking at the map.

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

18 What was the reaction when you said those guys are dead?

19 A. Basically, they said, well, we hope not, you know, type deal. But I think they
20 all pretty well kind of agreed by looking at that map.

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

22 Do you have any idea why none of the District 9 roof control
23 people went to the rescue?

24 A. You know, that's been a real mystery to me. And the other thing is, is why the
25 District assistant, District manager over engineering wasn't there? That's been a big

1 concern, you know, as a concern of mine is why don't we have these people here, you
2 know, because they're the experts that we have in this District? And we didn't have
3 that available to us. I don't know the reasons why or anything, but I think they should
4 have been here to help us out.

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

6 Okay. You probably don't know for sure, but in your --- what
7 are your thoughts on why this plan was submitted, one, and why it was approved?

8 A. Well, from what I understand and from I think I got from the BLM or looked at
9 from the BLM, the BLM went in there. I mean, the company Tower Resources had
10 submitted to the BLM saying basically that they didn't want to go in that area and get
11 that coal. And that was submitted by the company and they didn't tell MSHA about it.
12 So when Murray took over, then they decided it was okay to go get that coal, but we
13 didn't know that. Now, Gary Jensen was a new roof control specialist, hadn't been in
14 there very long and he wasn't as familiar with the roof conditions because he came
15 from a mine that didn't roof bolt --- they could go, like, 210 feet before they had to
16 come back and roof bolt. So he was in a learning process as far as I'm concerned as
17 far as identifying weakness in the strata and things like that. I've traveled with him at
18 a roof fall at Skyline Mine once and I had to, you know, walk him through, you know,
19 what type of support we needed and what we had to do, you know, to take care of that
20 because, you know, he was in the learning process. But the thing of it is, is in the
21 learning process, he was doing it on his own. Nobody was traveling with him, you
22 know, and things like that. You know, he was thrown out there, well, you're a roof
23 control specialist now, and nobody was there to train him. Nobody trained him in that.
24 He did go back to the school, you know, in Beckley and everything, but really nobody,
25 you know, spent a lot of time with him underground and so when him and Billy came

1 out and looked at that and you know, Gary approved the plans, you know, he looked at
 2 it and everything, he was going on with what knowledge he had. The best practical
 3 knowledge that he would have had and why Billy Owens looked at that, you know, he
 4 was relying on not knowing the other incident. He was relying on when you have an
 5 Agapito group say okay, this is okay, they can do it. If they do that, blah, blah, blah,
 6 blah, you know. And you have that evidence and things like that, that's what he has to
 7 work on. There are some of the things that he works on looking at it. And he did
 8 come out and look at it and felt that, you know, this is a roof control expert. You know,
 9 that was, you know, reasonable to be able to do. So you know, that's just what I ---
 10 you know, how I can answer that for you.

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

12 Okay. The last question, I guess I'll preface it by saying I'm

13 not really sure how to balance. You made two statements. One was that

14 whatever he wants, he gets. The other one was that it seems that

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

15 I mean, so is Ex. (b)(6) and Ex. (b)(7)(C) being treated any better or any

16 worse than anybody else or ---?

17 A. I think he is. I think him and Ex. (b)(6) and Ex. (b)(7)(C)

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

19 Better?

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

20 Anything they want, you know, I

21 mean, all they got to do is get on the phone or hop a plane and run over there and

22 they do most of the complaining and Ex. (b)(6) and Ex. (b)(7)(C) I think

23 they're treated a little more hands-off for whatever --- you know, I don't know. I've

24 talked to Al Davis about it. I told him, I says, I wouldn't trust either one of them as far I

25 could throw them and stuff like that, but it seems like he just ---.

1 BY MR. PAVLOVICH:

2 Q. What did Al say?

3 A. He didn't say anything. You know, he just looked at me and I just says well,
4 I'd be real careful, Al, because of what you're doing. You know, with these people
5 because they lie to you. They don't tell you everything. You know, they give him a
6 little piece and then they'll go and take the whole cake. You know, Al is a good man
7 and I think he's just trying to not have conflict and things like that. But these guys, I
8 think they, you know ---.

9 Q. So you think he believes them more than he believes his own people?

10 A. I think he's the type of individual who will believe the first person that gets to
11 him. You know, if I got to him first, you know, on an issue, he would probably believe
12 us. But if they got to him first, you know, on an issue, he would believe them.

13 MR. TEASTER:

14 Was there a particular issue that you advised him on not to
15 believe Ex. (b)(6) and Ex. (b)(7)(C)

16 A. No. It was just kind of everything that was going on, you know, as far as all
17 the meetings he was holding with him over there and that, you know. And I just felt
18 that, you know, Al, just be careful. I was just trying to explain to him, you know, and
19 tell him just be careful.

20 MR. TEASTER:

21 Was this prior to you losing your mines over to the other
22 workgroup, the Murray Mines?

23 BY MR. PAVLOVICH:

24 Q. Are you talking about at the Crandall Canyon during the recovery?

25 A. No.

1 Q. You're talking a prior time?

2 A. Yeah, prior to the recovery. And I can't remember it exactly. I was over, I
3 think, at the staff meeting in Denver when I brought this up to him. I just walked in
4 and just told him, I says, Al, I'd be real careful with those guys, you know, just trying to
5 warn him that, hey, they try to do all kinds of sticky little things.

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

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

You don't

8 have any reason to believe that either he has a personal relationship or anything like
9 that?

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

A.

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

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

13 Okay.

14 MR. TEASTER:

15 Well, you know, Joe don't like conflict, but he won't avoid it if
16 he think it's different than what he want to.

17 A. Right.

18 MR. TEASTER:

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

22 MR. TEASTER:

23 I have just one other concern I wanted to address here. You
24 have in your notes for the 16th, you said the concern of the number of people in the
25 face area brought up. Who brought up that issue?

1 A. That was when Gary and Frankie both brought it up. That was when they
2 came in and I came to where they said, you know, we got too many people in there.
3 Frankie said, basically, that the day before, there were 17 people underground.

4 MR. TEASTER:

5 This was up in the face area?

6 A. Up in the face area. He says it was ridiculous. That's when I told him, you
7 know, to do what he needs to do to keep people safe and not let everybody in there,
8 but the plan had been approved for them to allow anybody they wanted to there.

9 MR. TEASTER:

10 Still at this late stage, 8/16?

11 A. Yeah.

12 MR. TEASTER:

13 So the nine people --- there was nine people up here as I
14 understand it.

15 A. There could have been 17.

16 MR. TEASTER:

17 So as a result of that, it was reduced to eight or nine?

18 A. Well, that was probably Frankie's doing.

19 MR. TEASTER:

20 Okay.

21 A. You know, I mean, as the inspector down there, you know, he and Gary both
22 had instructions because they both brought it to our attention, you know. I mean, if
23 you had 17 people in there, just think of what would have happened.

24 MR. TEASTER:

25 Exactly. You have a comment, you all but watched this

1 process to ensure the safety of everyone and then you say, hope to double up
2 production. What was that double up production?

3 A. Well, what that was is Lane Adair came and basically said, well, we've got ---
4 we're just about to the point where we can --- we've got it all engineered out in our
5 minds and everything of where we could start with our materials and everything that
6 we got there in place and everything that we start doubling the production in the
7 footage, you know, to get to the men. He felt that because of all the things that they'd
8 done prior and getting things installed and the way they were doing things that they
9 could start doubling the footage, you know, into the mine.

10 MR. TEASTER:

11 Did that have anything to do with the fact that Murray had
12 brought in some people from other parts of the country to ---?

13 A. No. It was just that --- what they did over this course of time was try to get
14 some crosscuts open where they could move the material up closer to the miner.
15 Things like that. And so once that was all in place, they felt that, okay, we got the
16 material here, now we can go a little faster, you know what I mean, double it. And got
17 some more diesel haulers and things like that.

18 UNIDENTIFIED SPEAKER:

19 Ted, that just made me think of one other thing. Was it ever
20 discussed what was going to happen if you ever did get to the men?

21 A. They talked about not getting to the men, but we was hoping that, because
22 we'd never seen this extensive --- you know, maybe two, three hundred feet we'd be
23 able to open up. And they talked about, you know, the mine rescue people going in
24 under apparatus, you know, and having so many go under and how many --- you
25 know, the regular mine rescue type thing. I know they did talk about that, you know, in

1 preparation, in hopes that that would open up. You know, we really did think that, you
2 know, it would open up to where we could get down to see where they were at and
3 everything like that, but you know, never realizing that you had a 4,000-foot field
4 plumb up. It just never dawned on us at all until they drilled the holes.

5 UNIDENTIFIED SPEAKER:

6 That just reminded me of something else since you said that.
7 You talked about drilling holes, and I don't know whether people were saying it was
8 just logistically hard to get up to there, what if we drilled more holes or drilled the holes
9 over the number one entry first and you know, saw what it was like? I mean, was
10 there talk about anything like that?

11 A. Amongst, you know, just the group around. You know, not the managers or
12 anything. We thought, you know, why aren't we drilling where we last seen the miner?
13 You know, that --- but why they went where they did, you know, I have no idea. But I
14 thought, myself, the first one should have went down where the men would have
15 actually been. But they was on the thought that well, if they went anywhere, they
16 would be down here in the corner. You know, if they got --- if they went anywhere.

17 UNIDENTIFIED SPEAKER:

18 Do you think it was possible to have more than one drill? I
19 know we had the small one at first. But would you have had the possibility of having
20 two big drills drilling at the same time?

21 A. I wasn't up on top, so I don't know what the terrain was like. I do know that it
22 was steep. Real steep and that, so I don't know if they --- of course, they moved ---
23 moved things around, you know, so maybe they could have had two. I know it was
24 discussed. But why they didn't do it, I don't know.

25 BY Mr. PAVLOVICH:

1 Q. Ted, you said you heard the 12 miners withdrew themselves. Did you ever
2 have occasion to talk to any one of those guys?

3 A. I talked to one who was ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] cousin.

4 Q. ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] cousin?

5 A. He just wasn't comfortable under there because he had never --- you know, he
6 was a new miner and just basically probably been underground about six months.

7 Q. Six months. They had a guy that had been underground six months working
8 up there?

9 A. No. He was --- they did have --- I think he was there a year. He'd been there
10 a year because he had his black hat on. I don't know how many people they had up
11 there and who was trained and who was not. But I did talk to him and he just wasn't
12 comfortable.

13 Q. Was he afraid up there?

14 A. Yeah, he was. And the other cousin, he was running the roof bolter and they
15 were --- he was an uncle. The one outside was an uncle to the one on the roof bolter.
16 He was scared to go in to roof bolt, but he kept it up until the end there. But you know,
17 he was nervous.

18 Q. Did anybody from MSHA management ever ask about that that you knew?

19 A. No, not that I'm aware of.

20 Q. Like, let's check with these miners who withdrew to see why ---?

21 A. No.

22 Q. Nobody cared, to your knowledge?

23 A. Not to my knowledge.

24 Q. You know, you mentioned this is a small community, Ted, and you know, it is.
25 Everybody knows everybody. Everybody has kin somewhere. Everybody's related.

1 How does that affect the enforcement effort here for your inspectors? Is there a lot of
2 pressure put on them not to enforce? Because, you know, we are your kin. You're
3 going to put us out of business. You're going to close us down. Have you ever heard
4 that before?

5 A. No. Their feelings is like mine. I mean, they're going to protect these guys
6 whether they want it or not. I mean, my ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] come over and I woke him up. My
7 ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] come over and gave me hell. I looked at him and says, hey, I'm not going to
8 raise your kids. ^{Ex. (b)(6) and Ex. (b)(7)(C)} [REDACTED] and I says I don't want them over here
9 to raise them and this is the way it's going to be. So that's, I think, the same type of
10 attitude the inspectors have. You know, you're going to do it in spite of yourself. I
11 don't think there's that conflict. You know, I've had people wouldn't talk to me for a
12 couple months, but then they'd cool off, and I mean, neighbors, they just, you lying
13 sucker. You did this and I got my butt chewed out and everything. A couple months
14 later then you're back to normal.

15 Q. So there is pressure though?

16 A. Oh, yeah, you know, I ---.

17 Q. Everybody might not be like you, Ted. Some guys might say, I better not do
18 that. Those guys won't talk to me anymore. Do you ever think that way?

19 A. I don't think my guys do that. You know, if you look at the paper, the amount
20 of paper they issue and everything, I think they do a pretty good job and they're not
21 intimidated by that.

22 Q. Okay.

23 A. I mean, it's hard to see a man go down the road and get fired because of what
24 you've done, but you do your business.

25 Q. Especially if it's your cousin or somebody?

1 A. Well, especially when maybe it's like Gary Jensen. He was at a café and one
2 of the women he knew came out and says, I'm going to send you my house payment
3 because you've got this mine shut down so long that he's not getting a paycheck. You
4 know, I mean, yeah, here's pressure like that, but no big deal.

5 MR. PAVLOVICH:

6 Okay. All right. Ted, I think that's all the questions we have
7 for you at this time. We appreciate your answering as honest and fairly as you could.
8 And if we think of anything in the future, we'll give you a call and let you know. If you
9 think of anything else you'd like to tell us, --- is there anything you'd like to tell us now?

10 A. Well, I just want to tell you that I got a good group of people and they only do
11 what I allow them to do or not do and whatever thing people think that they done, you
12 know, I'll take responsibility for it because they're my men and they're damn good
13 men.

14 MR. PAVLOVICH:

15 I appreciate that. Okay. Well, the only thing we'd ask you not
16 to discuss your interview with anybody else until we're through with our interviews.

17 A. Not even with my wife?

18 MR. PAVLOVICH:

19 With nobody.
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