

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
VIRGIL BROWN

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
NOVEMBER 1, 2007

1 BY MR. TEASTER :

2 Q. Just a little bit of history before we actually get started. I want to inform you
3 that we are going to tape your interview, if you have no objections.

4 A. No problem.

5 Q. You know, the agency has in the past when there's been an accident involving
6 multiple fatalities that they have an internal review. And because the assistant
7 secretary and others were present at the mine for a lot of this recovery effort, the
8 secretary decided to go outside the agency and get an independent review. And they
9 called Joe and I to take a look at it. And we both agreed to come out of retirement to
10 take a look at it. Do you have any questions or anything?

11 A. No. I guess you're just --- you know, you're going to ask questions, and I'm
12 going to give answers. I'll give them to the best of my ability.

13 Q. Well, you know, we have to gather information and try to put this thing
14 together.

15 A. Yeah.

16 Q. And you do have information that we'd like for you to share with us, and that's
17 the purpose of the interview.

18 A. Okay.

19 Q. I got a statement I'd like to read before we get into the questioning. The
20 secretary has assigned this group the task of evaluating MSHA's performance during
21 the period preceding the August 6th, 2007 coal bounce at Crandall Canyon Mine and
22 the subsequent rescue effort. We will be evaluating the issues that were raised during
23 this time period regarding Bob Murray and his interactions with MSHA. This is not an
24 investigation or review of any individual person. It is an administrative review of
25 MSHA's actions as an agency. This evaluation will be presented to the secretary in

1 the near future, and it's intended that the results of the evaluation will be made public.

2 This interview is being conducted to gather information for this assignment. We also
3 intend to interview a number of other MSHA employees. So that we may obtain
4 unbiased information from all persons to be interviewed, we ask that you not discuss
5 the interview with anyone until all the interviews have been completed.

6 Virgil, are you a bargaining unit employee?

7 A. Yes, sir.

8 Q. You're aware of your rights to have a representative present?

9 A. Yes, sir.

10 Q. And you obviously opted not to do that?

11 A. No.

12 Q. Okay. Would you give us your full name?

13 A. Virgil F. Brown, Jr.

14 Q. And who is your supervisor?

15 A. John Urosek.

16 Q. And what is your job title?

17 A. Mine emergency unit specialist.

18 Q. And Virgil, how long have you been in that position?

19 A. Approximately 12, 14 --- 14 years.

20 Q. When were you notified of the accident at the Crandall Canyon Mine?

21 A. I was in Pittsburgh practicing on 8/5/07, and it was around lunchtime or so.

22 MR. PAVLOVICH:

23 8/6 --- 8/6/07?

24 BY MR. TEASTER:

25 Q. 8/5 or 8/6?

1 A. Notified on 8/5, I believe.

2 Q. Well, the accident didn't occur until the 6th, so ---

3 A. Well, then I was there.

4 Q. --- I saw in the notes that might have been the time you were called ---.

5 A. Then it might've been the 6th. Okay.

6 Q. Okay.

7 MR. PAVLOVICH:

8 So you think you were in Pittsburgh on the 6th, which is ---
9 what day was that?

10 UNIDENTIFIED SPEAKER:

11 The 6th was on a Monday.

12 MR. PAVLOVICH:

13 That would be on Monday.

14 A. That would've been Monday. I was there ---.

15 MR. PAVLOVICH:

16 So you could've been there Sunday.

17 A. I went up on Sunday, but I flew out on Monday, that's right. You are correct.

18 MR. PAVLOVICH:

19 Okay.

20 BY MR. TEASTER:

21 Q. And who notified you?

22 A. Jeff Kravitz.

23 Q. And did he direct that you go to the mine?

24 A. Yeah, and we lined up ---. In fact, he got some stuff there together, a mini
25 seismic system and loaded it and my gear. And flew out to Utah, Price --- Salt Lake

1 and then drove to Price.

2 MR. PAVLOVICH:

3 That same day?

4 A. Yes.

5 MR. PAVLOVICH:

6 Okay.

7 BY MR. TEASTER:

8 Q. And when did you first arrive at the mine site?

9 A. The next morning at around 5:00 or 6:00 a.m.

10 Q. And who did you ---?

11 MR. PAVLOVICH:

12 On the 7th?

13 A. 6:00 a.m. to 1:00 p.m., took a seismic underground.

14 MR. PAVLOVICH:

15 Okay.

16 A. Yeah.

17 MR. PAVLOVICH:

18 So that was on the 7th, the next day?

19 A. Yes, the next day.

20 MR. PAVLOVICH:

21 Okay. We're good.

22 BY MR. TEASTER:

23 Q. And who did you report to when you showed up at the mine?

24 A. I reported to the command center. I'm not sure who was in there, but I think

25 Bill Taylor was there. There was also a Ted Farmer in there, you know, some of the

1 people from the district that I reported to.

2 MR. PAVLOVICH:

3 Al Davis in there?

4 A. He could've been.

5 BY MR. TEASTER:

6 Q. Okay.

7 A. Yeah. I really didn't --- you know, whoever was in the command vehicle.

8 MR. PAVLOVICH:

9 That was the Western Blue Goose ---

10 A. Right.

11 MR. PAVLOVICH:

12 --- that was being used as the MSHA command center?

13 A. Yes, sir.

14 MR. PAVLOVICH:

15 Okay.

16 BY MR. TEASTER:

17 Q. Virgil, did you get a chance before you went underground to assess how the
18 command center was set up?

19 A. No. I talked to them and I saw the, you know, the issues, you know, were less
20 than we had. That we had men missing, and I took the mini seismic in hopes that we
21 would do an initial assessment to see if we could find somebody. And you know, the
22 command, you know, vehicle, it was sitting there and they were manning it from
23 people from the district. So I didn't question how their procedure and how they set it
24 up, you know, of who was in charge at the time. I just went to the MSHA person that I
25 thought was in charge and told them what I had. And they said yeah, we'll arrange for

1 you to go underground because they had --- the team that was in there prior, they had
2 another bump. And that's the one that covered part of the power center back there,
3 and they wrote, what 121 ---?

4 Q. Were they in Number One or Number Four entry ---?

5 A. Number One entry, and they were up there at the --- they had the fresh air
6 base at Crosscut 121. Anyway, I took that system in and tried to, you know, doing a
7 location test. I tried it in the Number One entry first at Crosscut, I think it was 121,
8 where the initial team had been, you know, run back out from that other bump. And it
9 covered the miner up, the continuous miner in the crosscut, and part of the power
10 center. I went in by the power center and Number One entry to the last location of the
11 fresh air base that day where they had been pulled out, and they had flagging up. And
12 went up there and did initial seismic on the roof, on some roof bolts there, pounding on
13 the roof and the roof bolt. Then we ---.

14 Q. Let me stop you just a minute, Virgil.

15 A. Okay.

16 Q. The first attempt was to come up the Number Four entry.

17 A. Okay, that was the other teams. That was in the seal.

18 MR. PAVLOVICH:

19 No, no.

20 BY MR. TEASTER:

21 Q. No, the seal was ---.

22 A. Okay.

23 MR. PAVLOVICH:

24 The initial attempt on the 6th to, I guess the morning of the
25 7th, was advancing up the Number Four entry with scoops, loading out material ---.

1 A. I understand that. But I ---.

2 MR. PAVLOVICH:

3 You missed that, that was already bumped out ---.

4 A. That was already done.

5 MR. PAVLOVICH:

6 And they already ---

7 A. And they pulled back.

8 MR. PAVLOVICH:

9 --- they bumped in there and refilled the whole entry up.

10 A. Yeah.

11 MR. PAVLOVICH:

12 Right? Until they pulled out.

13 A. And so I went up where the last fresh ---.

14 MR. PAVLOVICH:

15 And that was your Number One?

16 A. Now they were in Number One.

17 MR. PAVLOVICH:

18 Okay.

19 A. And I went ---.

20 MR. PAVLOVICH:

21 And they had a bump there that covered the miner up?

22 A. Well, that might have been the same bump you're talking about.

23 MR. PAVLOVICH:

24 Oh.

25 A. Because when I got there, the miner was in the crosscut.

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MR. PAVLOVICH:

Okay.

A. There was a power center over there in that entry that I walked by, and I went up to 121 and placed my seismic equipment there, along with some other miners, and did a test there for a half hour. They had a four-inch pipe in Number Two entry that they were running a compressor on trying to force air up; okay? And I went over and put a raise on that four-inch pipe and tested it for a half hour.

MR. PAVLOVICH:

Okay. Did you find --- pick up any ---?

A. All I picked up was the bumps.

MR. PAVLOVICH:

Okay.

A. You know, the ---.

MR. PAVLOVICH:

So it was continuing to bump while you were in ---?

A. That's right.

MR. PAVLOVICH:

And you were picking those up on your seismic ---?

A. Oh yeah. I mean, it was --- you had to really just close your eyes and listen to it to hear what they were doing, because I was using the headphones on the mini seismic.

MR. PAVLOVICH:

Is there some kind of recording device on that ---?

A. There is, but it was out of service, because the TSF at the airport destructed a part of my seismic. They tore into it, thought it was some kind of bomb device or

1 something, I swear to goodness. It took me a half hour to get that thing up and
2 running for the headphones in the motel room before I took it out there the next day.
3 So when I arrived at the motel, I had to reconstruct the ---.

4 MR. PAVLOVICH:

5 So the recording unit would no longer work?

6 A. And the recording unit had a problem with it. And after that, John fixed it. But
7 I didn't have a recording unit, I was using the headphones. But you're absolutely right.

8 BY MR. TEASTER:

9 Q. Virgil, is it possible since you got the 5th down here, which should've been the
10 6th, that these other days could possibly be off one day---?

11 A. They could be off one day.

12 Q. Because I think the 8th would have been more appropriate for them to be over
13 toward One than being there on the 7th.

14 A. And you may be --- that could be possible because I did ---. Like I say, I was,
15 you know, making these dates, and it might have been off one day. So that's entirely
16 possible. The sequence is right.

17 Q. Right.

18 MR. PAVLOVICH:

19 Okay.

20 A. I should've had a calendar out, shouldn't I?

21 MR. PAVLOVICH:

22 That's all right.

23 BY MR. TEASTER:

24 Q. And when you went underground, they were doing what in number one?

25 A. They had backed off, and they roped it off.

1 MR. PAVLOVICH:

2 Number One entry?

3 A. They had roped all of it off the day I was there.

4 MR. PAVLOVICH:

5 So no work was going on then?

6 A. No, they were back here running the compressor, pumping the air, and they
7 were deciding what to do to get their other equipment out --- I mean, to what they were
8 going to do in these other entries.

9 BY MR. TEASTER:

10 Q. What do you mean pumping air?

11 A. Well, they had compressors set up on that four-inch steel line, the water line
12 that I did the seismic on. And they were ---.

13 Q. Pumping air back into the area where the miners were possibly at?

14 A. Yes, sir. Yeah. So like what they did at QueCreek with the drill seal; okay?

15 Q. Okay.

16 MR. PAVLOVICH:

17 And that steel line was lying on the mine floor ---?

18 A. Yeah. Well, no, it was hung.

19 MR. PAVLOVICH:

20 It was hung?

21 A. It was hung where I was at, but the ---.

22 MR. PAVLOVICH:

23 It was hung where you were at?

24 A. Yes, sir.

25 MR. PAVLOVICH:

1 A. Several times.

2 Q. And what was the purpose of that?

3 A. We did --- we were going to do an SF6 test for air current survey to see where
4 the air was going in the mine, and whether the barrier to the north was breached into
5 that area. Because initially a team had went over there and breached that Number
6 One seal, and I think it was west --- was it Westell?

7 Q. Westell.

8 A. Westell.

9 MR. PAVLOVICH:

10 Energy West.

11 A. Energy West. Anyway, they went over there and went through it. And it was
12 questionable, you know, what we had over in there. And we wanted to put a sample
13 line over there. And actually, me and Kim Diederich --- well, Kevin Stricklin had come
14 and asked me, he said who's here from tech support. He thought I still worked for
15 Kohl. And I said well, me. And he said well, we want to do a, you know, a survey, an
16 SF6 survey to see where the area is going and what direction and whether it's
17 breached over there and, you know, get a handle on the ventilation, you know, of
18 where everything might be going. And so me and Kim Diederich, and I called Richard
19 --- Rich Stoltz and some people in Pittsburgh to get some SF6 gas there. And me and
20 Kim put together a map, along with the company, to set some survey points, you
21 know, where we could get a read out, where we were going to need to set the pumps.
22 You know, draft it up some of what we were going to have to do to decide, you know,
23 where those air samples ought to be taken once we inject the gas to do that survey.
24 So we drew out the plan for it. And of course, the company wanted to put a couple
25 more sample points in outby Number Five and Number Nine seal. And of course, you

1 know, I said well, you know, put it in a --- draw up a plan to do it, you know, whatever
2 you all want to do.

3 They actually wanted to go beyond the sample point, and they wanted to put a
4 blue out station in and go ahead and put up a part of their mine water monitoring
5 system, so they could, you know, get a readout outside in con space.

6 MR. PAVLOVICH:

7 Are you reading, or is this from your date in here, Virgil, of
8 what looks like 8/12? Install tag on Number Five seal, Number Nine seal and Number
9 One seal?

10 A. Yeah. That would be what we were doing there. And it took a few days to get
11 that in, and our gas came in the next day. We had it shipped in, so you know, we got
12 a plan together. They finally signed it, and part of our team went in and installed those
13 lines.

14 MR. PAVLOVICH:

15 You didn't go in with the initial team that went into the ---

16 A. To breach that seal?

17 MR. PAVLOVICH:

18 --- seal?

19 A. No, we didn't. In fact, I think Kevin thought we were going to --- well, that we
20 were going in ---.

21 MR. PAVLOVICH:

22 But did they go in while you were at the mine?

23 A. No.

24 MR. PAVLOVICH:

25 They had gone in prior?

1 A. Yes, sir.

2 MR. PAVLOVICH:

3 Okay. And had you heard anything about what they found
4 when they went in there, or what happened to them?

5 A. Well, I had heard that they tried to go in there, and they had encountered
6 more bumps and roof falls. And so they backed off.

7 MR. PAVLOVICH:

8 So they left because of concern for their own safety with
9 bumps and roof falls?

10 A. Yes.

11 MR. PAVLOVICH:

12 That was your understanding?

13 A. Yes.

14 MR. PAVLOVICH:

15 Who told you that?

16 A. That was some of the people in command. And you know, I can't ---.

17 MR. PAVLOVICH:

18 Someone in the command center briefed you on that?

19 A. Yes.

20 MR. PAVLOVICH:

21 Okay.

22 BY MR. TEASTER:

23 Q. Was you yourself ever behind the seals?

24 A. Yeah, two or three times.

25 Q. On your apparatus?

1 A. Yes, sir.

2 Q. Okay. Did you notice how far the roof fall was inby the seal there in Number
3 One, could you see it?

4 A. Yeah, you could see it. There was cans set there inby the seals. And inby
5 those cans by the crosscut, you could see the roof, you know, the roof falls.

6 Q. But none of the bump activity occurred while you were back behind the ---?

7 A. Yes. Yes, it did.

8 Q. It did?

9 A. Yeah. I mean, there was continual little bumps. And understanding from the
10 miners out there, and you know, I'm not a roof control specialist by any means, but
11 you know, listening to the people out there, if ---. And my understanding of bumps,
12 that if it was working continuously like it was when we were in there, and when I was
13 up there even with the mini seismic, that it was relieved. But if you had a calm time
14 where there was no activity and it got quiet, then it would build up stress and then you
15 have a bigger --- and that's when you would be concerned. So if it let up, the
16 bouncing or bumping noise where that top was settling those blocks down, then stored
17 up enough energy, I guess, and then it released, that's when you would have a major
18 bump or bounce.

19 Q. Was you underground when it was quiet?

20 A. No.

21 Q. It was always noisy?

22 A. Yeah. It quieted down some a few times and, you know, but not for a long,
23 extended period while I was there.

24 Q. Virgil, they described a thump as opposed to a bump, a thump of something
25 that sounded high in the roof. And the bump was something that maybe that vibrated

1 the roof and the floor and sometimes the material?

2 A. Yes, sir.

3 Q. Concussions going with it?

4 A. Yeah.

5 Q. So when you were behind the seal, based on that criteria, yours was a bump?

6 A. Yes.

7 MR. PAVLOVICH:

8 Did you see material coming off the ribs ---?

9 A. I understood them to call it the bounce.

10 MR. PAVLOVICH:

11 Okay.

12 A. Okay.

13 MR. PAVLOVICH:

14 But did you see material coming off the ribs, coal off the ribs?

15 A. You know, it'd be slight. You know, it'd be like roof sloughage, more of what
16 we're used to out here in the east.

17 MR. PAVLOVICH:

18 Okay.

19 A. But you know, then if a bounce occurred, that was when it, you know, really
20 took off. And I was not underground when any of the bounces ---.

21 MR. PAVLOVICH:

22 So you never saw any of those when ---?

23 A. No. Now back in the return air courses where we were taking our readings
24 and our team, you know, was going in, we were taking samples and stuff, you could
25 see back over the ribs 30 feet at places down in the return area, air courses that you

1 were talking about over in Number Four, yeah. And we went down there as far as, you
2 know, we dared. And then over in these other entries behind these seals, it wasn't real
3 bad over in here, over behind these seals here, or outby them.

4 BY MR. TEASTER:

5 Q. What was the range of your mini seismic equipment that you took
6 underground?

7 A. You know, I'd say the range is pretty good on it. Probably at 500, 600 ---
8 500,000 foot I would think. That's the one that they used to find the survivors at the
9 Mexico City earthquake back a long time ago.

10 Q. Oh, is that right?

11 A. Yes, sir. So that's the same system.

12 Q. So the mini system that you had and the one that Jeff set up on the surface,
13 was that the only seismic equipment they had there?

14 A. That's all that I saw, yeah. And I actually set the first arrays on the surface for
15 the big seismic.

16 Q. Okay. How were those set up?

17 A. Which ones, the ---

18 Q. On the surface.

19 A. --- the double diamond?

20 Q. Yeah.

21 A. Well, the survey points were, you know, surveyed in from a map overlay with
22 survey points from the surface and looking at the mine underground. And they tried to
23 get over the area where they thought --- that would've been right in here (indicating) ---
24 where they thought that the miners were. So we set the double diamond as close as
25 possible in the terrain we had to the locations that they had. So it was a real good

1 survey crew, you know, out on the surface that helped us set those arrays. In fact,
2 they helped set them. I'll give them credit for it, whoever that crew was is a --- Cody
3 and Casey, I remember them. Anyway, they actually helped us set the first arrays.
4 They were surveying it in and they would help us carry some of the equipment, so ---.

5 Q. And what is the depth range normally of that seismic equipment?

6 A. Of the big one?

7 Q. The big one.

8 A. I thought it was around 1,500 feet. I thought that was the max for it, but you
9 know, if you hear something ---.

10 Q. Virgil, in your notes, you reference a signal was picked up on the seismic
11 system on the surface, somewhere around Crosscut 143. Do you know what that was
12 determined to be?

13 A. No, sir, I don't. I heard a lot of different things.

14 Q. Would you care to share some of them with us?

15 A. I know everybody hoped that it was the miners trapped, but you know, there's
16 two or three things that I think could've given that signal. And when I was walking on
17 that mountain, that's about the time, it's about two minutes, and at a second a piece ---
18 or a second and a half apart, two seconds apart, weren't they? That's about my pace
19 going up a hill out there on that surface. And after about two minutes, I had to rest, so
20 I don't know.

21 Q. So you think they might've picked you up walking?

22 A. No, because I know I wasn't up there walking when that happened. But I'll tell
23 you what, it'd be easy for even a deer or a bear or, you know ---. I know we saw elk
24 out there, and I don't know how they sound as compared to something else. I know
25 that John Urosek when he saw that with Jeff and Don Gibson and all of them, they

1 were so excited. And of course, everyone was hoping for the best. And of course,
2 then we drilled holes and, you know, more holes and tried to locate them with the
3 communications, you know, with the con space and mics and the things. But you
4 know, I don't know what that was. I mean, it could've been maybe the mountain doing
5 it. I don't know.

6 Q. Okay.

7 A. There was so much sound from it bumping, that it's hard to believe that it
8 would do it that rhythmic, you know.

9 Q. Right.

10 A. That's what would be hard to believe.

11 Q. Your notes also indicate on the 18th of August that you put off three shots.

12 A. Yeah, I was up on the mountain when they did that.

13 Q. And what was the purpose of that?

14 A. We stopped everything and they unloaded the --- let's see. Well, the purpose
15 of that was the --- actually the procedure that is followed by the system's design. And
16 you put off the shots from the surface, and then you wait and listen for the sound back
17 from the underground. And that's actually, you know, what they are set up to do.

18 Q. Would you know if that was done, the shots were put off at any earlier time
19 than that?

20 A. No, they weren't.

21 Q. Do you know why they would not have been?

22 A. Maybe because they were trying to do some other work to find the miners. I
23 was not in the command to make those decisions, but I'm sure there was other
24 reasons that they were, you know, not put off because they were drilled before that
25 time.

1 Q. Well, when we say shots, are we talking --- what kind of shots are we talking
2 about?

3 A. They drilled holes and put ANFO in them, and loaded them and charged
4 them, and then set them off with explosives.

5 Q. Do you know what depth they drilled those holes?

6 A. I'm not absolutely sure. I thought they were drilling them like 30 feet or so.
7 And they charged them like within ten foot of the surface, something like that, about
8 20 feet or so. So they were good shots. I mean, I was sitting half a mile away
9 because they stopped the traffic. I was at a truck, I was coming back up to do some
10 other work up on the drill sites. And they stopped me well away from that before they
11 put their shots off. So I know that when this came in, we had tried to stop all the traffic
12 so that there wouldn't be, you know, a thing like --- happen that they saw. So they did
13 everything that they could possibly, I think, to make that a good test.

14 Q. Had you had any previous experience with mine bumps prior to going to
15 Crandall Canyon?

16 A. Very little, very little.

17 Q. You had some?

18 A. Yeah.

19 Q. Where would that have been?

20 A. That would have been in Southern Virginia, down in Alabama.

21 MR. PAVLOVICH:

22 Were you actually in the mine when a bump occurred, Virgil?

23 A. No, but I went in after ---.

24 MR. PAVLOVICH:

25 On an investigation team or inspection or something?

1 A. Yeah, just --- yeah, just on the inspection. Yeah. I just happened to be there.

2 MR. PAVLOVICH:

3 In those instances, did they look anything like this one did?

4 A. They didn't look as bad as this one, in my estimation.

5 MR. PAVLOVICH:

6 In what way?

7 A. Well, that all the entries were blocked off.

8 MR. PAVLOVICH:

9 In this one?

10 A. Yeah.

11 MR. PAVLOVICH:

12 In those, there were was just some ---?

13 A. There was just a couple entries blocked, two or three.

14 MR. PAVLOVICH:

15 Okay.

16 A. Yeah, it was like a local.

17 MR. PAVLOVICH:

18 Okay. Like just fewer pillars involved?

19 A. Right.

20 BY MR. TEASTER:

21 Q. You relied primarily on the people out there telling you that these things would
22 occur infrequently, it's okay, that's a good sign?

23 A. The sound, yeah.

24 Q. Right. Did you hear any conversation or concern from the miners or the other
25 MSHA people there that these bumps were occurring? What did you hear about that?

1 A. Well, there was --- when we first started loading out the Number One entry
2 and setting up, you know, the belt and got the feeder going and everything, the first
3 thing we heard is this and we some other protection up here. And they wanted flack
4 jackets, and they put on like shin guards. And you know, they were asking for
5 protection. And of course, a company provided it. And I know that they even offered
6 it to our people, you know, and got some protection. And then later on I guess, and
7 I'm sure you all have heard it, that some of the miners asked to be relocated to
8 another mine. And then some of the bosses and stuff were running the equipment to
9 load this out.

10 Q. Do you know if that was a direct result of their concern for safety because of
11 the bumps?

12 A. I think so.

13 Q. Did anyone ever come to you and raise a concern about your safety?

14 A. No, not personally.

15 Q. Did any of the MSHA people raise any concerns that you were worried about
16 the bumps?

17 A. Our guys were nervous. I mean, the guys from out east here were nervous
18 because I was working --- you know, I'd worked a couple different shifts there. And
19 you could see, you know, and they were concerned. And which normally you would if
20 you had bumps that covered and ran them out of the panels above there from before.
21 And then, you know, give them some other concerns, then they had every right to be.
22 And I was, too. You know, you had --- you knew that it'd done it. You saw the results,
23 or I did, of while they were trying to do some work and it happened again.

24 MR. PAVLOVICH:

25 So did some of these MEU team members express concerns?

1 A. They didn't really say anything, but you could see them being nervous; okay?
2 But none of them actually said to me listen, I'm afraid to be up there, I'm this or I'm
3 that. But you could see them being nervous, you know, especially, you know ---.

4 MR. PAVLOVICH:

5 Did they talk like while they were getting ready and stuff about
6 well, we had a big bump last night, or ---?

7 A. No, we would try to keep it abreast. And they would call anything else
8 significant and make sure ---.

9 MR. PAVLOVICH:

10 Okay.

11 A. Like if we were down in the return taking air readings and there was a bump,
12 then everybody or, you know, anything more than normal, okay, which it was working.
13 If there was anything more than normal, then we'd call and make sure everybody was
14 okay at all the locations near there. And we'd try to give as near as accurate the
15 location of where that centered at, okay, when there was a medium --- I'm going to say
16 a medium bump; okay?

17 BY MR. TEASTER:

18 Q. Okay. Virgil, you know when you have a mine fire, an explosion, you've got
19 things that you can get together and evaluate to determine whether it's safe to
20 continue on with that rescue effort. Or if you've got roof falls, that's something that's
21 more --- you can see more of what's going on. Do you know if there was any
22 discussions that were held to evaluate these bumps in a similar fashion that you would
23 --- say gas is at an explosion, or whether it was safe to continue or ---?

24 A. I'd rather be in a gas explosion myself, just being more familiar ---.

25 Q. Well, that's because you're more familiar with ---.

1 A. Because I'm more familiar with them. This is not our realm of what we
2 normally do on what I would call a mine rescue. This is, you know, a little out of our
3 realm for the most part. So that's why they brought people in that were roof control
4 specialists and that ---. And they tried to evaluate and determine, you know, a safe
5 manner to approach trying to get through this area, this 1,900 foot that we had to go.

6 MR. PAVLOVICH:

7 If this was not in your realm, Virgil, as an MEU team, the
8 MSHA MEU team, did you ever ask why are we here? Why are we doing this?

9 A. Well, part of it was ours because we had low oxygen and we'd had to don
10 apparatus for some, you know, for going over and evaluating. We knew there was
11 some low oxygen inby, you knew there was CO2 ---.

12 MR. PAVLOVICH:

13 Right. But as far as up there monitoring the cleanup area, did
14 you feel that was MEU team's business?

15 A. They had a guy from the district on each shift that was assigned.

16 MR. PAVLOVICH:

17 I know. But my question ---.

18 A. Yes. You know, I wasn't in the command to make the decisions, and wasn't
19 asked to make a decision or an input into that. So ---.

20 MR. PAVLOVICH:

21 You just did your assignments, and that's what they assigned
22 you to do?

23 A. So we did our assignments and we tried to do it as safe as possible. Actually,
24 I told the guy, you know, and they were told listen, we want to limit the exposure time
25 up in that face area of where they were loading. We tried to limit the amount of

1 people up there. I kept one of my team members --- we had two underground at all
2 times and usually a third one. And we kept one team member back here at the feeder
3 doing the returns, okay, to monitor that area back there. And he continually did that,
4 and they'd rotate up and assist the district personnel up there monitoring, you know,
5 the progress. And you know, there was a lot of call outs to just tell the progress of what
6 was up there, of where the jacks were being set, or the rock props, and how far the
7 screen was up and how far the cables were advanced and how far they cleaned. And
8 you know, ---.

9 MR. PAVLOVICH:

10 But you were never asked about anything with the planning or
11 any of the decision making? You were never involved in any of that?

12 A. I don't know where it was being done.

13 MR. PAVLOVICH:

14 You don't know where it was being done ---?

15 A. All I did, when I reported --- the part of the command that I reported to, usually
16 what I saw there was the plans that were signed or our assignments. And that's what
17 we got from the command --- from what we're saying the command vehicle; okay?
18 And we would --- Larry Ramey helped with that. Me and Larry tried to coordinate our
19 MEU guys and his, okay, because we took some from out east to assist them. And of
20 what they wanted us to do to carry out their, you know, information and monitoring.

21 BY MR. TEASTER:

22 Q. And who was making those assignments?

23 A. I thought it was Al Davis and Kevin and Rich Stickler and some of those
24 people above that because I don't think it was necessarily the people that we were
25 reporting to.

1 Q. Did they tell you the job that they wanted you to do, and then you and Ramie
2 would assign the people to do it?

3 A. Yes, sir. And as we --- if we didn't need people, then, you know, we, you
4 know, let some of his MEU guys go back to the district since ours were out there on
5 travel anyway. So sometimes he would even let some of his MEU go back if there
6 was not anymore needed, you know. We just sort of coordinated the manpower to do
7 what, you know, they were telling us to do.

8 Q. How did the duties between your people and Ramey's people differ from those
9 from let's say the district people over there underground?

10 A. We tried to key on anything that we could that was more pertaining to MEU ---
11 to the actual mine emergency work, you know. And I think they tried to coordinate on
12 the roof control side and, you know, be with the miner. Because usually they have
13 one person up there from that district that they put per shift. And he did not leave that
14 face area hardly at all. I mean, you know, we'd relieve him out sometimes, but ---.

15 Q. That was the district person?

16 A. Yes, sir.

17 Q. Do you know if Gary was functioning as a mine rescue unit member or as a
18 district person?

19 A. MEU member.

20 Q. Okay.

21 A. Because there was another guy that got hurt with him that went to the hospital,
22 Frank.

23 MR. PAVLOVICH:

24 Frank?

25 A. Frank was acting as the district person then, and Gary was the MEU person

1 that was up there. And I had, what, Otis Matthews and Scott Johnson. Scott Johnson
2 was there. And then Otis came in with us. Otis was outside.

3 MR. PAVLOVICH:

4 Was there ever a time ---?

5 A. So there was --- on that shift when that occurred, it was Gary up there at the
6 face. Scott was back in the return, and Otis was on his rotation outside to take care of
7 equipment outside.

8 MR. PAVLOVICH:

9 Was there ever times that you were underground that you
10 made recommendations to management concerning safety, like you need more rock
11 dust here, or you need to fix these items here?

12 A. Yeah, a couple times there was some small things that we talked about. One
13 of them was concerning ventilation. I know that came up with at the mine foreman or
14 one of them at the feeder one time. They were running that diesel equipment, and he
15 thought we were losing air at the --- a whole regulator that we put in that Number Two
16 entry stopping there. And he thought we were losing air, and we need more air up in
17 Number One. And I said listen, I said you can't do that. I said you go changing this,
18 you're going to change your numbers. We had already had CO pretty high there from
19 that equipment running. And with that minimal air movement there, you know, it was
20 borderline at 50 parts per million.

21 MR. PAVLOVICH:

22 So how did they accept these recommendations? Did they
23 argue with you about them?

24 A. Well, yeah, there was a discussion that time about it. And he said well, I'll see
25 about it. And I said well, you do what you want. I said I would recommend that you

1 leave it there. And he walked off. I mean, he left it the way it was.

2 MR. PAVLOVICH:

3 How about with any of your MEU members?

4 A. Well, that wasn't an MEU member, that was a company man.

5 MR. PAVLOVICH:

6 No, no. I'm talking --- you, you as an MEU guy, and you told
7 him he needed to keep it that way.

8 A. Yeah.

9 MR. PAVLOVICH:

10 But did you ever hear of any of your other MEU members
11 making recommendations to ---?

12 A. Yeah, I think Ron Hixson ---. One time, I think Ron said something about a
13 torque wrench on a bolt or something one time. And actually, the guy instead of, you
14 know, saying I'll, you know, keep bolting them and then I'll re-torque them if I need to
15 come back and replace one, then I'll do it. But they shut down the roof bolter on it.
16 You know, there's some things happen. So they shut it down, and then they said well,
17 Hixson said that, you know, this didn't --- you know, you weren't torquing the bolts.
18 And I said well, why didn't you just torque them afterward, you know, if you needed to
19 replace them. You know why, because the torque didn't work. And I'm sure there was
20 some other things.

21 I went up and I mentioned to him one time about setting the rock props
22 completely straight because, you know, they get in a hurry and sometimes they were
23 setting them in or out or, you know, not setting them straight. And then there was a
24 discussion about, you know, having enough of the cables. And they went from one
25 cable to three cables finally on the jacks --- or on the rock props. So there was ---

1 yeah, every once in a while there'd be something.

2 Let's see, there was this discussion one time about the amount of diesel fuel
3 that was up there, and what they could have on hand. And of course, you know, we
4 wanted to have enough there so that they could keep the equipment running. And
5 they didn't want to shut them down and we didn't want them shut down, neither. So
6 you know, we did a little --- I think there was something written in the plan that, you
7 know, yeah, they can have more than they normally could.

8 MR. PAVLOVICH:

9 Okay.

10 A. You know, so that they could keep their equipment running.

11 UNIDENTIFIED SPEAKER:

12 Do you know of any mine rescue team member being sent
13 home?

14 A. Well, yeah. We sent some district --- some of them from District Nine home.

15 UNIDENTIFIED SPEAKER:

16 Okay. Why?

17 A. Why? Because the manpower that they wanted to work was less than what
18 we had out there.

19 UNIDENTIFIED SPEAKER:

20 Was there ever one sent home because of disagreements
21 with management, that you're aware of anyway?

22 A. I'm not. If it was, it would've been --- Larry would've handled that. Because I
23 handled the guys from out east and he sort of took care of his guys.

24 MR. PAVLOVICH:

25 Okay.

1 A. Because, you know, they know each other. I mean, I know my guys and he
2 knew his.

3 BY MR. TEASTER:

4 Q. Going back to the bumps, and these decision makers that was making
5 decisions to continue on, did you ever discuss any concerns, or did they discuss any
6 with you to indicate that they may be evaluating that it was okay?

7 A. Yeah, I had some discussions about it with the roof control guys from tech
8 support about, you know --- like say how they were setting the jacks and, you know ---.
9 And they felt that they were doing surveys outby trying to figure out how much the
10 subsidence was. And I knew they were doing testing for that, and figured well, you
11 know, they're figuring it out. I felt that there was very little lateral support from the
12 rock props myself. I mean, the top was fine. I mean, rock props are made to hold the
13 roof up, and I wasn't worried about the roof. The roof was good everywhere, you
14 know. It was the ribs that I was worried about, jumping out on me. Hey, when you
15 see it, and it fills up in an entry from one side to the other like it looks like a solid face,
16 you know, and the top's still there. It wasn't the top that was the problem, it was the
17 ribs the lateral support. So that's what concerned me about rock props that lessen ---.
18 You know, they'll just kick out. I mean, you know, seam timbers kick out and stuff like
19 that. And those other things.

20 Q. The initial reading at the Number One bore hole indicated oxygen in excess of
21 20 percent, and then it later turned out to be somewhere between seven and eight
22 percent. Are you aware of that?

23 A. Yes, I am.

24 Q. Do you know why that occurred?

25 A. I think it was a premature reading before we cleared. And they were getting

1 the bore hole itself from the surface.

2 MR. PAVLOVICH:

3 Well, what did you think when you saw the seven percent?

4 A. Then I thought, I hope them boys are somewhere else. That sounded more
5 like it.

6 MR. PAVLOVICH:

7 Where did you think that seven percent ---?

8 A. You know, thinking about this, and I'm always trying to think about things. And
9 you're trying to figure out where the seven percent come from, or where low oxygen
10 comes from. And you know, when I talked to the guys, there's only a couple --- three
11 places that it was possible that low oxygen came from. One of them would be if it
12 breached into the sealed area, which is obvious. Another one would be that when they
13 were running their equipment, that they got hit by it and the equipment continued to
14 run, which would make the CO rise and the oxygen deplete until the equipment ran
15 out of oxygen to run it, being diesel equipment, which would make that reading. And
16 of course, you hope that that's not true because you figure the guy would turn the
17 equipment off, unless he was injured. And then the only other third place that they
18 could come from in that situation, --- because I'm figuring gasses, okay, from mine
19 rescue --- was that all that when a bump occurs, you had all the surface area of the
20 coal exposed, which oxidizes, which would drop the oxygen content and raise the CO₂
21 and the CO from the, you know, surface area of that coal oxidizing.

22 So that's the three possibilities that I came up with. And I think, you know --- I
23 would hope that ---.

24 BY MR. TEASTER:

25 Q. Was you aware of the readings of the samples they had taken behind the

1 seals?

2 A. Yes, sir.

3 Q. And how did that compare with the ones at the bottom of the Number One
4 bore hole?

5 A. Actually, when the nitrogen is what I went by to decide, in my own mind, of
6 whether that was breached. And I think with the nitrogen being compared to the way it
7 was, there was a breach there, because it compared to what was behind Number One
8 seal and what was over there.

9 Q. What did the CO, did they ---?

10 A. I don't know what they do. Well, the CO was --- it varied a couple times a little
11 bit different. But the nitrogen is your, I think, your indicator on that situation and the
12 way that those are communicated.

13 Q. When that reading back at the bore hole was taken, the 20-plus percent of
14 oxygen was taken, that was shared with the families. And it wasn't too much longer
15 after they had determined it to be 20 percent, that they found out that the true reading
16 was somewhere between seven and eight percent. But there was a big lag of time
17 between the time that information was shared with the families. Do you have any
18 information as to why it took so long to do that?

19 A. No, sir. I guess the only response I have to that is who shared the information
20 with the families, the initial. I don't know whether it was the company or did MSHA
21 agree with that. I'm not sure that they got really that whole thing straightened out until
22 later with Mr. Murray.

23 Q. And what's your understanding of it? I've not heard ---.

24 A. I figured that Murray, you know, was wanting to let them know that, you know,
25 there was oxygen there and there was hope or something. And I'm not sure that

1 MSHA was totally in agreement until they get a trend of more than just one sample. I
2 think you need more than one sample before you make a determination and then go
3 out there and tell somebody something, that you need to confirm it first. We learned
4 that lesson at Sago, I thought. But then definitely we haven't.

5 Q. Did any of your duties at the mine involve interaction with Bob Murray?

6 A. No, very little. I listened to him a couple times in the shop area where he
7 would give a, you know, like a talk to his crews. And that's the only time I ever
8 interacted with him.

9 Q. Did you see anything out of hand that would have resulted in a negative
10 impact or interfered in any way with the rescue effort?

11 A. No.

12 Q. Any of his people?

13 A. No.

14 Q. Did you hear anything at all about Murray or some of his people being
15 involved in the rescue effort?

16 A. No. I think --- I believe that, you know, he was trying to --- and the efforts that
17 were, you know, trying to be done were positive toward trying to do this as quickly as
18 possible.

19 Q. Who did you communicate with on the surface when you were underground,
20 or did you?

21 A. I would call whoever was on that shift in the command. We had a mine phone
22 we hooked up in the command vehicles from underground.

23 MR. PAVLOVICH:

24 Virgil, back to that question about the commonality, I guess,
25 of the gob and the entry. You make a notation in your notes that there was --- the

1 sealed area was common with the Number One and Number Two entries. And it's on
2 the one that shows 8/13/07, the last sentence on there. It says the gas was analyzed
3 for the atmosphere behind Number One seal, 89.7 nitrogen, 7.5 oxygen and some
4 other gasses. And then it says which meant to me that the sealed area was common
5 with the Number One and Two entries in where the miners were probably located.

6 Now you made that notation, what did that leave you to think?

7 That you were still in the rescue mode, or you were in a recovery mode?

8 A. Recovery mode.

9 MR. PAVLOVICH:

10 So at that point when you felt there was a commonality in that
11 gas reading, you felt that there was ---.

12 A. To that location. Now remember, there was some other places that may not
13 have --- that they could have been.

14 MR. PAVLOVICH:

15 But did you feel then there was little chance of survival, or
16 maybe no chance of survival?

17 A. No, no. It was less that they had to be in another area than right there if they
18 were going to survive.

19 MR. PAVLOVICH:

20 Okay. So you knew if they were in that area, they were not
21 survivors?

22 A. That's how I felt.

23 MR. PAVLOVICH:

24 Okay. But you didn't say there's no chance.

25 A. No.

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MR. PAVLOVICH:

Okay.

A. And that was my notes, that was --- wasn't, you know, me talking to somebody.

MR. PAVLOVICH:

No, no, I realize. I realize you just put that down ---.

A. In fact, before, you know, when we were putting the last holes down, Stickler came to me and asked me, listen, if we put --- because I had the capsules sitting out there and it was out and ready to go, and we had already lined up ---. I had already lined up a hoisting Frontier camper and found the hoist that could drop our capsule that far. And if they would put the hole in, Stickler asked me would I have went in and assisted somebody into that capsule. And I said if there was somebody down there and we can get him, I have no problem with that. But I did say that if I'm going down there to retrieve a body, you know, are we doing that for the family, or what's the purpose of it? You know, whether you want to invade me ---

MR. PAVLOVICH:

To risk you to ---

A. --- to get a body.

MR. PAVLOVICH:

--- to get a body.

A. But now if it's to get a person, and we got some contact, I have no --- I'd be the first one in that capsule. You know I would, so that's how I felt about it. And so I would not have told him that if I didn't feel like there was still a chance. If there was somebody down there and they were hurt, they were injured or they needed help, if we could get him, I'd go get him.

1 BY MR. TEASTER:

2 Q. Virgil, going back to that reading at the number one bore hole, the seven
3 percent of oxygen. And in your notes, you indicated that there was communication
4 between the sealed area and that --- did you share that with anybody ---?

5 A. Me and Kim Diederich talked about that and some of the ventilation people.
6 And it was just, you know, this is not --- these notes were my notes for, you know, my
7 reference. And seeing that the nitrogen was the same, you know, sort of meant to me
8 and Kim after we talked that this communicated.

9 Q. So other than Kim, you didn't discuss it with anyone else?

10 A. No, I figured ---.

11 Q. He was not in the command center, was he? He was just working
12 underground with you?

13 A. Yeah, he was outside and we were doing bore holes and gas analysis and
14 stuff. And that's the reason me and Kim had talked about it, you know. And that was
15 feeling, too. We've got to figure out what's the CO2, what's the nitrogen. And you
16 know, the only indicator you had was if it were that high, and it were that high in the
17 gob, then it was probably communicated.

18 Q. I'm not sure I understand when Joe asked you what that meant when you had
19 that reading, and you went from rescue, you said recovery ---.

20 A. If it were in this area where we got that reading, then I would feel like that
21 would be a recovery. But if the guys were --- had went back to another area where
22 that air wasn't affected and barricaded, then they had a chance back here (indicating).

23 But say that this was just a local bump right here that breached it here, that don't
24 mean the air is bad over here.

25 Q. So that don't mean you would change --- now, normally in a rescue effort

1 you're willing to take more risk because you think that there's someone that you could
2 possibly save. But if you ---.

3 A. And so it's still ---.

4 Q. But if you come to some information that indicates that there's little or no
5 chance of survival, you go on the recovery and you're not apt to take as many risks.
6 But you never felt you shifted from rescue to recovery in terms of ---?

7 A. No, I figured that there were, you know ---. You try to be optimistic if you're
8 trying to get somebody. I mean, I'm not going to give up because that area was bad,
9 because there was a lot more area back there those guys could have went to. And so
10 no, I felt like well, if it didn't breach back there, and they had --- and it was short
11 circuited here ---. Because we were having a hard time getting air up, number one, to
12 go across; okay? So that means that somewhere here that that air wasn't moving the
13 other way. So if it was breached here, that just meant this area was bad. It didn't
14 mean maybe where they went to would be bad. I mean, that's how I felt about it.

15 Q. Okay. Did you have any involvement in the placement of the bore holes, any
16 discussions at all?

17 A. No.

18 Q. Okay.

19 A. I questioned to Murray's engineer, or maybe --- no, his son. I walked by him
20 one day, and I did mention that listen, you know, more drills would be better. But of
21 course, there was very little room up there for drills. They flew one in, a small one,
22 and put it together on the site. And then they kept moving that big one around. There
23 was very little --- I mean, the terrain out there was prohibitive to run very many drills.

24 Q. Do you think access to those drills was --- access way to those drills was safe?

25 A. What do you mean?

1 Q. Connected for travel.

2 A. Oh, you mean the roads going to them?

3 Q. Yes.

4 A. I told my guys to be careful going there, take your time. There was --- the
5 road got better later on when it finally rutted in and you had some banks. But at first,
6 you know, they threw those roads in overnight almost. And the next day, it was like 16
7 or 18 hours or something. They put like eight miles of road in. I'm thinking boys ---. I
8 went up that road, I saw Jeff Kravitz back off one time. He had a Humvee that he
9 rented the day he got it because he didn't have a Jeep or something. And he pulled
10 that thing up on the hillside and he looked over there, and he said I don't know
11 whether I'm going down there or not. I said you got a Humvee, come on, those drillers
12 are over there. Yeah, those roads were pretty treacherous. And I guess we worried
13 about rain. That's when it really got bad.

14 Q. Did you have a lot of rain while ---?

15 A. Yeah, it rained one time and I about lost a trailer over one of those hills. I had
16 to pull it back with a D9 dozer that I rented from Scotsman out of Salt Lake City. Had
17 them bring it up there, and the tractor trailer driver couldn't take it up, so we had the
18 sheriff's department. I borrowed a four-wheel drive with a hitch on the end and we
19 took up the pit. And we had a D9 dozer follow us and put it back in the road once.
20 But you know, they --- you know, once it got worked in after a few days, it wasn't
21 nearly as bad. But you know, first time on that road, first couple times, it was like
22 pretty hairy.

23 Q. Okay. Virgil, if you would, tell us when you were notified of the accident on
24 the 16th involving those fatalities and injury. And then what actions you took after
25 notification.

1 A. Okay. On the 16th, I was at the hotel that evening. And I received a call
2 about, what, 6:39. It said that our rescuers were missing. And did turn to my page
3 there so I can get it. So at that point, I called all the rest of our guys, and we headed
4 to the mine; okay? And really didn't get many details until I got there. I was, you
5 know, trying to get everybody there. And once we got there, then they were already in
6 the process of bringing Life Flight in, ambulances showing up, and I mean we went
7 there really quick. And there was a couple, you know, some of the injured were
8 coming out and they were treating them. And they were in the back of pickup trucks
9 and, you know, the small trucks that they ran underground. And of course, they were,
10 you know, treating their injuries. There was a guy that come by me with an ear off and
11 they packaged it. I know they put it back on later, I heard. And you know, the injured.
12 And you know, we didn't know until I talked to Scott Johnson, who was up there at the
13 site of what had happened.

14 So I went underground. And of course, I treated Gary before he ended up
15 going into an ambulance and on Life Flight. I put him under oxygen myself.

16 Q. On the surface or underground?

17 A. On the surface.

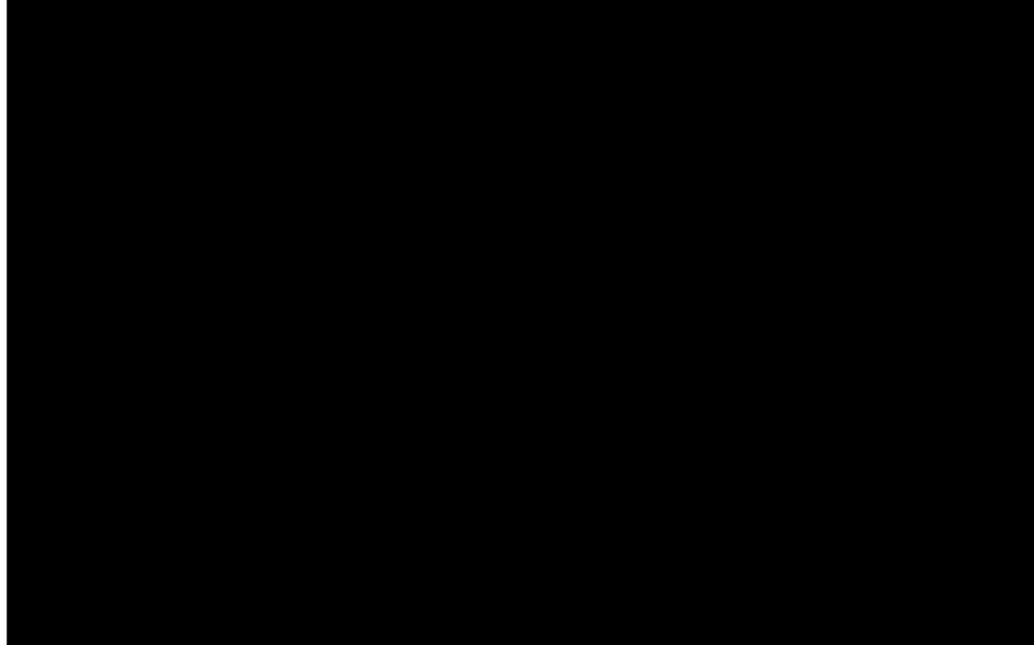
18 Q. On the surface.

19 A. Yeah. He had come out and I spoke with Gary. And you know, they were

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know they --- and then put on the Life Flight. And then me and --- I done forget which other mine rescue, it's probably in my notes here went underground to assist Scott in the final, you know, to get the rest of them or whoever was left. And we met them nearly up at the accident site, about 117 or 110, somewhere around there where you make a turn and go out from the entry there. And they were coming out, and they said they had the last of them, but they were gone. And so we turned around and went out with them.

Q. So you never helped recover anyone underground, that was all done when you got there?

A. That's right. They had the last ones when I got up there. By the time I got up there, they cleared the accident scene and were on the way out. And I was right around the corner from them.

UNIDENTIFIED SPEAKER:

Did any of the guys you talked to, like Gary or anybody else, did they say what hit them? I mean, what happened?

1 A. I'm sure it happened so quick that, you know, all they saw was rock props and
2 screen and ropes and ---.

3 MR. PAVLOVICH:

4 Nobody said anything about any kind of warning or anything
5 else, just blew out and hit them, or you didn't know?

6 A. Yeah. Well, that's what I think what somebody wanted me to ask Gary, and
7 Gary was in no shape to answer a question like that. He was fighting for his life.

8 MR. PAVLOVICH:

9 Who wanted you to ask him?

10 A. I don't know, it was somebody there.

11 UNIDENTIFIED SPEAKER:

12 Did they put him on a helicopter, Virgil, or an ambulance?

13 A. They put him on a Life Flight helicopter. He was loaded in the ambulance,
14 and the next thing I knew somebody said --- I want up to get some more caravan units
15 to go underground because I had three caravan units. You know what they are,
16 they're the new things we come up. Anyway, so I took two more caravans and I
17 headed underground. And I figured well, if we get them out to the Health Net people
18 and the EMS, then, you know, we've done as good as we could. So that's what we
19 went to do.

20 UNIDENTIFIED SPEAKER:

21 Did anybody from MSHA go with you?

22 A. With --- I don't know. I have no idea. When they --- he was in the ambulance
23 last I saw him. And when I headed up to go underground at the portal, that's when
24 someone said well, they Life Flighted Gary out, because they had a Life Flight coming
25 in and they put him on it. Of course, there were some other things. We thought that

1 that 14 gas detector didn't have a hygiene board. We were going to try to see if it ---
2 whether it had recorded that, but ---. There was a lot of mines I take the hygiene
3 boards off because we were using it for MEU and we were reading the gasses all the
4 time.

5 BY MR. TEASTER:

6 Q. Okay. Virgil, on the ---.

7 A. I know that Scott, talking to him, he'd restored the ventilation and had a couple
8 photographs. I don't know whether Ron Hixson or who went with me underground. I
9 know Peter Saint was with me.

10 MR. PAVLOVICH:

11 Was Otis with you?

12 A. I think Otis was out --- I think he had took some apparatus and went
13 underground.

14 MR. PAVLOVICH:

15 Okay. He was already ---?

16 A. Okay? Before I got there. I know Otis went underground with apparatus
17 because I looked out there, and he had already had them. And I grabbed up a couple
18 caravans and I said well, if somebody's not breathing or if they need CPR, let's take
19 some caravans and be able to resuscitate him. And so I know that Peter Saint was in
20 the truck with me as I went underground to go get them.

21 BY MR. TEASTER:

22 Q. Virgil, did you or any of the people who were from MSHA have any major
23 problems getting underground? Not just on that emergency site, but on a regular
24 basis?

25 A. You know, if you knew the safety people, it seemed like with at the mines ---

1 and you know, they had limited rides. I guess that's a better way to state it. And as
2 soon as they could accommodate you, they would get you underground.

3 Q. I just noticed in a lot of the notes that I reviewed that there was --- you had
4 trouble getting underground.

5 A. Yeah. You had to --- you know, if you weren't there right when the rest of the
6 team, crews were going under, you know ---. But I think we tried to schedule, you
7 know, the guys that were supposed to be underground so they would, you know, be
8 there with them. It was hard to coordinate our shifts and their shifts the way they were
9 working a lot of times. But yeah, at some points, there was, you know, a problem
10 getting underground.

11 Q. You indicated in your notes that it's a roof control specialist that would come to
12 evaluate the mine conditions after that bump to determine whatever ---.

13 A. Yeah, there was the two Joes and, what's the other one's name?

14 UNIDENTIFIED SPEAKER:

15 Mike.

16 A. And Mike, yeah. Mike Gauna and the two Joes.

17 MR. PAVLOVICH:

18 Okay. So it was the tech support guys?

19 A. Yes, sir.

20 BY MR. TEASTER:

21 Q. They told you that they were coming --- the roof control people were coming?

22 A. They were the roof control people.

23 Q. Well, they were already there; right?

24 A. I think they were --- when I got there, I don't think they were all there. When I
25 initially arrived, I don't think they were all there. We had just pulled out. I mean, they

1 had just pulled out.

2 MR. PAVLOVICH:

3 But you mean on that day?

4 A. On that day when I first arrived.

5 MR. PAVLOVICH:

6 They had been at the mine, though; right?

7 A. Oh, yeah.

8 MR. PAVLOVICH:

9 Yeah, okay. Just on that day they were coming, okay.

10 A. Yeah.

11 MR. PAVLOVICH:

12 I see what you're saying.

13 BY MR. TEASTER:

14 Q. So your notes make reference, they describe roof control specialists coming in
15 to evaluate the mine conditions after the bump, and you're talking about those people
16 because they was ---.

17 A. Yes, sir. Our roof control specialists.

18 Q. Right. My understanding was that there was some specialists not associated
19 with the mine that were coming in to evaluate the ---.

20 A. That was after the fall that we got three more people killed ---

21 Q. Right.

22 A. --- and six injured. Then that's when they called that big thing, and I ended up
23 with trailers coming up there and you had a bunch of college people coming in and
24 they were going to, you know ---. But I was sort of surprised, they didn't even need to
25 go underground to tell us it was bad. When they got there, they didn't even want to go

1 underground.

2 Q. Do you know why they didn't want to go underground?

3 A. I think they thought it was unsafe.

4 Q. Do you know if there was any discussion to bringing in those types of people
5 prior to that bump on the 16th?

6 A. No, I don't.

7 MR. PAVLOVICH:

8 Virgil, what was your initial thought when you looked at this ---
9 ?

10 A. The map? When I looked at the mine map, I thought what are they doing
11 here? That's what I thought. I mean, I'm an old southern boy. And when you pull
12 everything out and you got that much cover, you know something's coming. And you
13 don't get local falls there with that much cover and that much sandstone. I do have ---
14 I did go to college, and I took roof control in college and ground control and stake and
15 strength in materials and things. And I'm thinking when I looked at that and that cover
16 knowing that those barriers were there for a reason. And whoever mined this
17 beforehand, I questioned why are we up in there? I mean, and after --- they can say
18 what they want, but I know they ran out of that other panel not because they wanted to
19 go, because he was going to get the coal. And to go back into the next one and do the
20 same thing, I just was thinking what are you doing there? And they were not only at ---
21 the way I understand it, they were Christmas treeing and hitting the other barriers, the
22 solid barriers. And it's like longwall with a continuous matter. Come on.

23 BY MR. TEASTER:

24 Q. Did you have any involvement with the families?

25 A. No, sir.

1 Q. Or the press?

2 A. No.

3 Q. Are you familiar with the --- I know you're in tech support, but are familiar with
4 the MINER Act?

5 A. Yes, sir.

6 Q. Do you know what the responsibilities are for the primary communicator?

7 A. Yeah.

8 Q. Based on what you know, do you feel that the agency fulfilled its
9 responsibilities under the role as the primary communicator?

10 A. I didn't go down to the press, and I know that ---.

11 Q. Okay. That's fair enough.

12 A. You know. I sort of kind of stayed away from the media. I figure I do my job,
13 they can do theirs.

14 MR. TEASTER:

15 Joe?

16 A. When the press tries to step out in the road on me and try to get me, I roll the
17 window up. I learned my lessons well.

18 MR. PAVLOVICH:

19 Virgil, did you ever have any disagreements with any of
20 MSHA top management there onsite?

21 A. I think there might have been a miscommunication at one time.

22 MR. PAVLOVICH:

23 And what was that in regard to?

24 A. That was in regards to the SF6 survey. And we were setting up, going to the
25 sample points. And I think that one of the people that was in command saw the plan

1 that was not approved yet and thought that we were going to breach by their seals.
2 And I think after we found out --- or he found out that listen, that's not the intent, that
3 those sample lines stopped at those seals and the only one we were going through
4 was number one seal, where we had already been or they had already been, that he
5 probably saw the necessity for that.

6 MR. PAVLOVICH:

7 Okay. Did that person ---

8 A. And so that's the only discrepancy ---.

9 MR. PAVLOVICH:

10 --- say anything to you about that?

11 A. Yeah.

12 MR. PAVLOVICH:

13 Is it something that can be repeated on tape?

14 A. I would rather not. I was very embarrassed. I'd never --- because I've been at
15 some many of these and I can't imagine that I would do anything that was out of line,
16 so ---. And I feel that way.

17 UNIDENTIFIED SPEAKER:

18 Was it in front of other people?

19 A. Yes, it was.

20 MR. PAVLOVICH:

21 Did they ever use the SF6?

22 A. No, they didn't.

23 MR. PAVLOVICH:

24 They didn't.

25 A. But we did do live samples from those locations to monitor what was going on.

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MR. PAVLOVICH:

Okay.

A. So all the locations that we put in were of use to us. And even after that, we put in more samples. I mean, that's what we did. The more you know, the better ---

MR. PAVLOVICH:

Sure.

A. --- you can make decisions, the better decisions you can make. That's how I feel. I mean, that's what we've always operated on. But you know, the more sample locations, the more information that you can get are factual, then the more we know. But I think, you know, looking back at that, and I'll say this. You know, there was a lot going on and I'm sure stress was high for a lot of people. So I, you know, hold no animosity about it.

MR. PAVLOVICH:

Ex. (b)(6) and Ex. (b)(7)(C) you got anything?

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

I do. Virgil, were you at the mine the day the press went underground?

A. No, I wasn't there right when they went underground. I was there, but you know, I went up on the hill where the bore holes were when they went underground that day, where the drill sites were.

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

Was that to stay away from them, or because you had work to do up there?

A. Just because I had work to do up there.

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

1 I was just going back to when you said you would roll the
2 window up and stay away from them, so I didn't know ---.

3 A. Well, even if I would have saw them all coming and I didn't need to do
4 anything where they were, I would do something somewhere else. Unless it
5 necessitated me to be around them, but I think --- I didn't think that that was a real
6 good idea when I heard about it. And when we were trying to limit exposure to our
7 people and to the miners, why would we take people that are inexperienced and are
8 doing no good for the benefit of those men and hinder anything? Because if I'm taking
9 a camera up in a place and I'm trying to do something and somebody's trying to point
10 stuff out, then as far as I'm concerned they've stopped me from doing an
11 advancement, you know. If I stop and do an interview while I'm trying to fix a truck,
12 it's going to take longer to fix the truck, you know. That's how I feel about it.

13 UNIDENTIFIED SPEAKER Ex. (b)(6) and Ex. (b)(7)(C)

14 So you've never seen that at any other emergency you've
15 been involved with?

16 A. No, I haven't. I've seen press around, but they didn't take them on a tour of
17 the accident site while --- or the, you know, rescue effort. I mean, I've seen them
18 from, you know, the chopper. I've seen a chopper flying over and getting a shot, they
19 can't stop you from doing what you're doing. Although they had to make a no-fly zone
20 up in the mountain because I think there was a news copter guy that had one of the
21 llamas up there, which is a lift copter dropping this stuff in. And I think they got in
22 there one time, and I think the police called them. The sheriff's department told them
23 listen, you know, that's not a place to be right there. They're trying to set a drill up. So
24 I think ---.

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

1 So you don't think it falls in the intent of 103 of the MINER
2 Act?

3 A. I think it's against that. I agree with that.

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

5 Okay. You talked about the rock props. Just based on your
6 experience and the things that you've seen, that you didn't see how they were going to
7 provide a whole lot of lateral support, or sideways support? From what you had s
8 aid ---.

9 A. Well, anytime --- you know, and I used to run mine equipment, so I've got a
10 mining background. And I'll tell you what, rock props, dukes, whatever you want to
11 call them, you know, water props, timbers, things like that, you know, I've knocked
12 them out in shuttle cars fairly well, so ---. Then I was riding them up thinking I'd knock
13 these things out for, you know, a scoot comes back and knock one out. So what good
14 is it going to do, or how much lateral support is it going to do if I can take a piece of
15 equipment or maybe a truck and hit one and knock it out? That's my feeling about it?

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

17 Did you ever have any other thoughts in your mind, Virgil, of
18 what may have worked?

19 A. Well, I passed by some things every day at DPT. There was the cans that I
20 referred to that they protected. For some reason, they knew to put cans there when
21 they came out to protect those seals. And that's what I thought when I went through
22 there, when I first walked through that seal, the Number One seal. I said you know,
23 those cans are standing there, they didn't get knocked over, you know. And I've never
24 seen a can get kicked.

25 BY MR. TEASTER:

1 Q. Do you think they would provide the lateral supports ---?

2 A. I think they would've done more lateral support than the rock prop. But they'd
3 take more time to set. So I guess you're, you know --- are you ---. There's always
4 some risk in whatever you're going to do when you're doing work like that to try to go
5 into a place that's bad; okay? So I guess you weigh, and I guess somebody did,
6 weighed everything against each other of whether they wanted to use steel sets or
7 arches with steel sets. You know, I mean just ---.

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

9 Did you ever have any other instances, Virgil, of
10 disagreements on what was going on at the mine or anything like that, other than that
11 one case?

12 A. You mean about when I said that they ought to be setting them straight? No,
13 no. I mean, you know, it's just that, you know, my concern was, you know, that --- and
14 then I saw them go from, you know, one rope to three. And I'm thinking well, you
15 know, those ropes, tie them all together, but obviously they didn't do enough. And
16 then you're going the last 40 feet, you know, until you got so many jacks set, you didn't
17 tie those together with the ropes because you had nothing to affix the ropes to. So
18 you know, I guess at some point you're out there. And I think it was in the hopes that
19 on this rescue that, you know, they'd get there and get through that area.

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

21 Is that a headquarters person that you had the disagreement
22 with, or would you rather not say?

23 A. I'd rather not say.

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

25 That's all I have.

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UNIDENTIFIED SPEAKER:

Virgil, did you see or hear of any problems with the stone or rock props?

A. Well, they weren't --- one of the managers, and I forget his name right off, but you know, there was a delay putting the rock props in because they had to bring another piece of equipment in and they were setting them off of it. And finally, they decide to set them off a miner instead and use the hydraulics on the miner to be able to set the rock props instead of stopping the miner and bringing that up and, you know, pulling it out. So they started setting them right behind the miner with stab jacks on the miner and use the remote control and set them off the miner, which sped up the process. Because everybody was wanting to get there as quickly as possible. The more days that went by, I'm sure, you know, everybody was feeling like, you know, they were losing ground because how long you --- going to make it in there, you know. And they wanted to get there as quickly as possible.

UNIDENTIFIED SPEAKER:

Just curious, Virgil. You were talking about --- like basically I'll describe it as the local wisdom that as long as there's bumping, it's relieving, and that's a good thing.

A. Sounds reasonable to me.

UNIDENTIFIED SPEAKER:

Did anybody talk about it, or did you hear anything at all about anybody actually keeping track of those, like charting it to see, you know, the frequency of the bumps to actually predict them?

A. We were calling it out to try to localize it, to give a central of where, you know, when it happened. Where they were just more than the steady bump. And you know,

1 if it bumped and actually knocked coal off the ribs and what have you, then they would
2 try to tell the location that that happened as to where it centered at and the exact time.

3 UNIDENTIFIED SPEAKER:

4 And other than that being recorded in a log, do you know of
5 anybody doing anything with that to go further, I guess?

6 A. I thought that the roof control specialists were analyzing that information. I
7 don't know where it went to after it went outside, but I know we called it out.

8 MR. TEASTER:

9 Is there anything else? Ex. (b)(6) and Ex. (b)(7)(C)

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

11 Nothing.

12 MR. PAVLOVICH:

13 I'm done.

14 MR. TEASTER:

15 Virgil, that's all the questions we have. Is there anything that
16 you would share with us that we haven't asked?

17 A. No. I just wish we'd have got them out, you know. And I hate that we lost
18 good people trying to do it.

19 MR. TEASTER:

20 I understand.

21 A. I really feel --- you almost feel like you let everybody down. Not only the
22 families, but even the people that were involved in it.

23 MR. TEASTER:

24 Well, it wasn't from a lack of trying. I mean, you guys done
25 what you could do, and that's about all you can do. We may have more questions

1 somewhere down the road, Virgil. And if we do, we'd like to contact you and set up
2 another interview. Likewise, if you think of something in addition to what you shared
3 here today that you'd like to share with us, we'd appreciate you getting ahold of us and
4 sharing that with us. And again, we ask you not to discuss this interview with anyone
5 else until we've completed all of our interviews so that we can continue to get
6 unbiased information. And I want to thank you for your service. We know that the job
7 that you got involves a lot of unpleasant work, and we're grateful that we have people
8 like you that's willing to do it and go in and put your life on the line to try to rescue your
9 fellow miner. And we know that requires a lot of sacrifice and a lot of training and a lot
10 of hard work, and we're really appreciative of it. And thank you again for taking time
11 out of your schedule and sharing your information with us.

12 A. The only thing I'd like to add is that I think that whoever, you know --- and I
13 know Al Davis was, you know, there and Stickler and Kevin Stricklin. And I feel like
14 that they probably, you know, looking at the information they were given and was
15 trying the best they could, too. You know, so whoever is trying to do that, as I'm sure,
16 you know, they had that same intent in mind.

17 MR. TEASTER:

18 I think you're right.

19 MR. PAVLOVICH:

20 Thank you, Virgil.
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