

STATEMENT UNDER OATH
OF
BRENT HARDEE

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Friday, September 28, 2007, at 4:58 p.m.

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1 A P P E A R A N C E S (cont.)

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3 T I M W A T K I N S

4 M i n e S a f e t y & H e a l t h A d m i n i s t r a t i o n

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13 R I C H A R D A . G A T E S

14 U . S . D e p a r t m e n t o f L a b o r

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16 1 3 5 G e m i n i C i r c l e

17 S u i t e 2 1 3

18 B i r m i n g h a m , A L 3 5 2 0 9

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20 A L S O P R E S E N T :

21 K e l l y C . K i r k w o o d , N o t a r y P u b l i c

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P R O C E E D I N G S

MR. O'DONNELL:

My name is Joe O'Donnell. I'm an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the United States Department of Labor. With me is Derek Baxter from the Solicitor's Office. We'll be conducting the questioning today.

I, together with other government investigators and specialists, have been assigned to investigate the conditions, events and circumstances surrounding the fatalities that occurred at the Crandall Canyon Mine in Utah in August of 2007. The investigation is being conducted by MSHA under Section 103(a) of the Federal

1 Mine Safety & Health Act. We
2 appreciate your assistance in
3 this investigation.

4 After the investigation
5 is complete, MSHA will issue a
6 public report detailing the
7 nature and causes of the
8 fatalities in the hope that
9 greater awareness about the
10 causes of accidents can reduce
11 their occurrence in the
12 future. Information obtained
13 through witness interviews is
14 frequently included in these
15 reports. Your statement may
16 also be used in other
17 proceedings.

18 You may have a personal
19 representative during the
20 taking of this statement and
21 may consult with your
22 representative at any time.
23 Your statement is completely
24 voluntary. You may refuse to
25 answer any questions and you

1 may terminate your interview
2 at any time. If you need a
3 break, just say, I need a
4 break. Since this is not an
5 adversarial proceeding, formal
6 cross-examination will not be
7 permitted; however, your
8 personal representative may
9 ask clarifying questions as
10 appropriate.

11 A court reporter will
12 record your interview, so
13 please speak loudly and
14 clearly. If you do not
15 understand the question, just
16 ask and we'll rephrase it.
17 Please answer each question as
18 fully as you can, including
19 any information you've learned
20 from someone else.

21 I want to thank you in
22 advance for your appearance
23 here today. We appreciate
24 your assistance in this
25 investigation. Your

1 cooperation is critical in
2 making the nation's mines
3 safer.

4 After we have finished
5 asking questions, you will
6 have an opportunity to make a
7 statement and provide us with
8 any other information that you
9 believe to be important. If
10 at any time after the
11 interview you recall any
12 additional information that
13 you believe might be useful,
14 please contact Mr. Richard
15 Gates at the telephone number
16 and e-mail address on this
17 card.

18 Ms. Kirkwood, would you
19 swear the witness in?

20 MS. KIRKWOOD:

21 Please raise your right
22 hand.

23 -----
24 BRENT HARDEE, HAVING FIRST BEEN DULY
25 SWORN, TESTIFIED AS FOLLOWS:

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MR. O'DONNELL:

Ms. Kirkwood, are you
empowered as a notary in the
State of Utah?

MS. KIRKWOOD:

I am.

MR. O'DONNELL:

And when does your
commission expire?

MS. KIRKWOOD:

August 15th, 2008.

MR. O'DONNELL:

Have you sworn in Mr.
Hardee?

MS. KIRKWOOD:

I have.

BY MR. O'DONNELL:

Q. Would you please state your
full name and address for the record?

A. Brent R. Hardee. My address
is (b) (7)(C)

(b) (7)(C)

Q. And Mr. Hardee, do you have
any questions about the interview

1 process as I described it?

2 A. No.

3 Q. And do you have a personal
4 representative with you today?

5 A. Yes, I do.

6 MR. O'DONNELL:

7 Would your personal
8 representative please identify
9 himself by name and address?

10 ATTORNEY MEANS:

11 Yes. I'm Thomas C.
12 Means with the firm of Crowell
13 & Moring, LLP in Washington,
14 D.C. And I'd like to just
15 clarify for the record that,
16 as Mr. Hardee and I have
17 discussed, I'm the company's
18 attorney, the mine operator,
19 UtahAmerican, Genwal, the
20 company attorney, not his
21 personal attorney. But he has
22 the right to have anybody he
23 wants here with him, and I'm
24 here at his request today.

25 BY MR. O'DONNELL:

1 Q. Are you aware that your
2 representative may have a conflict of
3 interest in representing you while
4 being provided by someone else, such
5 as the company?

6 A. Yes.

7 MR. O'DONNELL:

8 Mr. Means, would you
9 state for the record whether
10 you also represent the mine
11 operator in these matters?

12 ATTORNEY MEANS:

13 Yes, I do. I also
14 represent the mine operator.

15 MR. O'DONNELL:

16 Thank you.

17 BY MR. O'DONNELL:

18 Q. With this understanding, do
19 you still want this person as your
20 representative?

21 A. Yes.

22 Q. Brent, are you appearing here
23 today voluntarily?

24 A. Yes.

25 Q. And how many years of mining

1 experience do you have?

2 A. Eighteen (18).

3 Q. Eighteen (18) years? And tell
4 us a little bit about your coal mine
5 employment history. Where have you
6 worked?

7 A. Worked at Pilot Butte in Rock
8 Springs, Wyoming for a year. And I
9 worked at the Genwal --- well,
10 Crandall Canyon Mine since '91.

11 Q. Since 1991?

12 A. Yeah.

13 Q. So what do you do at the mine?

14 A. I'm a fireboss.

15 Q. Okay. And did you have that
16 position on August 6th, 2007?

17 A. Yes, I did.

18 Q. And how long have you been a
19 fireboss?

20 A. A fireboss I've been for a
21 year, year-and-a-half, probably. Two
22 years before that I was a belt man,
23 fireboss then, too.

24 Q. So what did you do before
25 that?

1 A. I was on the longwall for
2 seven, eight years, and roof bolting,
3 section stuff before that.

4 Q. Do you have any mining
5 certificates?

6 A. Yes, fireboss and mine foreman
7 --- yeah, mine foreman.

8 Q. From Utah?

9 A. Yeah.

10 Q. Okay. And who's your boss?

11 A. Gale Anderson.

12 Q. Gale Anderson. How long has
13 he been your boss?

14 A. About a year.

15 Q. Okay. About a year. What was
16 your work schedule the week of the
17 accident?

18 A. I was four on, three off. We
19 were on our weekend shifts. We
20 worked three days and we were going
21 to work --- we had one more to go
22 that Monday.

23 Q. One more that Monday. And
24 what time did you start your shift?

25 A. We started at --- let me think

1 about this. It's been a while. We
2 started at 6:00 the day before.
3 Well, it would have been the 5th;
4 wouldn't it?

5 Q. Yeah, it would have been the
6 5th. 6:00 at night?

7 A. Yes.

8 Q. 6:00 p.m. ---

9 A. Until 6:00 a.m.

10 Q. --- in the evening all the way
11 until 6:00 a.m. Okay. And tell me
12 about your shift. I'm going to let
13 you just tell me your story, starting
14 when you got to work what you did
15 until you left the property.

16 A. As near as I can remember,
17 when we first got there, I went into
18 the South Crandall Mine to preshift
19 the intakes. We started that
20 preshift for South Crandall one hour
21 early. We started doing that about
22 --- oh, probably a week before this
23 happened. So I went in and
24 preshifted South Crandall intakes,
25 come back out and met two other

1 preshifters, and we went into
2 Crandall and preshifted. They did
3 the belts. I done the intakes that
4 day --- that night.

5 We got out, we ate lunch, just
6 done a bunch of outby work, pulled
7 the truck out of South Crandall. It
8 was broke down. Cleaned out a
9 crosscut, 17 or 18 in Main West. We
10 was just getting ready to preshift.

11 We finished that. I headed
12 into South Crandall to preshift
13 around 2:30. I preshifted that and
14 come back outside.

15 When I got outside, I had to
16 call Conspect to let them know that I
17 was out of South Crandall. And I was
18 going in to fill the books out when I
19 heard Brian Pritt on the phone
20 talking to Conspect about they lost
21 communications. And he was up there
22 and was wanting some apparatus or
23 something to keep going. I think he
24 was at Crosscut --- I don't know
25 where he was calling from, to tell

1 you the truth.

2 So I got on the phone and was
3 telling him I'd go grab some. And so
4 I went down to the main safety office
5 and run upstairs. And Conspect was
6 on the phone with Gary Peacock. I
7 talked to him for a minute, and he
8 told me that he was told that there
9 was an overcast --- let me look at
10 this map.

11 Q. Let me get you one. Do you
12 need the big map?

13 A. No. I just wanted to see on
14 the map where the overcast was. It
15 would be Crosscut 91.

16 Q. Okay.

17 A. Said the overcast at Crosscut
18 91 was --- had been damaged, and he
19 wanted me to check that out before we
20 went any further in there. He told
21 me this on the phone. So I went in.
22 I grabbed four --- I don't even know
23 what kind they were. They were in a
24 blue box. They were apparatuses.
25 But I later found out they were

1 training --- no good.

2 I grabbed two red ones that
3 the fire brigade uses, and they were
4 charged and ready to go. I threw
5 them in back of the truck. And I
6 thought about that overcast, so I
7 grabbed one roller rag and about two
8 bundles of pogo sticks and
9 headed ---.

10 In the meantime, while I was
11 talking on the phone, I called back
12 to Brian. While I was talking on the
13 phone with him, Tim Curtis had walked
14 One belt, preshifting in. And I got
15 ahold of him and told him I'd pick
16 him up at Crosscut four in Main West
17 on the way through.

18 So I picked him up and we ---
19 after --- I headed in, picked him up
20 and we headed into the section. We
21 stopped at the overcast at 91 and
22 looked at it, and it was --- it had
23 been damaged some, but it wasn't
24 leaking much air because there was a
25 regulator on the other side of it.

1 So we decided to go past it.

2 We went up to Crosscut --- I
3 can't remember. It's --- 112 to 115
4 is where they were parked at or
5 somewhere in that area.

6 We got out of the truck.
7 There was Tim --- Tim Curtis was with
8 me. There was Tim Harper. Jameson
9 Ward and Brian Pritt were in there.
10 We talked. The air ---. One thing I
11 noticed when I first got out was the
12 air was blowing in our face coming
13 in. We pulled our meters out. The
14 air was still good right there. It
15 was down --- the oxygen was down a
16 little bit, but we hadn't got any CO
17 yet. I didn't pick any up.

18 So we walked in a little bit,
19 come back, and then Tim Curtis and
20 Brian Pritt put on them --- I'm not
21 even sure what they are. They're the
22 red fire brigade rescuers. They put
23 them on. Tim Harper and Jameson Ward
24 put on their self-rescuers. I didn't
25 put one on. I just followed them up.

1 And we went up to Crosscut --- I
2 think there was a barricade trailer
3 at --- I think it was Crosscut 120.
4 I'm not sure. It was somewhere in
5 that area. And we went up to there,
6 and when we got there the oxygen was
7 starting to come down and the CO was
8 coming up.

9 We looked on there for
10 --- they were wanting some more
11 rescuers. We couldn't find any.
12 They was wanting some more of them
13 packs. There wasn't any in there.

14 We debated on going further.
15 We decided to go a little bit
16 further. We went up at least one
17 more crosscut past there and the top
18 had come in. And the oxygen was kind
19 of low.

20 ATTORNEY MEANS:

21 What crosscut are you
22 at this point, Brent?

23 A. I'm thinking it's 121, but I'm
24 not sure. It's 121 or 122. It was
25 in the main intake. Well, the top

1 had come in. The rib had come in and
2 just a corner of the top had come in
3 and kind of buried it. And the
4 oxygen went down to 18.5 right there,
5 and the CO was 50 parts. The air was
6 still coming at us in our face, so we
7 decided to head back and establish
8 ventilation on the way in.

9 We headed back. Me and Tim
10 Curtis took that roller rag and the
11 pogos I had and went back to Five
12 drive, which is 101. And we went
13 through there. I called on the phone
14 there, told them to shut the belts
15 off. I turned the remote off there
16 and we crossed over and started to
17 put up a temporary rag at 101 and
18 started working our way down with
19 pogos we could find, working our way
20 back down to '95. We got to '95, and
21 there was still air coming out the
22 belt lines.

23 We went to 93, and that return
24 stopping was out. All the Kennedy
25 panel stoppings that were in there

1 were out. The block ones were still
2 in.

3 We kept putting stoppings up.
4 Well, the other three --- besides me
5 and Tim Curtis, it was Tim Harper,
6 Jameson Ward and Brian Pritt went out
7 and got some more rag and sticks.
8 They brought them in and they started
9 going up in front of us, and we just
10 leapfrogged. More people come in
11 here and there. And that's how we
12 ended the shift. We got up to about
13 one --- we got up past where we would
14 have been --- man, I can't remember
15 what crosscut it was.

16 Then finally it was about 120
17 --- it was either 120, 123, somewhere
18 in there, 124. It might have even
19 been farther. It might have been
20 125. The sides had come in and was
21 covering the belt. We would have to
22 walk on top of that.

23 We finally got a phone call.
24 Other people had come and gone. The
25 other crew had shown up and there was

1 people staggering in there. And we
2 were told --- the five of us that
3 were there were told to leave right
4 then, come out immediately. Richard
5 Maxwell had brought some rag in in
6 the meantime. We were told to leave,
7 and so we left. That was 8:00, 9:00
8 in the morning, something like that,
9 10:00, and we went home.

10 Q. Okay. So when you first ---
11 the first part of your shift, if I
12 understood you right, you went into
13 South Crandall and did a preshift?

14 A. Yes.

15 Q. Then you go into Crandall
16 Canyon and you walk the intakes?

17 A. No, I drove.

18 Q. Drove the intakes?

19 A. Yes.

20 Q. And who was the other
21 preshifter?

22 A. Tim Curtis and Brian Pritt.
23 They were doing the panels.
24 Sometimes they did the Main West
25 section. Today I --- that day I was

1 doing it.

2 Q. And did you go all the way
3 into the section?

4 A. Yes, I did.

5 Q. And did you go up into the
6 face anywhere?

7 A. No. I went right to the edge,
8 right to the corner of the feeders.
9 The crosscut the feeder is in, that's
10 where our last book is on the intake
11 side, and we turned around.

12 Q. Did you stay up there at all
13 or ---?

14 A. No. I went in there. I did
15 stay up there for a minute. There
16 was a charger on the way in. It was
17 about a couple back from the feeder,
18 and there was Don Erickson and
19 somebody else was changing batteries
20 on a scoop. I talked to them for
21 just a second and they didn't ---.

22 Q. Small talk or just
23 anything ---?

24 A. Just small talk.

25 Q. And then after you --- what

1 did you do after that? You drove out
2 of the mine?

3 A. No, kept preshifting. We do
4 the one roadway on the way in and the
5 other roadway on the way out.

6 Q. Okay. And then you went
7 outside?

8 A. Yes.

9 Q. And you said you took lunch
10 outside. About what time was that?

11 A. It would have been about 9:30
12 or 10:00.

13 Q. And after you had dinner, did
14 you say you went back into South
15 Crandall?

16 A. We done some work outside. I
17 went back into South Crandall because
18 there was a truck broke down. I went
19 in there and tried to get it to come
20 out and it wouldn't. So we ended up
21 dragging it out later on.

22 Q. So you did outby work until
23 what time?

24 A. It would have been about 2:00,
25 a little bit after, and then we

1 headed out. Tim and Brian went back
2 up. I don't know where they went.
3 They went up towards Crandall, and I
4 was getting ready to go into South
5 Crandall preshifting right after
6 that.

7 Q. So you were outside when you
8 got the call that an accident
9 happened?

10 A. Yes. I would have been --- I
11 just heard on the phone them talking
12 to Conspect.

13 Q. What did you hear?

14 A. That they had no
15 communication. They couldn't get
16 ahold of anybody in there. Brian was
17 in there saying that there was
18 stoppings down and they needed some
19 apparatuses.

20 Q. They was who? Who was the guy
21 telling you --- that you heard say
22 this?

23 A. Brian Pritt.

24 Q. Brian Pritt?

25 A. Yes.

1 Q. And then he was talking with
2 you directly?

3 A. No, he was talking --- on and
4 off. He was talking to Conspect. He
5 was talking to Gary Peacock. And I
6 was on another phone listening.

7 ATTORNEY MEANS:

8 He was in the mine?

9 A. Yes. He was in --- I think he
10 would have been up there close to
11 where I was at or, you know, as close
12 as we could get.

13 BY MR. O'DONNELL:

14 Q. And where was Gary Peacock at?

15 A. He was --- they called him and
16 woke him up.

17 Q. So he was at home talking to
18 you?

19 A. Yes.

20 Q. Okay. And you said you did
21 have a conversation with Gary
22 Peacock?

23 A. Two or three little short
24 ones.

25 Q. What did he tell you?

1 A. I told him I was heading in
2 there to check it out. He wanted me
3 to check that overcast out because he
4 says if it was out, all the air would
5 be short-circuited. He said, check
6 that before you head in there.

7 Q. Well, what did they say had
8 happened? Did anybody say ---?

9 A. The Conspect kid was telling
10 somebody, I don't know if it was Gary
11 or --- it would have been Brian, it
12 would have had to have been, that he
13 felt something out there, felt a bump
14 or a bounce or something.

15 Q. Outside?

16 A. Yes.

17 Q. So he's the first one, he's
18 the one that noticed something
19 happened, and he called inside? Or
20 did somebody inside ---?

21 A. It would have been the
22 Conspect alarms. The Conspect system
23 would have said that there was
24 nothing from there on in.

25 Q. Did you hear anything?

1 A. Well, I was in South Crandall
2 at the time that it happened.

3 Q. Okay.

4 A. From what I hear from the
5 timeline --- yeah, what I've read on
6 the time.

7 Q. So who asked you --- then it
8 was Pritt that asked you to get some
9 breathing apparatuses?

10 A. Yes.

11 Q. Okay. And where were those
12 at?

13 A. There was --- they were all
14 training ones, I did not know this at
15 the time, that was in the --- up
16 above the warehouse by the safety
17 department. The two fire brigade
18 ones were in the door in the room
19 next to it, and I grabbed them.

20 Q. And about what time did you
21 head in the mine?

22 A. I'm guessing 3:30. Everything
23 is kind of blending together right
24 there, so I'm guessing 3:30,
25 somewhere around there.

1 Q. Was anyone with you at that
2 time?

3 A. Not when I headed in. When I
4 hit Crosscut Four in Main West, I
5 picked up Tim Curtis.

6 Q. That's where you picked him
7 up?

8 A. Yes.

9 Q. And then the next time you
10 stopped was where?

11 A. We stopped and called at the
12 phones to tell Conspect what zones we
13 were going in. There was four zones.
14 The first one starts at Crosscut
15 Eight. The next one is at 52, 53,
16 54. Then the next one was at 86.
17 And so I stopped at all them and
18 called --- there was actually five
19 zones --- 13 in was another zone.

20 Q. And where was the --- the
21 overcast was at 91 crosscut?

22 A. Yes.

23 Q. Did you meet anyone else in
24 between there?

25 A. We missed Maxwell. He must

1 have been coming down the other
2 roadway or something.

3 Q. So how long did you stop at
4 91?

5 A. We probably --- we were there
6 for five minutes or less. We just
7 went in there and --- Tim went ---
8 stayed outside. I went in with my
9 meter and opened the door and went
10 and looked at the overcast on top of
11 it and checked the one out in belt
12 line two to make sure. And then I
13 looked at the hopper of the belt
14 line, the overcast, and there was a
15 regulator right on the other side of
16 it that was still intact. And there
17 was no air coming, so I figured it
18 was --- minimal air was all that was
19 coming.

20 Q. And you said --- what was your
21 qualities then, your air was ---?

22 A. My air was --- 21 is what my
23 meter said, and zero and zero.

24 Q. Okay. And is that where you
25 noticed that the air was in your

1 face?

2 A. No. I didn't notice it there.
3 It wasn't --- not there it wasn't.

4 Q. Okay. So you hop in the truck
5 and you drive on?

6 A. Yes. Me and Tim, we put our
7 meters outside. I had mine out for a
8 while he was driving, then Tim put
9 his out for a while, while I drove.
10 And the oxygen stayed pretty good. I
11 don't know where the air reversed
12 itself. I really didn't notice it
13 until I got in there.

14 Q. And where was your next stop?

15 A. Our next stop was right at the
16 phone, and I can't remember what
17 crosscut it was, 113 or something.
18 We told them we were going into Zone
19 Five. And right about two breaks
20 past that was where Brian Pritt
21 and ---.

22 Q. Did you notice --- and you
23 said that's where you noticed the air
24 was in your face?

25 A. Yes.

1 Q. And what was the visibility
2 like?

3 A. It was dusty up there.

4 Q. Was it?

5 A. Yes.

6 Q. Did you smell anything?

7 A. I couldn't smell anything, no.

8 Q. Okay.

9 A. Like, you know, when you would
10 get a cave-in, you'd usually smell
11 coal or rock, but I couldn't smell
12 anything. So I was kind of --- I
13 don't know what it was.

14 Q. So you were still kind of
15 puzzled? You didn't know --- you
16 didn't have an idea what had ---?

17 A. I didn't know. I figured it
18 was a bounce, but I didn't know what
19 it was. You know, I've been on the
20 longwall, and that's the only thing I
21 could think would do something like
22 that.

23 Q. So you've had experience with
24 that before. You know that the air
25 --- you know, you're going to pop a

1 wall out and the air may reverse
2 and ---?

3 A. Well, yeah. I've been on the
4 pillar sections in there, too.

5 Q. Okay. So now there are how
6 many of you at this time?

7 A. There's five --- well, six.
8 Maxwell, I really didn't see him.
9 Maxwell was underground, too. It was
10 just the five of us.

11 Q. Just the five of you. And
12 what did you talk about? What did
13 you say to each other now?

14 A. I don't remember.

15 Q. Okay. But as a group you
16 decided --- did you come up with some
17 kind of game plan that you wanted
18 to ---?

19 A. We were wanting to go in and
20 see what was going on. We were
21 worried. You know, there's only six
22 --- 10 or 12 of us there, you know,
23 so you get pretty close to guys. We
24 wanted to see what was going on.

25 Q. Sure. So how far did you walk

1 in before you noticed changes, other
2 than the air?

3 A. Other than the air coming in
4 our face? When the air first was
5 coming in our face, the oxygen wasn't
6 low. It was down, but I can't
7 remember what it was. We went in.
8 The place where I really noticed it
9 was when we got to that fire brigade
10 trailer --- or not fire brigade, but
11 --- I can't remember if it was the
12 first-aid or barricade. I think it
13 was the barricade is what it was. I
14 wish I could remember the crosscut,
15 but I can't.

16 Q. I have a closer map. Let me
17 get it for you.

18 ATTORNEY MEANS:

19 And that was where you
20 first noticed that the oxygen
21 was bad?

22 A. It was down a little bit
23 before, but it was still in the 20s.

24 BY MR. O'DONNELL:

25 Q. There are some marker pens

1 there. Are you familiar with this
2 map?

3 A. Yes.

4 MR. O'DONNELL:

5 Okay. And this is
6 another --- this is from the
7 AutoCAD file that we received
8 from the company and we
9 printed the map from there.
10 And please mark this Hardee
11 Exhibit One.

12 (Hardee Exhibit One
13 marked for
14 identification.)

15 A. I can't remember where that
16 was.

17 BY MR. O'DONNELL:

18 Q. Well, if you can't remember,
19 that's fine. It's just --- and if it
20 comes back to you, just when you ---
21 mark it when you can remember. So
22 where did you park your truck at?

23 A. The phone was down here.
24 Where the phone was, it was one break
25 past that. We would have been past

1 here.

2 Q. Could you just ---?

3 A. I guess it would have been
4 around ---.

5 Q. Just mark phone and describe
6 where that location is.

7 A. The phone would have been
8 somewhere in this area.

9 Q. So you're marking in the
10 Number One entry?

11 A. Yeah.

12 Q. Somewhere between Crosscut 113
13 and 116. Okay.

14 ATTORNEY MEANS:

15 And you say you left
16 the vehicle there?

17 A. Yes. We walked up --- boy, I
18 wish I could remember where that
19 trailer was.

20 ATTORNEY MEANS:

21 Could I ask, why did
22 you not keep driving? Was
23 there stuff on the roadway?

24 A. It was dusty.

25 ATTORNEY MEANS:

1 It was hard to see?

2 A. Yes.

3 BY MR. O'DONNELL:

4 Q. So that's where the visibility
5 got to a point where ---?

6 A. Yeah, the visibility got down
7 there, but the oxygen was still good.

8 Q. Okay. So try to remember
9 where maybe you start --- you were
10 walking up Number One?

11 A. Yeah.

12 Q. And when did you start seeing
13 the debris?

14 A. The debris there really wasn't
15 --- the crosscuts were in --- you
16 know, the stoppings were out. All
17 the stoppings were out.

18 Q. All the stoppings from, say,
19 119 out, you're saying?

20 A. All the stoppings from 95 that
21 were Kennedy panels as far as I ever
22 made it, were out.

23 Q. Okay. So let's walk up Number
24 One.

25 A. Okay.

1 Q. Tell me what you're seeing.

2 A. There was a lot --- where it
3 had bounced enough to --- well, I
4 know the stoppings were out, but I
5 don't remember a lot of coal being
6 around until we got up by that
7 trailer from the ribs.

8 Q. And you're still trying to
9 remember where that trailer might
10 have been?

11 A. Yeah, and I cannot remember.
12 I want to say 122, but I'm not sure.

13 Q. So roughly ---?

14 A. Yeah. It's roughly in this
15 --- from 120 to 124 is the fire
16 brigade trailer or the barricade
17 trailer.

18 Q. When you did, that's where you
19 start noticing some coal on the road?

20 A. Yeah. Right there. And the
21 sides by the fire brigade trailer had
22 come in ---

23 Q. Let me ask you this.

24 A. --- the barricade trailer.

25 Q. Now, when did the other four

1 A. I know Jameson claimed he
2 couldn't breathe very good through
3 it, but I think he was excited is
4 what ---.

5 Q. So did he get it going finally
6 and ---?

7 A. Well, we kind of --- he didn't
8 tell me that until we got back.

9 Q. Oh, okay. So two put them on?

10 A. Yes.

11 Q. And two put the other ---

12 A. Yes.

13 Q. --- fire brigade apparatuses
14 ---? That's like firefighter ---

15 A. Yes.

16 Q. --- bottle-type thing?

17 A. Yes.

18 Q. Okay. And you followed behind
19 them?

20 A. Yeah, just five feet, ten feet
21 behind them. I knew that they only
22 --- you figure 30 minutes is what
23 they're worth, and you can't make it
24 in here in 30 minutes and back.

25 Q. So where did you get to where

1 you couldn't make it anymore? Did
2 they --- just tell me.

3 A. The sides come in, it was one
4 --- maybe one-and-a-half past the ---
5 if that's where --- I'm not sure
6 where the ---

7 Q. Okay.

8 A. --- barricade trailer was. It
9 was one, maybe one-and-a-half past
10 that.

11 Q. Uh-huh (yes).

12 A. And let's see, what would it
13 have been? It would have been the
14 south rib had blown out. And the
15 corner of the roof on the other side
16 of the --- between the bolts and the
17 rib are blown out across the
18 crosscut.

19 Q. And how high was it?

20 A. On the south rib, it was
21 probably almost up to the roof. And
22 down on this end it was probably two
23 feet, three feet.

24 Q. It looked like it blew off the
25 barrier side?

1 A. Yes.

2 Q. And you couldn't get through
3 there?

4 A. No.

5 Q. And then did you try to get
6 over into any of the other entries?

7 A. Not at that time because the
8 oxygen was starting to go down then
9 noticeably.

10 Q. Like how much?

11 A. It was --- well, you know,
12 it's not a lot, but it was down to
13 18.5.

14 Q. Yeah.

15 A. You know, it was going to get
16 worse if it got more ---.

17 Q. So what did you do then?

18 A. We decided to pull back and
19 start establishing ventilation in our
20 area.

21 Q. Okay. Didn't try to explore
22 anywhere else?

23 A. Not at that time, no.

24 Q. Did you ever attempt to
25 explore any?

1 A. No.

2 Q. Did the other four guys?

3 A. No.

4 Q. So that was it? You just
5 tried to get into Number One and ---?

6 A. Yeah.

7 Q. Did you look through the door
8 in Two or ---?

9 A. We was --- everything was
10 open.

11 Q. Oh ---.

12 A. Honestly, that belt line was
13 pretty good until we got up at the
14 --- right about where that barricade
15 trailer was.

16 Q. And how did you know that it
17 was bad over there?

18 A. We didn't. We just decided we
19 better get the ventilation going
20 because ---

21 Q. Okay.

22 A. --- it wasn't --- we couldn't
23 --- we weren't going to make it up
24 there with what oxygen we had.

25 Q. Okay. So you go back to which

1 crosscut?

2 A. We went back --- me and Tim
3 went back to --- it don't have the
4 drives on it.

5 Q. These are the drives. That's
6 the drives. These are the drives.

7 A. Okay. 103, I guess, is where
8 that drive is.

9 Q. Okay.

10 A. And me and Tim went back to
11 103 and started to put that rag in
12 and started working our way down.
13 The oxygen was good right here.

14 Q. Okay.

15 A. All we did was the return
16 stoppings.

17 Q. And that would be the walls
18 from the belt line to the return?

19 A. Yes.

20 Q. So that would be on the north
21 side of the belt?

22 A. Yes.

23 Q. Was there a phone? Did you
24 talk to anybody when you were up in
25 the section?

1 A. Yes. We talked to them from
2 this phone. I didn't --- I told
3 Conspect that I was in there, me and
4 Tim were.

5 Q. Okay.

6 A. We went up there. When we
7 were coming back, I told somebody,
8 but I don't know who it was, and I
9 don't know if it ever happened, but I
10 told them they better tell Gary to
11 call mine rescue. I think he already
12 had, though, from what I understand.

13 Q. Did you try to communicate at
14 all with anybody inby?

15 A. No. But I know Conspect ---
16 you could hear on the phone
17 calling ---.

18 Q. What about beating on the belt
19 line or pipeline or anything
20 like ---?

21 A. No.

22 Q. Nothing? Okay.

23 A. When we come back in later we
24 were, but --- you know, there was
25 people doing it. When we established

1 ventilation it was later.

2 Q. So you went out, you started
3 hanging rag. You could tell that the
4 air was getting better.

5 A. The air back here never did
6 really get better, back by Five
7 drive.

8 Q. Okay. So you're advancing to
9 what point when you stopped and went
10 inby again?

11 A. We went --- me and Tim went
12 down to 95 and then went down and
13 done one at 93, and then we started
14 leapfrogging with it. By the time we
15 got back in the section to go in,
16 there was probably four other, five
17 other groups that were leapfrogging
18 with everybody and bringing material
19 in and putting them ---. There was a
20 couple that were following the ones
21 that we had already put in, foaming
22 the edges and ---.

23 Q. So tell me when you went back
24 in the section again.

25 A. It was right before --- we

1 were still putting rag up in the
2 return. Well, we just got up to ---
3 I think it was 125, where nobody
4 could make it past anymore. It might
5 have been 126, where --- you know,
6 Gary had told me that they couldn't
7 make it past that.

8 Q. Was Gary in there?

9 A. He was in there that time. I
10 don't know how he heard.

11 Q. Okay. So you, yourself, other
12 than the Number One entry, that's all
13 you saw?

14 A. I saw the Number Two entry
15 while we were ragging it on our way
16 in.

17 Q. Okay. And you were sure that
18 it was bumped off the ribs, that it
19 didn't come from inby/outby?

20 A. I know it didn't come from the
21 roof, from what I could see.

22 Q. Okay. And how far did you get
23 into Number Two before you couldn't
24 get any further?

25 A. The farthest I made it was 120

1 --- probably 124, because we got past
2 wherever that ---. In the intake,
3 when we were coming up the belt line,
4 we couldn't get past that, but we
5 were --- the belts was probably three
6 feet off the ground, the top of it.
7 The chains were broke also, but we
8 were walking on top of that.

9 Q. You were walking on top of
10 the ---?

11 A. The belt.

12 Q. The belt or the coal?

13 A. Because the sides were coming
14 in ---.

15 Q. Okay.

16 A. So it evened all out --- well,
17 it was like this (indicating). But
18 right in the middle where the belt
19 was, it was still there.

20 Q. So then what happened? By
21 then you get the call?

22 A. Yeah, sometime around that
23 time. Me and Tim went to go out.
24 Well, we got PEDs is what we got, our
25 PED lights. I got one that says come

1 outside immediately. So did Tim. So
2 did Brian. Me and Tim got together
3 and went and got Brian and --- we had
4 a rough time getting Brian to come
5 out. He didn't want to go out. We
6 all headed outside.

7 Q. Did you ever get any other
8 PEDs before then?

9 A. Before then, I don't remember.

10 Q. Okay. But you do remember
11 that one?

12 A. Yes.

13 Q. That was ---?

14 ATTORNEY MEANS:

15 Do you mean before then
16 that night?

17 Mr. O'DONNELL:

18 Any time on that shift.

19 A. I don't remember any.

20 BY MR. O'DONNELL:

21 Q. Okay. So that was it. And
22 tell me how you know that you're
23 getting a PED message.

24 A. Your light flashes and you can
25 hear a beep. Sometimes if you're in

1 a truck driving around, you don't
2 hear it. You know, unless you have
3 your light on, you won't hear it,
4 especially as deaf as I am.

5 Q. And there's a text message?

6 A. Yes.

7 Q. Okay. When you went outside,
8 who was there?

9 A. There was a guy from MSHA, but
10 I cannot recall his name. Jameson
11 and Tim were talking to him. Tim
12 Harper were talking to him when me
13 and Tim Curtis got out and we went up
14 and talked to him also. He was just
15 basically finding out where we went
16 and what went on and stuff.

17 Q. A debriefing?

18 A. Yeah.

19 Q. Okay. What about any of your
20 management people or other miners,
21 did you also get debriefed through
22 those people?

23 A. Bodee was in there while they
24 were debriefing us, and he was asking
25 questions. Bodee Allred.

1 Q. Okay.

2 A. That's --- he's the only one I
3 recall.

4 Q. So when did you know --- did
5 someone call you at home to report
6 back to work?

7 A. Yes. I got a call later that
8 day, about 3:00 or 4:00, I'm
9 guessing, to come to work that night.

10 Q. So you came to work ---

11 A. Yes.

12 Q. --- for your regular shift?

13 A. Yes.

14 Q. Now, maybe you could give me
15 just a run-through of what your job
16 duties were from the 6th to the next
17 accident on August 16th.

18 A. I was on the belt drives for
19 most of the time, basically. I think
20 I was on Five belt and Six most of
21 the time.

22 Q. Doing what?

23 A. Just making sure they kept
24 running. Well, when we got in, they
25 had most --- they had the tail piece

1 set. The first day we got in there
2 --- I can't remember. Everything
3 just kind of blurred together there.
4 But I do remember that --- I don't
5 think we were on the belts that first
6 shift. They had everything ready to
7 go. I can't remember if they didn't
8 have approval or what. And the rest
9 of the time it was basically ---

10 Q. Did you ever go up ---

11 A. --- keeping the belt running.

12 Q. --- to where the
13 recovery/rescue work was being done
14 with the miner and ---?

15 A. One time. Well, one day I was
16 --- we had a corner man that would
17 bring supplies from right here on Six
18 belt. They would bring the supplies
19 from there into the section, all the
20 rock props and all that. I was
21 bossing that day. And I went up
22 there several times during the day
23 that day.

24 Q. Did you help with the work?

25 A. Just dropping off stuff. You

1 get up there, there was a bunch of
2 people, and it looked like they knew
3 what they were doing, and I didn't
4 want to get in the middle of it.

5 Q. I forgot to ask you, when you
6 were up there on the 6th, what was
7 --- was the roof still --- or the rib
8 and the bottom still making noise
9 when you were there?

10 A. Not when I was preshifting.
11 In fact, that whole section, from
12 when I preshifted it for three weeks
13 had been quieter than it had been for
14 quite a while.

15 Q. I mean, when you and the other
16 four guys were up there, when they
17 had the apparatuses on ---?

18 A. I don't think it ever did
19 bounce while they were up there. It
20 might have. If it did, I don't
21 recall it.

22 Q. Okay. Because I forgot to ask
23 you that one. We hear the word
24 bounce a lot.

25 A. Yeah.

1 Q. What's your definition of what
2 a bounce is? One of them anyway.

3 A. Just noise you're hearing. I
4 don't know how you describe a bounce.
5 It's just the top or the bottom
6 taking weight and blowing the ribs
7 out, basically, on the face. I'm
8 just --- I ---.

9 Q. Is it like all around you?

10 A. Yeah. Well, if you're in the
11 middle of it, yeah.

12 Q. Can you feel it under your
13 feet?

14 A. Yes. When we were in probably
15 panel 17 on the longwall, I broke my
16 leg from a bounce on the face. It'll
17 pick you up and throw you around.

18 Q. We'll get back to that one.
19 We'll talk about that a little bit
20 later. But up to the 16th, ---

21 A. Yeah.

22 Q. --- you were in the mine the
23 day of the second accident?

24 A. Well, we --- I just got there
25 and was getting ready to preshift

1 again. We changed our preshift times
2 to South Crandall back to coincide
3 with Crandall, ---

4 Q. Okay.

5 A. --- so we had --- they started
6 at 7:00, so we had an hour before we
7 had to preshift. So me and Tim
8 Curtis hopped in the truck and went
9 into --- we have a washdown to clean
10 trucks off at 50 --- 49, 50. I think
11 it is 50. We washed our truck and
12 was coming back outside when we heard
13 somebody calling from the section on
14 the phone saying there was --- broken
15 legs was the first word I heard.
16 There's probably a lot of broken legs
17 and stuff and we need you to help in
18 there. We need to get air in there.

19 So me and Tim turned around.
20 We were at Crosscut Eight when we
21 heard that. We turned around and
22 headed in the section. We were going
23 to check the stoppings to make sure
24 that nothing was blown out. Gary
25 Peacock passed us going in at 88 and

1 told us to start at Six drive and do
2 the ventilation. We told him we were
3 already on the way in. So he went
4 in. And we got ventilation and
5 headed into the section. Told
6 Richard Maxwell, who was
7 communicating outside, that all the
8 air was as good as we could get it.

9 There was one stopping down at
10 114, and I think that affects
11 everybody. And then we went up to
12 where it caved down and started
13 unburying people and taking them out.

14 ATTORNEY MEANS:

15 There was only one
16 stopping down, Brent?

17 A. That's the only one we come
18 across. I'm pretty sure it was 114.

19 BY MR. O'DONNELL:

20 Q. So you helped in the recovery
21 of the men?

22 A. Yes.

23 Q. Is there anything you want to
24 tell us about that?

25 A. ^{(b) (7)(C)} Them guys ---

1 everybody in there did a good job.

2 Q. Was it still making any noise
3 when you were up there?

4 A. I never heard any noise.

5 Q. So you've been at the mine
6 quite a long time. And I'm sure you
7 probably traveled just about in every
8 area.

9 A. Pretty much, except for behind
10 the north seals and main north, them
11 two sections coming out there. Well,
12 I was in the one on this side, but
13 that was before I was ---.

14 Q. Did you ever do any weekly
15 exams, too?

16 A. On the belts we used to do
17 them. It kind of went away to
18 somebody else doing them. But I've
19 done a weekly in the bleeder before.
20 And that's the only one I remember
21 doing, other than the belts we used
22 to do.

23 Q. What about working up in the
24 north barrier?

25 A. Up here?

1 Q. Yeah. Did you preshift up
2 there?

3 A. Yes, we had. Yeah. I don't
4 remember a lot about it. We went off
5 for a weekend, for a few days off,
6 and when we come back, they had
7 started pulling everything out.

8 Q. Do you know why?

9 A. I heard because --- it was
10 getting ugly up there is all I heard.

11 Q. Did you hear that they had a
12 bounce?

13 A. Yeah. It seems to me like I
14 did. I just heard it was getting
15 ugly, and I probably just --- I might
16 have heard it or I might have just
17 assumed that.

18 Q. Did you ever get to go up
19 there and see it or look at it
20 or ---?

21 A. When they were pulling
22 pillars, no. No, I didn't.

23 Q. What about when it bounced
24 after that?

25 A. Truthfully, they had most

1 everything gone from --- I'm trying
2 to think. I don't remember where,
3 but they had a breaker row set across
4 all four entries somewhere, and we
5 basically worked on removing belt and
6 everything from there.

7 Q. So you helped with that?

8 A. Yes.

9 Q. Where did you hear or who did
10 you hear it from that it bounced when
11 they were pulling out?

12 A. I don't know, to tell you the
13 truth. It's probably just --- heard
14 it around the mine and stuff. I
15 heard it --- I just heard (b) (7)(C)

16 (b) (7)(C) I probably --- I might have
17 assumed that's what it was, but ---.

18 Q. Do you remember --- whenever
19 you were doing any of your
20 examinations, do you ever remember
21 areas that had heaved?

22 A. We had some in the belt line,
23 somewhere up in here.

24 Q. Which is what crosscuts?

25 A. I cannot remember. I know

1 that the one they got wrote up for.
2 They got a violation on it. And
3 there was another one just a little
4 ways from that.

5 Q. Up in the 140s or ---?

6 A. I ---

7 Q. Don't remember?

8 A. --- don't remember.

9 Q. Did you see it?

10 A. I seen one a little bit before
11 that. Well, it wasn't very long
12 before that we took care of. We kind
13 of raised the belt up and we kind of
14 knocked it down a little bit.

15 ATTORNEY MEANS:

16 I missed that, Brent.

17 Did you say that there was one
18 you got written up for ---

19 A. Yeah.

20 ATTORNEY MEANS:

21 --- in the belt? And
22 were there others?

23 A. I think there was one more.
24 But it might have been the same one,
25 to tell you the truth. With going on

1 and off shifts and working weekends,
2 you ---.

3 BY MR. O'DONNELL:

4 Q. Do you think that the two ---
5 or the belt might have been the
6 one ---?

7 A. It could have been.

8 Q. It was all the belt entry,
9 though?

10 A. Yeah. The belt entry ---

11 Q. Okay.

12 A. --- is the only --- the belt
13 entry was the one that looked the
14 worst out of all of them that I've
15 been in. You know, we'd go dust this
16 Number Three entry sometimes and do
17 other stuff, and the belt ones for
18 some reason always looked worse than
19 the others.

20 Q. Could you describe what the
21 rib looked like?

22 A. The ribs --- they come in
23 pretty good on there. We had some
24 timbers set here and there where it
25 had gotten over four-and-a-half feet,

1 you know, just --- but I could not
2 tell you where they were all at.

3 Q. What about any heaves up in
4 the north side, north barrier?

5 A. I don't ever remember it
6 heaving up there.

7 Q. What about a comparison
8 between the two sections, as far as
9 ground condition, bottom rib, roof,
10 water?

11 A. We haven't --- I don't ever
12 remember having --- we had water.
13 That's why we ended up pulling out or
14 not finishing going to the end.

15 Q. Of the north barrier?

16 A. Yes. I do remember that.

17 Q. Do you remember where the
18 water was coming from?

19 A. I remember we had a pump at
20 150, but I don't know where --- they
21 drilled a draining tool here
22 somewhere between these two, but I
23 don't remember where that was either.

24 Q. Do you think it was coming
25 from the roof?

1 A. I never did know for sure.

2 Q. Okay.

3 A. That's kind of where I assumed
4 because when we developed this out
5 here, there's a Joe's Valley Fault
6 there and it's pretty wide out
7 there ---

8 Q. Okay.

9 A. --- coming from the roof.

10 Q. What about in the west mains,
11 you said --- you were talking about
12 up by the Joe's Valley Fault.

13 A. Yeah.

14 Q. You also preshifted that?

15 A. Yes. This is sealed off from
16 here.

17 Q. I know it is now, but back
18 when it wasn't.

19 A. No, I never --- I wasn't
20 preshifting. They developed that
21 back in --- well, I wouldn't even
22 dare guess --- say when.

23 Q. So when you got to the mine,
24 it was already sealed?

25 A. No, I --- when I got --- when

1 they developed that Main West
2 section, we were developing the Main
3 South, too. And I think they were
4 developing the longwall panel, the
5 first one.

6 Q. So you weren't a preshifter
7 whenever ---?

8 A. No, I was --- in fact, I was a
9 roof bolter back then, when they
10 developed that.

11 Q. So you developed the south
12 main?

13 A. Yes, we developed it.

14 ATTORNEY MEANS:

15 You personally were
16 involved in bolting it?

17 A. Yes.

18 BY MR. O'DONNELL:

19 Q. And what about pillaring it?

20 A. I was preshifting belts then,
21 when we were pillaring it.

22 Q. So you developed that for
23 longwall development?

24 A. Yeah. We developed that. It
25 sat for a long time. They started

1 the Six East, and all that stuff up
2 there, just exploring. Well, the Six
3 East was --- it's a long story. They
4 were going to go into South Crandall
5 and from South Crandall that's how
6 they were going to get into here,
7 but ---.

8 ATTORNEY MEANS:

9 Where is Six East?

10 A. Six East is right here. That
11 was going to come over and coming
12 right here, and that's what they were
13 going to use to --- they had some
14 leases down here, and they were going
15 to use that.

16 BY MR. O'DONNELL:

17 Q. How was the south on the
18 drive?

19 A. South on the drive?

20 Q. Yes.

21 Q. It was pretty good. We hit
22 dikes down towards the bottom that
23 were --- you could just reach in and
24 kind of squish them. It was the
25 weirdest stuff you'd ever seen.

1 Q. Dikes?

2 A. Yeah, just ash --- I don't
3 know how you'd describe it.

4 Q. Was it mud?

5 A. It was mud and then it was ---
6 you'd have a --- what's that, pyrite
7 in it, big chunks of iron pyrite in
8 it. It was weird. But it stayed up
9 pretty good.

10 Q. It was in the roof?

11 A. It was in the roof and the
12 floor. It went all the way.

13 Q. So how did that area drill?

14 A. When we were roof bolting it,
15 I --- it seems to me like on either
16 side of --- that was hard top down
17 there.

18 Q. Was it?

19 A. I do remember that.

20 Q. And what was the mining height
21 like?

22 A. Well, it was --- it varied.
23 It varies a lot through there,
24 anywhere from --- it's always --- it
25 was all about eight feet, ten feet

1 there.

2 Q. Was it? And did you
3 experience any bumps or bounces
4 there?

5 A. I don't remember developing
6 it. It never happened like that, no.

7 Q. Any heave?

8 A. Not that I ever --- I can't
9 remember that.

10 Q. Well, then did you also pillar
11 that out?

12 A. I was --- we pillared that out
13 after we pulled all the longwall
14 panels. We only done that --- oh,
15 they pillared that out, and then we
16 moved up and done the west, them two
17 barriers.

18 Q. Okay. So how was it pulling
19 that?

20 A. It seems to me like from what
21 them guys said, it pulled really nice
22 all the way out, just done what they
23 wanted it to the whole way --- never
24 did --- I don't remember anything
25 ever getting real ugly.

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ATTORNEY MEANS:

So Brent, you say you advanced to south mains, developed it all the way on the advanced. Then did the longwall panels off to the east; is that right?

A. Yeah, we done them years ago. And then when I --- I went on the longwall panel on panel three --- or on the longwall in panel three, about halfway through it, and pulled all the rest of them out.

ATTORNEY MEANS:

And then after the longwalls were done on the east side of the south mains, you went back and pillared the south mains?

A. No, we done that a long time later. We pulled these pillars here. I'm going to start at 96, and we come back and went up through ---.

BY MR. O'DONNELL:

Q. You pulled the pillars,

1 this ---?

2 A. We pulled these longwall
3 panels.

4 Q. Okay, longwall panels. And
5 you're pointing to Three, Four, Five
6 and Six?

7 A. Yes.

8 Q. And then are you talking about
9 the three-and-a-half east area or the
10 second left?

11 A. When we finished pulling all
12 these, I think is as far as I went
13 that day, is what I recall.

14 Q. Okay.

15 A. They done these while we
16 were ---.

17 Q. All right. So you went up
18 onto the north side panels?

19 A. We were supposed to start at
20 the longwall here and come along this
21 other ---.

22 Q. You drove --- and you're
23 talking about in the first main,
24 second north?

25 A. Second north.

1 Q. And you drove that?

2 A. Yes.

3 Q. And did you drive the gate
4 entries also?

5 A. No, we didn't. We went up to
6 the end, the belt wall. That's when
7 they pulled ---. We only had one
8 crew, and that's when they ---.
9 Well, one crew do the longwall and
10 another crew --- I can't remember
11 what they were doing there.

12 Q. That was the west mains
13 development?

14 A. I can't remember where they
15 were, to tell you the truth.

16 Q. So where did you get your leg
17 broke?

18 A. Seventeen (17). It was a
19 little top --- there was a little
20 mound that was high it just wanted to
21 come out. It was real deep.

22 Q. That was on panel 17?

23 A. Yeah.

24 Q. And what was your job when you
25 were working panel 17?

1 A. Propman. Well, that's what I
2 was doing. There was four of us, two
3 propmen, two machine operators. And
4 you'd get bored, so we'd trade off
5 two or three times a shift.

6 Q. About when was that when it
7 bumped and ---?

8 A. Let me look at something. It
9 was right before we were going on
10 vacation. My wife was mad.

11 ATTORNEY MEANS:

12 You remember that kind
13 of thing?

14 A. Yeah.

15 BY MR. O'DONNELL:

16 Q. Did you ruin the vacation?

17 A. She probably thought I did.
18 Would have been December of '01.

19 Q. Okay.

20 A. So it would have been right
21 here.

22 Q. So how did it happen? You
23 said --- tell me about it.

24 A. We just cut through the
25 tailgate. Me and the boss were up

1 you?

2 A. No, it was just me. There was
3 only one chunk of coal. In fact, it
4 didn't even put any coal in the
5 channel.

6 Q. Is that the only --- overall,
7 now that you got your (b)(7)(C) on
8 that one, ---

9 A. Uh-huh (yes).

10 Q. --- what about other bounces
11 in the mine?

12 A. And some of them longwall
13 panels were --- we'd get some good
14 bounces, but we'd put up a bunch of
15 protection, but ---.

16 Q. Was it always --- did you see
17 --- like you said, that wasn't a
18 topographical map. Did you notice
19 the bounces in the deep cover areas?

20 A. That one there seemed to be
21 pretty bad. It just had a --- just a
22 little around heel that was close. I
23 noticed bounces more on that like
24 when we would be going in to ---
25 coming out of a crosscut or

1 something.

2 MR. O'DONNELL:

3 Let's take a ten-minute
4 break. I'll see if my
5 colleagues here have any
6 questions.

7 SHORT BREAK TAKEN

8 BY MR. O'DONNELL:

9 Q. Let me ask you about the night
10 of August 6th. Do you remember who
11 was on Conspect that night?

12 A. Boy, I know them ---.

13 Q. Who?

14 A. There was two guys. Boy I
15 know them both. I can't remember
16 their names.

17 Q. If it comes to you. Do you
18 remember when you were putting the
19 stoppings --- when you were replacing
20 the stoppings with the rag which way
21 the stoppings were blown?

22 A. The intake ones I know were
23 blown towards the intake. The return
24 ones --- let me think about that one.
25 I don't recall.

1 Q. Okay. You're on the belt line
2 and you're fixing the ones between
3 the north side of the belt line and
4 the returns.

5 A. Yeah. The ones on the south
6 side, I know they were blown towards
7 the intake. The north ones ---.

8 Q. The ones on the south side
9 were blown towards the ---

10 A. The ones that I --- I had to
11 crawl over one once to get some rags.
12 I remember that now. They were so
13 farther back towards the return. I
14 don't remember, to tell you the
15 truth. I'm trying to picture it and
16 I can't.

17 Q. The intake ones were blown
18 towards the belt?

19 A. Blown --- the one that I had
20 to cross over --- well, I had to
21 cross over a couple to grab another
22 little rag off --- that somebody
23 brought in and some more pogo sticks
24 and stuff like that.

25 ATTORNEY MEANS:

1 I'm confused.

2 MR. O'DONNELL:

3 Yes. Well, I am, too.

4 BY MR. O'DONNELL:

5 Q. Which way? You're on the ---

6 A. I'm on the intake.

7 Q. --- Number One entry; right?

8 A. Yeah.

9 Q. Which way were the Kennedies
10 blown?

11 A. On the return side --- I don't
12 know. I can't remember.

13 ATTORNEY MEANS:

14 But on the intake?

15 A. The intake, they were blown
16 towards the south. Towards the
17 south.

18 ATTORNEY MEANS:

19 Towards the barrier?

20 A. Yeah.

21 BY MR. O'DONNELL:

22 Q. Towards you?

23 A. Yes. But that could have been
24 the concussion, you know. I don't
25 know if you ever felt a concussion

1 like that.

2 Q. Yeah.

3 A. It might have blow either way.

4 Q. Let me ask you about that
5 citation you were talking about for
6 floor heave. Do you know why you got
7 a citation for floor heave?

8 A. I think a roller was in it,
9 but I'm not absolutely positive.

10 Q. Okay. You've been a mine
11 examiner for --- since ---?

12 A. With the belts and stuff, I've
13 been doing it since 2003. And then I
14 got the mine foreman --- or the
15 fireboss job in --- oh, it would have
16 been February 2006.

17 Q. And when you're doing your
18 exam, what do you --- what kind of
19 things would you put in the book?

20 A. Well, I mean, in the intakes,
21 if it needed rock dust. The roofs
22 were always really good about
23 everywhere. If timber had been
24 knocked out, if the rib had come in,
25 needed a timber set, deep water, you

1 know.

2 Q. Hazards?

3 A. Yes.

4 Q. Do you recall when you've put
5 things in the book?

6 A. Yeah. No. Not specific, no.
7 I know I've wrote stuff up in the
8 belt line and wrote up deep water and
9 timbers here and there, but I don't
10 remember the specifics.

11 Q. Have you ever been told what
12 to put in the book and what not to
13 put in the book?

14 A. No. We have --- the shift
15 foreman is not happy sometimes, but
16 he never has said one word, you know,
17 because there's three of us outby and
18 we got other --- but he's never said
19 one --- he never said one word to me
20 about anything. Nobody ever does.

21 Q. Okay. Would you ever, if you
22 were doing an exam, write a floor
23 heave? Would you enter a floor heave
24 in a book, and why?

25 A. I don't know if I --- if it

1 was dropping a roller, yes, or if it
2 was in the walkway, yes. If it was,
3 you know, a truck hazard, if it was
4 in the walkway. You know, if I
5 noticed it, I'd let ---.

6 Q. But not the heave itself?

7 A. No. It would be the hazard
8 associated with it.

9 Q. Okay.

10 A. I would let people know.

11 Q. Sure. If conditions aren't a
12 hazard, ---

13 A. Yeah.

14 Q. --- where would you put that
15 in the book, if it was just ---?

16 A. We'd probably just tell ---
17 you know, just communicate it with
18 the shift foreman or mine foreman.
19 Gary's office is never closed.

20 Q. What about your notes? Do you
21 keep notes?

22 A. I had notes for preshifting,
23 but I lost them that day on the 6th
24 somewhere while we were putting up
25 stoppings or when we were going in

1 mining anymore since then, and I
2 threw away all that stuff, I think.
3 I might even not had a notebook then.
4 I'd have to look through my locker
5 and ---.

6 Q. So you're out of mining now?

7 A. Yes. My (b)(7)(C) (b)(7)(C)
8 was killed in a mine. And when this
9 second one happened, then I couldn't
10 put her through that no more.

11 Q. I know this may be difficult,
12 but we're trying to sort out --- I
13 know you were up there during the
14 accident on the 16th. How close were
15 you to the actual accident scene?

16 A. (b)(7)(C)
17 (b)(7)(C)

18 Q. If I would give you a sketch
19 we have of --- that we took of the
20 area, would you be able to locate
21 people for us? We're trying to ---.

22 A. The only one I probably could
23 would be Dale Black and --- that's
24 the only one I really would. You
25 know, the others --- Gary had

1 interviewed me before, Gary Jensen.
2 That's his name, isn't it?

3 Q. Yes.

4 A. He had interviewed me once
5 before for a little bit, so I know
6 him a little bit. But the others, I
7 really didn't know them, other than
8 Dale Black and --- well, I knew
9 Brandon pretty good, I guess, but I
10 don't know --- they had Brandon out
11 by the time we got there.

12 Q. Okay.

13 A. They had three or four that I
14 can't remember. It was just --- it
15 seemed like we were pulling one out
16 every ten seconds, and there was
17 still a bunch there. The guy that
18 could probably give you the best on
19 that was --- I just lost his name.
20 He's from over the mountain, too, but
21 he's a smart guy. But he was right
22 there when that happened. I can't
23 remember his name, though.

24 MR. WATKINS:

25 If you think of it

1 later, feel free to let us
2 know.

3 A. He's up --- he's still up at
4 Genwal --- or up at Crandall still.

5 BY MR. O'DONNELL:

6 Q. Is that a boss or ---?

7 A. He's just --- Phil Gordon.

8 Q. Phil Gordon, okay.

9 A. Phil Gordon, he was there.
10 And he's got really --- I was quite
11 impressed.

12 Q. Okay. So what kind of work do
13 you do now?

14 A. I'm a hotshot truck driver.
15 You know how that is.

16 Q. Have you given a written
17 statement to anyone before this
18 interview regarding the accident or
19 talked to anybody?

20 A. No. I talked to the lawyers
21 and Gary a little bit and, you know,
22 the company guys here and there, but
23 nothing written or anything.

24 Q. Has anyone offered you
25 anything or made a promise to you in

1 exchange for ---

2 A. No.

3 Q. --- being here or not being
4 here?

5 A. No.

6 Q. Do you have anything relevant
7 that you think --- anything that you
8 can add that may help us in the
9 investigation?

10 A. I wish I did. I don't know.
11 I don't know. I wish I did, though.

12 MR. O'DONNELL:

13 On behalf of MSHA, I
14 want to thank you for
15 appearing and answering
16 questions here today.

17 A. Okay.

18 MR. O'DONNELL:

19 Your cooperation is
20 very important to the
21 investigation as we work to
22 determine the cause of the
23 accident. We ask that you not
24 discuss your testimony with
25 any person who may have

1 already been interviewed or
2 who may be interviewed in the
3 future. This will ensure that
4 we obtain everybody's
5 independent --- everyone's
6 independent recollection of
7 the events surrounding the
8 accident.

9 After questioning other
10 witnesses, we may call you
11 back ---

12 A. Okay.

13 MR. O'DONNELL:

14 --- if we have any
15 follow-up questions that we
16 feel we might need to ask you.
17 So at any time you have any
18 additional information
19 regarding the accident you'd
20 like to give us, just contact
21 Mr. Gates at the contact
22 information that I gave you.

23 The Mine Act provides
24 certain protections to miners
25 who provide information to

1 MSHA and, as a result, are
2 treated adversely. If at any
3 time you believe that you have
4 been treated unfairly, just
5 contact us. Contact MSHA.

6 If you wish, you can go
7 back over any answer that you
8 gave us now, and you can make
9 a statement.

10 A. I think everything is all
11 right.

12 MR. O'DONNELL:

13 Thanks again. We
14 appreciate you coming forward.

15 * * * * *

16 STATEMENT UNDER OATH

17 CONCLUDED AT 6:13 P.M.

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