

STATEMENT UNDER OATH
OF
JAMES POULSON

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 Wednesday, October 31, 2007 beginning at 8:02 a.m.

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APPEARANCES (cont.)

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ALSO PRESENT:

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P R O C E E D I N G S

MR. GATES:

Jim, my name is Richard Gates, and I'm an accident investigator with the Mine Safety & Health Administration (MSHA), an agency of the U.S. Department of Labor. With me is Derek Baxter, from the Solicitor's Office, and Sherrie Hayashi, with the Utah Commission of Labor. We will 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 2007. The investigation is being

1 conducted by MSHA under
2 Section 103(a) of the Federal
3 Mine Safety & Health Act and
4 the Utah Commission of Labor.
5 We appreciate your assistance
6 in this investigation.

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

20 You may have a personal
21 representative present during
22 the taking of this statement
23 and may consult with the
24 representative at any time.
25 Your statement is completely

1 voluntary. You may refuse to
2 answer any question and you
3 may terminate your interview
4 at any time. You may also
5 request a break at any time.

6 Since this is not an
7 adversarial proceeding, formal
8 cross-examination is not
9 permitted; however, your
10 personal representative may
11 ask clarifying questions as
12 appropriate.

13 A court reporter will
14 record your interview. Please
15 speak loudly and clearly. If
16 you do not understand a
17 question, please ask me to
18 rephrase it. Please answer
19 each question as fully as you
20 can, including any information
21 you've learned from someone
22 else.

23 I would like to thank
24 you in advance for your
25 appearance here. We

1 appreciate your assistance.
2 Your cooperation is critical
3 in making the nation's mines
4 safer.

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

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

21 MS. KIRKWOOD:

22 Please raise your right
23 hand.

24 -----
25 JAMES POULSON, HAVING FIRST BEEN DULY

1 SWORN, TESTIFIED AS FOLLOWS:

2 -----

3 MR. GATES:

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

7 MS. KIRKWOOD:

8 I am.

9 MR. GATES:

10 And when does your
11 commission expire?

12 MS. KIRKWOOD:

13 August 15th, 2008.

14 MR. GATES:

15 And have you sworn in
16 Mr. Poulson?

17 MS. KIRKWOOD:

18 I have.

19 BY MR. GATES:

20 Q. Jim, would you state your full
21 name and address for the record,
22 please?

23 A. James Alec Poulson, (b) (7)(C)
24 (b) (7)(C)

25 Q. Jim, do you have any questions

1 about the interview process as I've
2 described it to you?

3 A. Not so far.

4 Q. Okay. And do you have a
5 personal representative with you
6 today?

7 A. Yes.

8 MR. GATES:

9 Would your
10 representative please identify
11 himself by name and address
12 for the record.

13 ATTORNEY WESTBERRY:

14 Sure thing. Kent
15 Westberry. I'm an attorney
16 for Mr. Poulson.

17 My address in
18 Louisville, Kentucky is 220
19 West Main Street, Suite 1900,
20 Louisville, 40202. Our law
21 firm's name is Landrum,
22 L-A-N-D-R-U-M, and Shouse,
23 S-H-O-U-S-E. Thank you.

24 BY MR. GATES:

25 Q. Jim, are you aware that your

1 representative may have a conflict of
2 interest in representing you while
3 being provided by someone else, such
4 as the company?

5 ATTORNEY WESTBERRY:

6 I addressed this,
7 Richard, the last time, and
8 I'll make just a very brief
9 clarifying statement. I don't
10 --- as I said, I think it was
11 Tim, when he entered the last
12 statement.

13 I don't agree with the
14 characterization that there is
15 a conflict. In most states
16 --- I know in Kentucky, if an
17 employee is subject to an
18 interview or taking part in an
19 investigation that's connected
20 to his employment, probably as
21 a matter of law they're
22 required to indemnify, pay for
23 his legal expense. I don't
24 know what the law in Utah is,
25 wouldn't even venture a guess.

1 Q. Are you appearing today here
2 voluntarily?

3 A. Yes.

4 Q. And Jim, if you could, just a
5 few background questions about your
6 mining experience. If you could give
7 us a brief summary of your mining
8 career, when you started, where
9 you've worked at, what you've done,
10 up until now.

11 A. I believe in '77 I began work
12 for --- it was Peabody at the time,
13 Deer Creek Energy West. Left there
14 sometime in '80, '81, worked for S&W
15 Construction and Coastal/Getty for
16 the skyline project. Left there for
17 a few months and started working for
18 Valley Camp Coal. And then in
19 approximately, I believe, '83 I went
20 for Arch at Skyline and remained
21 there until July of 2004, when I went
22 to work for Andalex, and remained
23 there since.

24 Q. You say you've been with
25 Andalex since July of 2004?

1 A. Yes.

2 Q. What's your --- what's been
3 your position with Andalex, then,
4 since 2004?

5 A. Safety manager.

6 Q. What exactly does that entail,
7 what type of duties and
8 responsibilities?

9 A. Kind of to coordinate all of
10 Andalex's operations and try to get
11 the organization focused and going
12 and staying in the same direction as
13 far as in safety compliance.

14 Q. And you mentioned all of
15 Andalex operations. What does that
16 entail?

17 A. It would be the Genwal
18 property, the West Ridge property,
19 the Andalex or Tower and the Wildcat
20 Loadout.

21 Q. So how many unique lines does
22 that include? I guess the Genwal
23 would ---?

24 A. The Genwal would have the
25 Crandall Mine and the South Crandall

1 Mine. The West Ridge property would
2 have the West Ridge Mine. And the
3 Andalex property or the Tower
4 property would have the Aberdeen and
5 the Pinnacle. And then there would
6 be the Wildcat surface facility,
7 Loadout.

8 Q. So I think you mentioned that
9 you are employed by Andalex?

10 A. Yes.

11 Q. And I guess just so I have a
12 little better understanding of how
13 Andalex or Genwal or how these
14 entities are structured, maybe if you
15 could just explain what the corporate
16 structure is from Andalex maybe going
17 in both directions, if it goes then
18 on up to UtahAmerican and then branch
19 out with West Ridge.

20 A. Well, when I say Andalex, I do
21 mean UtahAmerican.

22 Q. So they're one and the same?

23 A. They're one and the same,
24 basically. And then our parent
25 company would be Murray Energy. And

1 then underneath them we would just
2 have the different mines.

3 Q. Okay. So like you said,
4 UtahAmerican and Andalex are
5 essentially one and the same?

6 A. One and the same, yes.

7 Q. Okay.

8 A. That's my understanding.

9 ATTORNEY WESTBERRY:

10 UtahAmerican bought out
11 Andalex. I don't recall the
12 exact date. I don't think
13 there's a secret about that.
14 He was with Andalex, and when
15 Murray came in and bought them
16 out, he stayed on like many
17 others.

18 MR. GATES:

19 Right.

20 BY MR. GATES:

21 Q. And then below Andalex are the
22 entities that you mentioned with
23 Genwal, West Ridge and Tower or
24 Aberdeen?

25 A. Yes.

1 Q. Okay. As far as your specific
2 duties as safety manager, do the
3 safety departments at each of those
4 entities below Andalex report back to
5 you or do they go through the
6 management structure at that
7 particular operation?

8 A. Their direct reporting is
9 through the management structure of
10 that organization.

11 Q. Okay. So then do you have a
12 staff that works directly under you?

13 A. The safety departments would
14 work indirectly. I am not their
15 primary report.

16 Q. Okay.

17 A. I would provide guidance, if
18 requested.

19 Q. So you don't directly
20 supervise any of the safety directors
21 or their staffs at the properties
22 that you mentioned, at Genwal or
23 Tower or West Ridge?

24 A. Not directly, no.

25 Q. Okay. Have you held this

1 safety manager position since you
2 came on board with Andalex in July of
3 '04?

4 A. Yes.

5 Q. Okay. And who do you report
6 to, in general?

7 A. Now?

8 Q. Yes.

9 A. Bruce Hill.

10 Q. And is that a change or had
11 you previously reported to somebody
12 else that's coming over to Andalex?

13 A. When I was hired on with
14 Andalex, I reported to Garth Nielson.

15 Q. When did Bruce become your
16 frontline supervisor?

17 A. When Murray Energy took over.

18 Q. And that was?

19 A. August ---

20 ATTORNEY WESTBERRY:

21 '06.

22 A. --- '06, I believe it was.

23 BY MR. GATES:

24 Q. Just to help understand
25 then, I guess, more of your

1 responsibilities and your duties, how
2 much time do you spend at the mine
3 sites then? Or maybe I'll just start
4 back, where is your office located
5 at?

6 A. West Ridge.

7 Q. At the West Ridge Mine?

8 A. Yes.

9 Q. So does that mean you spend
10 most of your time at the West Ridge
11 Mine or at any of the other
12 operations that you mentioned
13 earlier?

14 A. I spend most of my time at the
15 West Ridge Mine.

16 Q. Okay. And if you had to --- I
17 know this would be --- I'm not asking
18 you to split it down to the hours and
19 minutes, but if you had to --- if you
20 had to kind of characterize what
21 percentage of time you would spend at
22 West Ridge versus Tower versus
23 Crandall Canyon versus South Crandall
24 Canyon, how would you generally break
25 that down?

1 A. It would be hard for me to
2 break it down because I go where I'm
3 needed, and I couldn't --- I could
4 not give you a figure.

5 Q. But you say you would spend
6 most of your time at West Ridge?

7 A. Yes.

8 Q. Where do you spend the next
9 most? Where is your presence at ---?

10 A. It would probably be at Tower.

11 Q. At Tower?

12 A. Yes.

13 Q. Then ---?

14 A. South Crandall, Crandall, then
15 it would be at the Genwal operation.

16 Q. And then the ---

17 A. Then Wildcat.

18 Q. --- Loadout?

19 A. Yes.

20 Q. Do you spend a lot of your
21 time underground then, or is it ---
22 do you spend a lot of time in the
23 office, communicating with the safety
24 departments at the particular
25 operations, or is that --- maybe if

1 you could just lay out kind of how
2 your --- I know it's hard to describe
3 a normal week, if you will, if there
4 is such a thing as normal. But I
5 guess on a regular week, how many
6 days underground do you think you
7 would spend?

8 A. I would dare say I don't spend
9 one day a month underground. Most
10 all my work is done in an office.

11 Q. Okay. So it's unusual for you
12 to be --- I think you said it's
13 unusual even one day a month?

14 A. Yeah. I'm just trying to
15 characterize. Maybe one day a month.
16 It would depend.

17 Q. Right. I understand that,
18 like you said, you go where you're
19 needed or you focus your attentions.
20 But I just want to try to get a feel
21 for ---

22 A. Yeah.

23 Q. --- what that entailed. Prior
24 to the August 6th accident at
25 Crandall Canyon, do you recall the

1 last time that you would have been on
2 that property?

3 A. No.

4 Q. A month before, six months
5 before?

6 A. I don't recall.

7 Q. Would you recall what would
8 have been the reason that you would
9 have been called to Crandall Canyon
10 Mine?

11 A. Usually I would --- and maybe
12 I would stop in to talk with the
13 safety director to see if he had any
14 problems.

15 Q. But you don't recall any time
16 --- you don't recall the last time
17 that the safety director or the mine
18 manager or anybody at the Crandall
19 Canyon Mine contacted you with
20 any --- I guess with any issues or
21 with any need for you to visit the
22 site?

23 A. No.

24 Q. How were you notified of the
25 August 6th accident at Crandall

1 Canyon?

2 A. I was leaving home and I
3 called into the West Ridge Conspect
4 to tell them where I would be, where
5 I was heading that morning. And she
6 told me that I needed to contact
7 Crandall or Genwal because they had
8 had an event.

9 Q. Do you recall what time you
10 --- what time do you normally leave
11 the house?

12 A. To the best of my
13 recollection, it was around --- I was
14 in Fairview, Utah when I called, and
15 it was around, I think, 5:00 or 5:30
16 that morning.

17 Q. And what did you do after
18 that?

19 A. I immediately called the
20 Crandall Canyon Mine and talked to
21 Laine Adair, and he gave me a brief
22 rundown of what we had and told me I
23 needed to get up there, and so I
24 proceeded to the mine.

25 Q. Do you recall --- you said

1 Laine gave you a summary or a recap
2 of the situation. Do you recall
3 specifically what he said to you?

4 A. No, I don't recall exactly.

5 Q. Did he mention men were ---
6 who was trapped or unaccounted for or
7 there had been an explosion or been
8 a ---?

9 A. I don't remember, to the best
10 of my knowledge, right now.

11 Q. So then you proceeded to the
12 mine?

13 A. Yes, I proceeded to the mine.

14 Q. And if you could, Jim, maybe
15 just walk us through what --- walk us
16 through your day, I mean, from ---
17 you know, start it off with the
18 communications. But if you could,
19 from the time you got to the mine,
20 exactly what you did, who you saw
21 from then on.

22 A. I arrived at the mine and got
23 with Laine. He gave me a brief
24 summary of --- that we had had --- we
25 didn't know what we had had, but we

1 had six, possibly, people unaccounted
2 for. And I got the names of those
3 persons that were unaccounted for.
4 Laine asked me to make contact with
5 the families and let them know that
6 they had been unaccounted for, there
7 had been an event at the mine, to set
8 up a meeting place, ask the families
9 to go there, and we would relay any
10 information as soon as we got it.

11 And I proceeded down to
12 Huntington. Somehow I got with the
13 Sheriff's Department. I was to
14 contact them, too. And we had made
15 arrangements to use the Senior
16 Citizens Center that day to start out
17 with, and that's where I went to.

18 Q. What did you do when you got
19 there?

20 A. Well, back up. At the mine
21 site I started contacting family
22 members, the immediate, and told them
23 to meet me at the center, and that I
24 would be there to try to pass on any
25 information that I had. When we got

1 to the center, the family members
2 that were there asked me for
3 information as to what I knew. And I
4 had contacted the mine and --- I
5 don't know who I talked to, but I
6 gave them the information that I had,
7 and that was that these individuals
8 had not come out of the mine yet and
9 we had had an event, but I didn't
10 know the magnitude or nothing.

11 Q. And then you left?

12 A. I stayed --- no, I stayed
13 there and I made arrangements for
14 anything the family members needed.
15 And I was to stay at the family
16 center with them people and try to
17 keep the news media from invading
18 their privacy, with the help of the
19 Sheriff's Department.

20 Q. Did you stay there the rest of
21 that day then, the rest of August
22 6th?

23 A. Yes. I stayed there for --- I
24 was with the family members for the
25 next, I don't know, three or four

1 days.

2 Q. Okay.

3 A. Now, I may have went to the
4 mine for a short time, you know, just
5 to see if there was anything I needed
6 to do, but I was told to make sure I
7 stayed there.

8 Q. When you got to the mine then
9 on the 6th, do you recall what time
10 you would have arrived at the mine?

11 A. It seems like it was around
12 6:00, 6:30, somewhere in that area.

13 Q. What was going on at the mine
14 then when you got there?

15 A. What I seen is there was a lot
16 of effort being put into a rescue
17 operation.

18 Q. What kind of efforts?

19 A. I don't know. I didn't pay
20 attention. I got my orders and I
21 followed through with my marching
22 orders.

23 Q. And those came from?

24 A. From Laine.

25 Q. Okay. Were there people

1 underground when you got there
2 or ---?

3 A. I don't know.

4 Q. Did you go underground on the
5 6th?

6 A. No.

7 Q. Did you get involved with any
8 of these efforts that you were
9 referring to then as far as the
10 rescue at the mine site?

11 A. The extent of my rescue
12 efforts at the mine site would have
13 been after I come back up from where
14 the families were, three or four days
15 later, and trying to put together
16 plans for the rescue operation.

17 Q. Did you have --- for these
18 three or four days then that ---
19 immediately following the accident
20 that you --- did you stay with the
21 families then at the Senior ---

22 A. Yes.

23 Q. --- Citizens ---? Were there
24 regular briefings that were set up or
25 how did --- how did things unfold at

1 the Senior Citizens Center?

2 A. At the Senior Center, as we
3 would --- we started out trying to
4 brief hourly or every two or three
5 hours. I don't remember the time
6 frame. And I don't recall if MSHA
7 was on the scene then, had shown up
8 yet. I don't know. Because the
9 first time I remember --- my
10 recollection of MSHA being there was
11 when we were at the Junior High.
12 Bill Denning come in. And we had to
13 move from the Senior Center to the
14 Junior High because of problems with
15 the reporters.

16 Q. Do you remember when that was,
17 when you moved from one location to
18 the ---?

19 A. I don't remember if it was one
20 day or two days or --- I don't
21 recall.

22 Q. Were you conducting the
23 briefings then with the families?

24 A. I was talking with the
25 families, yes, just passing on

1 information I had.

2 Q. Were all the families
3 represented at that time?

4 A. I don't recall. I know they
5 had all been notified because I used
6 an individual at the mine to speak
7 with the Spanish-speaking families to
8 let them know.

9 Q. Did you have that individual
10 with you at the briefings, too?

11 A. No. We were trying to make
12 arrangements for one of them.

13 Q. Do you remember when that ---
14 when you were first successful in
15 making that arrangement?

16 A. I don't, Richard.

17 Q. Was it before you moved to the
18 Junior High or after?

19 A. I don't recall.

20 Q. So when was it, Jim, that you
21 think that your --- I guess, that
22 your role in the rescue/recovery
23 changed from providing information
24 and assistance to the families to
25 going back to the mine to get

1 involved in putting together plans,
2 as I think you referred to?

3 A. The best of my recollection
4 would be in the neighborhood of four
5 days, five days. I don't know.

6 Q. So the 9th, 10th, give or
7 take?

8 A. Yeah. I don't know.

9 Q. Do you recall the status of
10 the rescue efforts at that --- the
11 status of the rescue efforts when you
12 came back to the mine site, what was
13 going on or maybe what was the first
14 plan that you became involved with?

15 A. No, I don't.

16 Q. Do you recall any of the plans
17 that you became involved with, I
18 mean, providing input into what was
19 going on underground?

20 A. The one that sticks out that I
21 do recall would have been when we
22 recovered equipment inby 107 or 109,
23 whichever crosscut it was.

24 Q. I'm sorry, could you repeat
25 that?

1 A. The one I remember was when we
2 went in to recover the equipment
3 after the August 16th event from ---
4 I believe it was 107, 109, whatever.

5 Q. So this would have been
6 sometime ---

7 A. Sometime ---.

8 Q. --- later ---

9 A. Yes.

10 Q. --- into the operation? Okay.
11 Were you involved any in the initial
12 setup of the command center that the
13 company worked out of during the
14 rescue efforts?

15 A. No.

16 Q. Do you know where those were
17 located at or who ---

18 A. No.

19 Q. --- may have been manning them
20 from the company?

21 A. No.

22 Q. Were you back at the mine site
23 when there was a decision made to
24 allow the media underground?

25 A. Yes.

1 Q. Were you involved in any of
2 those discussions on how that would
3 proceed?

4 A. No.

5 Q. Do you know who was?

6 A. No.

7 Q. Do you know why the decision
8 was made to do that?

9 A. No.

10 Q. When you left the Junior High
11 and went back to the mine, did you
12 have an occasion that you would have
13 gone underground when the rescue
14 efforts were ongoing?

15 A. No.

16 Q. When was the last time you
17 were underground at the Crandall
18 Canyon Mine?

19 A. It would have been when we
20 were setting up the management points
21 for any of the ground activity with
22 Mike and the people from MSHA.

23 Q. Do you remember when that ---
24 and that was somewhere between the
25 6th and the ---?

1 A. No. It was past the 16th.

2 Q. After the 16th?

3 A. Yes.

4 Q. Okay. So you never did
5 observe any of the loading and
6 hauling of the material that was
7 taking place underground between the
8 6th and the 16th?

9 A. No.

10 Q. But you were involved in
11 putting together some of the plans
12 that pertained to that?

13 A. I don't know if I was to them
14 plans or not. I'd have to see the
15 plans.

16 Q. Do you know how you were
17 notified of the August 16th accident?

18 A. I seen it on the news. I was
19 home at the time.

20 Q. What did you do after you saw
21 the news?

22 A. I went to the mine.

23 Q. And maybe if you could just
24 walk me through what happened that
25 day or that --- I guess that evening

1 after you got the news, saw the news
2 on the TV and you got to the mine
3 site?

4 A. I was approached by Bruce Hill
5 or Laine Adair and asked to make sure
6 that we he had people following and
7 going to the hospitals to take care
8 of the injured personnel. And I made
9 arrangements with safety directors to
10 go to the different hospitals.

11 Q. So it was the safety directors
12 at the different mines then that you
13 contacted to make --- to give these
14 assignments to?

15 A. I believe they were at site on
16 the mine.

17 Q. And what did you do after
18 that, after you contacted those
19 folks, made the assignments of who
20 goes where?

21 A. I don't remember.

22 Q. Do you remember leaving the
23 mine that evening?

24 A. No.

25 Q. What was your understanding of

1 what had occurred on the 16th? And I
2 guess you heard it on the news, you
3 got to the mine, you met with Laine.
4 He gave you your assignments, and
5 then did somebody give you a briefing
6 on what had happened or what
7 information was available at that
8 time?

9 A. To the best of my knowledge, I
10 remember we had a meeting, MSHA and
11 everybody. I remember we met in the
12 shop over there and they went through
13 what had happened.

14 Q. Do you remember who they is?

15 A. I wouldn't --- no, I don't. I
16 believe it was some of the personnel
17 that was underground, both MSHA and
18 company personnel.

19 Q. Do you remember what anybody
20 said or what they did or was there a
21 map that people were marking on or
22 what was going on? How did this
23 debriefing unfold?

24 A. I just remember we all was in
25 the shop area. The roll was taken.

1 People were accounted for. And then
2 they had a --- listened to the
3 individuals that was there and tried
4 to put together the pieces of what
5 happened. I don't remember if it was
6 Richard or not that was doing it.

7 Q. Were you or anybody from the
8 company taking notes or making any
9 kind of record as to what the
10 different folks were saying as to
11 what may have happened or where they
12 were or what they saw or what they
13 did?

14 A. I don't recall who was doing
15 what, really.

16 Q. Well, did you take any notes
17 during that --- while those
18 discussions were ongoing?

19 A. I don't recall.

20 Q. Have you seen any notes that
21 you would have taken since then?

22 A. I don't recall if I have or
23 not.

24 Q. Have you ever seen anybody
25 else's notes that they may have taken

1 that evening?

2 A. I know during the whole event
3 I had maybe a pad like that. I may
4 have jotted things here and there.
5 But I don't know. I haven't reviewed
6 them, so I don't know what the notes
7 were.

8 Q. Okay. Do you still have that
9 pad?

10 A. I don't know for sure. I'd
11 have to check. I don't know.

12 Q. Okay. Well, if you do have
13 --- I mean, I'd appreciate it if you
14 would check to see if that pad is
15 available.

16 A. Sure.

17 MR. GATES:

18 If there are notes that
19 pertain to the rescue and
20 recovery efforts, we'd be
21 interested in them.

22 ATTORNEY WESTBERRY:

23 What you may do, and I
24 did this with Tim last time, I
25 will forget, Richard. If

1 somebody could write me a note
2 and send me an email, and I
3 will remind Jim ---. Jim's
4 office is just cluttered with
5 a lot of stuff, and it may ---
6 it will give him some time to
7 look through there and see
8 what he's got. If you could
9 remind me, I'll make a good
10 faith effort to see what we
11 can find.

12 MR. GATES:

13 Thank you. We'll
14 certainly do that.

15 BY MR. GATES:

16 Q. So what happened after the ---
17 I mean, this briefing was taking
18 place on the surface on the 16th,
19 after everybody was out of the mine?
20 What next?

21 A. I don't recall.

22 Q. Did anybody go back into the
23 mine?

24 A. I don't know.

25 Q. Did the rescue efforts

1 continue?

2 A. I don't know.

3 Q. Were you at the mine?

4 A. I did come back to the mine,
5 and I do remember that there was a
6 request for the rock doctors or
7 whatever you'd like to call them to
8 do an evaluation on ground stability
9 or something.

10 ATTORNEY WESTBERRY:

11 Is this on the same day
12 as the 16th?

13 A. I don't know --- I mean, I
14 don't know ---.

15 MR. GATES:

16 That was my next
17 question.

18 A. No. The best I can remember,
19 this is down the road. I thought you
20 was talking about ---.

21 BY MR. GATES:

22 Q. I was just wanting you to ---.

23 A. On the 16th?

24 Q. I'm just wanting you --- I
25 mean, after --- you had indicated

1 that on the 16th, after everybody was
2 out of the mine, that there was a
3 briefing that was going on. And I
4 guess I was really just trying to
5 figure out what you remembered next,
6 if it was that day, the next day, ---

7 A. I don't remember.

8 Q. --- next week, today?

9 A. I don't remember anything
10 after that. I do not recall things
11 after that.

12 Q. Okay. I think you mentioned
13 that there were some rock doctors who
14 participated. I don't know, if you
15 could maybe explain who they were,
16 who contacted them, what role they
17 were to play in the rescue and
18 recovery efforts.

19 A. The only thing I know about
20 the rock doctors is they were asked
21 to come in and evaluate the
22 stability, I guess, of the area.

23 Q. Did you ask them?

24 A. No.

25 Q. Do you know who they were?

1 A. No.

2 Q. Did you give them any
3 information to help in this
4 evaluation?

5 A. No.

6 Q. Do you know who did?

7 A. No.

8 Q. Do you know what the results
9 of the evaluation were?

10 A. No, I do not.

11 Q. How do you know there was one?

12 A. I heard about it.

13 Q. Do you remember who told you?

14 A. No, I don't.

15 Q. Did you talk to anybody on the
16 16th then --- well, stepping back a
17 little bit, you indicated that this
18 briefing or debriefing was taking
19 place on the surface somewhere. Do
20 you remember where it was?

21 A. Yes. I believe I stated it
22 was in the shop.

23 Q. In the shop?

24 A. Yes.

25 Q. Okay. Did you debrief anybody

1 that day?`

2 A. No.

3 Q. Did you get any input from, I
4 guess, the safety department at that
5 mine, the folks who you worked with
6 on a day-to-day basis or worked with
7 on an as-needed basis, I guess you
8 referred to earlier?

9 A. No.

10 Q. You didn't talk with anybody?

11 A. No.

12 ATTORNEY WESTBERRY:

13 Anything of any
14 substance that you remember,
15 Jim? Any conversations you
16 may have had? Take a second.
17 I want, you know, the record
18 to be as clear as it can.
19 Excuse me for interrupting.

20 MR. GATES:

21 No, that's fine.

22 That's fine.

23 A. The conversation I had with
24 them was to go to the hospitals, and
25 they proceeded to the hospitals.

1 BY MR. GATES:

2 Q. Those were your safety guys?

3 A. Yes.

4 Q. People like Bodee and folks
5 like that?

6 A. Steve Radmall. I remember
7 Steve Radmall, Hubert Wilson.

8 Q. Okay.

9 A. Them two particularly.

10 Q. Who are those individuals?

11 A. They are --- Hubert Wilson
12 would be the safety director at West
13 Ridge. And Steve Radmall is a safety
14 assistant at West Ridge.

15 Q. Do you remember what they said
16 to you? I mean, were they
17 underground on the 16th or ---? Are
18 you talking about the weather,
19 fishing?

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

21 ATTORNEY WESTBERRY:

22 Bodee was underground,
23 if I remember; is that right?

24 A. I don't know whether Bodee was
25 or not.

1 ATTORNEY WESTBERRY:

2 Excuse me. I'm getting
3 too much into this.

4 MR. GATES:

5 That's fine. I'll ask
6 you the questions if you'd
7 like.

8 ATTORNEY WESTBERRY:

9 Please don't. I'm not
10 under oath.

11 MR. GATES:

12 Okay. I'll keep that
13 in mind.

14 BY MR. GATES:

15 Q. So it was after the 16th that
16 you went back underground or that you
17 made your --- I guess your first
18 visit in who knows how long
19 underground at Crandall Canyon?

20 A. Yes.

21 Q. Do you remember anything about
22 that?

23 A. I remember that Mike --- I
24 believe it was Mike. I'd say it was
25 two personnel from MSHA and myself

1 traveled into 107 or 109 and set up
2 some convergence measuring stations.
3 And then for the following --- then
4 we went back outside. And for the
5 next --- I don't know, next two or
6 three days, we would go in and take
7 measurements on the stations each day
8 to see if any movement had taken
9 place.

10 Q. Had there been any movement?

11 A. To my knowledge, no.

12 Q. At this time, had there been
13 --- was it your understanding that
14 the underground operations were
15 ongoing, were over, were suspended?
16 What was your understanding as to how
17 the rescue efforts were to continue?

18 A. My understanding at that time
19 was they had been suspended.

20 Q. Do you know who made that
21 decision?

22 A. No, I don't.

23 Q. But that would have been a ---
24 the company would have --- the
25 company being Genwal, Andalex,

1 Utah American, somebody from there
2 would have been involved in making
3 that decision, do you think?

4 A. I don't know who made it. I
5 couldn't tell you.

6 Q. Did anybody consult with
7 you ---

8 A. No.

9 Q. --- prior to making that
10 decision? Did you have any input
11 into making that decision?

12 A. No.

13 Q. Did you and Laine talk about
14 the future of the recovery efforts?

15 A. No.

16 Q. Bodee?

17 A. No.

18 Q. Any of the safety department
19 at Crandall Canyon or any of the
20 other folks in the safety department
21 at the other mines that you dealt
22 with regularly?

23 A. Not that I recall, no.

24 Q. As a part of your duties as
25 safety manager, are you involved in

1 any plans, mining plans, that are put
2 together?

3 A. I review, if I have the time,
4 on occasions. I'm asked about things
5 for maybe compliance. And that's
6 pretty much the extent. Sometimes a
7 ventilation plan or something I may
8 try to put together. Mine rescue
9 plan, I put that together.

10 Q. Maybe if you could for me
11 again just go back over what your
12 duties and responsibilities are as
13 the safety manager so I'm clear.

14 A. My responsibilities and duties
15 are to provide guidance and
16 assistance.

17 Q. To?

18 A. To mine employees, mine
19 managers, anyone that asks.

20 Q. And that does or doesn't
21 normally involve participating or
22 providing input or review into any of
23 the mining plans that are submitted
24 to MSHA?

25 A. Sometimes it does require

1 input. Many times it doesn't.

2 Q. Is there --- does Genwal have
3 a --- Genwal or Andalex have any kind
4 of SOP, if you will, as to what the
5 --- how a plan is put together and
6 who looks at it, who reviews it, who
7 signs off on it or not?

8 A. Define --- tell me what you
9 mean by SOP.

10 Q. Standard operating procedure
11 or a process that the mine would use.

12 A. To my knowledge, no, there is
13 not.

14 Q. So each mine is kind of on
15 their own, we'll put together a plan,
16 we'll --- does the safety director
17 sign off on the plans that go to
18 MSHA, the safety director at each of
19 the mines that you mentioned or ---?

20 A. The plans are usually put
21 together by the engineering
22 department and distributed to the
23 mine managers at each mine and the
24 safety directors for review and
25 input.

1 Q. Do they come to you for input?

2 A. Sometimes, yes.

3 Q. Do you know --- how is a
4 decision made whether to seek your
5 input or not? Does the engineer make
6 that or --- I don't know. I mean, I
7 guess that's why I'm asking you. Is
8 there a procedure?

9 ATTORNEY WESTBERRY:

10 Give an example. Just
11 draw one from memory when
12 someone asked you to give some
13 input on a mine safety plan.

14 A. Well, maybe ask me about ---
15 for example, on a ventilation plan,
16 where do we establish the mixing
17 point, the two-percent mixing point.
18 And I tried to offer my
19 recommendations.

20 BY MR. GATES:

21 Q. Okay. Well, I guess maybe
22 we've talked a little bit about
23 generalities, but I guess I'll just
24 ask, were you involved in the
25 drafting of any of the mining plans

1 at the Crandall Canyon Mine?

2 A. No.

3 Q. Were you aware that there were
4 mining plans at the Crandall Canyon
5 Mine?

6 A. Yes.

7 Q. How were you aware of that?

8 A. Well, when you're required to
9 mine an area, as you know, you have
10 to have an approved plan. And I know
11 that the engineering department was
12 putting them plans together.

13 Q. So these were some that they
14 would have asked for your input?

15 A. They may have submitted them
16 to me for review.

17 Q. So that's how you were aware?

18 A. That's how I become aware of
19 it.

20 Q. Did you give them any input?

21 A. Not that I recall.

22 Q. Do you recall the last time
23 you gave an engineer any input into
24 any of the Crandall Canyon plans?

25 A. No, I don't.

1 Q. Do you recall if you ever did?

2 A. I don't recall right now, no.

3 Q. Did you ever --- who would
4 make the decision that outside
5 expertise may be required or may be
6 necessary prior to submitting a plan?
7 Would that be something that you
8 would have input in?

9 A. No. I would not --- have no
10 input in that.

11 Q. Again, I'll follow up again.
12 Do you know who would?

13 A. I would not know who does
14 that. I don't know who does that.

15 Q. Do you know who these
16 engineers are that put these plans
17 together?

18 A. Which plan are we talking
19 about?

20 ATTORNEY WESTBERRY:

21 Agapito or something?

22 BY MR. GATES:

23 Q. Well, I guess I was trying to
24 get a feel from you earlier as to
25 what the --- if there was some kind

1 of flow chart or what the process was
2 in putting a plan together. And I
3 thought you indicated that the
4 engineers drafted a plan. They would
5 dole it out to sometimes you,
6 sometimes the mine manager, sometimes
7 the safety department. I'm asking
8 who --- do you know who those people
9 are that put that initial plan
10 together? You referred to them as
11 engineers, I believe.

12 A. The engineering department.
13 At the time --- I will speak
14 specifically to the Crandall. At the
15 time, I believe, the engineer there
16 was Tom Hurst.

17 Q. So Tom would have been the
18 individual who put the mining plans
19 together for the development of the
20 north barrier, retreat of the north
21 barrier, as well as the south?

22 A. The south may have been ---
23 Tom left, and I don't know exactly
24 the day, but I do remember Tom was
25 the engineer prior to David Hibbs.

1 And it would come from the
2 engineering department.

3 Q. Do you know why Tom is no
4 longer with Andalex?

5 A. No, I don't.

6 Q. You don't know why he left or
7 you do?

8 A. No, I don't.

9 Q. Would it have been up to Tom
10 to take a look at the map and figure
11 out where the mining was going to
12 take place next and say, you know, I
13 think I'll put together a mine plan
14 for this north barrier?

15 A. I don't know who makes that
16 decision.

17 Q. Do you?

18 A. No.

19 Q. Any input?

20 A. No.

21 Q. I guess I'm having a hard time
22 understanding exactly how these plans
23 come to fruition. Anything you can
24 do to help me, I guess, I'd
25 appreciate.

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ATTORNEY WESTBERRY:

What you know in
general.

A. In general, I think Laine
would be the person who would decide
where we were going to mine.

BY MR. GATES:

Q. Okay. So Laine ---?

A. Or the mine manager may have
some input into it, too.

Q. What about Bruce?

A. I don't know. Bruce may. I
don't know.

Q. Do any of the mining plans or
mining projections then ever come
from anywhere above Andalex in that
corporate structure that you
described to me earlier?

A. I don't know that. I don't
know where they come from.

ATTORNEY WESTBERRY:

When you say Andalex,
Richard, are you talking about
like UtahAmerican, I guess,
they bought in --- bought out

1 Andalex?

2 MR. GATES:

3 Okay.

4 ATTORNEY WESTBERRY:

5 That's just for my own
6 clarification.

7 MR. GATES:

8 Since Jim said they're
9 one and the same ---.

10 BY MR. GATES:

11 Q. I guess what I was asking was,
12 does the entity that controls
13 Andalex, UtahAmerican, I think you
14 referred to them as Murray
15 Energy, ---

16 A. Uh-huh (yes).

17 Q. --- do they provide input on
18 --- to the particular mines as to
19 where we're going to mine next?

20 A. Again, I'm not involved in
21 that, so I would not know.

22 Q. Okay. Do you know who would
23 be involved in that? Would that be
24 something that would come straight
25 from Murray Energy to the engineers

1 at the particular mines or ---?

2 A. I think that would probably
3 come to Laine and Bruce or they would
4 be the ones developing it.

5 Q. As far as that engineering
6 group that puts these plans together,
7 does each mine have an engineering
8 department that would do that?

9 A. No. We'd have one engineering
10 department located at West Ridge.

11 Q. Okay. And I think you
12 mentioned that you did not have any
13 input into the plans to develop or
14 retreat the north barrier or the
15 south barrier, is that correct, to my
16 understanding?

17 A. I believe so, yes.

18 Q. Did you tell me you had ever
19 seen those plans?

20 A. I remember seeing a
21 ventilation plan when we were going
22 to go into the south barrier. And I
23 may --- I remember talking with
24 somebody about a roof control plan,
25 David Hibbs or, you know, mentioning

1 it to him, talking about it.

2 Q. Do you remember any of the
3 specifics of the --- of either the
4 ventilation plan or the roof control,
5 roof control plan?

6 A. I remember I was asked about
7 mining into the south when we had
8 left the north. And I --- we talked
9 about we needed to seal the area.
10 And I was asked --- you know, I asked
11 about the ventilation. I say, well,
12 we would be needing to seal.

13 Q. Do you remember why you left
14 the north, why mining ceased in the
15 north?

16 A. To the best of my knowledge,
17 the decision was made that we
18 couldn't mine it anymore. We could
19 not make the point of deepest
20 penetration for examinations.

21 Q. Do you know why?

22 A. It was unsafe is what I was
23 told.

24 Q. Did you ever see it?

25 A. No.

1 Q. Did you ever talk to anybody
2 who had seen it?

3 A. Laine and Gary Peacock.

4 Q. What did they tell you?

5 A. They told me they just did not
6 feel safe about somebody having to
7 travel that entry all the way into
8 the point of deepest penetration.

9 Q. Did they say anything about
10 being safe if mining were to resume?

11 A. I don't understand your
12 question.

13 Q. I think you mentioned that
14 they didn't feel that it was safe for
15 somebody to travel the bleeder entry.
16 Were there any concerns about the
17 safety of the mining crew should ---
18 if mining were to continue or was it
19 strictly, well, we can't really send
20 a guy down this bleeder, down this
21 bleeder entry?

22 A. I don't recall anything on
23 that --- discussions.

24 Q. Did you ever hear anything
25 about any kind of bumps or bounces

1 that may have taken place in the
2 mining of the north barrier?

3 A. I heard about the one on the
4 --- when it was in March. I was at
5 home and I got called. And they told
6 me that they determined that they
7 weren't going to mine anymore in
8 there because they couldn't ---
9 they'd had a bounce.

10 Q. Do you remember who called
11 you?

12 A. No, I don't. It was a day or
13 two later, too.

14 Q. Okay. So that would be
15 something then that --- within the
16 framework of your job, when an event
17 like this would occur, somebody would
18 notify you?

19 A. No, it's not.

20 Q. It's not. Okay. But they did
21 this time.

22 A. Somebody --- they weren't
23 notifying me because of that. They
24 were asking me about --- I think they
25 were asking me some other question.

1 I think it was about ventilation.
2 And they said something about a
3 bounce.

4 Q. So just in passing, you know,
5 we had a bounce, and I think we're
6 going to have --- we may just have to
7 quit mining up there?

8 A. Something like that, maybe,
9 yeah. That could be. I don't know.

10 Q. Do the guys that work at the
11 safety department, is it just up to
12 them as to when they'll call you and
13 make you aware of anything that's
14 going on at the mine or are there any
15 expectations that you have as to when
16 you'll be notified of something that
17 may take place?

18 A. When --- yes, when there is
19 something that will be reportable,
20 they would usually notify me, yes.

21 Q. And what do you mean by
22 reportable?

23 A. Well, if, you know, we have an
24 event that would be a reportable
25 event to the agency, they would

1 notify me usually, yes.

2 Q. And what would you do?

3 A. I would probably try to check
4 up and make sure that we reported it
5 or done what we needed to do and that
6 --- see if there's anything that ---
7 anybody was hurt or anything like
8 that.

9 Q. And did you say that somebody
10 did contact you about an event that
11 took place while mining in the north
12 barrier?

13 A. They didn't contact me about
14 the event. They contacted me about
15 something else and said that ---
16 wanted to know if I'd heard we'd had
17 a bounce.

18 Q. Had you?

19 A. No, not until then.

20 ATTORNEY WESTBERRY:

21 It was about a day
22 after, approximately.

23 MR. BAXTER:

24 Counsel, we really need
25 to hear that from the witness.

1 ATTORNEY WESTBERRY:

2 I'll try to be quiet.

3 It's hard.

4 MR. GATES:

5 We remember you're not
6 under oath, too, so we'll keep
7 that in mind, too.

8 BY MR. GATES:

9 Q. Did anybody ever contact you
10 during the mining of the north
11 barrier about any event that may have
12 been reportable?

13 A. No.

14 Q. The south barrier?

15 A. No.

16 Q. Do you remember if anybody
17 ever contacted you about any event at
18 the Crandall Canyon Mine that was
19 reportable?

20 A. No.

21 Q. Have you ever reported
22 anything to MSHA?

23 A. While working for Andalex?

24 Q. Ever.

25 A. Yes.

1 Q. How did you do that?

2 A. I contacted the field office
3 down there and reported a roof fall.

4 Q. Not at Crandall Canyon?

5 A. Not at Crandall Canyon, no.

6 Q. Have you --- are you aware
7 that there's a 1-800 number?

8 A. There is, yes.

9 Q. Have you ever called it?

10 A. No, I have never.

11 Q. Never have. Are you
12 responsible for reporting accidents
13 to MSHA under your duties as safety
14 manager then?

15 A. No, I'm not.

16 Q. Who is?

17 A. That would be the safety
18 director at the mine site.

19 Q. So now are there instructions
20 to notify MSHA, then call you?

21 A. Yes.

22 Q. So they don't call you and
23 discuss, well, we've had an event, is
24 it reportable or what, they just call
25 you after the fact?

1 A. If there was a question in
2 their mind, they would call me.

3 Q. Did anybody have a question
4 when they called you, as your
5 counselor added, a day after the
6 event in the north barrier?

7 A. Say that question again, will
8 you, please?

9 Q. I think you had mentioned that
10 at times the safety directors will
11 call you and maybe ask a question or
12 ask for your input in making a
13 determination as to whether an event
14 is reportable or not. And I was
15 asking when you were contacted by
16 somebody a day after the event
17 occurred in the north barrier, did
18 you have any of those discussions
19 then?

20 A. When I was contacted about the
21 event in the north barrier, I had the
22 question, is it reportable, so I
23 immediately got on the phone and
24 called the safety director.

25 Q. So it wasn't the safety

1 director that called you?

2 A. No. No.

3 Q. Do you now remember who it may
4 have been?

5 A. Who called me? I don't know
6 for sure. I don't recall.

7 Q. Who did you call?

8 A. I called Bodee.

9 Q. Okay.

10 A. And Bodee was --- I do
11 remember Bodee was at a meeting, a
12 town meeting. He didn't have no
13 knowledge of it either. And he
14 immediately sought information about
15 the event and what went on.

16 Q. Who did he call?

17 A. I don't know. I didn't ask
18 him.

19 Q. But I mean, you were concerned
20 enough that you called him, it sounds
21 like?

22 A. Yes.

23 Q. But did you ask him to get
24 back with you once he got some
25 information or did you say, well,

1 I've done my duty, I've called and
2 put this back in Bodee's lap?

3 A. I don't remember for a fact
4 who he called, but whoever he talked
5 to had, I believe, made the
6 determination that there was no
7 mining taking place and it wasn't a
8 significant enough event that it had
9 to be reported.

10 Q. And he relayed that back to
11 you?

12 A. I believe so, yes, if I
13 remember correctly.

14 Q. How significant does an event
15 have to be before it's reportable?

16 A. Well, that's a gray area, I
17 believe.

18 Q. In your mind.

19 A. I believe if it meets the
20 criteria in Part 50, then it needs to
21 be reported.

22 Q. And that criteria?

23 A. I can't remember it all right
24 now, Richard.

25 Q. I mean, if somebody was hurt?

1 If somebody was hurt, would it be
2 --- if somebody was hurt by coal
3 being expelled or coal being moved in
4 a bounce, would that be reportable?

5 A. If it endangered their life.
6 If they just had an injury, I don't
7 believe so.

8 Q. Okay. If it affected
9 ventilation?

10 A. If it affected ventilation.
11 If it ---.

12 Q. If it affected ventilation, it
13 would or it would not be reportable?

14 A. If it affected ventilation, it
15 would be reportable.

16 Q. Would be immediately
17 reportable?

18 A. I would believe so, yes.

19 Q. And I used the term
20 immediately, but maybe I'll ask you,
21 what would you consider immediately
22 reportable or what does that mean? I
23 mean, how much time do you have?

24 A. Well, it's --- I don't
25 remember right now, it's an hour, 15

1 minutes, whatever?

2 Q. Okay. I'll ask the questions.
3 So if ventilation controls are
4 damaged, is it or is it not
5 immediately reportable?

6 A. I believe it is.

7 Q. Okay.

8 A. If mining ceases for more than
9 an hour, it is immediately
10 reportable.

11 Q. Anything else that would make
12 it ---?

13 A. Roof fall above the anchor
14 zone.

15 Q. Okay. But why don't we just
16 stick with a bounce or a bump
17 activity and how we would make that
18 determination or how you would make
19 that determination as to whether it
20 is immediately reportable. Are there
21 any other criteria that you would
22 consider in making that
23 determination?

24 A. Not that I can think of right
25 offhand.

1 Q. So it's if somebody got
2 hurt, ---

3 A. Uh-huh (yes).

4 Q. --- if ventilation controls
5 --- if ventilation was affected or
6 ventilation controls were damaged or
7 what was the third?

8 A. Mining was ceased or
9 interrupted. If mining was
10 interrupted.

11 Q. Okay. Is there anything about
12 moving people?

13 A. No.

14 Q. Okay. And again, just so I'm
15 sure, it's the safety director or the
16 safety department at each individual
17 mine that is responsible for that
18 reporting to MSHA?

19 A. The safety director and the
20 mine manager at each mine will make
21 that determination, yes.

22 Q. Okay. So that's never your
23 responsibility ---

24 A. No.

25 Q. --- to make that call? Okay.

1 MR. GATES:

2 Why don't we take about
3 ten minutes?

4 SHORT BREAK TAKEN

5 BY MR. GATES:

6 Q. Okay. Jim, I just have a few
7 more kind of follow-up questions, and
8 maybe we'll get this thing wrapped.
9 You made a --- you answered a
10 question or made a comment earlier
11 about the engineers who are
12 responsible for putting plans
13 together.

14 A. Uh-huh (yes).

15 Q. And I guess I just wanted to
16 clarify whether each of the separate
17 mines has an engineering department
18 that would be responsible for that,
19 or is there one corporate type
20 engineering department that does
21 that?

22 A. There is one corporate
23 department that does that for all the
24 mines.

25 Q. And that is located at West

1 Ridge?

2 A. At West Ridge, yes.

3 Q. Are there any engineers that
4 are located or that work at any of
5 the individual mines?

6 A. No.

7 Q. Okay. What about surveyors or
8 engineering techs? Does that again
9 come out of the corporate office to
10 each of the mines or do the mines
11 have those type folks?

12 A. Each mine had a surveyor or
13 surveyors that would work at that
14 mine site. And sometimes they would
15 go to another mine site if additional
16 help would be needed.

17 Q. Okay. Would they report back
18 to the central engineering department
19 or did they report to management at
20 that particular mine?

21 A. They report to the engineering
22 department.

23 Q. Okay. I want to come back on
24 the phone call that you received
25 after --- I think again, as your

1 counselor had mentioned, a day or two
2 after the event that occurred while
3 mining on the north barrier. Again,
4 do you recall who may have made that
5 call to you?

6 A. No, I don't.

7 Q. Do you recall any of the
8 specifics that they may have relayed
9 to you about what had occurred?

10 A. They were asking --- their
11 call was asking about ventilation in
12 a different area in the mine. And in
13 passing is when they said we had the
14 bounce.

15 Q. And did they say what had
16 happened as a result of the bounce?

17 A. No.

18 Q. Anything about ventilation
19 controls?

20 A. No.

21 Q. Anything about whether they
22 had resumed mining or if they had
23 ever even stopped mining?

24 A. No.

25 Q. I thought you had mentioned

1 earlier that during this call that
2 they had made the statement or made
3 some type of statement to the effect
4 that they had stopped mining?

5 A. I don't remember making that
6 statement, no.

7 Q. I mean, did they say that?
8 Did whoever it was that made this
9 call to you ---?

10 A. Say they had stopped mining?

11 Q. Yes.

12 A. No.

13 Q. When Bodee got back with you
14 --- are you sure?

15 A. Sure ---?

16 Q. Sure that they didn't mention
17 anything about mining?

18 A. The best I can remember is
19 they weren't mining at the time in
20 there.

21 Q. Say again now.

22 A. The crew was not mining in
23 there at the time, the best that I
24 remember. I don't remember if that
25 was after the call or before the call

1 --- or during the call, I mean,
2 should I say.

3 Q. Did the individual that made
4 the call, did he tell you that or
5 she?

6 A. I don't know. That's why I
7 --- I don't know if it was --- I
8 don't know if I got that information
9 during the call or after the call.

10 Q. And that information,
11 again ---?

12 A. May have come back from Bodee.

13 Q. And, again, what was the
14 information?

15 A. That there was no mining going
16 on.

17 Q. When the event occurred or
18 after the event?

19 A. When the event occurred.

20 Q. What about after the event?

21 A. After the event, I believe the
22 decision was made not to continue
23 mining or they wouldn't go back and
24 resume mining or continue mining.

25 Q. So mining was disrupted as a

1 result of that event?

2 A. No. Mining was not taking
3 place.

4 Q. Normal mining ---

5 A. Normal mining ---.

6 Q. --- was disrupted as a result
7 of that event?

8 A. To the best of my knowledge,
9 there was no mining being conducted
10 at the time in the section when the
11 event occurred.

12 Q. So it would have been a dead
13 shift or a down shift?

14 A. Yes. That's what I'm ---.

15 Q. The plans were just to pull on
16 out of that section?

17 A. I don't know that.

18 Q. We also talked a little bit
19 about what's --- again, what's
20 reportable and what's not reportable.
21 And I think you indicated that it's
22 the responsibility of the safety
23 department or the mine management at
24 the mine to make a determination as
25 to whether something is reportable?

1 A. Yes.

2 Q. When they make that
3 determination, is it also their
4 responsibility to pick up the
5 telephone and make the call to MSHA
6 to report that incident?

7 A. Yes.

8 Q. I just wasn't sure after we
9 --- the questions I had asked you as
10 to who makes --- when I said who
11 makes the call, is that who makes the
12 determination or who actually picks
13 up the phone. But it is, in fact,
14 the same person or the same group of
15 persons at the mine that do both?

16 A. Yes.

17 ATTORNEY WESTBERRY:

18 And that's assuming
19 it's reportable?

20 BY ATTORNEY GATES:

21 Q. They make that determination?

22 A. Right.

23 Q. That same group makes the
24 determination. If they make the
25 determination that it is, ---

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ATTORNEY WESTBERRY:

Reportable.

BY ATTORNEY GATES:

Q. --- then they pick up the phone and make the call?

A. Uh-huh (yes).

Q. You indicated very early on that you came to Andalex in July of '04. And I guess, what, are we now, in October of '07. And I know you said that from the 6th to the 16th of August, from the first event during the rescue/recovery efforts up to the second event, that you did not have an opportunity to go underground?

A. Yes.

Q. Did you, from the time you came on board with Andalex in July of '04 to August 6th, before the accident occurred, did you ever go underground at Crandall Canyon Mine?

A. Yes.

Q. Do you remember where you went at Crandall Canyon Mine?

A. Mostly down in the mains to

1 --- then I went down in the south,
2 where all that's been pillared out.
3 And that's about it.

4 Q. Were you there while they were
5 doing the pillaring?

6 A. Some of it.

7 Q. Okay. What do you remember
8 about --- I guess the way you mined,
9 you traveled in and made the west
10 mains and then you come down into the
11 south mains. Do you remember
12 anything about what you saw, what the
13 conditions were, what the crew was
14 like, what was going on?

15 A. Not a whole lot about it. I
16 just --- I did spend a little time
17 traveling with the inspectors, maybe,
18 and that was it and never really ---
19 nothing out of the normal.

20 Q. Okay. So that's a part of
21 your job duty as well, is to travel
22 with inspectors?

23 A. Some days, yes.

24 Q. And you did travel with them
25 at Crandall Canyon?

1 A. A few times, yes.

2 Q. So you were in the mine not
3 just that one time that you mentioned
4 but during --- from July '04 up to
5 August you were in the mine in what,
6 you figure 5 times, 20 times?

7 A. I could have been in there 30
8 times. I don't know.

9 Q. Thirty (30)?

10 A. Yeah. When I first started in
11 July, I did a lot of underground
12 traveling at Crandall. I focused on
13 looking at belt lines and things like
14 that at Crandall.

15 Q. Okay. Do you remember what
16 your --- had you ever been into the
17 mine before taking the job with
18 Andalex?

19 A. No.

20 Q. Do you remember what your
21 initial impressions or ---
22 impressions were when you arrived at
23 the mine and made your first trip
24 underground?

25 A. The only thing I remember is

1 my initial impression was traveling
2 in there from the portal, I know it
3 was quite low from what I was used
4 to, and then it opened up. That's
5 about all I remember.

6 Q. Had you heard anything about
7 any kind of bump or bounce activity
8 at this particular mine?

9 A. No, never had.

10 Q. And that was prior ---

11 A. Prior to.

12 Q. --- to taking the job you
13 never had ---?

14 A. Prior to, yes.

15 Q. After you took the job, were
16 you ever aware of any ground control,
17 any bump or bounce ---

18 A. No.

19 Q. --- conditions at the mine?

20 A. No.

21 Q. Did you ever ask anybody if
22 there were any events at the mine?

23 A. I have talked to a few of the
24 miner operators, asked them how it
25 would be going. And there has never

1 been no events such as you're saying
2 on ground control.

3 Q. Did you and Bodee ever talk
4 about ground conditions at Crandall
5 Canyon?

6 A. Not that I recall.

7 Q. What about West Ridge or
8 Tower, did you talk with any of the
9 safety department there about
10 conditions, I guess more specifically
11 the ground control conditions or
12 bump, bounce?

13 A. For Crandall?

14 Q. About their mines or about
15 Crandall or just about bump or
16 bounces in general?

17 A. In Tower, yes, we did.

18 Q. How did the --- in your mind,
19 how did the ground control conditions
20 compare or contrast between the three
21 --- well, I guess the four mines that
22 you now have under your --- under
23 you?

24 A. In the roughly 30 years that I
25 spent in the mining industry,

1 Crandall Canyon had the best ground
2 conditions I've ever experienced.

3 Q. That's just due to roof, rib,
4 floor?

5 A. Overall.

6 Q. Overall?

7 A. Overall, yeah.

8 Q. What mines had the worst
9 conditions in your 30-year mining
10 history?

11 A. Probably the toughest is the
12 Tower operation right now.

13 Q. Why? What makes --- what
14 specifically makes the conditions
15 tougher there as opposed to this mine
16 that has the best?

17 A. I don't know. I'm not an
18 expert in ground controls. It just
19 seems like the conditions are
20 tougher. We have more rib bursts at
21 Tower. We use more support.

22 Q. Okay. Do you know --- you
23 said early on you went into Crandall
24 pretty regularly, ---

25 A. Uh-huh (yes).

1 Q. --- I guess. And I know --- I
2 guess when we had talked earlier you
3 said that you --- now you normally go
4 in the mine maybe once a month.

5 A. Uh-huh (yes).

6 Q. So I know first when you told
7 me you had been there 30 times, I
8 thought you hadn't spent much time at
9 any of the other mines. But I guess
10 maybe after you --- when you first
11 came on board you ---?

12 A. I was directed to focus on
13 some of the compliance issues at
14 Crandall.

15 Q. What were they?

16 A. Just looking at belt lines,
17 making sure they were where we needed
18 to be as far as compliance. It
19 wasn't that they weren't in
20 compliance. It was just giving my
21 opinion.

22 Q. Do you remember what your
23 opinion was?

24 A. No, I don't at this time. I
25 don't recall that.

1 Q. I mean, if you went back 10,
2 15 times, I guess, or, I mean, I
3 think you mentioned about 30, so
4 I'm ---.

5 A. Yeah.

6 Q. If you continued to go back
7 and make observations or
8 recommendations ---?

9 A. Well, it wasn't just on belts.
10 It was overall --- what we did, the
11 operation and how we conducted our
12 business from the perspective of the
13 safety department and things like
14 that.

15 Q. And what was that perspective?
16 I mean, what was the primary focus of
17 the safety department at that time or
18 what --- based on your initial
19 impressions, what kind of guidance
20 did you give to the safety department
21 at Crandall Canyon Mine?

22 A. My focus at the time was on
23 identifying unsafe behaviors within
24 the organization and trying to change
25 those behaviors from being like a

1 habit or behavior to a safe behavior,
2 observe the workers working and, you
3 know, change their behavior, such as,
4 for example it would be maybe working
5 on mine safety glasses, things like
6 that.

7 Q. How do you change somebody's
8 behavior?

9 A. There's a --- it's called ---
10 the level of discomfort has to be
11 greater than resistance to equal
12 change.

13 Q. So I guess in the instance
14 that you --- the example that you
15 laid out with somebody not
16 wearing ---?

17 A. Somebody not wearing their
18 safety glasses, you would --- the
19 first thing you want to do is ask
20 them why. You counsel with them and
21 hear what they have to say about it.
22 And then you need to explain to them
23 your expectations. And then you also
24 need to explain to them the
25 consequences of not meeting those

1 expectations. Then you also have to
2 follow up and monitor and see if they
3 are going to change.

4 Q. Do you recall any other
5 behaviors outside of not wearing
6 safety glasses that you were
7 confronted with at the Crandall
8 Canyon Mine?

9 A. Preoperational checks on
10 vehicles. That was another one that
11 we worked on hard.

12 Q. And what was your process for
13 changing that behavior?

14 A. It was to implement a check
15 sheet that was required to be filled
16 out by the operator of equipment,
17 turned into the maintenance
18 department, and defects or if a piece
19 of equipment was not safe to operate,
20 it was to be tagged out of service
21 and to be repaired.

22 Q. Did you provide any kind of
23 incentive for somebody to change or
24 improve their behavior?

25 A. Incentive in what way?

1 Q. I don't know. You tell me.

2 A. Monetary, no. The incentive
3 would be to work safely.

4 Q. Was there any kind of
5 production incentive in place for
6 mining coal?

7 A. No.

8 Q. Was there any kind of
9 discipline system in place for not
10 changing your behavior?

11 A. When I started, no.

12 Q. Now?

13 A. Now there is more of a
14 structured discipline system for ---
15 we're trying to have one, should I
16 say, for people that work unsafe.

17 Q. What is it? I mean, how does
18 it work?

19 A. Well, you would --- first,
20 again, you're counseled verbally. If
21 you choose not to change your
22 behavior, you could receive a written
23 letter into your file. And then if
24 you still continued to work unsafe
25 and jeopardize your own safety and

1 the safety of others, you would be
2 counseled again with another written
3 letter and possibly some days off,
4 and it can lead up to termination.

5 Q. Have you done that?

6 A. Me?

7 Q. Yeah.

8 A. I didn't.

9 Q. Have you terminated anybody
10 for their failure to adjust their
11 behavior?

12 A. I do not do the disciplinary
13 action against people. I make the
14 recommendations to the mine managers.

15 Q. Have you recommended that to
16 any of the mine managers?

17 A. That they be terminated?

18 Q. Yes.

19 A. No, not that I recall.

20 Q. Have you ever recommended any
21 discipline to any ---?

22 A. Yes.

23 Q. You mentioned that there is
24 --- that there's not an incentive for
25 --- any kind of incentive provided

1 for safe behavior other than the
2 benefit of the health and safety of
3 you and the individuals around you.

4 A. No. It depends on what time
5 frame we're talking about here. Are
6 we talking about the current day?

7 Q. Right now.

8 A. Yeah, right now there is a
9 safety incentive for the employees,
10 yes.

11 Q. Okay. Is there a production
12 incentive for the employees right
13 now?

14 A. For the hourly employee there
15 is no production incentive. It is
16 based upon safety.

17 Q. What about for the management?

18 A. For the management, there is a
19 bonus where an incentive is paid, and
20 safety, violations, costs, all play
21 into it, all have a factor in it.

22 Q. So for the hourly employee,
23 it's strictly safety?

24 A. Right now, yes.

25 Q. For the nonhourly or the

1 management employee, it's --- what
2 were the criteria again?

3 A. There is cash flow costs.
4 There is safety. There is
5 violations. There is injuries. All
6 figure into it.

7 Q. And mining coal would be a
8 part of that incentive as well?

9 A. Yes. You have to meet your
10 budget.

11 Q. And by that budget or tonnage
12 or ---

13 A. Whatever.

14 Q. --- number of cars or footage,
15 some type of ---?

16 A. Some type of goal, yes.

17 Q. As a part of your
18 responsibilities as safety manager,
19 have you ever had any of your
20 employees or any of the safety
21 departments at any of the mines come
22 to you with safety concerns that they
23 have at their individual locations?

24 A. Yes.

25 Q. Do you remember what any of

1 those might be?

2 A. Yeah. We've had an event or
3 an incident where there's impoundment
4 of water behind the seal happened,
5 and I got involved with that. Things
6 along that nature.

7 Q. Was that at Crandall Canyon?

8 A. No.

9 Q. Any --- and I guess maybe
10 we'll take it beyond just the safety
11 departments at the mine. But have
12 any of the Andalex or UtahAmerican or
13 has any miner come to you with any
14 safety concern at any of the
15 operations?

16 A. Yes.

17 Q. Do you remember what that
18 might have been?

19 A. Yeah, there was --- I had a
20 mechanic come to me and talk about
21 equipment abuse and needed some help
22 to get people's behaviors changed and
23 get him some help, too.

24 Q. How did you respond to it?

25 A. We brought in some more

1 mechanics to help repair the
2 equipment and held safety meetings
3 with the individuals again and
4 explained the expectations about
5 equipment damage. And I told them
6 what we expect them to do.

7 Q. Anybody from the Crandall
8 Canyon Mine ever come to you with any
9 safety or health concerns?

10 A. Yes. I had a mechanic come to
11 me who had a concern about fire-
12 suppression systems on vehicles. And
13 we instituted a program there to get
14 him the help in the training that was
15 needed to get the vehicles inspected
16 and done right. Sometimes a preshift
17 examiner or somebody may have a
18 question on, you know, was this a
19 hazard, not a hazard. And I'll try
20 to offer them my opinion and
21 guidance, provide a lot of training
22 to examiners.

23 And as you well know,
24 sometimes from inspector to inspector
25 the viewpoint of the statute changes

1 of how we interpret it. And I try to
2 meet with the field office inspectors
3 and also the personnel in the mine
4 and bring together a working
5 relationship to where we're all on
6 the same page.

7 Q. Did anybody from any of the
8 operations ever come to you with any
9 safety concerns about any of the
10 mining plans?

11 A. No.

12 Q. Nobody at Crandall Canyon ---

13 A. No.

14 Q. --- ever expressed any kind of
15 concern about pillaring or the
16 pillaring process, the pillaring
17 locations, any ---?

18 A. Not to me personally, no.

19 Q. Do you know, did they come to
20 anybody that you're aware of or were
21 there any concerns ever voiced by
22 anybody?

23 A. To my knowledge, there was
24 none.

25 Q. Just another clarification

1 question here as we wrap up. On the
2 evening of the 16th, the day of the
3 second major accident, you had
4 indicated that there was a briefing
5 or a group meeting that was taking
6 place in the shop.

7 A. Yes.

8 Q. And I think you had indicated
9 that you did not have any
10 conversations with any individuals
11 during that meeting.

12 A. I believe so, yes.

13 Q. Okay. Did you --- after the
14 16th or from the 16th up until today,
15 have you had any conversations with
16 any of the individuals who were
17 involved in the accident on the 16th?

18 A. The only conversations I have
19 had with any of the individuals that
20 was resolved in the accident on the
21 16th was to obtain information from
22 them with respect to filing out the
23 7001 form. And I do believe that
24 Randy Bouldin came up to the mine
25 site and offered his opinion on what

1 was happening to --- I believe Bruce
2 Hill was there at the time. And I
3 just happened to walk in and out and
4 listen a little bit here and there.

5 Q. Who else did --- I mean, so
6 you didn't interview Randy ---

7 A. No.

8 Q. --- Bouldin?

9 A. No. I never interviewed him.
10 The only information I got from Randy
11 while he was there is maybe Social
12 Security numbers, phone numbers where
13 I can contact him, years of mining
14 and things like that.

15 Q. I guess maybe it could be
16 construed as an interview, or just
17 some ---?

18 A. It was information that
19 pertained to filing the 7001.

20 Q. Was there any information
21 about what actually happened?

22 A. Not that I recall.

23 Q. I mean, isn't part of a 7001
24 --- aren't there sections on there to
25 give an explanation of what happened

1 and where it happened ---

2 A. Yes.

3 Q. --- and those type things?

4 A. Yes. And I formulated that
5 with comments that had been made to
6 me from the different individuals
7 that was there, MSHA inspectors,
8 Randy Bouldin, maybe Mr. Gressmen and
9 a few people like that. There was
10 never really a big interview
11 conducted. And a lot of this was
12 what I would say put together with
13 information I received from Mr.
14 Denning, Bill Denning, because we
15 were trying to have our reports as
16 close as we possibly could and
17 factual.

18 Q. So I guess you did or didn't
19 then have any type of formal
20 interview with any of the individuals
21 involved in the accident on the 16th?

22 A. Well, it depends on what ---
23 what do you call a formal interview?

24 Q. Well, I guess, did you tape
25 record anybody? Did you have them

1 under oath? Did you ---?

2 A. Nobody was under oath. And I
3 asked Bouldin about what happened
4 and, you know, had him give me a
5 detailed explanation, and I did
6 record that.

7 Q. Okay. Did you record anybody
8 else's --- any of the other
9 individuals that may have been
10 involved?

11 A. In the accident? That's the
12 only one I remember recording
13 involved in the accident.

14 Q. Do you remember --- I mean,
15 was there any information that he
16 would have given you that would help
17 you during your investigation of the
18 accident?

19 A. I don't recall what was on it.
20 I don't recall.

21 Q. Who's responsible from the
22 company for conducting the company's
23 investigation of the accidents on the
24 6th and the 16th?

25 A. For the one on the 6th and the

1 16th, it would have been probably me.
2 I filed the reports and conducted the
3 investigation.

4 Q. Is your investigation
5 completed?

6 A. No, not for the 6th it's not
7 totally complete yet.

8 Q. For the 16th?

9 A. For the 16th, yes, I believe
10 so.

11 Q. Have you --- as a part of the
12 investigation, did you put together a
13 written report of the investigation?

14 A. I put together the injury
15 reports that was sent out as to what
16 we believe happened.

17 Q. What do you believe happened?

18 A. Well, I believe there was an
19 outburst up where the individuals
20 were alongside of the miner and coal
21 come across. And the best
22 recollection I have now is the
23 outburst with the dukes (phonetic) or
24 the rock props come across and
25 contact the individuals on the other

1 side.

2 Q. And that's based on the
3 information you got from Randy
4 Bouldin?

5 A. And the MSHA inspectors and
6 other people that was around in the
7 area.

8 Q. Did you interview the MSHA
9 inspectors?

10 A. We talked casually, is what we
11 did, back and forth.

12 Q. As a part of your
13 investigation, do you attempt to
14 determine the root cause of the
15 accident?

16 A. No, I did not determine the
17 root cause of it.

18 Q. How far along are you in your
19 investigation of the August 6th
20 event?

21 A. I would say three-fourths of
22 the way.

23 Q. And have you interviewed
24 anybody other than Randy Bouldin or
25 conversation with MSHA inspectors in

1 conducting that investigation?

2 A. For the August 6th event?

3 Q. Yes.

4 A. No.

5 Q. No, you haven't?

6 A. No. The August 6th event,
7 Randy Bouldin was not involved in
8 that, ---

9 Q. Okay.

10 A. --- to the best of my
11 knowledge.

12 Q. Who have you talked with in
13 conducting your investigation of the
14 August 6th incident?

15 A. Mostly would be Bill
16 Denning, talked with Bodee and that's
17 about it.

18 Q. Bill Denning and Bodee?

19 A. Yeah. And Gary Peacock a
20 little bit, too.

21 Q. What kind of information did
22 those folks share with you? I mean,
23 did you ask them questions or --- I
24 mean, how did you get --- what type
25 of information did you get from those

1 individuals?

2 A. Well, I just asked, you know,
3 their opinion on what they believe
4 may have happened.

5 Q. What did they say?

6 A. And they would tell me things
7 like they believed that there was
8 this bounce and it continued out to
9 Crosscut 119, wherever. It talked
10 about the ventilation being blown
11 out. I looked at the fan charts.
12 We've looked at the Conspect records
13 and things like that. There was
14 really nobody to interview that was
15 involved in the accident.

16 Q. Given your 30 years of mining
17 experience and history, what do you
18 think happened?

19 A. I don't know. I'd be
20 speculating there. I'd rather not
21 speculate.

22 Q. Are you going to --- do you
23 have plans to draft an accident
24 formal report of your investigation
25 of either the August 6th or the

1 August 16th incident?

2 A. To the best of my knowledge, I
3 will try to provide and have on file
4 a report that would meet the criteria
5 in Part 50.

6 Q. You've not been given any
7 direction from Laine or any of your
8 other people above you to conduct
9 anything beyond the scope of a Part
10 50 investigation?

11 A. No.

12 OFF RECORD DISCUSSION

13 BY MR. GATES:

14 Q. Would you have any --- you
15 said that your investigation of the
16 August 16th event is almost complete,
17 is that what you said?

18 A. Yes.

19 Q. Okay. Would it be possible
20 for us to get a copy of your report
21 or of your findings of both --- I'll
22 just say since the 16th is almost
23 completed, of the 16th event and then
24 of your investigation into the August
25 6th event?

1 A. I assume so, yes. I don't
2 understand why not.

3 Q. Okay.

4 MR. GATES:

5 Just five seconds.

6 SHORT BREAK TAKEN

7 BY MR. GATES:

8 Q. Jim, when you did these
9 interviews, formal, informal, with
10 Randy and with anybody else that you
11 may have --- that you may have talked
12 to, was there other --- were there
13 other folks in there? Were there
14 MSHA folks present when you did the
15 interview?

16 A. I don't recall any being
17 present.

18 Q. Do you know if anybody else
19 from the company was also given the
20 charge to conduct interviews or to
21 conduct an investigation into ---

22 A. No.

23 Q. --- either one of the
24 accidents?

25 A. No, I don't know.

1 Q. You don't know or there's not
2 anybody?

3 A. I don't know if anybody was
4 asked that or not.

5 Q. Okay. Jim, have you given a
6 written statement or interview to
7 anybody before this interview
8 regarding the accident?

9 A. A written statement or --- no,
10 I haven't.

11 ATTORNEY WESTBERRY:

12 Other than with me.

13 A. Other than talking with him,
14 no.

15 BY MR. GATES:

16 Q. Okay. Has anyone offered you
17 anything or made any type of promise
18 to you in exchange for you to appear
19 or not appear here today?

20 A. No.

21 Q. And you talked a little bit
22 about --- has anybody come to you
23 with any safety concerns at any of
24 the mines or specifically at Crandall
25 Canyon. While you have been on any

1 of the properties, have you
2 personally ever had any concerns for
3 your safety at any of the operations?

4 A. No.

5 Q. Do you have anything that
6 you'd like to provide that may help
7 me and the team here in attempting to
8 determine the root cause of these two
9 accidents, and I guess more
10 importantly, what could be done to
11 see that it doesn't happen again?

12 A. I don't know anything at this
13 time, Richard.

14 MR. GATES:

15 Jim, on behalf of MSHA,
16 I want to thank you for
17 appearing and answering
18 questions today. Your
19 cooperation is very important
20 to the investigation as we
21 work to determine the cause of
22 the accidents.

23 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 everyone's
5 independent recollection of
6 events surrounding the
7 accident.

8 After questioning other
9 witnesses, we may call you if
10 we have any follow-up
11 questions that we feel need to
12 be asked. If at any time you
13 have any information regarding
14 the accident that you would
15 like to provide to us or if
16 you happen to remember any of
17 the things that you couldn't
18 remember today, contact me at
19 the information that I
20 provided to you.

21 The Mine Act provides
22 certain protections to miners
23 who provide information and,
24 as a result, are treated
25 adversely. If at any time you

1 believe you have been treated
2 unfairly because of your
3 cooperation, you should notify
4 MSHA immediately. I'll give
5 you now the opportunity to go
6 back over any of the answers
7 that you gave or any of the
8 questions that you couldn't
9 remember or didn't remember
10 the answers to. And you can
11 also make any additional type
12 of statement if you'd like.

13 A. One thing I would like, if I
14 possibly could, I'd like to have a
15 copy of this.

16 MR. GATES:

17 Okay. Yes, a copy will
18 be --- can be made available
19 to you down the road.

20 Again, I'd like to
21 thank you for your
22 cooperation. And, again, if
23 anything happens to come back
24 to your memory, feel free to
25 give me a call.

1 A . Okay .

2 MR. GATES:

3 Thanks , Jim .

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6 STATEMENT CONCLUDED

7 AT 10:11 A.M.

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