

STATEMENT UNDER OATH

OF

JESSE GILBERT

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Thursday, September 20, 2007 beginning at 4:30 p.m.

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## 1                   A P P E A R A N C E S

2

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ALSO PRESENT:

KELLY C. KIRKWOOD

Notary Public

24/7 Mobile Notary Services

1877 East 1000 South

Price, UT 84501

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## P R O C E E D I N G S

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MR. MORLEY:

My name is Thomas Morley. 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 the  
13          causes of the accidents can  
14          reduce their occurrence in the  
15          future. Information obtained  
16          through witness interviews is  
17          frequently included in these  
18          reports. Your statement may  
19          also be used in other  
20          proceedings.

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

1 Your statement is completely  
2 voluntary. You may refuse to  
3 answer any question and you  
4 may terminate your interview  
5 at any time or you can request  
6 a break at any time. Since  
7 this is not an adversarial  
8 proceeding, formal cross-  
9 examination will not be  
10 permitted; however, your  
11 personal representative may  
12 ask clarifying questions as  
13 appropriate.

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

24 I would like to thank  
25 you in advance for your

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appearance here. We appreciate your assistance. Your cooperation is critical in making the nation's mines safer.

After we have finished asking questions, you will have an opportunity to make a statement and provide us with any other information that you believe is important. If at any time after the interview you recall any additional information that you believe might be useful, please contact Richard Gates at the telephone number or e-mail address on this card.

Ms. Kirkwood, would you swear in the witness?

-----

JESSE GILBERT, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

-----

MR. MORLEY:

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

4                   MS. KIRKWOOD:

5                   Yes, I am.

6                   MR. MORLEY:

7                   When does your  
8                   commission expire?

9                   MS. KIRKWOOD:

10                  August 15th, 2008.

11                  MR. MORLEY:

12                  Have you sworn in Mr.  
13                  Gilbert?

14                  MS. KIRKWOOD:

15                  Yes, I have.

16                  BY MR. MORLEY:

17                  Q.           Can you please state your full  
18                  name and address for the record?

19                  A.           Jesse Reese Gilbert, (b) (7)(C)  
20                  (b) (7)(C)

21                  Q.           Do you have any questions  
22                  about the interview process as I  
23                  described it?

24                  A.           I hope not.

25                  Q.           Do you have a personal

1 representative with you today?

2 A. Marco.

3 MR. MORLEY:

4 Would your personal  
5 representative identify  
6 himself by name and address  
7 for the record?

8 ATTORNEY RAJKOVICH:

9 Marco Rajkovich, 2333  
10 Alumni Park Plaza, Suite 310,  
11 Lexington, Kentucky, 40517.

12 BY MR. MORLEY:

13 Q. Are you aware that your  
14 representative may have a conflict of  
15 interest in representing you while  
16 being provided by someone else, such  
17 as the company?

18 A. Yeah.

19 MR. MORLEY:

20 Mr. Rajkovich, would  
21 you state for the record  
22 whether you also represent the  
23 mine operator in these  
24 matters?

25 ATTORNEY RAJKOVICH:

1 I do.

2 BY MR. MORLEY:

3 Q. With this understanding, do  
4 you still want this person as your  
5 representative?

6 A. Yeah.

7 Q. Can I call you Jesse?

8 A. Yeah.

9 Q. Are you appearing here today  
10 voluntarily?

11 A. Yeah.

12 Q. How many years of mining  
13 experience do you have?

14 A. Eight.

15 Q. Can you give me a brief  
16 description of your coal mine  
17 employment history? Like where have  
18 you worked, what other mines?

19 A. I've been at Crandall Canyon  
20 for about --- since the first part of  
21 March of this year.

22 Q. Okay.

23 A. Six months prior to that I  
24 worked at Deer Creek.

25 Q. Uh-huh (yes).

1 A. Three or four years before  
2 that I worked at Crandall Canyon.  
3 Two years before that I worked at  
4 West Ridge. And about a year or two  
5 at Soldier Creek.

6 Q. So you worked at Crandall  
7 Canyon for a while and you left and  
8 then you came back?

9 A. Yeah.

10 MR. BAXTER:

11 Do you know what years  
12 you worked at Crandall Canyon  
13 the first time?

14 A. I got transferred once or  
15 twice for a couple months back to  
16 West Ridge. I think I got three ---  
17 about three years, four. I left the  
18 end of September in '06. I believe  
19 it was October of '03 or '04 when I  
20 was transferred there.

21 BY MR. MORLEY:

22 Q. What's your present position?

23 A. I'm a shift maintenance  
24 foreman.

25 Q. And was that your same job on

1 August 5th?

2 A. Nope. I was a general mine  
3 mechanic/electrician.

4 Q. Okay. And how long had you  
5 worked in that position?

6 A. Since I've been with the  
7 company.

8 Q. Okay. Have you held any other  
9 positions at this mine?

10 A. (Indicates no).

11 Q. If you don't say it, then he  
12 can't record it. Do you have any  
13 mining certifications?

14 A. I've got a surface and  
15 underground electrical, ---

16 Q. Okay.

17 A. --- fireboss and mine foreman  
18 papers.

19 Q. Okay. Who was your immediate  
20 supervisor on August 5th?

21 A. Russ Anderson.

22 Q. And how long had that person  
23 been your supervisor?

24 A. A year, maybe.

25 Q. A year, okay.

1 A. Roughly.

2 Q. What was your work schedule  
3 for the week of the accident?

4 A. Prior to?

5 Q. Yeah. When did you work that  
6 week?

7 A. I was on vacation and had a  
8 long shift change. I was off for 13  
9 days prior to --- the day of the  
10 accident was going to be my first day  
11 back.

12 Q. Okay. So you worked the day  
13 of the accident?

14 A. They called me at six o'clock  
15 in the morning and told me what had  
16 happened.

17 Q. Okay. So what time did your  
18 shift start?

19 A. They had a maintenance --- or  
20 not a maintenance, excuse me,  
21 supervisory training class that day.  
22 It was scheduled for that day. I was  
23 supposed to go to it up at the old  
24 Willow Creek Mine.

25 Q. Okay.

1 A. So I wasn't even scheduled to  
2 come to work that day.

3 Q. How about starting at the time  
4 you got to the mine on that day ---  
5 or when they called you, just can you  
6 like in your own words run me through  
7 your day and what you went through,  
8 what you saw, what you experienced,  
9 as best ---

10 A. On that day, ---

11 Q. --- as you can remember?

12 A. --- we --- when I got there,  
13 they told me to get --- work on some  
14 Isuzus. They were having --- get my  
15 guys working on some Isuzus. They  
16 were having trouble. They wanted  
17 more transportation, basically.

18 Q. What time did you get there,  
19 do you know?

20 A. I really can't even say for  
21 sure.

22 Q. Okay.

23 A. Around 7:00, I imagine. They  
24 asked me what machinery we had outby.  
25 As far as Gary Sitterud, he was up

1       there.  He's the maintenance over all  
2       three mines ---

3       Q.       Okay.

4       A.       --- so that we knew what we  
5       had available as far as machinery to  
6       get in there because nobody knew what  
7       we were going to do, you know.  And  
8       we rounded up some equipment, a  
9       transformer, I believe.

10      Q.       Did you go in the mine or did  
11      you work out in the yard?

12      A.       Mostly outside.

13      Q.       Okay.

14      A.       I went in and got a few ---  
15      helped them locate a few pieces of  
16      equipment in the South Crandall, in  
17      the Third North section.

18      Q.       Okay.

19      A.       But I don't remember going  
20      into the section.

21      Q.       So you never made it into west  
22      mains the day of the accident?

23      A.       That was a long time ago.

24      Q.       I know.  Do the best you can.

25      A.       It was either that day or the

1 next there I went in there. We drug  
2 a transformer in there. That was my  
3 first time in there.

4 Q. Okay. After the accident,  
5 that following period when they were  
6 working on the rescue operation and  
7 trying to load the material out of  
8 the west mains section, did you ever  
9 go up into the section during that  
10 time?

11 A. Yeah, I did.

12 Q. Can you kind of describe, if  
13 you know, what days or what duties  
14 you did or ---?

15 A. There was generally me and one  
16 mechanic in there.

17 Q. Okay.

18 A. And worked on keeping the  
19 cables ready so they could advance  
20 the miner.

21 Q. Okay.

22 A. We'd get a variance to add  
23 cable to the miner and just kind of  
24 helped.

25 Q. When you got to west mains

1 section, do you remember where they  
2 were working at that time, which  
3 entry they were trying to work in?

4 A. They was in the Number One  
5 entry.

6 Q. So they were already over in  
7 the Number One entry?

8 A. Yeah, they were in there.

9 Q. Okay. Do you know about what  
10 crosscut number they were working at  
11 when you were there?

12 A. We had the transformer set up  
13 at 119, and they were advancing --- I  
14 believe they was in between 120,  
15 right about there.

16 Q. Okay. What was the extent of  
17 damage in there? Can you just  
18 describe what you saw when you were  
19 in there or ---?

20 A. The first day I went in there  
21 or ---?

22 Q. Yeah.

23 A. It looked like rib sloughage.  
24 Bolts were all intact. The roof  
25 looked good, but it was just nuggets

1 about the size of baseballs.

2 Q. And how full was the entry  
3 with that?

4 A. You could walk through the  
5 center of the entries, maybe. But  
6 later on, when they got down to  
7 around 125, 126, it was a solid block  
8 of coal.

9 Q. So around Crosscut 120 it was  
10 --- it wasn't very deep in the  
11 middle, it was on the ribs?

12 A. No, you could still stand up  
13 and walk.

14 Q. While you were up there doing  
15 your maintenance work, can you just  
16 describe how the operation  
17 progressed? Like do you know what  
18 they did, the cycle, how they cleaned  
19 up and how they set supports and  
20 such? Did you ever observe that?

21 A. I wasn't in there enough to  
22 --- I didn't stay in there to watch a  
23 full cycle.

24 Q. Okay.

25 A. They cleaned out and then

1 would set the rock props. They  
2 started out setting rock props with  
3 the scoop, and then we put it up on  
4 the miner. And they were using --- I  
5 believe they were sticking it for  
6 farther forward. And then the  
7 controls went back in the ground.

8 Q. How did they set those rock  
9 props, do you know?

10 A. What do you mean?

11 Q. Like what's the procedure that  
12 they use?

13 A. They'd shovel the rib or  
14 shovel right where the prop was  
15 getting set, set the cap on the top  
16 and pressure 'em up to about a  
17 thousand, 1,100 ---.

18 Q. Okay. Do you ever get into  
19 the other entries in that section  
20 besides Number One?

21 A. I went up to the feeder  
22 breaker that was in Number Two entry.

23 Q. And could you see inby if  
24 there was any ---?

25 A. They had stoppings built when

1 I made it in there, so ---

2 Q. Okay.

3 A. --- I had no need back there.

4 Q. While you were in there during  
5 that time period, did you ever  
6 experience any bounces or any events  
7 like that?

8 A. Define bounce.

9 Q. Well, I was going to ask you  
10 to define bounce then.

11 A. I've got a lot of different  
12 opinions of what a bounce is lately.

13 Q. Well, so have we. What do you  
14 call a bounce, so we know what we're  
15 talking about?

16 A. When it hits hard, you hear it  
17 up above you is what I consider a  
18 bounce.

19 Q. Okay. It doesn't necessarily  
20 have to throw coal or anything?

21 A. No. You can hear them up  
22 there.

23 Q. Okay.

24 A. I seen the rib slough off  
25 between the One and Two entries going

1 up towards the feeder breaker one  
2 day.

3 Q. Okay.

4 A. It wasn't a bounce. There was  
5 no sound.

6 Q. Okay.

7 A. I was standing in the middle  
8 of the entry. It hit me with some  
9 coal.

10 Q. Okay. So it did throw a  
11 little bit of coal?

12 A. But it didn't thump. It  
13 wasn't a bounce. It was just  
14 ribs blowing out.

15 Q. Okay. Any other time?

16 A. I heard it working a little  
17 bit. I believe I was in there a day  
18 or two later after the initial ---  
19 after the 6th. And I was on Number  
20 Six belt line and you could hear it  
21 working a little bit.

22 Q. Okay. Did you work all the  
23 way up until the 16th?

24 A. Yes, I did. Well, no, I did  
25 not. I had the day before off.

1 Q. Were you working on the day of  
2 the 16th?

3 A. Yes, I was.

4 Q. Like before, can you describe  
5 from the start of your shift what you  
6 saw on the 16th?

7 A. I went in the section a couple  
8 of times hauling parts in. I was in  
9 there about two hours, I'm guessing,  
10 before them guys got killed. I was  
11 in the face. It looked good. They  
12 brought a spotlight in so we could  
13 see out there farther above the  
14 miner, beyond the miner, give some  
15 adequate light up there. I was up  
16 there with all them guys. I didn't  
17 hear it bouncing, working. I mean,  
18 it looked good. I figured another  
19 day and they'd be able to be through  
20 it.

21 Q. When you said they had a  
22 spotlight, could they see over top of  
23 the coal that was in the face?

24 A. There was a hole on the right  
25 side, it was maybe two feet tall, ---

1       roughly three feet.

2       Q.       And they felt they could see  
3       out ahead?

4       A.       I thought that it was going to  
5       open up, ---

6       Q.       Okay.

7       A.       --- was my opinion.

8       Q.       Do you remember where you were  
9       when the accident happened?

10      A.       I was heading home. I hit the  
11      showers early. And when I got home I  
12      got a phone call from one of the  
13      shift bosses. He heard something bad  
14      happened, he didn't know what.

15      Q.       So do you know what time you  
16      left the mine that day?

17      A.       I couldn't say for sure.

18      Q.       You're thinking that you were  
19      up in the face about two hours before  
20      the accident and then you left?

21      A.       Yeah.

22      Q.       So you weren't actually there  
23      when the accident occurred?

24      A.       No, I wasn't.

25      Q.       Okay. Did you come back to

1 the mine or was that it?

2 A. I did.

3 Q. Okay. You work in the ---  
4 were you ever up in that section  
5 before the accident, like prior to,  
6 in your regular duties, when they  
7 were driving that section, west mains  
8 south section through the barrier?

9 A. Was I in the section?

10 Q. Yeah.

11 A. Yeah, while they were  
12 developing.

13 Q. What did you think of the  
14 conditions in the section?

15 A. Like a miner section.

16 Q. Was there anything abnormal?

17 A. Not that I know.

18 Q. Any sloughage or ---?

19 A. A little bit of rib sloughage,  
20 nothing unusual.

21 Q. Nothing unusual?

22 A. Nothing out of --- no.

23 Q. Any bounces you heard up in  
24 through there?

25 A. No.

1 Q. Any floor heave?

2 A. Not that I noticed.

3 Q. Okay. Do you know about how  
4 high they were mining in there?

5 A. I guess about seven and a  
6 half, eight feet ---.

7 Q. Were they leaving top coal or  
8 bottom coal or ---?

9 A. It looked to me like it was  
10 cut to the rock on the top ---

11 Q. Okay.

12 A. --- so they ---.

13 Q. And the pillar ribs, are they  
14 just sloughed or were they rounded  
15 out or hour-glassed or ---?

16 A. Just sloughed.

17 Q. Just sloughed a little bit.  
18 Did you encounter any water in the  
19 section?

20 A. No.

21 Q. Okay. When they started  
22 pillaring the section back, did you  
23 see any changes?

24 A. Like pillar sections.

25 Q. Nothing unusual?

1 A. Not that I've seen.

2 Q. Okay. No bounces, water?

3 A. There was bouncing. It's  
4 supposed to bounce, some top come  
5 down, you know.

6 Q. Okay.

7 A. I mean ---.

8 Q. Besides the pillar falls?

9 A. No.

10 Q. In other words, nothing that  
11 made the ribs slough in or threw coal  
12 off the ribs or anything like that?

13 A. No, I never seen it.

14 Q. Never saw any bounces that  
15 moved coal around?

16 A. No.

17 Q. Did you ever see them  
18 pillaring in your travels up there?

19 A. I went to the miner to check  
20 on how it was running, if there was  
21 anything that we needed to work on.  
22 I didn't stay up there.

23 Q. Were they --- the times you  
24 were up there, were they taking all  
25 the coal? Were they leaving --- did

1 they have to leave coal behind ---?

2 A. I didn't stay that long. I  
3 hate pillars.

4 Q. Okay.

5 A. I'm a coward.

6 Q. And the MRSs, they're working  
7 fine up there, no problems with the  
8 weight or anything on those?

9 A. Not that I know of.

10 Q. Okay. Were you in the section  
11 --- well, you were off for 13 days  
12 right before the accident?

13 A. Yeah.

14 Q. So you wouldn't have been up  
15 there. Okay. What about the north  
16 barrier block, were you in there when  
17 you came back to work at Crandall  
18 Canyon?

19 A. I think it was my second day  
20 they pulled out. I got in there  
21 once.

22 Q. Okay. And anything unusual?

23 A. I ate lunch with them and I  
24 left.

25 Q. That's it?

1       A.       Yeah.    There was another guy  
2       that started the same time with me.  
3       He needed to do permissibility.  He  
4       had no idea where anything was, and I  
5       was showing him the ropes.

6       Q.       Okay.  When you were here the  
7       first time, did you work in --- what  
8       areas of the mine did you work in?

9       A.       The entire.

10      Q.       How long were you gone when  
11      you went to West Ridge, about eight  
12      months you said?

13      A.       I went to West Ridge for like  
14      a month, I think once, a month or  
15      two, a couple years ago.  I went to  
16      Deer Creek for six months, I believe.

17      Q.       Did you work in the south  
18      mains when they pillared that out?

19      A.       Yeah.

20      Q.       How did that look?

21      A.       Good.

22      Q.       No problems?

23      A.       Not that I seen.

24      Q.       You didn't see any weight on  
25      the pillars or experience any

1        bounces?

2        A.            No.

3        Q.            Do you know if when they  
4        pillared that, did they pillar that  
5        --- did they like drive rooms or they  
6        pillared all the way straight across  
7        or ---? Do you know how they mined  
8        that?

9        A.            They drove rooms to the right,  
10       to the west I guess it would be, and  
11       then they pulled the pillars out.  
12       Which ones they were leaving, I don't  
13       know.

14       Q.            Okay. You said you had  
15       fireboss papers. Did you ever do any  
16       firebossing in the mine?

17       A.            Yes.

18       Q.            Did you ever --- during your  
19       travels, did you ever detect low O<sub>2</sub>  
20       or methane in the mine?

21       A.            No.

22       Q.            Did you examine the seals?

23       A.            I examined the north main  
24       seals.

25       Q.            Did you --- nothing, never

1 detected anything there?

2 A. I never detected anything  
3 there.

4 Q. Did you ever open the valve  
5 and see what was in behind the seals?

6 A. Yes, I did.

7 Q. And what did you see?

8 A. Enough water out there, it was  
9 reading --- I never detected any CO  
10 coming out when I was --- or methane.

11 Q. What about the oxygen level?

12 A. Seemed to be good.

13 Q. Do you know if it was coming  
14 out or sucking in?

15 A. It was moving enough air  
16 through it to even --- I mean ---.

17 Q. It wasn't really coming out?

18 A. No.

19 MR. MORLEY:

20 Okay. Why don't we  
21 just take a short break to see  
22 if anybody else has any  
23 questions for you, and we'll  
24 come right back.

25 SHORT BREAK TAKEN

1 BY MR. MORLEY:

2 Q. Just one follow-up question.  
3 When you came back to work the second  
4 time, when you came back to work for  
5 Crandall Canyon, you were up in the  
6 north --- west mains pillar section  
7 just for a day or so, do you know why  
8 or did anybody tell you why they  
9 pulled out of that section?

10 A. It bounced. What happened, I  
11 don't know for sure.

12 Q. Okay.

13 A. They said we had lost some  
14 top, but ---.

15 Q. Did you help them move or pull  
16 out?

17 A. I helped them pull some  
18 equipment out.

19 Q. Did you see any coal that  
20 would have been displaced or covered  
21 up any equipment or anything?

22 A. Not that I seen.

23 Q. Okay.

24 A. Yeah, I didn't see anything  
25 that --- it just bounced and I went

1        --- I mean, I went in past the  
2        transformer. I was calling them a  
3        bunch of wimps. It didn't look that  
4        bad, but I wasn't there when it hit  
5        'em. I don't know what, you  
6        know ---.

7        Q.        Okay. Do you remember who  
8        said it bounced?

9        A.        I don't know.

10        Q.        Do you know when the last time  
11        you had your annual retraining was?

12        A.        I got my on-sites when I come  
13        back, so I hadn't been to an annual  
14        retrainer. I got one when I went to  
15        Deer Creek, so I've been doing the  
16        on-site thing to get me back, as far  
17        as that goes.

18        Q.        Okay. So your last annual  
19        retraining was at Deer Creek, is that  
20        what you're saying?

21        A.        I got my on-sites when I came  
22        back in March, and Bodee went over  
23        all the safety, the pillar plan, ---

24        Q.        Okay.

25        A.        --- self-rescuers, ---

1 Q. Okay.

2 A. --- all the boring crap you go  
3 through.

4 Q. All that good stuff. Okay.  
5 Have you given a written statement or  
6 interview to anyone before this  
7 interview regarding the accidents?

8 A. I talked to Marco for a little  
9 while one day.

10 Q. Okay. And has anyone offered  
11 you anything or made any promise to  
12 you in exchange for appearing here or  
13 not to appear here today?

14 A. No.

15 Q. Okay. Do you have anything  
16 you might want to add that would be  
17 relevant, any statement you want to  
18 make?

19 A. No.

20 MR. MORLEY:

21 On behalf of MSHA, I  
22 want to thank you for  
23 appearing and answering  
24 questions today. Your  
25 cooperation is very important

1 to the investigation as we  
2 work to determine the cause of  
3 the accident.

4 We ask that you do not  
5 discuss your testimony with  
6 any person who may have  
7 already been interviewed or  
8 who may be interviewed in the  
9 future. This will ensure that  
10 we obtain everybody's  
11 independent recollection of  
12 the events surrounding the  
13 accidents.

14 After questioning other  
15 witnesses, we may call you if  
16 we have any follow-up  
17 questions that we feel we may  
18 need to ask you. If at any  
19 time you have any additional  
20 information regarding the  
21 accident that you would like  
22 to provide us, please contact  
23 Richard Gates at the  
24 information that we previously  
25 gave you.

1                   The Mine Act provides  
2                   certain protections to miners  
3                   who provide information to  
4                   MSHA and, as a result, are  
5                   treated adversely. If at any  
6                   time you believe that you have  
7                   been treated unfairly because  
8                   of your cooperation in the  
9                   investigation, you should  
10                  contact MSHA immediately.

11                  If you wish, you may  
12                  now go back over any answer  
13                  you have given during this  
14                  interview and you may also  
15                  make any other statement you'd  
16                  like to make. Anything?

17        A.        No.

18                  MR. MORLEY:

19                  Okay. Again, I want to  
20                  thank you for coming in and  
21                  your cooperation in this  
22                  matter.

23                  \* \* \* \* \*

24                  STATEMENT UNDER OATH

25                  CONCLUDED AT 5:01 P.M.