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EXECUTIVE SESSION

COMMITTEE ON EDUCATION AND LABOR,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

DEPOSITION OF: STEPHEN FALK

Friday, March 7, 2008

Washington, D.C.

The deposition in the above matter was held in Room  
B-345A, Rayburn House Office Building, commencing at 10:00  
a.m.

1       Appearances:

2

3       For COMMITTEE ON EDUCATION AND LABOR:

4       BRIAN V. KENNEDY, GENERAL COUNSEL

5       MICHAEL ZOLA, CHIEF INVESTIGATIVE COUNSEL

6       PATRICK FINDLAY, INVESTIGATIVE COUNSEL

7       ROBERT BORDEN, MINORITY GENERAL COUNSEL

8       JAMES A. PARETTI, JR., MINORITY WORKFORCE POLICY COUNSEL

9

10       For DEPARTMENT OF THE INTERIOR:

11       GRANT VAUGHN,

12       Attorney Adviser

13       United States Department of the Interior

14       Office of Regional Solicitor,

15       125 South State Street,

16       Suite 6201,

17       Salt Lake City, UT 84138

18

19

20               Other staff present for the Education and Labor

21       Committee: Sarah Dyson, Investigative Associate; Loren

22       Sweatt, Minority Professional Staff Member; and Richard Hoar,

23       Minority Professional Staff Member.

24

25

1

2       THEREUPON,

3

STEPHEN FALK,

4

          A witness, was called for examination, and after having  
5       been first duly sworn, was examined and testified as follows:

6

          Mr. Findlay. This deposition is being conducted by  
7       staff of the Committee on Education and Labor of the United  
8       States House of Representatives at the direction of the  
9       Chairman of the Committee. Specifically, this deposition is  
10      being conducted pursuant to House Resolution 836 from the  
11      110th Congress and under the Committee's deposition rule.

12

          The Committee sought this deposition to further the  
13      Committee's investigation of the deaths that occurred in  
14      August of last year at the Crandall Canyon Mine in Utah.  
15      Thank you for being here today. Mr. Falk, please state and  
16      spell your full name.

17

          Mr. Falk. Stephen Falk, S-T-E-P-H-E-N F-A-L-K.

18

          Mr. Findlay. Thank you. I will now introduce everyone  
19      in the room and then describe how we will proceed today. As  
20      you know, my name is Patrick Findlay. I am investigative  
21      counsel to the Committee on Education and Labor. With me  
22      representing the majority side of the Committee is Michael  
23      Zola, chief executive counsel, and Brian Kennedy, general  
24      counsel for Labor. We will be assisted by Sarah Dyson behind  
25      me, whose position is investigative associate. Also present

1 are representatives of the Official Reporters Office who will  
2 be transcribing these positions. Representing the minority  
3 side of our Committee is Robert Borden. Also present for the  
4 minority is Lauren Sweatt and Richard Hoar.

5 At the request of the minority side of our Committee, I  
6 would like to note that we stipulate that no objection will  
7 be waived for failure to make it in the deposition this  
8 morning; is that correct, Rob?

9 Mr. Borden. That's correct. Thank you.

10 Mr. Findlay. We also have counsel here today on behalf  
11 of the Bureau of Land Management. Counsel please state your  
12 appearance.

13 Mr. Vaughn. I'm Grant Vaughn, V-A-U-G-H-N, and I am  
14 here from the Office of the Regional Solicitor in Salt Lake  
15 City, and I represent the Department of the Interior.

16 Mr. Findlay. And Mr. Falk, I see you don't have  
17 personal counsel today?

18 Mr. Falk. That's correct.

19 Mr. Findlay. Do you understand that our rules allowed  
20 for you to bring personal counsel if you so wished?

21 Mr. Falk. Yes, I do.

22 Mr. Findlay. I do understand that the Department  
23 counsel here today is here to represent the Department and  
24 BLM and not you?

25 Mr. Falk. That's correct.

1           Mr. Findlay. The questioning this morning will go as  
2 follows: I will ask you questions for up to an hour or so.  
3 We'll probably take a short break about every hour. If you  
4 need to take a break at any other time please tell me and  
5 we'll take a break. Will you do that?

6           Mr. Falk. You bet.

7           Mr. Findlay. I will ask that if there is a question  
8 pending, you answer it before we take a break. When I'm  
9 finished with my questions minority counsel may ask you some  
10 questions. Other than who is asking the questions the  
11 procedure will remain the same. The reporters will be taking  
12 down everything that is said and will make a written record  
13 of the deposition. To make this written record clear, I ask  
14 that you give verbal answers, for example, a clear yes rather  
15 than a yeah. Please remember that nods and gestures do not  
16 make it into the record. Is that clear?

17          Mr. Falk. Yes, it is.

18          Mr. Findlay. Also, in order for the record to be clear,  
19 I will do my best to wait to ask the next question until you  
20 have finished answering the previous question. I ask that  
21 you wait to begin answering any question until I have gotten  
22 it all out. Is that okay?

23          Mr. Falk. Yes.

24          Mr. Findlay. If you don't hear a question or don't  
25 understand a question, please say so. This is very

1 important. Unless you speak up to tell us otherwise, we will  
2 assume that you heard the question and understand it. Is  
3 that okay?

4 Mr. Falk. Yes.

5 Mr. Findlay. Because you've been placed under oath,  
6 your testimony here today has the same force and effect as if  
7 you were testifying before the full committee at a public  
8 hearing. If you knowingly provide false testimony, you could  
9 be subject to criminal prosecution for perjury, making false  
10 statements or other related offenses. Do you understand  
11 that?

12 Mr. Falk. Yes.

13 Mr. Findlay. You have the right to refuse to answer any  
14 question if answering that question would tend to incriminate  
15 you in criminal wrongdoing. Do you understand that?

16 Mr. Falk. Yes.

17 Mr. Findlay. Are you suffering from any condition that  
18 would prevent you from giving me your full attention this  
19 morning?

20 Mr. Falk. No.

21 Mr. Findlay. Is there any reason why you would be  
22 unable to provide truthful answers during today's deposition?

23 Mr. Falk. No.

24 Mr. Findlay. Have you understood everything we've gone  
25 over so far?

1           Mr. Falk. Yes, I have.

2           Mr. Findlay. Do you have any questions before we  
3 continue?

4           Mr. Falk. No, not at this time.

5           BY MR. FINDLAY:

6           Q     Have you ever given a deposition before?

7           A     No.

8           Q     How did you prepare for today's deposition?

9           A     I made sure I read my own inspection reports,  
10 thought of things, other testimony -- I take it back, I'm  
11 sorry. I gave deposition just recently to an MSHA  
12 investigation. I was thinking of this kind of deposition, so  
13 let's back up on that. I was involved with two MSHA official  
14 investigations. I guess that would be considered as a  
15 deposition. It's an investigation but I was under oath on  
16 both of them.

17          Q     Fair enough. Please run us through your post high  
18 school education.

19          A     After high school I attended the University of  
20 Utah, went through 4 years or 5 years of engineering, mining  
21 engineering with a degree from the College of Mines,  
22 University of Utah, Bachelors of Science, in 1980.

23          Q     And run us through from college on your employment  
24 history up until you started with BLM?

25          A     In college in Salt Lake City where the University

1 of Utah is located, there was an office of the mining  
2 supervisor, Conservation Division of the United Geological  
3 Survey. I obtained part-time employment there while I was  
4 going to school. When I graduated with my degree in 1980  
5 they had offered a full-time job there. I accepted and was  
6 with the Conservation Division of the United States  
7 Geological Survey for 3 years. During that time, there was  
8 one reorganization. We became Minerals Management Service in  
9 1983 or '82, excuse me. And then in 1983, there was a merger  
10 of the Minerals Management Service in the Bureau of Land  
11 Management. Then I was a BLM employee from then on. I was  
12 transferred to Price, Utah in 1984 and been there since.

13 Q And from 1984, from when you were transferred to  
14 Price, what positions have you held?

15 A Mining engineer, senior mining engineer, and for a  
16 short time, was acting chief of lands and minerals.

17 Q What were the dates on each of those roughly?

18 A I'm trying to think. 1990 was the acting chief of  
19 the lands and minerals. And senior, senior was probably just  
20 a year before that.

21 Q So since that time, you've been --

22 A Yeah, a mining engineer.

23 Q And what are your responsibilities as mining  
24 engineer there in Price?

25 A Mining engineers under the chief of Lands and

1 Minerals are responsible for operations on Federal co-lease  
2 pursuant to the Mineral Leasing Act. This includes  
3 production, verification, inspection and enforcement of lease  
4 terms and conditions and approved mine plans. We also  
5 inspect for exploration on lease on Federal co-leases and  
6 coordinate with the various different agencies that have  
7 regulatory authority over the coal mines under Federal  
8 co-leases.

9 Mr. Findlay. I'll just note for the record that Jim  
10 Parette just joined us from the minority side.

11 [Discussion off the record.]

12 BY MR. FINDLAY:

13 Q Okay. Now, I think you mentioned that you report  
14 to the chief of Lands and Minerals?

15 A Uh-huh.

16 Q Who is that?

17 A At the present time, right now it is Mike Steiwig.

18 Q And when did he become --

19 A Just recently. I'm trying to think. Fall, fall of  
20 '07.

21 Q Who is the prior?

22 A We had an acting for a while. But prior to that,  
23 it was Fred O'Farrell.

24 Q For about how long?

25 A He was there for 3 years. And they are directly

1 underneath the office manager, field office manager.

2 Q And do you supervise anyone?

3 A Not at this time, no.

4 Q When did you first become familiar with Crandall  
5 Canyon Mine?

6 A Crandall Canyon Mine was operating in 1982. I  
7 inspected that off and on from then on. We have a few  
8 engineers in the office and oftentimes we rotate assignments  
9 for the different mines.

10 Q Since let's say the last 3 years have you been the  
11 exclusive engineer reviewing Crandall Canyon?

12 A Yes.

13 Q Are you familiar with Andalex Resources?

14 A Yes, I am.

15 Q And what are they, what is Andalex?

16 A It's a mining company that did own, a 50 percent  
17 owner of the, was the operator and 50 percent owner of the  
18 lease holdings prior to 2007.

19 Q And are you familiar with Genwal?

20 A Yes, I am.

21 Q And what's Genwal?

22 A Genwal was prior to Andalex Resources, but Andalex  
23 Resources kept the name of Genwal Resources as a subsidiary.

24 Q And is it Genwal that operates Crandall Canyon?

25 A Yes.

1           Q     Did any representative from the Crandall Canyon  
2 Mine ever indicate to you that they were interested in mining  
3 barrier pillars?

4           A     Yes. Of, I'm sorry. Say again. Which operator  
5 did you say?

6           Q     Anybody operating Crandall Canyon.

7           A     Anybody? Yes, they did.

8           Q     And when was that for the first time?

9           A     Time frame -- I'm looking at that map.

10          Q     Let's actually introduce Exhibit 1.

11                                 [Falk Exhibit No. 1  
12                                 was marked for identification.]

13                         BY MR. FINDLAY:

14          Q     Just real quick before we go on, do you recognize  
15 this document?

16          A     Yes.

17          Q     Would you describe it for us?

18          A     This is an official mine map of the Crandall Canyon  
19 Mine.

20          Q     Okay. Now, I think we were just about to start  
21 talking about mining in the barriers and when you first got  
22 wind that they would be interested in doing that?

23          A     Time frame mining in this country. If you notice  
24 it's next to what they call panel 19.

25          Q     You can feel free to mark up on the map.

1           A     And I'm just going to see if I can remember the  
2 time frame of this. April of '03, they were finished with  
3 this longwall panel. And in essence, after mining a little  
4 bit of this I would estimate the later part '03. And they  
5 started mining up to what they call a barrier to these mains  
6 in this time frame and pulling out in this country.

7           Q     Would you just maybe circle that area. This is the  
8 first one that they did.

9           A     And I would say that's in '03.

10          Q     Highlight it if you prefer.

11          A     And then in so doing, they mined a number of what  
12 we call barrier pillars to mined-out panels on each side.  
13 These were with continuous miners and they did an extraction  
14 of these pillars in this area and progressively worked this  
15 way up this way.

16          Q     Now, do you know that because they told you that or  
17 did you see it?

18          A     They planned that, and then submitted modifications  
19 to our, what we call, resource recovery protection plan for  
20 that aspect.

21          Q     Is that the R2P2?

22          A     Yes.

23          Q     And during that time, were you inspecting the mine?

24          A     Yes, I was.

25          Q     I will ask the court reporter to mark this

1 Exhibit 2, please.

2

[Falk Exhibit No. 2

3

was marked for identification.]

4

BY MR. FINDLAY:

5

Q Mr. Falk, I will ask you to look at this document  
6 and after you've had a chance, let us know if you recognize  
7 it?

8

A Yes, I do.

9

Q And what is it?

10

A It's an inspection report performed by myself.

11

Q And you wrote it?

12

A Yes, I did.

13

Q Is it your practice to write an inspection report  
14 every time you visit a mine?

15

A Yes.

16

Q Are these inspection reports, or this one in  
17 particular, was it sent to anyone or is it to files?

18

A It's files.

19

Q Now, in the top, what looks to be the header, it  
20 says: Inspection Report IE/PV. What is IE/PV?

21

A Inspection enforcement slash product verification.

22

Q Now, just below that header it says: "Inspection  
23 number: SWF080106." Does that hold any significance?

24

A What it means is this is all on an axis computer  
25 program. It's given a number. And we went by protocol to

1 put the date of the inspection as the inspection number. So  
2 that's what it refers to, August, 08/01/06. And that's my  
3 initials in front there. And so in essence, that is truly an  
4 inspection number for the computer, but it gives us a ring of  
5 what it really is. It's an inspection report of that date  
6 done by that person.

7 Q So it's your practice to fill this out on line?

8 A Yes.

9 Q And then print it and sign it?

10 A Correct.

11 Q So what is the -- this might be a dumb question,  
12 but what is the finalized date?

13 A The finalized date is the way our computer is set  
14 up on an axis, and we had some consternation in doing this,  
15 but the management decided that when the inspection report is  
16 completed, finalized, and therefore, you can't add anything  
17 to it, they hit this button there. And they rigged up the  
18 computer to say this is your finalized date and therefore you  
19 can only change it by adding addendums to it. And so this  
20 program gives you the opportunity to massage it and do  
21 anything you want with it until the inspector -- an inspector  
22 is the only one that can push that finalized button.

23 Q So when would you have started writing?

24 A We tried to get this done as quick as we can. We  
25 are, what can I say, overworked -- no. We have a backlog of

1       stuff. So in essence, a lot of this stuff will be -- I have  
2       five other mines that I inspect and we try to do the best we  
3       can to get some stuff in there.

4             Q     I think in the first paragraph of the remarks  
5       section you mention Tom Hurst. Who is Tom Hurst?

6             A     Tom Hurst is, as I say, the senior mining engineer  
7       for Andalex. And he's the -- he was my company  
8       representative. We always will inspect with a company  
9       representative.

10            Q     And on that day on August 1, '06, were you in the  
11       mine with anyone else or was it only Tom Hurst?

12            A     I mean you meet other people, but he was my person  
13       I went with. He drove the vehicle.

14            Q     Over, say, the last 3 years, have you dealt with  
15       anybody else representing Crandall Canyon Mine?

16            A     Yes. There was an associate engineer that was  
17       there, Jim, James Sorenson. The mine manager, I forgot his  
18       name now -- yeah, Laine Adair, mine manager. And prior to  
19       Tom Hurst, I'm trying to think, in probably 2005, a John  
20       Lewis. He was the previous senior technical engineer.

21            Q     So from 2005 until August of last year it was Tom  
22       Hurst?

23            A     I want to try to say -- I'd say more so on the  
24       order of 2006 on Tom Hurst, and then prior to that John  
25       Lewis.

1           Q     I think you said you dealt with the mine manager  
2 Laine Adair?

3           A     Yes.

4           Q     What were your interactions with him?

5           A     Oftentimes -- well, most of the time, I would deal  
6 with the senior technical engineer there. That would be  
7 either Tom Hurst or the previous guy, John Lewis. There  
8 would be -- once in a while I would meet with Laine Adair.  
9 I'm trying to think. I don't recall him coming with us on  
10 the last inspections or so. But I have dealt with him  
11 oftentimes.

12          Q     And when you say the last inspections or so, you  
13 mean --

14          A     Probably for the last 2 years.

15          Q     Now, in the second paragraph in the remarks section  
16 you write, "the sale of all of Andalex should be happening  
17 soon. Still rumors of Utah American/Bob Murry and Arch  
18 Coal." What rumors did you hear at that time and from whom?

19          A     Town, at Wal-Mart and just from associates around  
20 there. Price is a quite small tight-knit community. Mining  
21 is still the largest employer down there and people on the  
22 street seem to know just as much as anybody else.

23          Q     And then as we work through the document you also  
24 say, concerns on the South Crandall longwall still exist.

25 Are you referring to the South Crandall Mine?

1           A     Yes.

2           Q     So not Crandall Canyon Mine?

3           A     Correct.

4           Q     On the third paragraph you write, each mining  
5 section was visited, conditions were noted and spot  
6 measurements were taken to compare with submitted monthly  
7 production maps. For this report, how did you observe the  
8 conditions and what are spot measurements?

9           A     Spot measurements are for production verification.  
10 They report production monthly, not only to us but to the  
11 Minerals Management Service. Minerals Management Service has  
12 deemed us to do the production verification, whereas they're  
13 in charge of receiving the funds and the royalties. We have  
14 determined that one of the ways we can try to independently  
15 go about production verification that what they reported is  
16 indeed accurate, is to take on inspection spot measurements  
17 of the actual excavation of the coal.

18           So I would take tape measurements of an area they had  
19 just mined, the height, width. And then I would compare them  
20 with monthly mine maps that they submit to us showing  
21 progress, colored progress of the mine map with some  
22 dimensions on there. So therefore, I could indeed verify  
23 that what they reported on a mine map is somewhat accurate.

24           Q     In the fifth paragraph under the remarks section,  
25 on the first sentence you write, "Genwal's continuing to pull

1 pillars from south to north in the South Mains of the  
2 Crandall Canyon Mine." I guess the first question, what did  
3 you mean by "pull pillars"?

4 A Pulling pillars is a term for actually taking the  
5 continuous miner and mining into a block that has been -- a  
6 block of coal that is left in a pillar. A pillar can be  
7 square, rectangular, whatever. As you noticed on some mine  
8 maps, that's why you see these cross-sectioned tunnels,  
9 entries is what they call them, and crosscuts. And the  
10 pillar in between is the block of coal that is left. That  
11 was pulling pillars. They try to mine as much as they can  
12 within reason.

13 Q You say it's the block of coal that's left. Left  
14 after what?

15 A They develop it. They mine the actual entries and  
16 the crosscuts and leave those pillars for support while they  
17 are using those tunnels' entries. And when they are through,  
18 then they retreat out and they try to pull those pillars.  
19 And that is when they -- out of the section, out of the area,  
20 you can't get back in the area.

21 Q Would you take either the red pen or the  
22 highlighter and circle or note where you're referring to pull  
23 pillars from south to north?

24 A In this it's called the South Mains. In this  
25 country right here. These are the South Mains that used to

1       be like these tunnels that went down through here. After  
2       they finished pulling these pillars out of here they started  
3       at this end, southern end, and worked their way back up here.  
4       And at the time of this inspection, I note where we were,  
5       mining is pillar crosscut 9 and 8. It's probably up in this  
6       country right here.

7             Q     Could you just maybe write South Mains and point to  
8       it?

9             A     Sure. And this is north. So they started in south  
10       and moved that way.

11            Q     Now, in that same paragraph, towards the middle you  
12       write, problem areas have been a different size and shape  
13       pillars at the butts to the longwall panels. Could you just  
14       explain that to us?

15            A     Okay. Since this -- you see on this mine map that  
16       this is all shaded. What that means is everything has been  
17       extracted out of there. So what I could refer to maybe is a  
18       similar area that I can explain what a butt is. Over here,  
19       this is good. These are what we call a bank of longwall  
20       panels. And the development entries, and they call them the  
21       gate roads, are mined 90 degrees off of these. You notice  
22       that you have some odd-shaped --

23            Q     Would you mark though with the highlighters?

24            A     Sure. These odd-shaped pillars here. These are  
25       called the butts. These are -- these main entries are on a

1       specific dimension of width and length before you have the  
2       crosscuts. Now, obviously you have to mine off of one of  
3       these to facilitate air volume going through without going  
4       through all sorts of different curves. So these are just  
5       mainly used to, I guess, equate up equally to these main  
6       entries over here.

7               Also, this is the area where you have a lot of your  
8       power supply, your conveyor belt drives. There's a lot of  
9       auxiliary equipment that's placed down in these countries.  
10      So this is what's really called the butts to the gate entries  
11      of the longwall. So that's why you have some -- this is what  
12      I mentioned, odd-size pillars. And you did see that down in  
13      this country right here. And one of the aspects of mining a  
14      pillar pulling is you do like to see some continuity and  
15      equally spaced pillars. And sometimes you do get odd-shaped  
16      pillars that do tend to sometimes --

17             Q     I just note for the record, you're circling just as  
18      an example around panel 9, panel 10?

19             A     Right. And this you'll find on all of these. This  
20      would have been very similar on all of these down to the  
21      South Mains, as what you saw here.

22             Q     I think you mentioned you do want to see uniform  
23      shape. Why is that?

24             A     It's uniform stress relief. Basically, the top of  
25      the earth is standing on a pillar. If you have differing

1 pillar sizes there's differential pressures on them.

2 Q In that same paragraph, the fifth paragraph under  
3 "remarks," you write, "this section is approaching the South  
4 Main/Main West intersection." Can you point that out on the  
5 map?

6 A Yes. As I noted, it was between crosscut 9 and 8.  
7 As I said, it's in this country. This is the Main West  
8 intersection with South Mains right here.

9 Q Could you maybe take the red pen and just write  
10 intersection?

11 A Sure.

12 Q Then you write, from there start pulling the West  
13 Main all the way back. What did you mean by that?

14 A It's the bottom of that paragraph?

15 Q Yes. I think the second or third to last sentence  
16 from --

17 A I see it. From there start pulling the West Main  
18 all the way back. What we were referring to here is under  
19 the approved R2P2 we had thoughts of pulling these areas out  
20 here. There was discussion on these to some degree.

21 Q Sorry, but just to make the record clear, you say  
22 you had thoughts of pulling these areas out there?

23 A What I was referring to, they're probably going to  
24 pull from here on out. There was some discussion previous to  
25 this of whether they were going to pull any of this country

1 up here.

2 Q And which country is that?

3 A This is West Mains back to the west of the South  
4 Mains intersection.

5 Q Could you take the highlighter again?

6 A Sure.

7 Q Perfect. Now, you said we had thoughts. Who was  
8 that?

9 A I should say that the company had thoughts.

10 Q And who told you that?

11 A We had -- the BLM had received previous some  
12 modifications to the R2P2 to ask for pulling that country.  
13 Also, in the R2P2 there is, oftentimes there's some  
14 generalized statements they put in there. That the company  
15 might say we intend to pull pillars on final retreat out of  
16 the mine, which, in essence, when they're done with the  
17 longwall panels in areas, they will try to mine what they can  
18 to assure us, as our mandate is, for maximum economic  
19 recovery in conservation resource. If there is a way that  
20 they can pull it and make a dollar we're all for it.

21 Q And do you remember when it was that they first  
22 told you of that plan or that idea?

23 A I'm trying to think. There was late 2004. Let me  
24 make sure of that. Yes. Prior to the fall of '04.

25 Q Now, I see you're referring to a document. What

1 document are you referring to?

2 A I'm referring to an inspection report 11/04/04,  
3 November 4th of '04. This was a special inspection as they  
4 wanted to seal off Main West, seal off these before they had  
5 to -- obviously before they mined the north and south  
6 barrier. These were main entries that accessed ventilation  
7 for these two banks of panels.

8 Q Would you just mark and label the north and the  
9 south barrier?

10 A Sure.

11 Q Now, the report you just mentioned and you referred  
12 to, that refreshed your recollection?

13 A Yes, it did. Because at that point they indicated  
14 to me they wanted to seal Main West, therefore they couldn't  
15 at least pull the pillars in Main West. And that was in  
16 verification to us that, or justification to the Bureau of  
17 Land Management why they couldn't mine all the coal back in  
18 that country.

19 Mr. Findlay. Could we go off the record for a moment.

20 [Discussion off the record.]

21 BY MR. FINDLAY:

22 Q Now, since 2004 and that inspection report that you  
23 mentioned, and we'll introduce here in a little bit, did the  
24 company of the mine or anybody representing the mine ever  
25 indicate to you their plans had changed?

1           A     Yes. They sent in another revision just to mine  
2 the back end of Main West, this country right here.

3           Q     By back end, you're circling --

4           A     The far west of Main West.

5           Q     Towards Joe's Valley fault?

6           A     Correct.

7           Q     In two paragraphs down, I think it's the seventh  
8 paragraph in the middle of that paragraph, you write, "though  
9 Tom Hurst is new, he is not as pessimistic as the previous  
10 engineer as to the minability of this longwall panel."  
11 First, can you tell us which longwall panel you're referring  
12 to?

13          A     Longwall panel number 1. This is South Crandall.

14          Q     The South Crandall Mine?

15          A     Yes. Note up in the heading of that, longwall  
16 panel number 1, Hiawatha Seam, South Crandall Canyon Mine.

17          Q     Okay. So that whole paragraph?

18          A     Yes. This is the second mine that we call the  
19 South Crandall is separate.

20          Q     Do you remember after August 1, 2006 when the next  
21 time you went into the Crandall Canyon Mine was?

22          A     Yeah. December 14, '06.

23          Q     I'll ask the court reporter to mark this Exhibit 3.  
24 I'll have you look at Exhibit 3 and tell us --

25

1 [Falk Exhibit No. 3  
2 was marked for identification.]

3 BY MR. FINDLAY:

4 Q First, let us ask if you recognize that document?

5 A Yes, I do.

6 Q And can you tell us what it is?

7 A An inspection report that I performed on the 14th  
8 of December 1906 -- or 2006, excuse me.

9 Q And is this the inspection report for the visit  
10 that you just mentioned?

11 A Yes, it is.

12 Q Now, when you went into the mine on December 14th,  
13 who did you go in with?

14 A Tom Hurst again.

15 Q And it was just him again?

16 A Yes.

17 Q Now, on the second paragraph in the remarks  
18 section, it looks like the third sentence, you write, "a lot  
19 of changes have happened." What were you referring to?

20 A And I explain it in the next sentence or two. The  
21 changes where they pulled out of the South Crandall Mine and  
22 sent some of the machinery to another mine called the West  
23 Ridge Mine. There was also personnel changes.

24 Q Do you know who the personnel changes were?

25 A Just many people in Price changed jobs then. And

1       so, no, not personally. I knew a couple of them personally  
2       from neighbors.

3               Q     Now, in that same paragraph you write, "mine plan  
4       change was submitted to us and we okayed the withdrawal of  
5       the longwall." Were you referring to the South Crandall?

6               A     Yes.

7               Q     So that had nothing to do with Crandall Canyon?

8               A     Correct.

9               Q     And then in that same paragraph you write, Genwal  
10      will come in with a new plan for mining much further down the  
11      road. Was that also referring to South Crandall?

12              A     Yes.

13              Q     And now I'm directed to the fifth paragraph down.  
14      The last full paragraph on the first page of this exhibit.  
15      The second to last sentence you write, "Genwal is going to  
16      try and mine all the way out to the fault and then try and  
17      get approval to pull back some, if not all three pillars."  
18      First, could you just describe and show us on the map if it  
19      helps what you meant by that?

20              A     Would it help to show -- well, I think you can see  
21      a little bit from this. They had finished South Mains and  
22      they had now moved over here and branched off of Main West  
23      right at this point, and began mining four entries, one, two,  
24      three, four, out to the west. And that's what I referred to,  
25      Genwal is going to try to mine all the way out to the fault,

1       this being the fault, and then try to get approval to pull  
2       back some if not all three pillars. When you mine four  
3       entries you end up with three pillars.

4           Q     Could you just note or write, just put a star next  
5       to the four entries that you're talking about.

6           A     Yes. One, two, three and four. And you can see  
7       them coming back. And then in this country right here, you  
8       know, this is the map after the event, they basically mined  
9       this out. So those entries would have been like this; one,  
10      two, three and four. Oops. One, two, three and four. They  
11      would have been like that all the way out, and then they rob  
12      or mine these two pillars here. That's what they did there.

13          Q     And just in general, to note, the area you talking  
14      about is below or to the south of section 35 on the map?

15          A     Yes. And this is what we refer to as the north  
16      barrier to Main West.

17          Q     Now, when did you learn that Genwal was going to  
18      try to mine that barrier?

19          A     At this inspection.

20          Q     And so December 14th was the first you had heard  
21      this?

22          A     Yes. They were just getting ready to mine out  
23      there, start it.

24          Q     So on the 14th of December '06 when you went out  
25      there how far had they gotten in their development of the

1 north barrier?

2 A I note it. Here, let me find it. I note that they  
3 began at crosscut 108, 109 and 110. And this is this country  
4 right here that I've already circled.

5 Q You said that was crosscut 118?

6 A No, 108, 109, 110. It was in the third line there  
7 or second line.

8 Q Would you just write 108 there?

9 A Sure. It's roughly these. You have crosscut  
10 numbers on this map. They're just so small you can't see  
11 them. If you blew this up you could make sense of it. But  
12 I'm taking it and throwing it in this country right here. I  
13 would say this one, this one and this one. This is where  
14 they connected up, so I'm sure those are the ones. I had got  
15 to -- okay, they connected up with Main West in each crosscut  
16 through 108 through 118, sorry. So they did. And you can  
17 see that there, one, two, three, four, all the way out. This  
18 is probably 118 right here. And then they did not -- then  
19 they were separate. You can see that they were separate from  
20 north barrier to the Main West all through this country here.

21 Q You mean to the west of where you have written 118?

22 A Yes, 118 right here. Where were they? I note  
23 where they were, but I've just got to see it. Yeah, here  
24 they are. Down the middle of the paragraph. They are now  
25 out at crosscut 129. Count them. 118 out to 129, so

1       probably in this country right here.

2               Q     Would you just write 129?

3               A     That's just an estimation.

4               Q     Perfect. That's fine. Now, in that discussion you  
5 write, the roof has some laminated top in some areas. What  
6 does that mean?

7               A     The immediate roof rock on top of the coal seam,  
8 meaning laminated. And that's where it says number of layers  
9 of shale sandstones. Lamination means various differing rock  
10 forms.

11              Q     And did you go all the way out, you yourself go all  
12 the way out to 129?

13              A     Yes. That's where I took my spot measurements.  
14 That's usually where I take production verification of the  
15 last place they're mining.

16              Q     Did anything look unusual to you as you walked out  
17 there?

18              A     No, other than normal mining.

19              Q     On the second page of this exhibit, and I'm not  
20 sure if you wrote this or if it's the computer program, but  
21 it says, "was mine status reviewed with MSHA," and next to  
22 it, it says "no."

23              A     That's correct. This a computer -- it's a  
24 pull-down checklist. And we can answer yes and no to these  
25 things. And we put in there, was the mine status reviewed

1 with MSHA, as just a note. This is not a standard. So I  
2 would have to say that if that was marked yes, it is probably  
3 out of the ordinary.

4 Q Now, on that same page, page 2 of this exhibit,  
5 there's a section marked, "close out discussion." In the  
6 first part of the first sentence you write, "this section is  
7 mining coal that was not considered minable in the previous  
8 plan as Main West was taking weight from both side gobs and  
9 Andalex prior to Utah American sealed up Main West at  
10 crosscut 118 back in late 2004." What did you mean by "side  
11 gobs"?

12 A Side gobs basically. The gob is the caved areas,  
13 so the two longwall panels on both sides north and south.

14 Q And those are panels 12 and --

15 A Seven through 12 and 13 through 18. When a  
16 longwall is mined out they refer to the caved area as a gob.

17 Q Now, you say the section is mining coal that was  
18 not considered minable in the previous plan. Did you not  
19 consider it minable?

20 A Yes. That was the time they were discussing  
21 whether they were going to go out there or not. And they  
22 thought at that time -- they sealed off Main West. And in  
23 that November 1st that you're going to get I noticed the  
24 conditions that were in Main West. This is before they had  
25 mined anything in these north barriers. And these were,

1       these pillars in here were taking weight, so therefore it was  
2       not recoverable in our aspect to mine any of those pillars.  
3       Now, we didn't discuss anything at that time about the north  
4       or the south barrier.

5             Q     You mean "we," you and the mine reps?

6             A     Me and the company, yes.

7             Q     And then you continue to write, "Utah American  
8       sealed up Main West at crosscut 118 back in late 2004." What  
9       does it mean to seal up at crosscut?

10            A     "Seal up" means to actually put block walls across  
11       all the entries in there. That is a seal. And when you do  
12       that, you remove obviously the ventilation system through  
13       there and therefore, you can't access it anymore.

14            Q     And then in this close-out discussion, you also  
15       write, I told Tom Hurst that BLM is pleased to have them try  
16       for coal that was thought unminable, but I warned them beware  
17       of the depth above the ridge in mining a barrier pillar that  
18       has been sitting for a number of years. Why did you warn  
19       them?

20            A     Just the fact that under depth, pressures build up.  
21       The local conditions around the Price area from history is  
22       that when we get approximately, and these are round about  
23       numbers, there's no set rules. But from experience we see  
24       increased pressures building up over 1,600 feet, 1,500,  
25       1,600 feet. The ridge top in this country would be in the

1 2,000 foot range.

2 Q When you say increased problems, do you mean --

3 A The weight just starts working on the existing  
4 supports, the pillars. And you'll see coal being pushed out  
5 from the pillars making minable with problems there.

6 Q And so you're referring to ground control problems?

7 A Yes, very much.

8 Q In the last sentence you say, "pulling pillars will  
9 be interesting if even MSHA will ok a ventilation and roof  
10 control plan for the section." What did you mean by  
11 "interesting"?

12 A That things, the pressures will start manifesting  
13 itself, whether that be outbursts, small caves, that  
14 attitude. And MSHA is in charge of okaying a roof control  
15 and ventilation plan that will allow them to pull the  
16 pillars. Bureau of Land Management has the jurisdiction of  
17 maximum economic recovery if all else being equal. And we  
18 defer to the Mine Safety and Health Administration for  
19 pulling pillars.

20 Q When you say all else being equal, you mean MSHA  
21 has approved its safety?

22 A Yes.

23 Q When you gave the warning that you referred to to  
24 Tom Hurst to beware of the depth what was his response?

25 A He had much experience in this country too. Ed

1 worked for a previous mine owner, a different mine, a number  
2 of years before that. And he recognized the same thing.

3 Q Let's go off the record and take a break.

4 [Recess.]

5 Mr. Findlay. I'll ask the court reporter to mark this  
6 Exhibit 4. I would ask you to look at Exhibit 4 and let us  
7 know whether you recognize it?

8 [Falk Exhibit No. 4  
9 was marked for identification.]

10 Mr. Falk. It's an inspection report written by myself.

11 BY MR. FINDLAY:

12 Q And is this the inspection report you were  
13 referring to earlier regarding the November 4, 2004 mine  
14 visit?

15 A Yes.

16 Q You note in the first paragraph under remarks that  
17 James Sorenson was your company rep?

18 A Yes.

19 Q Did the company always choose the company rep or  
20 did you choose the company rep?

21 A They chose them. I mean, who was available. But I  
22 tried to go with somebody of authority, the engineering staff  
23 usually.

24 Q Did Laine Adair ever serve as your company rep?

25 A At this mine yes. Probably not in the last three

1 years or so.

2 Q Now, in the same document, Exhibit 4, I'm looking  
3 at the fourth paragraph under "remarks." And you write, the  
4 situation -- first, did you write this document?

5 A Yes, I did.

6 Q You write, the situation in Main West is untenable  
7 for future pillar recovery. Can you flesh that out a little  
8 bit?

9 A Yes. Main West had been sitting there for a number  
10 of years while both the north and the south longwall blocks  
11 had been mined around them. They're used for ventilation  
12 purposes, that after you mine these large longwall panels you  
13 note that there is connections up in the back end tunnels and  
14 entries. And then excess air can ventilate across the gob  
15 and go out this main area. At this time they were through  
16 with these two big blocks of longwall panels.

17 Q So in November of 2004 Main West was being used  
18 just for ventilation?

19 A For ventilation, yeah.

20 Q And then you go on to write, no mining company in  
21 the area has ever pulled pillars in main entries with mined  
22 out sides in under 15,000 feet of cover?

23 A 1,500.

24 Q I'm sorry, 1,500 feet of cover. Did you know that  
25 just from your experience in the area?

1           A     Yes, experience. And here again, these are the  
2 pillars in these mains, these small rectangular blocks left  
3 on there. And they're usually on the order of 80 by 80, 100  
4 by 100.

5           Q     Then in that same paragraph you write, that Genwal  
6 had thoughts and plans to try pillar recovery was wishful  
7 thinking and was more wanting to extend mine life when they  
8 failed to get the Mill Fork lease and the need to blend off  
9 high sulfur coal from West Ridge. What did you mean by  
10 wishful thinking?

11          A     In essence, they were hopeful that they could. I  
12 don't know if "wishful" is a correct term, but I would say  
13 they're hopeful that they could mine some extra coal to blend  
14 off this coal, which is a high quality coal, with some of  
15 this, as I note, high sulfur coal. They own another mine,  
16 West Ridge, across the way. And that was a little higher in  
17 sulfur. And so they tried to blend off this coal, lower  
18 sulfur coal, with that.

19          Q     And that's to achieve a desired sulfur?

20          A     Yes. Sulfur content for contract specs.

21          Q     When you say "wishful thinking" and you say they  
22 hoped --

23          A     Hoped, yes.

24          Q     -- did you have doubts?

25          A     Well, they have to -- according to our regulations

1       they still have to show to us, justify why they cannot pull  
2       maximum recovery of the Federal coal here. And in their  
3       plans they did have, like I say, generalized terms that we're  
4       going to try to mine the pillars and the mains on final  
5       retreat out of there. And so in this instance, I'm putting  
6       there, restating there justification to the BLM why they  
7       cannot mine all that coal. And so wishful thinking, well, I  
8       put wishful thinking, but I think they were hopeful just to  
9       not only please the government, the Bureau of Land Management  
10      by pulling all the coal, we encourage that within limits,  
11      they were also wanting to have more of this reserve available  
12      to blend off with their West Ridge coal.

13           Q     Now, on page 2 of this exhibit, the second  
14      paragraph on that page, "Conclusions: Main West was  
15      designed," and then it goes on. Were those your conclusions  
16      or conclusions relayed to you by the company?

17           A     These are conclusions that I came up with for the  
18      record so that when we have in front of us that they did not  
19      mine this area, this is, for our record, showing that yes, we  
20      agree with this and this is not economic recoverable coal  
21      according to our regulation.

22           Q     So is it fair to say you were focused on the  
23      economics and not the safety?

24           A     Yeah. Mostly economics. Because they would have  
25      to keep -- they were showing deterioration. That was what I

1 saw in these pillars. The pillars were deteriorating. They  
2 would have to -- before they could pull that, they would have  
3 to keep under limits or under strict guidelines at what the  
4 area had to look like. And they would have to put up more  
5 roof support. And in essence, when you have to do that,  
6 costs go up.

7 Q When you say deteriorating conditions, you saw  
8 those conditions --

9 A Yes.

10 Q -- during that mine visit?

11 A Yes, I did.

12 Q And what does it look like?

13 A One thing that I noted very specifically, it was  
14 very, and I can go into a long discussion and I don't really  
15 want to that much, but this is a blow-up of what Main West  
16 looks like.

17 Q You're referring to your first page?

18 A First map, the third page. The conditions you'll  
19 note of these entries, there's an angle, angled crosscut we  
20 call this.

21 Q Can you circle that?

22 A Sure. All these were angled instead of a square.  
23 What it ends up doing is making this intersection the  
24 diagonal of the wider width. Most areas in this country can  
25 usually take -- these are mined usually on an 18 to 20 foot

1 width, the main entry. At these intersections with an  
2 odd-ball angle you have the corners that are far greater than  
3 20 feet on a diagonal. And you would see -- this was mined  
4 because of a mining machine that they had at the time well  
5 back prior to even Andalex owning it. It was a continuous  
6 haulage. It had a continuous mining machine. It was  
7 attached to a moveable conveyor belt that was behind it.

8 This was a prototype machine they were using in the  
9 country. It did not have the ability to turn 90 degrees.  
10 And so in essence, it had to angle these off. And being  
11 under the depth of this recover that this was and sitting for  
12 on the order of 7 years maybe, these intersections were  
13 starting to show extra weight and you would actually get roof  
14 falls out of there.

15  
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25

1 RPTS [REDACTED]

2 DCMN [REDACTED]

3 [11:15 a.m.]

4 A Also, some of the ribs -- what we call the ribs,  
5 the side of the coal on the tunnel, the entry would be  
6 peeling off. You'd get slabs of this coal that would just  
7 pop off and look like it is sloughing. And that's -- those  
8 are conditions, you know, it pops over and it could land on.

9 Q Is that -- when you say it looks like it's  
10 sloughing, is that known as sloughage?

11 A Yes, sloughage. I don't know if that's the correct  
12 term, but a mining term.

13 Q Now in that same conclusions paragraph, you write,  
14 weight on the pillar is substantial, and dangerous conditions  
15 are present. Are these dangers -- is that the sloughage?

16 A Yes, the sloughage and possibly the roof falls in  
17 those intersections.

18 Q It is dangerous because why?

19 A It could come down and hit somebody unannounced.

20 Q Could that -- did you say roof fall and is the  
21 sloughage itself dangerous?

22 A Yes. And the fact that it could peel off, but also  
23 pop off, you know, fold off onto the entryway.

24 Q Would that be called a pillar burst?

25 A Pillar burst is more so when it comes out quickly,

1 more of a violent release. These kind of creep, creep off,  
2 slough off; and then, finally, they just peel and tip over.

3 The Witness. Is this easy to -- I'm sorry. I shouldn't  
4 ask. Is this easy to explain on the -- when I'm doing these  
5 hand motions?

6 Mr. Findlay. We'll ask you to mark it down. Let the  
7 record reflect there's lots of hand motions, but we'll have  
8 you mark it when we need you to.

9 The Witness. Okay.

10 BY MR. FINDLAY:

11 Q We haven't -- I don't think talked about this, but  
12 is there a concept of Federal versus nonFederal coal?

13 A Yes, oh, definitely.

14 Q Could you explain that to us?

15 A Federal coal, this -- the State of Utah that  
16 settled most of the mineral rights on the -- you know,  
17 garnered -- or the -- the area was -- came from what  
18 territory -- Mexican territory -- that's your history. So,  
19 in essence, the whole State of Utah was Federal lands; and,  
20 under the various homesteading acts that were in place, coal  
21 was just like any other minerals and could be located until  
22 1920 when it was leased out.

23 Also, in the State of Utah 4 of the 36 sections in a  
24 township, a section being a mile square, were retained for  
25 the State use, school trust lands; and so we have, in

1        essence, over the different laws in the area Federal coal is  
2        only those that are leased out in the 1920 Mineral Leasing  
3        Act. There are other lands that have been patented, that are  
4        State and that we have only jurisdiction over Mineral Leasing  
5        Act functions, which -- leased land, leased coal.

6            Q     Which parts of this mine are Federal coal?

7            A     Okay, they are very -- do you just want me to --  
8        back in the country that we're worried about here?

9            Q     Yes, say the western half of them?

10          A     I'm going to mark a State section, if I can find  
11        the line -- yeah. This is section 36, a square mile section.  
12        This is one of the State holdings.

13          Q     I just note that you just circled Genwal State  
14        lease?

15          A     And then also section 2, this is another State  
16        section 2. The State has total jurisdiction over the mineral  
17        rights in here. Federal coal is remaining here in this  
18        country. We can draw a Federal lease along eloquent parts so  
19        we can get down to 10-acre subparts of a section.

20                So the rest of the country is Federal leases, and they  
21        are noted, which lease it is. 68082 through here, it is a  
22        disjointed lease. It kind of wraps around this way, and  
23        there is a couple of small ones down in this country right  
24        here.

25          Q     And this just --

1 A This is Federal.

2 Q And that's the area you're writing Fed?

3 A And this also in here.

4 Q So the areas you're responsible for --

5 A Exactly.

6 Q -- are just the areas you marked Fed?

7 A Now, we -- I will just offer this. If what they  
8 do -- we can get somewhat involved on the State lands if what  
9 they do on the State would jeopardize recovery on the  
10 Federal.

11 Q Were there any areas like that on this mine?

12 A No.

13 Q Just how do you know which areas are the Federal  
14 versus the nonFederal?

15 A Strictly surveying, this is up to the mining  
16 company to survey properly where their location is according  
17 to the land descriptions given to them. And if we have any  
18 doubts to it, we could have -- the Bureau Land of Management  
19 has the ability to hire an independent surveyor and resurvey  
20 the mine if necessary, if there was any reason to suspect  
21 there's trespass or something.

22 Q You didn't have --

23 A No.

24 Q -- any of those kinds of concerns here?

25 A Just one. Their mine maps have to be okayed by a

1 professional engineer or a professional surveyor.

2 Q And when you say "okayed", do you --

3 A Certified, yeah, sorry.

4 [Falk Exhibit No. 5  
5 was marked for identification.]

6 BY MR. FINDLAY:

7 Q I will have you take a look at Exhibit 5 and tell  
8 me if you remember receiving this e-mail?

9 A Yes, I do.

10 Q Now it -- I guess the first and really only full  
11 paragraph in this e-mail, it says, "as Mike mentioned on the  
12 telephone". Do you know what Mike he's referring to?

13 A Probably Mike Glasson. He is their -- he is cc'd  
14 under here. He is their geologist, chief geologist for  
15 handling --

16 Q Do you remember that telephone call?

17 A Yes.

18 Q What did you all talk about?

19 A He noted to me that as they were driving, the  
20 entries in north barrier, and he noticed that it stops here.

21 Q Can you just maybe write "stop" where you're  
22 referring to?

23 A Yeah. They called me up and said, we are not going  
24 further out. They probably wanted to go all the way out  
25 here.

1           Q     When you say "go all the way out", are you  
2 referring --

3           A     All the way to these entries right here.

4           I don't know if they would have ever connected up, but  
5 they would have gotten closer right here. It's probably not  
6 connected up, because then we would have to reventilate this  
7 whole 9 yards, this whole Main West. But that -- you know,  
8 they would probably want to get closer to get the coal if  
9 they could. And they indicated to me that their water  
10 inflows were getting beyond what they could handle with their  
11 pumps.

12          Q     What are water inflows?

13          A     Just water coming in from the cracks in the floor  
14 from the ribs.

15          Q     Then he notes, "we have started to extract  
16 pillars". Did you and Mike talk about that on the telephone  
17 call?

18          A     Well, other than they said they were going to start  
19 retreat mining there.

20          Q     Was that the first you had heard they were going to  
21 start?

22          A     I can't remember. It seems like before that they  
23 had -- I think Tom Hurst had told me that they would have to  
24 get MSHA approval for retreat pillar pulling in there, and  
25 they were working on it.

1 Q Now when you say "retreat pillar pulling" --

2 A Yeah, pulling the pillars out of there, extracting  
3 the pillars. I would state, you know, started to extract  
4 pillars, pillar pulling is all the same to me.

5 Q The same also is retreat?

6 A Yeah, retreat mining, and extracting pillars, pull  
7 pillars.

8 Q I think so far in the deposition I think the last  
9 mine visit we talked about was the December 14th, 2006,  
10 visit. This e-mail is now dated -- this Exhibit 5 is dated  
11 February 20th, 2007. Did you go in the mine between December  
12 14th and February 20th?

13 A Let's see the next line. The next time I visited  
14 was February, just right after this e-mail, February 27th.

15 Mr. Findlay. Okay. I'll ask the court reporter to mark  
16 this as Exhibit 6.

17 [Falk Exhibit No. 6  
18 was marked for identification.]

19 BY MR. FINDLAY:

20 Q Actually, before we go on to Exhibit 6, this water  
21 inflow in Exhibit 5 and the phone call that you had, did that  
22 have any safety significance or economic significance to you?

23 A Well, if they couldn't handle the inflow with the  
24 pumps, in essence, they start flooding them out so they --  
25 you wouldn't want a mine under water.

1 Q But, other than the water, there was no problem you  
2 were concerned with at all?

3 A No, no.

4 Mr. Findlay. Now turning to Exhibit 6 -- I will give  
5 you Exhibit 6, ask you to take a look at it. Let us know if  
6 you recognize it.

7 The Witness. Yes, I do. It is a inspection report  
8 written by myself on February 27th, 2007.

9 BY MR. FINDLAY:

10 Q Now is this February 27th, 2007, visit -- is that  
11 the next visit you mentioned a minute ago?

12 A Yes.

13 Q Now I think in some of the other inspection reports  
14 you mentioned South Crandall Mine and Crandall Canyon Mine?

15 A Right.

16 Q Is this focused on Crandall Canyon Mine?

17 A Yes. In the aspect of, since of August '07, they  
18 shut down the South Crandall, so, therefore, I didn't inspect  
19 that anymore. Normally, when both of them were operating,  
20 I'd hit the -- I'd both mines at the same time.

21 Q Now in the remarks section, the third paragraph,  
22 the second-to-last sentence, you write, "Genwal is mining  
23 according to the approved mine plan and no incidents of  
24 noncompliance were noted". Noncompliance with what?

25 A Noncompliance with lease terms or the regulations

1 governing mining plans R2 P2.

2 Q Now in the last full paragraph on this page you  
3 write, "with the water coming in too fast, the company  
4 stopped advance at this point and began pulling pillars  
5 back".

6 Is that the water inflow?

7 A Yes, yes, same thing.

8 Q The same thing as the previous Exhibit?

9 A Right.

10 Q Then a couple of sentences later you write, "I have  
11 been concerned about pulling pillars in this environment with  
12 mining a narrow block with little coal barriers to mine out  
13 blocks on both sides".

14 Were these the same concerns you mentioned back in 2004?

15 A Yes.

16 Q And nothing had --

17 A Well, no, take it back, this is not the same. In  
18 2004, I was concerned about mining the pillars in that Main  
19 West. Now I had mentioned previously that when they were  
20 mining the development of this north barrier that when they  
21 started pulling pillars back underneath the depth of that  
22 that I would have some -- and that's when I said things could  
23 get interesting.

24 Q And so, in greater detail, can you explain what  
25 your concerns were with pulling pillars here?

1           A     Here, again -- this does not show it on this map,  
2           but the mountaintop has a ridge line directly over the middle  
3           of this spot here where it gets up to 2,000 foot. Down in  
4           this area here --

5           Q     You're noting a mountain?

6           A     I'm going to show -- right, yes. I'm going to show  
7           that the mountain ridge top line was like on this order right  
8           through here.

9           Q     Can you just make a label, "mountain ridge top"?

10          A     Yes.

11          Q     Perfect.

12          A     This depth in the middle of this was probably 2,000  
13          feet.

14          Q     And it was just the depth that --

15          A     Yeah, depth, it's -- the strength -- the strength  
16          of coal starts to diminish at that kind of depth. It's a  
17          lot -- strength of a coal is a lot less than a sandstone or a  
18          shale.

19                 So, therefore, the failure point -- you call it a  
20          failure point. The failure point starts to -- you know, coal  
21          fails, and that's what you see when the ribs slough off and  
22          the pillars burst. It's a failure of the strength of coal to  
23          the weight above it.

24          Q     And now you then go on to write, "fortunately, the  
25          beginning depth on the west end toward the Joe's Valley Fault

1 is somewhat shallow starting at 1,300 feet".

2 You had less concerns when it was under 1,300 feet?

3 A Yes, that's where they started. This is under  
4 1,300 feet right here.

5 Q Where you're writing 1,300?

6 A Yes.

7 Q And then you say -- and then you continue on to  
8 write, "so far no inordinate pillar stresses have been noted,  
9 though things should get interesting soon".

10 I focus on the first part of that, "so far no inordinate  
11 pillar stresses have been noted". What exactly did you mean  
12 by that?

13 A Inordinate, I guess, is a term that I use, not out  
14 of the ordinary, unlike what I saw in the Main West that had  
15 been sitting for so long and in those larger, wider areas.  
16 Roof falls, rock falls that -- where the pillars start to  
17 slab off more.

18 Q Now this not inordinate pillar stress, that was  
19 near crosscuts 149 and 150?

20 A Probably on my inspection report you can see it  
21 better. Page 3 of the inspection report has a blowup of this  
22 country here. You can see up there at 1 -- what did I say  
23 140? Oh, they had pulled back -- yeah, the pillars were back  
24 at 149, 150 -- 149, 150 probably -- I'm trying to -- you  
25 can -- you see those circled numbers at the top there. Those

1 are the crosscut numbers, and they would correspond roughly  
2 to 149 -- I'm guessing someplace in this country right here.

3 Q You mean you'll write 149?

4 A Yes.

5 Q And you are writing that on the large map?

6 A Yes. Here again this map is a blowup of this one.  
7 It's just at this scale you can't see those circled numbers  
8 up there.

9 Q And now, looking at page 3 of Exhibit 6, the  
10 handwriting that appears to be on there, you wrote that on  
11 there back at the time you created this report?

12 A Yes. I take a -- oftentimes, I try to get a strip  
13 map, just an 8.5 by 11, to take with me so I can mark up  
14 myself for notes.

15 Mr. Paretti. Excuse me, Patrick, where is there  
16 handwriting on page 3? Sort of middle of the page?

17 The Witness. Yeah.

18 Mr. Paretti. It just don't show well on my copy.

19 The Witness. You probably might see it on my original  
20 better.

21 Mr. Paretti. That's okay. It wasn't obvious on its  
22 face.

23 The Witness. Okay.

24 BY MR. FINDLAY:

25 Q Is anything in the handwritten notes that's

1 significant to you now?

2 A No. And, in fact, I can't even read what I wrote  
3 there, but I can see it better on my original here. Ah-ha,  
4 that little scribble there.

5 Q Maybe circle the little scribble you're talking  
6 about on the Exhibit.

7 A On the Exhibit? This one or here?

8 Q On Exhibit -- right, the small map, Exhibit 6.

9 A Okay, this scribble right here?

10 Q Uh-huh, that you just circled in red.

11 A Yes. I said -- you can see it on the original here  
12 better, "water routed out". In essence, the water had --  
13 this -- the coal seam was a little bit on a dip. Therefore,  
14 dipping down to the west here, water obviously building up.  
15 And, in essence, it had gotten so high that it actually  
16 routed out on the ceiling of the mine.

17 There's probably a 6 percent grade down there, so it  
18 wouldn't take too many crosscuts for 10 feet height to build  
19 a bar. And this was the first indication -- they had  
20 notified me of the water and by the time I had got up there  
21 the water had risen to this point and verifying that they did  
22 indeed have water inflow.

23 Q And so you saw the water?

24 A Yes.

25 Q You've touched on it, but the sentence that we're

1 talking about -- "so far no inordinate pillar stresses have  
2 been noted, though things should get interesting soon" -- by  
3 "interesting soon, what did you mean?"

4 A Sorry, interesting soon is that they are in this  
5 country right through here.

6 Q Right.

7 A The ridge top, meaning they are -- the depth -- the  
8 maximum depth in this country right here.

9 Q You're pointing to the area within the ridge top  
10 circle you made?

11 A Yes, right, 2,000 foot. And, interestingly, well,  
12 they may get some more -- more indications of stress buildup  
13 on the depth.

14 Q In that same paragraph you write, "there is some  
15 cap rock in the roof that is not holding up during mining".  
16 What does that mean?

17 A Cap rock is just the immediate rock above -- and  
18 that's a nickname -- immediate above the coal. Lots of  
19 times, you don't have just a solid piece of sandstone as your  
20 immediate roof rock above the coal scene. You'll have a  
21 depositional bearing of cap -- they use a general term: cap  
22 rock. It's flaky, it doesn't have much strength laterally,  
23 and it's layered. And oftentimes when they mine that it just  
24 comes right out while they are mining the coal.

25 Q And what's the significance of that?

1           A     It gets -- you get rock mixed in with the coal, and  
2     it lowers your quality of coal.

3           Q     And we'll flip to the second page of this Exhibit,  
4     Exhibit 6. We talked about this before, but you marked no  
5     next to mine status reviewed with MSHA?

6           A     That's correct. I did not review.

7           Q     Do you remember when you actually wrote this report  
8     or the range of time?

9           A     Yeah, you see the finalize button is July 12th.  
10    This is written probably within that time frame. The gist of  
11    a lot of the written portions, I try to put down within the  
12    first 3 weeks. That's my effort to try to do that.

13           I have a notebook that I have notes on when I take to go  
14    underground. I refer to them and refer to the mine maps to  
15    put this down. But -- finalize often requires me to look  
16    at -- I often try to look at their production maps they  
17    submit to me monthly.

18           So, for example, if they were actually mining in this  
19    country in February, I would get a strip map of that where  
20    they've extracted of February's, and they submit that the  
21    following month, probably the end of the month, March some  
22    time. And so it's helpful for me to see where they have  
23    been, what they report they have been for what I actually  
24    witnessed before I will actually put down the stuff in  
25    writing.

1 Q Now at the top of this first page of this Exhibit,  
2 Exhibit 6 --

3 A Uh-huh.

4 Q -- it looks like period end date crossed out?

5 A Yeah.

6 Q What happened there?

7 A Computer mess-up. It's supposed to be the -- this  
8 report is done in this period ending such and such. This  
9 would have been the report ending in March 31st, the first  
10 quarter of '07. For some reason, our computer would tag on  
11 to some other date, the next quarter, actually. I don't know  
12 why we -- we were trying to figure that one out. So I just  
13 crossed it out. That's all.

14 Q Now after you were in the mine on February 27th,  
15 2007, do you remember when the next time --

16 A I think it was March.

17 Mr. Findlay. I ask the court reporter to mark this  
18 Exhibit 7, please.

19 [Falk Exhibit No. 7  
20 was marked for identification.]

21 BY MR. FINDLAY:

22 Q Do you recognize?

23 A I do, March 15th, 19 -- 2007.

24 Q And was that -- after February 27th, was that the  
25 next time you were at the mine?

1           A     Yes, yes.

2           Q     Now at the very top of this, in the large font, it  
3     says "Inspection Report - Special".

4           A     Special.

5           Q     What does that mean?

6           A     Special we put under a different one.  If a company  
7     calls us and they would like us to see an area, specifically  
8     that they are running into different conditions, that they  
9     would want to and for a reason -- and one of the reasons  
10    could be they want to the change mine plan.  We've run into  
11    some goofy conditions.  We can't follow the approved mine  
12    plan as we have it with you guys.  Come up here.  Check it  
13    out so we can change it.

14           And so we put it under special, and that means I'm  
15    required to visit each producing section quarterly.  So if I  
16    go up there -- you know, most of those other ones I can see  
17    the conditions of each section.  Of course, this mine at this  
18    time only had one section going at a time, but I lumped this  
19    in as a special one because I am only going to go see this  
20    one area.

21           Q     And I think you said -- correct me if I am wrong --  
22    but for the special ones it is when the company called you  
23    out?

24           A     Yeah, or we could ask to go up on something else.  
25    I mean, it is not specifically the company calls me.  This

1 case it was.

2 Q Now, in the second paragraph here under remarks,  
3 you write, "Tom had called me earlier in the week and  
4 informed me of some tough conditions in the one continuous  
5 miner section in the north barrier off Main West".

6 First of all, is that Tom Hurst you are referring to?

7 A Yes, correct.

8 Q What did -- what exactly did he tell you when he  
9 called?

10 A That they were experiencing stress -- inordinate --  
11 yeah, it's a good term -- inordinate stresses in the pillars.  
12 They had a bump or two, a mine bump, and they had thoughts  
13 that they couldn't continue.

14 Q Do you remember when he called to you tell you  
15 this?

16 A Early in the week. And I'm trying to think -- it  
17 was either -- I went up there Thursday, as I noted. Thursday  
18 was March 15th, Monday or Tuesday.

19 Mr. Zola. Here you go.

20 The Witness. I would say Monday or Tuesday of that  
21 week. I did not mark down the specific date, and I didn't  
22 notice my note when he actually called.

23 BY MR. FINDLAY:

24 Q That would be Monday, March 12th, or Tuesday, March  
25 13th?

1           A     Correct.

2           Q     Now what exactly -- at that time on March 12th or  
3     13th when he called you, what exactly did he tell you about  
4     the conditions?

5           A     Other than my recollection -- and I did not write  
6     anything down from any telephone notes or anything. My  
7     recollection is they were having tough conditions, and they  
8     didn't think they could continue pulling pillars up there.  
9     And, therefore, for resource recovery we needed to verify  
10    their justification.

11          Q     Did he -- you say tough conditions that led him to  
12    think they couldn't continue pulling pillars. Was there  
13    anything specific about the conditions?

14          A     He said they had a bounce or two. And that's -- he  
15    left it there. I'm pretty sure that's what he said.

16          Q     What do you mean by "bounce"?

17          A     Bounce is a pillar failure that can be violent, can  
18    be a little bit more than ordinary sloughage. It comes off  
19    more than a boom rate. In a bounce, we often equate there is  
20    an actual sound, vibration.

21          Q     Is that the same thing as a bump?

22          A     Yeah, bump, bounce, yeah.

23          Q     Now, you write in that same paragraph, "upon  
24    arrival, we went to the section, and I noted conditions".  
25    What section are you talking about?

1           A     North barrier section.

2           Q     Could you maybe note that on the --

3           A     Sure. I have it in the north barrier.

4           Q     Could you maybe write in that area Exhibit 7 or  
5 just EX 7 maybe?

6           A     EX 7.

7           Q     Between the call on Monday or Tuesday of that week  
8 and when you went out on Thursday, did you speak to anyone  
9 representing the mine of -- at all?

10          A     I don't recall.

11          Q     You don't recall or you don't think you did?

12          A     I don't think I did, but I don't recall.

13          Q     Now when you got to the mine on that Thursday,  
14 March 15th, did you have additional discussions with Tom  
15 Hurst or anyone else about the bump?

16          A     Yeah, we discussed quite a bit while we were  
17 traveling into the mine and -- just talk. And a -- and then  
18 described to me -- I'm sure he described to me the events  
19 that happened. It seems like it happened -- the bumps  
20 happened over the weekend, a previous weekend, noted that we  
21 didn't have anybody hurt or anything from it. Crews were  
22 away from it, and that they were getting ready. There had  
23 been damage to the ventilation system, and they could not --  
24 could not continue without repairing those damaged  
25 ventilation systems.

1           I can explain that later if you want me to what that  
2 really means. And, in essence, I was going up there to  
3 witness the conditions and give the okay to stop mining.

4           Q     Did he indicate to you any concern that there would  
5 be more bumps -- "he" being Tom Hurst?

6           A     I don't know if he -- he indicated, but we -- I  
7 would have to assume that if you had it going on, the  
8 continued mining would only keep going.

9           Q     Now, in the first large paragraph -- I guess it  
10 would be the fourth full paragraph under the remarks  
11 section -- you wrote, "I informed them" -- and I think you  
12 meant mine, but correct me if I am wrong -- "that that was  
13 far enough after conferring with MSHA about the water and to  
14 go ahead and start pillar retreat as their MSHA pillar plan  
15 for this section".

16          A     Yeah.

17          Q     Do you remember who you spoke with at MSHA?

18          A     Well, this -- I do not. And I -- after  
19 consideration, I think that was a mistake. I probably  
20 assumed MSHA would have known about it. But, to my  
21 recollection, I did not speak to anybody specifically.

22                There is a couple of MSHA inspectors I know personally  
23 that I often run into at the store and we discuss, a lot of  
24 times, the whole region of things going on, but as far as  
25 this specific incident, I would have to say that was in

1 error.

2 Q You actually viewed the water yourself?

3 A Yes, on the February inspection. And this -- you  
4 note this is a recap. You notice that this second -- this  
5 third paragraph is a recap of previous events. It's just to  
6 give some basics of what's going on here.

7 Q I think in the sixth full paragraph, which is  
8 really the last paragraph on this page, you explain what you  
9 did when you got there after the recap section.

10 A Right.

11 Q Can you just walk us through where you went and  
12 what you saw?

13 A Okay, briefly, look at page third of the mine map.  
14 Is this the other -- this is not the same -- which one is  
15 this one? No, no, that's the February, sorry.

16 Q So page 3 of Exhibit 7?

17 A Yes. You note here it has a -- it says breaker row  
18 and there's lines pointing to these entries between cross hit  
19 128 and 129. This is where they set up -- breaker row is a  
20 breaker row of timbers. We went inby -- "inby" means into  
21 the mine from the portal. So we went inby these breaker rows  
22 along the top-most entry. That's the north-most entry that  
23 you see that is open. And you see a number of Ds along  
24 these -- these double lines. Double lines refer to the  
25 actual stopping. It's a block wall between the entry. This

1 is to facilitate the airflow. You want the air to flow over  
2 the air that's been collapsed and return out the top row.  
3 Therefore, you have to block it off to keep the flow of air  
4 not mixing back into mined-out areas.

5 So the air flow going into the section would be going  
6 through this gob area, pulled-out area and then back out to  
7 this country. And so these stoppings prevent air from  
8 migrating through from the gob to this return air, and it is  
9 very important to keep it that way. When you see Ds along  
10 there, those are damaged.

11 There's a -- you did not receive -- it doesn't -- yes,  
12 it does. Down at the bottom -- or halfway down -- there is a  
13 table there. It says D damaged 0 out, and then the arrows  
14 mean coal moved in -- um, I can't read that. Coal movement,  
15 this is, actually. So those arrows referring to the pillars  
16 that have kind of pushed into the entries.

17 And so this was a map that they had provided me. I went  
18 and verified it and actually did put a few other arrows in  
19 myself.

20 Q So --

21 A I can't see exactly which ones I did. But I went  
22 along this north entry and --

23 Q Could you highlight that or maybe even use the --

24 A That's me, inspection route. How's that?

25 Q Perfect.

1           A     Also, I did see down here, too, this way.

2           Q     I think you mentioned timbers. What do you mean by  
3 "timbers"?

4           A     Timbers is a pole of wood, and it is used for --  
5 they mark it, try to make it as long -- as high as the  
6 opening, and they'll put pieces of wedges to wedge it up  
7 against the -- but it is an extra support of a wood pole.

8           Q     Now I'm looking at this last paragraph on the page,  
9 sort of in the middle, and I'll read it. You write, "stress  
10 overrides out by the face were very concerning". What did  
11 you mean by "very concerning"?

12          A     When you get bad concentrations of stress on  
13 things, most of what you see is it is confined to the area  
14 they are actually working. The last I understood the miners  
15 section was working at this 134 area and you see this -- you  
16 see some -- a shaded off area.

17          Q     Could you shade that with a red pen?

18          A     Yes.

19                They had pulled this country, but you note that they had  
20 not pulled these other -- you see 42, 44, 46, 43 and 43  
21 pillars? Well, they a had a bump previous to that. They  
22 thought, well, let's back off and leave a couple of unmined  
23 pillars to take the stress of this cave on to these, see if  
24 it will stop the override.

25                What we call the override, the stresses tend to pull

1 down on the area you're actually mining and override back  
2 beyond you. And so you will see stress concentrations on a  
3 pillar back behind you and that's -- you don't like to see  
4 too much going on on your way out of here.

5 So that's what I said. What I saw is that these pillars  
6 back here away from the face at the left were showing some  
7 stress and that's concerning.

8 Q Now you said a previous bump they had left 42,  
9 43 --

10 A I'm pretty sure that's the case. This may have  
11 happened a week or two for sure. I'm not sure.

12 Q Did Tom Hurst tell you that?

13 A Yeah, he's mentioned that we left these to see if  
14 we could control it, and when that actually happened probably  
15 was a week or two before.

16 Q Did he tell you how he knew about that?

17 A I just assumed that he -- he's a mine engineer.  
18 He's up there most times so --

19 Q And then you continue and you write, "the bounces  
20 had either knocked out or damaged all the stoppings from the  
21 north bleeder entry from crosscut 132 inby to crosscut 149".  
22 That's where you mark the Ds?

23 A Yes, all these Ds and stuff.

24 Q And then you write, "I could only travel to the  
25 north entry -- I could only travel the north entry to 143,

1 but the observed conditions were severe".

2 A 143, so I didn't go all the way back here. 46 --  
3 and witness where -- and then they'd note the water level was  
4 at 149, and they show these stoppings at 149 back to 143 as  
5 damaged, but I didn't go that far.

6 Q Was there a reason you didn't go past 143?

7 A I mean, it -- it's this bad up -- up in this  
8 country. What was really concerning is that it was that  
9 close beyond -- outby the face where they're working. So, in  
10 essence, you'd have these overriding stresses back on the  
11 pillars that were, you know, back beyond where the guys are  
12 actually working; and it is just something you don't want to  
13 see too often.

14 Q Just, to clarify, when you say inby and outby?

15 A Inby, into the mine; outby, out toward the portal.

16 Q And when you say the observed conditions were  
17 severe, were you referring to the stoppings or something  
18 else?

19 A I probably -- a combination. The weight had been  
20 damaging the stoppings. These are block walls, and the  
21 weight had been pushing down and busting out the block walls,  
22 especially around the edges. So I called the whole thing  
23 severe.

24 Q How did the pillars look?

25 A You could tell -- can I draw this real quick? A

1 little indication, this might help.

2 Q Maybe on the -- do it on back of Exhibit 7.

3 A All right.

4 Q You know what? Actually not. That's going to  
5 bleed through. Maybe up in the corner --

6 A Okay.

7 Q Of Exhibit 1, the big map.

8 A This is a planned section, so you're looking into  
9 the tunnel itself -- oh boy -- thank you. It is dead.

10 And so this is the opening, and this is the coal block,  
11 and this is what you're looking at. You will -- this is a  
12 block wall that they put in this thing, and what you'll see  
13 is rock, and this is the coal. You will see this eating --  
14 what we call eating away at the corner up here. So all this  
15 country up here is pushing down at the corner, which has the  
16 smallest amount of support.

17 Q Would you circle that corner in red?

18 A Okay. And so this area has pushed the coal out  
19 into the entry. Obviously, the block wall is no good  
20 anymore. It is bashed up, and there is a big opening here  
21 for air to go through. So that's what I would call severe,  
22 and those are damaged stoppings.

23 And it could be that we even saw that some of them had  
24 been cracked and busted up most of the way. So the whole --  
25 it's cinder box or omega block. It is kind of an aerated

1 cinder block. That's what they use, and those are all  
2 smashed out and popped out.

3 Q Was there coal --

4 A In the entryways?

5 Q Right.

6 A Yes. And that's -- you note on this map, where  
7 these arrows are into the entry, there was coal pushing in  
8 from the pillars into the entryways. It is 20 feet wide. I  
9 would have to say the first -- it is mostly areas that I saw  
10 that were severe where it hasn't completely gone in and  
11 covered up the main entryway, but it sloped up towards the  
12 pillar from the middle of the entryway.

13 Q So the entire entryway wasn't covered?

14 A No, no.

15 Q Did Tom Hurst or anybody else indicate to you  
16 whether they had cleaned up any coal?

17 A Not the way I walked, no. On the walkways that I  
18 went, it hadn't been cleaned up, but it was still passable.

19 Q Was the continuous miner still --

20 A They had already pulled it out and back crosscuts.  
21 The crew was busy at the time pulling the power cables back  
22 with it. That's what I recall that they were doing.

23 Q Did Tom Hurst or anybody else tell you when they  
24 pulled the miner back?

25 A I assumed it was -- if it happened the weekend,

1       they were busy the next few days doing it. I was up there  
2       Thursday, so a few days before.

3             Q       In that same long paragraph you write, "Hurst said  
4       the risks are too great that this event will happen again out  
5       by should they try pillar pulling again and they can't  
6       justify all the extra expenses to repair and establish new  
7       seals".

8             Did you discuss with him what those risks were?

9             A       The risk, in essence, was similar to what you see  
10       here. It looks like they tried it once, and it didn't work.  
11       They left a few rows of pillars. So what would give us any  
12       indication if we left a few more rows of pillars and tried  
13       pulling the rest of them out here, it would succeed again?

14            And then the telling point to me, obviously, was to  
15       do -- if they were going to do that again and leave a number  
16       of rows of pillars and try again -- and hopefully these rows  
17       of pillars would take the overriding weight, and they would  
18       be under new coal, new withdrawn coal -- they would have to  
19       go back and reestablish all those -- repair all those  
20       stoppings along the whole way and that the expense of that  
21       was far outweighing any economic considerations we had.

22            Mr. Findlay. We've been going about an hour. We'll go  
23       off the record and take a break now.

24            [Recess.]

25

1 BY MR. FINDLAY:

2 Q Now still focused on Exhibit 7 and your March 15th  
3 inspection, I think you've told us -- yeah, you went out  
4 there on a Thursday, but you got the call on a Monday or  
5 Tuesday.

6 A Correct.

7 Q Do you remember why you didn't go out on Wednesday  
8 or Tuesday or why you waited until Thursday?

9 A Um, no, scheduling, maybe something was going on.  
10 I don't recall.

11 Q Now again this very last paragraph on Exhibit 7, on  
12 the last couple of lines you write, "I asked how they would  
13 mine the south barrier and Tom said they're working on the  
14 MSHA roof control and ventilation plan amendment for the  
15 south barrier but was not sure if Genwal is asking to pillars  
16 after what they had seen at north barrier".

17 Was that in the course of --

18 A Yes.

19 Q -- conversations while you were driving?

20 A [Nonverbal response.]

21 Q Did he indicate to you -- did Tom indicate to you  
22 why he was not sure if they were going to ask to pull pillars  
23 in the other barrier?

24 A I -- no, I really don't know. Thought -- whether  
25 they could get -- get it approved after what they saw is

1 my -- that's my conjecture.

2 Q And if you flip the page, you write, "prudence  
3 dictates that any further mining of this area would result in  
4 more of the same and leaving the remaining coal is  
5 necessary".

6 When you say "would result more of the same", what did  
7 you mean?

8 A The same stress bump, stress we saw in the north  
9 barrier, yeah.

10 Q Now, when you were in there, in the mine on March  
11 15th, I think you said there were miners, mine workers in  
12 there. Do you remember how many folks were in there or who  
13 they were, if you knew them?

14 A No, I don't know the names. A normal section of  
15 workers would run anywhere from 10, 15 people.

16 Q When you were with Tom Hurst discussing all this,  
17 did he mention Laine Adir ever?

18 A No.

19 Q Or Gary Peacock?

20 A Gary Peacock was probably the mine foreman. I  
21 don't know. But he's probably -- Laine Adir, if I remember  
22 right -- and this is just my -- was kind of a general mine  
23 manager over all UAI's operations. He went back and forth  
24 between West Ridge, and there's another one, Tower Mine, and  
25 this mine.

1 Q UAI, you mean Utah American Energy?

2 A Yes. I'm sorry. We often use the same terms for  
3 the company. So if I say UAI or Andalex, probably the same  
4 thing. Andalex, they kept that name. Utah America, who  
5 bought the property from Andalex, kept Andalex Resource's  
6 name as a subsidiary, I think. That's what I understand. So  
7 if I do say UAI or Andalex, it means the same thing.

8 Q Gotcha.

9 I digress, was there any mention of Gary Peacock?

10 A No, but I knew that he was either a foreman or  
11 something up there.

12 Q Now you wrote that Tom said they are working on the  
13 MSHA roof control plan. Was there any other mention of MSHA  
14 while you all were talking?

15 A No, other than the normal way they go about -- they  
16 have to submit a roof control ventilation plan to District 9  
17 to get it through and approved.

18 Q Did he indicate -- Tom indicate to you that he had  
19 already spoken with anybody at MSHA?

20 A No. That's -- the only thing I recollect is that  
21 they were working on it, whatever that means.

22 Q In March through say July of that year -- of last  
23 year, 2007, did you discuss any aspects of your March 15th  
24 visit with anybody at MSHA?

25 A No.

1 Q And that was normal practice?

2 A Yes.

3 Q Now I think you said -- and correct me if I am  
4 wrong -- but the miner had already been pulled back some from  
5 where it was at the time of the bump --

6 A Uh-huh.

7 Q -- on March 15th?

8 A [Nonverbal response.]

9 Q But that there was still coal on the --

10 A On the floor there.

11 Q Were you able to tell whether any cleanup, if you  
12 will, had been done prior to your arrival?

13 A I don't recall. It -- there -- you could walk up  
14 to the -- to the -- where they had cordoned off the face, and  
15 you could not actually see the face. We were one crosscut  
16 back from where they left off. It had danger tape around it.  
17 And a miner was back -- probably two breaks back. And I  
18 don't recall to what extent, if any, they --

19 Q And Tom -- you don't recall Tom mentioning any  
20 cleanup?

21 A He mentioned that they would have do some clean up  
22 coal -- clean up the floor of the coal in the walkway that we  
23 went if they are going to use it again. That had been part  
24 of the, I'm sure, MSHA's new plan, if they were going to keep  
25 going or keeping the place in an orderly fashion. And when

1 coal pushes out, they have to clean that up.

2 Q The only cleanup he mentioned was in the future?

3 A Yes. If they were going to use it again, they  
4 would have to clean up that coal.

5 Q During the March 15th inspection, you noted that  
6 Tom Hurst was your rep. Did anybody else travel through the  
7 mine with you?

8 A No, I -- I only recall that he was with me, that he  
9 drove the truck.

10 Q Now, I think you said through July you didn't  
11 discuss your March 15th inspection with anybody at MSHA.  
12 Since that time, have you discussed your March 15th  
13 inspection with anybody at MSHA?

14 A I'm sorry, since when?

15 Q Since July, August of last year?

16 A No.

17 Q Have you discussed with anybody at MSHA any of the  
18 bumps you referred to in March?

19 A No.

20 Q So it was your understanding when you left on March  
21 15th, based on what Tom Hurst told you, that they were not  
22 going to mine in the north section any longer?

23 A That's correct, and he asked for -- he asked for  
24 approval. I gave it. We are under regulations that any  
25 change to R2 P2 be in writing. You know, these happen so

1 fast. You can give an okay with follow-up documentation, and  
2 indeed they sent a request to leave the rest of it in a few  
3 days.

4 Q And did you ultimately approve that in writing?

5 A Well, yeah. I'm not the -- I don't sign the  
6 approval document, but I write it up through my authorized  
7 officer's signature.

8 Q Did Tom Hurst or anyone else ever show you any  
9 photo or video of the mine as it may have existed prior to  
10 your March 15th visit? Between, say, the 12th or 13th when  
11 they called you and March 15th?

12 A No, not videos or anything, pictures, no, huh-uh.

13 Q So it was just your discussions?

14 A Yes, sir.

15

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1        RPTS [REDACTED]

2        DCMN [REDACTED]

3        [12:30 p.m.]

4                    BY MR. FINDLAY:

5            Q        Mr. Falk, I'll ask you to take a look at Exhibit 8  
6        and tell me if you remember receiving this letter?

7            A        Yes.

8            Q        And did you receive it around June 19, 2007?

9            A        Yeah.

10          Q        Now, it says June 19, 2007, revision. What did you  
11        understand that revision to be referring to?

12          A        I don't recall. Oftentimes there is adjustments to  
13        inventories or production figures, and that could have been  
14        that, but I'm surmising on this. I don't have this one off  
15        the top of my head what it is.

16          Q        Now, after your visit on March 15th --

17          A        Excuse me, here it even says it. Please note there  
18        was a positive stockpile adjustment of 8,000 tons in May.  
19        And that's the revision, no doubt, of why they sent this in.

20          Q        What is a positive stockpile adjustment?

21          A        They have to, you know, track the coal from out of  
22        the mine, and they have a handle of what comes out of the  
23        mine on a belt scale that comes out. Then it's trucked to a  
24        remote siting, and then it's sold with other stuff there. So  
25        they had to track the stuff. And a lot of it will based on

1 the stockpile that is on hand when they inventory their  
2 amount they have there. So a stockpile adjustment is not out  
3 of the ordinary.

4 Q Now, after March 15th, they told you they were  
5 going to stop mining in the north?

6 A Uh-huh.

7 Q Did they speak to you again about where they wanted  
8 to mine?

9 A They wanted to go down to the south barrier and at  
10 least develop it, mine the entries out to the -- like they  
11 did at the north barrier.

12 Q And do you remember who told you that?

13 A Tom Hurst did.

14 Q Do you remember when he told you that?

15 A The day we were up there on the 14th. He said, we  
16 are thinking of going down to the south barrier and doing the  
17 same thing.

18 Q And that was the plan you referred to in your  
19 report?

20 A Yes.

21 Q Did they ever tell you they had actually begun  
22 developing in the south section?

23 A No.

24 Q Did they ever tell you when they or if they began  
25 to pull pillars in the south section?

1 A No.

2 Q So when you received this Exhibit 8, where did you  
3 think this coal had been coming from?

4 A It was coming from the south barrier section.

5 Q So it didn't tell you specifically, but you knew  
6 they were?

7 A Yes. Along with this comes a map of the section  
8 they're actually mining.

9 Q So you were aware --

10 A Yes.

11 Q -- in June that they were pulling?

12 A Yes I did.

13 Q In June were they, to your knowledge, developing at  
14 that point?

15 A I'm not quite sure exactly when they stopped, you  
16 know, when they got out to the very end of south barrier and  
17 when they started pulling pillars. I probably noted it after  
18 the fact when they send this in with an attached mine map.  
19 It will show at least in the month that they started pulling  
20 pillars.

21 Q And you didn't need to approve anything?

22 A No, because this was on State land.

23 Q Now, after your March 15th visit, do you remember  
24 when the next time you went to the mine was?

25 A Yes. June 13, 2007.

1 Q And was that a quarterly inspection?

2 A Yes, quarterly.

3 Q Do you remember where they were mining at that  
4 time?

5 A They were mining the south barrier.

6 Q Was it development or --

7 A It was development, yes.

8 Q Can you mark maybe on the large mine map where they  
9 were?

10 A There's south barrier there.

11 Q Maybe use the green pen and mark it.

12 A Okay. They had developed four entries out to  
13 crosscut 137. And I'm going to have to put on my glasses  
14 because I didn't have a map of this one, unfortunately. Do  
15 you mind if I have -- I have one map that I brought along  
16 that would just show the --

17 Q Let's actually back up a little bit. You're  
18 referring to an inspection report that you brought with you?

19 A Yes.

20 Q To refresh your recollection?

21 A Yes.

22 Mr. Findlay. We don't have copies of that. Could we  
23 make copies of that real quick.

24 [Recess.]

25 Mr. Findlay. I'll ask the court reporter to -- the

1 official reporter to mark that Exhibit 9, please.

2 [Falk Exhibit No. 9  
3 was marked for identification.]

4 BY MR. FINDLAY:

5 Q Mr. Falk, I will ask you to take a look at  
6 Exhibit 9. Is this the document you just gave us?

7 A Yes, it is.

8 Q And this reflects your inspection report from your  
9 June 13, 2007, inspection?

10 A Yes.

11 Q So just to sort of recap, when you were there on  
12 June 13th, they were still developing?

13 A Yes.

14 Q And we had started to turn to the map. We've  
15 got -- and we can mark Exhibit 10, this other map that you  
16 gave us.

17 [Falk Exhibit No. 10  
18 was marked for identification.]

19 BY MR. FINDLAY:

20 Q First I'll have you take a look at it and just  
21 explain what this map is.

22 A This map is a blow-up map of what we call the south  
23 barrier out at the west end, Main West, and show that they  
24 started pulling pillars in July of '07. But in essence, I'm  
25 just using this map to show where I was on the 13th of June.

1 Q Okay. And can you mark on there for us?

2 A I'm at crosscut 137. And I'm going have to  
3 transpose; 137 is 3 back from this little notch.

4 Q You can actually mark it on Exhibit 10. That will  
5 be fine.

6 A Okay; 137 is right here. Face at 6/13.

7 Q And by "face" you mean where they were actually?

8 A Yes.

9 Q Now, in the first paragraph you write, Boodie  
10 Allred -- and that's B-O-O-D-I-E, Allred, A-L-L-R-E-D -- the  
11 mine superintendent, was my company rep. Had you had any  
12 interactions with Boodie Allred before?

13 A No. This was the first time.

14 Q Did he or anybody else tell you why it was him and  
15 not Tom Hurst?

16 A Scheduling conflicts.

17 Q Now, in the fourth paragraph under the remarks  
18 section, you write, conditions were noted. What were the  
19 conditions that you observed at that visit?

20 A Noted probably down in the next paragraph.  
21 Conditions, I say in the next paragraph, third line,  
22 conditions are not too bad considering the depth and mined  
23 out to the south and Main West entries to the north.

24 Q And when you say "not too bad considering the  
25 depth" --

1           A     Here again, they're going into the -- 137 is just  
2 past the ridge top. And obviously I traveled through these  
3 entries that were under the major depth. Here again, they're  
4 just mining the entries, the tunnels and the crosscuts on  
5 development first, leaving those pillars. So that's a normal  
6 occasion. You don't see too much on initial development.  
7 You don't see too much stress indications on any of the  
8 pillars.

9           Q     So you didn't take that to mean much one way or the  
10 other?

11          A     No, no. And, in fact, the paragraph above there  
12 when it says, conditions were noted, that's just a standard  
13 thing that I mention in a report. I note the conditions of  
14 most places I go to some way or another.

15          Q     Now, you write in here, coal height is running at  
16 about 7.5 feet, and the miner is trying to cut close to the  
17 roof rock but not dilute the product?

18          A     In essence the same thing. If the coal height is  
19 only 7-1/2 feet, they'll try to take -- they want a  
20 cross-sectional area of an opening to allow for air. And  
21 that's usually the case of they would like to have it 7 to 9  
22 feet, if the seam is that thick. And if you're mining the  
23 full seam height, then a continuous miner has to be very  
24 careful not to bump up with his cutting machine cutting up at  
25 the roof rock. Obviously some of the roof rock falls into

1 the coal, and it's diluted coal.

2 Q Now, you write, they were not sure they had their  
3 pillar plan approved by MSHA. Were you talking about Boogie  
4 wasn't sure?

5 A Yes.

6 Q And by "pillar plan," you meant the retreat mining  
7 out of there? I think we know why there's no map. You then  
8 write, I will transfer them to a mine map as the strip map  
9 got run over in the section?

10 A Yes. And I thought I had a substitute, but anyway.

11 Q Was there any other discussion that you had with  
12 Boogie about the pillar plan?

13 A No.

14 Q Did you talk to anybody else while you were there?

15 A No, I didn't. Just on the record, I noted up here  
16 that truly these four entries, only the top entry was truly  
17 on the outside of the border of a Federal lease. So we  
18 really had very limited responsibilities of jurisdiction in  
19 these four entries. The rest of it was on State land.

20 Q Can you maybe on this Exhibit 10 just mark where  
21 the line between the Federal and non-Federal is?

22 A Okay. This line is this big dashed black line, but  
23 that is a superimposed overlay. The corrected -- the correct  
24 line, as far as we can tell, the correct survey runs -- let  
25 me use the green. You can tell more so from this map; you'll

1 see it a little more pronounced. This is a dotted black  
2 line, and it runs directly down the first, what we call the  
3 topmost pillar. So this is a Federal colsease here, and State  
4 colsease here on the other side.

5 Q So Federal to the north, State to the south?

6 A Yes, correct.

7 Q Did Boogie or anybody else mention at this  
8 inspection -- did he mention any interactions with State  
9 inspectors?

10 A No. And the State doesn't have inspectors. Sorry,  
11 that's conjecture. I know that.

12 Q So do you remember about how much time on that  
13 June 13th you spent down in the mine?

14 A Okay. Normally just to get to that section from  
15 the portal and drive in is probably a half hour. And then at  
16 the face, going back and forth and taking those spot  
17 measurements at the face is -- this was a pretty quick one.  
18 I was probably in and out within 3 hours.

19 Q And the whole time you were in the south section?

20 A Yes. This is the only section operating again.

21 Q And do you know whether the north section had been  
22 sealed yet?

23 A I assumed so. I didn't go in.

24 [Discussion off the record.]

25 BY MR. FINDLAY:

1 Q And then after -- just to wrap up, in the June 13th  
2 visit did you witness anything that you viewed as unusual?

3 A No.

4 Q Then do you remember when the next time you went  
5 down into the mine after that June 13th?

6 A After the incident on August 6th, we did go look at  
7 them pulling out of the mine some of their machinery and  
8 stuff in Main West. In preparation they put block walls in  
9 subsequent after the accident.

10 Q When you say "we"?

11 A There's another engineer with me from BLM, Steve  
12 Rigby. I didn't bring that inspection report with me, but it  
13 was in September sometime.

14 Q So well after?

15 A Yes.

16 Q After your June 13th inspection, did you have any  
17 contact with anybody at the mine before the August 6th event?

18 A No.

19 Q Do you know a gentleman by the name of Billy Owens?

20 A That sounds familiar, from MSHA, but I don't know  
21 him personally.

22 Q You don't remember ever having any conversations  
23 with him?

24 A No.

25 Q Do you remember ever going out to the Sufco Mine in

1 Salina, Utah, in October-November of 2007?

2 A I went out there the 1st of November.

3 Q And do you remember why you went out there?

4 A They had a bump on the tailgate of Sufco Mine.

5 Q What's a tailgate?

6 A It's the back end of -- when they're mining a --  
7 just Mining 101. When they mine the longwall panel, you have  
8 two entries. In this case they mined this panel first, this  
9 one, this one, this one. When you do that, the belt, the  
10 conveyor belt, to get the mine out goes down to headgate, and  
11 the tailgate is the other entry. So it's the one that's not  
12 going to be used after. So it's the other side of where the  
13 belt, conveyor belt, comes out.

14 Q Do you remember running into anybody from MSHA  
15 there?

16 A Yes. And there was one inspector, local inspector,  
17 Gunderson, and Billy Owens. He's the -- I do know him.  
18 There was a roof control specialist from District 9. It was  
19 Billy Owens who was there.

20 Q Do you remember discussing anything about Crandall  
21 Canyon Mine with him then?

22 A No.

23 Q Is that because you don't remember it, or you don't  
24 think you did?

25 A We didn't. In fact, we were -- we asked the

1 question, this tailgate incident bump down here is a separate  
2 issue, what's going on?

3 Q Now, you say you didn't discuss Crandall Canyon.  
4 That was because this tailgate issue was taking up all your  
5 time?

6 A The tailgate issue was -- yeah, it was specifically  
7 what we went down there for. They were given a K order by  
8 MSHA to stop longwall. They had some trouble down at the  
9 tailgate from a bump that tipped over some of the supports,  
10 and they were presenting a plan to get it back up in order,  
11 and we thought we would be there for our jurisdictional  
12 aspects.

13 Mr. Findlay. Okay. We'll go off the record.

14 [Recess.]

15 BY MR. FINDLAY:

16 Q Just a few more follow-up questions. And then I'll  
17 turn it over to our Republican friends.

18 Do you know what IPA is?

19 A Intermountain Power Agency.

20 Q Did you ever have any interactions with them  
21 regarding Crandall Canyon Mine?

22 A No.

23 Q Now, in your I guess it's Exhibit 9, the inspection  
24 report for your June 13th inspection, at the bottom there you  
25 say, they were not sure, and you told us that was Boogie

1 Allred wasn't sure, they had their pillar plan approved by  
2 MSHA?

3 A That's correct.

4 Q Was that in response to a question you asked him?

5 A I don't recall whether it just came up, or if I  
6 asked a question.

7 Q Do you remember at that time were you curious as to  
8 whether the plan would be approved?

9 A I probably was, but whether I asked it or not, I  
10 don't know.

11 Q Now, back to the inspection report for your  
12 March 15th visit, which is Exhibit 7. And we've discussed  
13 this a little bit. But the very bottom of the page, the  
14 first page, you write, Tom said they are working on the MSHA  
15 roof control and ventilation plan amendment for the south  
16 barrier, but was not sure if Genwal is asking to pull pillars  
17 after what they had seen in the north barrier.

18 Now, on the map you've drawn the ridge top oval for us,  
19 on the large Exhibit 1 map?

20 A Correct.

21 Q Based on your experience, would you have expected  
22 the same things to happen in the south as happened in the  
23 north barrier?

24 A Yes.

25 Q And then that explains some of the reservations you

1 had about the south?

2 A Uh-huh. There was one aspect. If you note in the  
3 south barrier, I didn't discuss this with anybody, but in the  
4 south barrier the pillars that they left, they were more  
5 rectangular-shaped than square up in the north barrier. I  
6 understood well after the fact that there was a  
7 recommendation to go to different size pillars that may help.  
8 But that's the only aspect that I would know of that maybe it  
9 may not act exactly the same as it did in the north barrier.

10 Q And how did you come to know about the bigger  
11 pillars?

12 A Oh, I just saw it on the map.

13 Q And it's a little all over the place, I apologize,  
14 but now I would like to refer you back to I think you said  
15 the 1st of November when you were at this Sufco, and that's  
16 S-U-F-C-O, Mine in Salina, Utah. I think you said you did  
17 meet up with Mr. Gunderson?

18 A And Billy Owens.

19 Q And who was with you?

20 A Steve Rigby.

21 Q And he's at BLM?

22 A Yes. And then company officials. We were in a  
23 meeting down there.

24 Q Now, if Billy Owens indicated that you had talked  
25 and discussed your inspection report for your March 15th

1 inspection, would that be accurate?

2 A What I recall is that he just said, you're Steve  
3 Falk, you're the guy that -- because you're the person that I  
4 had to -- you're the reason I had to appear before somebody,  
5 and I didn't even recall who he had to appear before. That  
6 was the first time I met him. I've heard of his name. And,  
7 Falk, that's what he said to me, you're the reason I'm in  
8 front of everybody, and I don't know who he was referring to  
9 "everybody." But he was referring to the Crandall incident.

10 Q And do you remember what you replied to him?

11 A I laughed I think. That's about it. I said, I'm  
12 sorry, but that's what I saw. So I don't know if he was  
13 referring to a report or anything like that. He just  
14 mentioned that he had to appear before a number of people  
15 because of me. And I said, well, it's probably my inspection  
16 report.

17 Q So you never told him that your reports had been  
18 misrepresented?

19 A I don't recall that. I recall saying that there  
20 was misrepresentation in some of the newspapers.

21 Q But you never backtracked, so to speak, from any of  
22 the conclusions you drew in your reports?

23 A No.

24 Q And other than the one thing you noted in Exhibit 7  
25 about talking to MSHA about the water, do you stand by

1 everything in the reports?

2 A Yes.

3 Q I don't mean to beat a dead horse, but in November  
4 of 2007, do you recall ever saying to Billy Owens something  
5 along the lines of you didn't mean to make reference that BLM  
6 should be reviewing plans, it was only your intention to go  
7 in and look at the reserves?

8 A Boy, I don't recall that, I really don't. I could  
9 have said something like that, but I don't recall.

10 Q No discussion about the prudence of the --

11 A The only thing I remember is I apologized, because  
12 stating -- I'm pretty sure I stated that those newspapers  
13 indicated that I saw something that was portending to happen,  
14 it was going to happen in the incident. And I negated that.  
15 And I said what I saw had nothing -- to me I had never seen  
16 what happened, the August 6th event.

17 Q Do you recall ever mentioning to him how far you  
18 had gone up to the danger tape or up to a particular crosscut  
19 in your March 15th visit?

20 A I didn't, no. I don't recall saying anything like  
21 that.

22 Mr. Findlay. Okay. I think we'll turn it over to Rob.

23 EXAMINATION

24 BY MR. BORDEN:

25 Q Just one very minor clarification when we were

1 discussing and you were answering questions about Exhibit  
2 Number 6, your visit in February.

3 A Oh, yes, okay.

4 Q And you mentioned that South Crandall had been  
5 idled in August of '07. I think earlier you mentioned South  
6 Crandall had been idled in August of '06, I don't think in  
7 your report, but in your testimony.

8 A I'm sorry, it was '06, yeah. Did I say '07?

9 Q I think one time you did.

10 A Oh, I'm sorry. That was a mistake; '06 is when  
11 they idled it, '07 is the incident. So they had been not  
12 mining in South Crandall for a year's worth before the August  
13 incident.

14 Mr. Borden. Thank you. That is all.

15 Mr. Findlay. Okay. We'll conclude. Off the record.

16 [Whereupon, at 1:15 p.m., the deposition concluded.]

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Certificate of Deponent/Interviewee

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I have read the foregoing \_\_\_\_ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

---

Witness Name



CERTIFICATE OF COURT REPORTER

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UNITED STATES OF AMERICA)  
DISTRICT OF COLUMBIA)

I, [REDACTED], Official Reporter, U.S. House of Representatives and Notary Public in the District of Columbia, certify that the witness appeared before me; that the witness was duly sworn; that I was authorized to and did stenographically report the proceedings in the above transcript; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action to my knowledge, nor am I financially interested in the action.

[REDACTED]

Notary Public in and for the District of Columbia  
My commission expires: 7-14-2012

[REDACTED]  
**Notary Public, District of Columbia  
My Commission Expires 7/14/2012**

**AFFIDAVIT OF STEPHEN FALK**  
**RE: MARCH 7, 2008, DEPOSITION TESTIMONY BEFORE THE COMMITTEE ON**  
**EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES**

State of Utah            )  
                                   :SS  
 County of Carbon        )

Stephen Falk, being first duly sworn, deposes and states as follows:

1. I have read the transcript of my deposition taken by counsel for the Committee on Education and Labor, U.S. House of Representatives, on Friday, March 7, 2008, in Washington, D.C. I offer this affidavit to correct errors that I have identified in the transcript.

2. The errors are as follows:

<u>Page and line</u>	<u>Change</u>	<u>Reason</u>
page 9, lines 1, 5, 8	“co-lease” should be “coal lease”	transcription error
page 9, line 17	“Steiwig” should be “Stiewig”	misspelling
page 13, line 24	“axis” should be “ACCESS”	transcription error (ACCESS is a computer program)
page 13, line 14	“axis” should be “ACCESS”	[same as above]
page 14, line 17	“they hit this” should be “the mine inspector hits this”	clarification
page 15, line 3	“get some stuff in there” should be “get the report finalized”	clarification
page 17, line 1	“deemed” should be “designated”	transcription error
page 17, line 21	“of” should be “on”	transcription error
page 19, line 5	“mining is pillar crosscut 9 and 8” should be “mining is in a pillar between crosscut 9 and 8”	transcription error/ clarification

page 20, line 5	“equate up equally” should be “connect up equally”	clarification
page 10, line 14	“pillar pulling is you do like to see some continuity” should be “pillar is you do like to see some uniformity”	clarification
page 26, line 24	“out to the west” should be “out to the west in the North Barrier”	clarification
page 31, line 2	“aspect” should be “perspective”	transcription error
page 32, line 5	“mineable with problems” should be “mining a problem”	clarification
page 32, line 14	“attitude” should be “kind of thing”	transcription error/ clarification
page 32, line 17	“jurisdiction of” should be “jurisdiction to insure”	clarification
page 32, line 25	“Ed” should be “Tom”	transcription error
page 38, line 10	“these off” should be “these entries “off”	clarification
page 38, line 11	“depth of this recover that this was and sitting for” should be “depth, or this cover, for”	transcription error/ clarification
page 41, line 18	“eloquent” should be “aliquot”	transcription error
page 46, line 20	“I’d both” should be “I’d do both”	transcription error
page 48, line 20	“starts to – you know, coal” should be “is where coal”	clarification
page 53, line 6	“I did not review” should be “I did not review it with MSHA”	clarification
page 53, line 13	“I have notes on when I take to go” should be “I take notes on when I go”	transcription error/ clarification
page 53, line 15	“put this down” should be “write the	clarification

	report”	
page 53, line 23	“have been for what I actually” should be “have mined, and compare it to what I actually”	transcription error/ clarification
page 55, line 10	“the change” should be “change the”	transcription error
page 55, lines 10-13	sentences beginning “We’ve run” and ending with “change it” should be bracketed with quotation marks	clarification
page 57, line 19	“more than a boom rate” should be “more like a boom”	transcription error/ clarification
page 60, line 18	“hit” should be “cut”	transcription error
page 61, line 2	“air” should be “area”	transcription error
page 72, line 16	[I did discuss the March 15 <sup>th</sup> inspection report with the two MSHA mine accident investigation teams during their interviews with me. But I did not discuss the report with anyone in MSHA before the August 6, 2007 accident]	
page 74, line 25	“will based” should be “will be based”	transcription error
page 76, line 18	“send” should be “sent”	transcription error
page 76, line 19	“in” should be deleted	transcription error
page 78, line 23	“and show” should be “and it shows”	transcription error/ clarification
page 82, lines 3, 4	“col ease” should be “coal lease”	transcription error
page 82, line 11	“that’s conjecture” should be “that’s not conjecture”	transcription error
page 87, line 5	“square up” should be “square as up”	transcription error
page 89, line 14	“in” should be “like”	clarification

page 89, lines 15, 16 "had nothing – to me I had never seen what happened, the August 6<sup>th</sup> event" should be "had nothing to do with the August 6<sup>th</sup> event" clarification

page 90, line 11 "been not" should be "not been" transcription error

Dated this 27 day of March, 2008.

Stephen W. Falk  
Signature of Stephen Falk

SUBSCRIBED AND SWORN TO before me this 27<sup>th</sup> day of March, 2008.



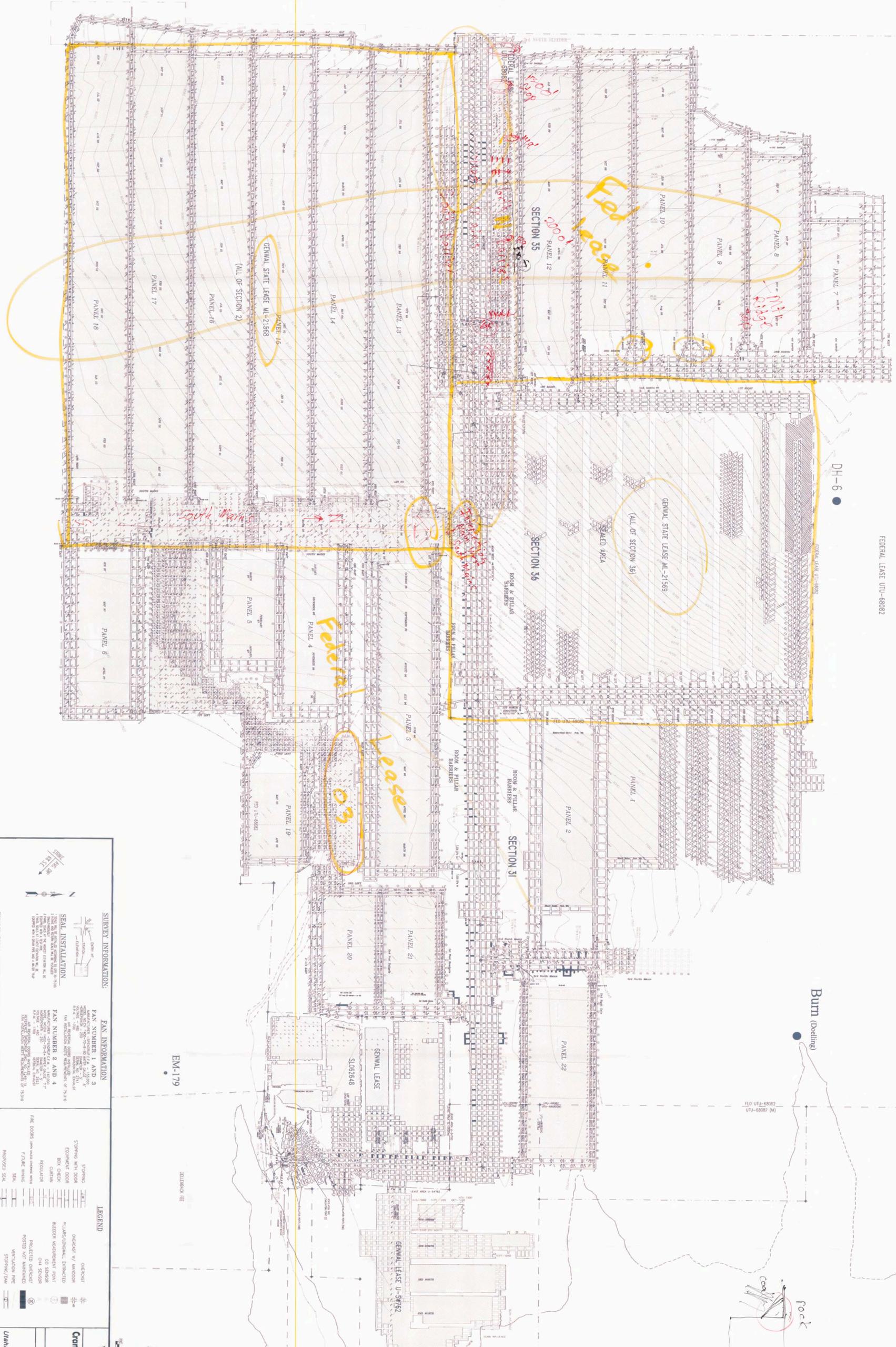
[Redacted]  
Notary Public

Residing at Helper, Utah 84526

DH-5

DH-3

DH-2



USGS-10

FEDERAL LEASE UTL-68082

DH-6

**LEGEND**

	OVERCAST		OVERCAST w/ VENTILATION
	EQUIPMENT		EQUIPMENT w/ VENTILATION
	BOX CHECK		BOX CHECK w/ VENTILATION
	CABLE		CABLE w/ VENTILATION
	REGULATION		REGULATION w/ VENTILATION
	FIRE DOORS		FIRE DOORS w/ VENTILATION
	SEAL		SEAL w/ VENTILATION
	ROCK STRAKE		ROCK STRAKE w/ VENTILATION
	CONNECTOR		CONNECTOR w/ VENTILATION
	RETAINER		RETAINER w/ VENTILATION
	BELT		BELT w/ VENTILATION
	PRIMARY EQUIPMENT		PRIMARY EQUIPMENT w/ VENTILATION
	SECONDARY EQUIPMENT		SECONDARY EQUIPMENT w/ VENTILATION
	MOTOR COMPARTMENT		MOTOR COMPARTMENT w/ VENTILATION
	STOPPAGE		STOPPAGE w/ VENTILATION
	STOPPAGE/DOOR-CUT NUMBER		STOPPAGE/DOOR-CUT NUMBER w/ VENTILATION

**NOTES**

1. ALL NOTES MUST BE READ IN CONJUNCTION WITH THE MAP.
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**EVALUATION POINT LOCATIONS**

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**SEAL INSTALLATION**

1. SEALS MUST BE INSTALLED IN CONJUNCTION WITH THE MAP.
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**PLAN NUMBER 1 AND 3**

PLAN NUMBER 1 AND 3 MUST BE READ IN CONJUNCTION WITH THE MAP.

**PLAN NUMBER 2 AND 4**

PLAN NUMBER 2 AND 4 MUST BE READ IN CONJUNCTION WITH THE MAP.

**VENTILATION MAP**

**Crandall Canyon Mines**

**Homewood Steam**

**PROJECT UTL**

**MSHA ID #42-0115**

**UtahAmerican Energy, Inc.**

300 WEST 700 SOUTH, SUITE 200, SALT LAKE CITY, UT 84101

PHONE: (801) 466-0000 FAX: (801) 466-0000

DATE: 01/15/2002

SCALE: 1" = 400'

PLATE #1 of 1

REVISION 3-7-02

# Inspection Report - IE/PV

Printed On: 10/30/2006

Period 2006-Q4

Inspection Number: SWF080106

Mine Name: Genwal	Fiscal Year: 2006
Mine Owner: Andalex/IPA	Period Type: Quarterly
Inspector: Steve Falk SWF	Period End Date: <del>12/31/2006</del> 9/30/06
Operator: Genwal	Active Faces: 4
Operator Rep:	Accompanied By:
	Finalize Date: 10/30/2006

**Remarks:** On Tuesday, August 1, 2006, I (Stephen Falk) inspected the Crandall Canyon Mine, operated by Genwal Resources, Inc., a wholly owned subsidiary of Andalex Resources Inc., who is 50 % owner and lessee of the property along with 50 % Intermountain Power Agency (IPA). Tom Hurst, Senior Mine Engineer for Andalex, was my company rep.

The sale of all of Andalex should be happening soon. Still rumors of UtahAmerican/Bob Murry and Arch Coal. Nothing official yet. Mining is still with one section in pillars in Crandall Canyon and 1 longwall and 2 miner sections in South Crandall. Concerns on the South Crandall longwall still exist. Coal height has been less than 6 feet, closer to 5 feet. The mine expressed to me that coal quality is running less than contract specs and is in the order of greater than 17% ash. They have reported that 300,000 tons of high ash coal lies on the ground at the Wildcat loadout. Mining sections include one continuous miner section mining pillars in the Crandall Canyon Mine and 3 sections in the South Crandall Mine. Here we have one longwall section and two miner sections, one developing longwall gate entries and one mining south in the mains.

Each mining section was visited. Conditions were noted and spot measurements were taken to compare with submitted monthly production maps. These spot measurements will be transferred to the company monthly submitted maps. Genwal is mining according to the approved mine plan and no incidents of non-compliance were noted. Sections visited are listed below:

South Mains Pillars, Hiawatha Seam, Crandall Canyon Mine, State Lease ML-21568 and Federal Lease UTU-68082

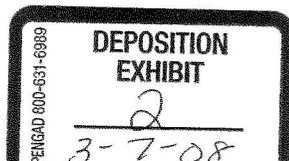
Genwal is continuing to pull pillars from south to north in the South Mains of the Crandall Canyon Mine. This is the only section working in this mine with the other sections working in the South Crandall Mine. Mining is at the pillar row between crosscut 9 and 8. The original 5 entry main is all on the state lease with the boundary to the Federal lease on the east. Genwal usually picks up 250 feet of the west barrier to a longwall panel, leaving a 150 final barrier to the panel. This is done on the east side also. Pillar pulling has been pretty good. Depth at this area is less than 1000 feet and weights on the pillars has been manageable. Problem areas have been the different size and shape pillars at the butts to the longwall panels. They have also left a row or two of pillars, mostly where the width of the pillar row has opened up to much area. Production is has been up to 40,000 tons a month but averaging near 35,000 tons per month. The crew is getting adapt at this pillaring as they have now had about 2 years of experience. This section is approaching the South Main/Main West intersection. From there, start pulling the West Main all the way back. Coal height is about 8.5 feet but was mined at 7.5 feet on the first development. Genwal is trying to get a little of the extra foot or two of coal than was more often than not left in the roof.

Longwall Panel # 1, 2nd East Headgate, Hiawatha Seam, South Crandall Canyon Mine, Federal Lease UTU-78953

Since the start up of this panel in April, advance has been about 1900 feet or from crosscut 36 to current face of crosscut 23. Production rates are about 120,000 to 130,000 tons per month which is way down from years ago when they were in 9 feet of coal. Current face had coal of 5.5 feet thick or less. Though Tom Hurst is new, he is not as pessimistic as the previous engineer as to the minability of this longwall panel. Though not confirmed by us, Genwal reports a large pile of high ash coal, mostly from Crandall Canyon which can only be blended off in small amounts. It is very apparent from the mining face on this longwall that most of these quality problems are coming from this low coal. The face height was a consistent 5.5 feet. But you could see on the face that some roof rock had been taken by the shear. The face is straight and looks good except for the low seam height. Face measurements are noted on the map.

3rd East Gate Entry, Hiawatha Seam, South Crandall Canyon Mine, Federal Lease UTU-78953

This is the headgate entry for the second longwall panel. Mining is out to the end (stopped at crosscut 37) and has just turned north to mine the two entry bleeder to connect up with 2nd East. The distance out is very close to the outcrop and the company is a little worried that they are too close to the surface. After connecting up north in this two entry bleeder, they will mine the longwall set up rooms up to 2nd East. The set up rooms will be 200 feet outby the bleeder entries. Coal height is a little over 6 feet which is a little better than the middle of the panel. Roof rock is good but there



is some weak floor rock between the Starpoint sandstone and the coal seam. This floor rock has been breaking out and turning to mud with the miner spray. These two entries up to 2nd East are on 150 foot entry centers and 50 foot crosscut centers and the two entry bleeder between 2nd and 3rd Left are mostly the same with a couple of pillars a bit bigger to match up with the width of the longwall block. Measurements are noted on the map.

## Leases

Lease Number	Lessee	Assignee	Status
ROW-UTU-6683			Terminated
ROW-UTU-7797			Producing
SL-062648	Intermountain Power Agency &	Genwal	Active Mine Works
State ML-21568			Producing
State ML-21569			Active Mine Works
U-54762	Andalex	Genwal	Active Mine Works
UTU-68082	Andalex	Genwal	Producing
UTU-78953	Andalex	Genwal	Producing

Was approved plan reviewed? Yes

Was I&E plan reviewed?

Was PV plan reviewed?

Was previous inspection reviewed? Yes

Was mine status reviewed with MSHA? No

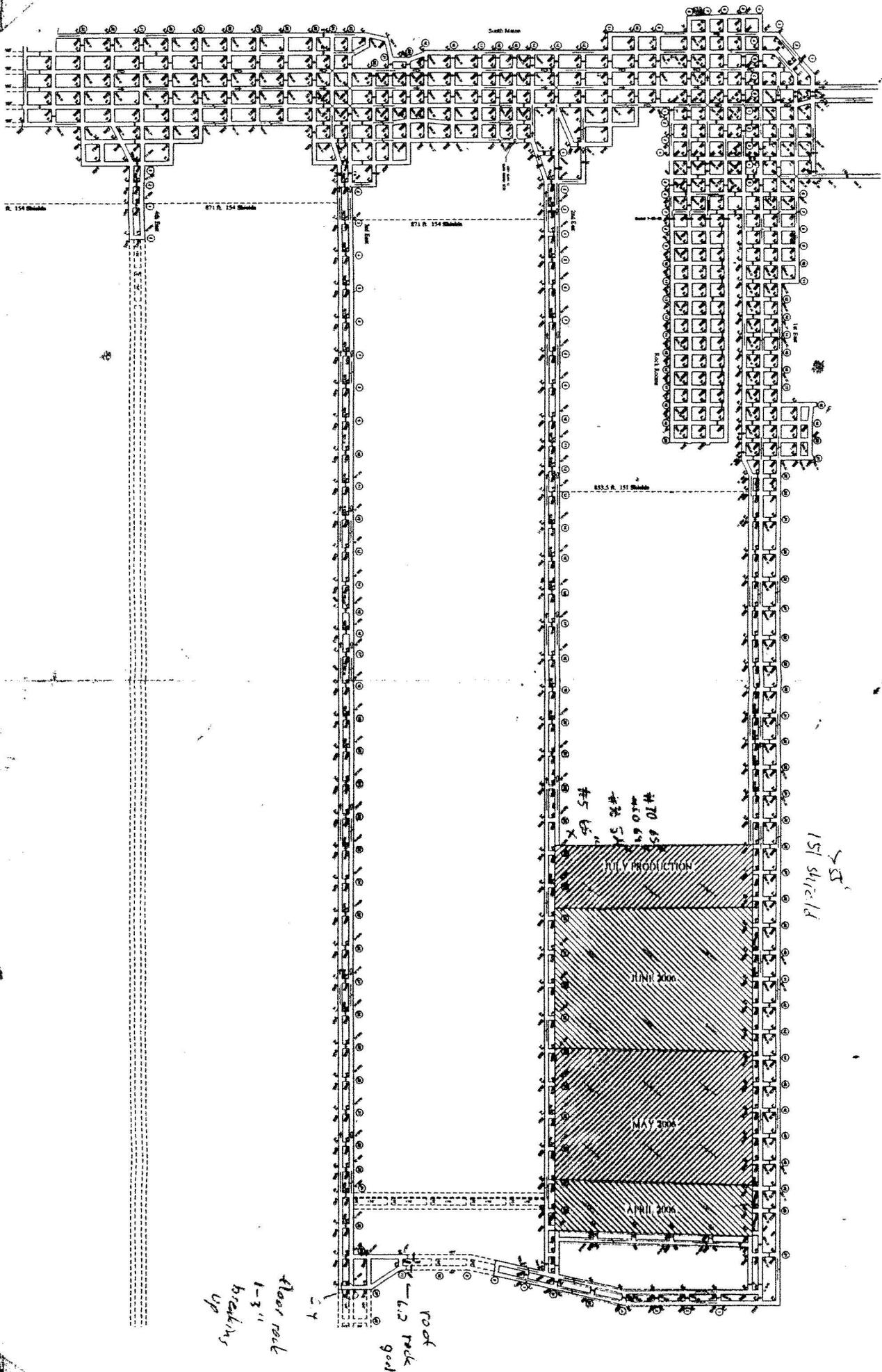
Was approved plan followed? Yes

Was a noncompliance encountered? No

Was an undesirable event encountered? No

Was the reported production acceptable? Yes

subrpImages



151 shaft

#70 85  
#60 69  
#58 54  
#5 65

JULY PRODUCTION

JUNE 2006

MAY 2006

APRIL 2006

roof  
- 6.2 rock  
good

Floor rock  
1-3"  
breakins  
up

# Inspection Report - IE/PV

Printed On: 3/5/2007

Period 2007-Q1

Inspection Number: SWF121406

<b>Mine Name:</b> Genwal	<b>Fiscal Year:</b> 2007
<b>Mine Owner:</b> Andalex/IPA	<b>Period Type:</b> Quarterly
<b>Inspector:</b> Steve Falk SWF	<b>Period End Date:</b> <del>3/31/2007</del> 12/31/06
<b>Operator:</b> Genwal	<b>Active Faces:</b> 1
<b>Operator Rep:</b>	<b>Accompanied By:</b>
	<b>Finalize Date:</b> 3/5/2007

**Remarks:** On Thursday, December 14, 2006, I (Stephen Falk) inspected the Crandall Canyon Mine. The owner/lessee is 50/50 percent Andalex Resources and Intermountain Power Agency. Tom Hurst, Mining Engineer for Andalex was my company rep.

The sale of Andalex is complete to Bob Murray's Utah American. They are going to keep the Andalex, Genwal and West Ridge names and companies, who will be subsidiaries of Utah American. A lot of changes have happened. The longwall in South Crandall was halted in mid-August and haul over to West Ridge. The machine will be used on the first panel on the north-west side. This longwall machine has the ability to mine 5.5 feet of coal and the start up face at West Ridge is quite low. The development section was also removed and sent to various other Utah American mines. Mine plan change was submitted to us and we oked the withdraw of the longwall but asked Andalex to update the R2P2 with timing or give more information to justify deletion of all recoverable reserves. Genwal will come in with a new plan for mining much further down the road. So right now Genwal is down to one section. This section finished pulling the South Mains pillars and is now mining out west parallel to Main West in the north barrier. All the other crews have been moved to other operations. South Crandall Mine is idled but is ventilated and maintained.

The one mining section was visited. Conditions were noted and spot measurements were taken of the section workings. These measurements will be compared with the submitted monthly production maps to verify volumes for monthly production verification. These spot measurements are shown on the attached maps to this report and will be transferred to the monthly production maps. Genwal is mining according to the approved mine plan and no incidents of non-compliance were noted. The section visited follows below:

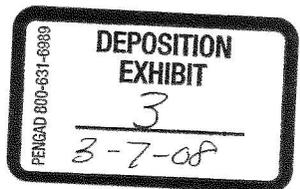
Main West North Barrier, Hiawatha Seam, Crandall Canyon Mine, Federal Coal Lease UTU-68082

Genwal finished up the pillars in South Mains in October. The crew went right to work setting up the section to drive entries in the north barrier of Main West. The crew notched off 3 crosscuts north off of Main West at crosscuts 108, 109 and 110. The first crosscut north is 80 feet center to center. From there, they have mined 3 entries west on 92 entry centers and 80 foot crosscut centers. The original barrier north from Main West up to old longwall panel #12 (1st West headgate) was 450 feet. The new 3 entries in the barrier now would leave a 130 foot barrier to the north gob. They connected up with Main West in each crosscut from 108 through 118. Beyond 118, Genwal just drove the three entries out west without connecting up with the crosscuts to Main West. This was due to the seals erected just inby crosscut 118. If they connected up with Main West inby the seals, they would have to reestablish ventilation through all of Main West. They are now out to crosscut 129. The top or north entry (#4) is the return, # 3 the belt and 2 and 1 the intakes. Coal height is running 9 to 10 feet with the floor in coal of a foot and in pretty good shape. The roof has some laminated top in some areas. Mining height is running about 8 feet. Production is coming from two shifts a day but is running all seven days a week. Tonnages are getting close to 50,000 tons a month. Genwal is going to try and mine all the way out to the fault and then try and get approval to pull back some if not all three pillars. Measurements are shown on the attached map.

## Leases

Lease Number	Lessee	Assignee	Status
ROW-UTU-6683			Terminated
ROW-UTU-7797			Producing
SL-062648	Intermountain Power Agency &	Genwal	Active Mine Works
State ML-21568			Producing

Monday, March 05, 2007



State ML-21569

Active Mine Works

U-54762 Andalex

Genwal

Active Mine Works

UTU-68082 Andalex

Genwal

Producing

UTU-78953 Andalex

Genwal

Producing

Was approved plan reviewed?

Yes

Was I&E plan reviewed?

Was PV plan reviewed?

Was previous inspection reviewed?

Yes

Was mine status reviewed with MSHA?

No

Was approved plan followed?

Yes

Was a noncompliance encountered?

No

Was an undesirable event encountered?

No

Was the reported production acceptable?

Yes

### Close Out Discussion:

This section is mining coal that was not considered minable in the previous plan as Main West was taking weight from both side gobs and Andalex prior to Utah American sealed up Main West at crosscut 118 back in late 2004. Told Tom Hurst that BLM is pleased to have them try for coal that was thought unminable but I warned them to beware of the depth above the ridge and mining a barrier pillar that has been sitting for a number of years. Pulling pillars will be interesting if even MSHA will ok a ventilation and roof control plan for the section.

subrpt/images



# Inspection Report - Special

Printed On: 1/24/2005

Period

Inspection Number: SWF110404

Mine Name: Genwal	Fiscal Year: 2005
Mine Owner: Andalex/IPA	Period Type: Quarterly
Inspector: Steve Falk	Period End Date:
Operator: Genwal	Active Faces: 4
Operator Rep:	Accompanied By:
	Finalize Date: 1/24/2005

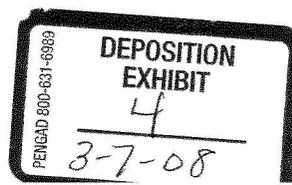
**Remarks:** On Thursday, November 4, 2004, I (Stephen Falk) inspected the Crandall Canyon Mine, operated by Genwal Resources, Inc., a subsidiary of Andalex, which is a 50 percent owner/lessee along with 50 percent Intermountain Power Agency (IPA). James Sorenson, Mine Engineer for Andalex, was my company rep.

On October 27, 2004, John Lewis, Mining Engineer for Andalex, called and informed me that Genwal would need to seal off the west portion of the Main West mains at the Crandall Canyon Mine. Conditions were deteriorating and access through the area near impossible. I informed him that I would be up the next week to inspect the area. On the 4th of November, I arrived at the mine and James Sorenson was there for the inspection. We went directly to the section with the idea to note conditions and a final inspection of the area before sealing to assure if materials are left or taken out.

Main West is in use up to crosscut 92 where South Mains intersects and accesses 6th East pillar area. Main West continues back west from crosscut 92 to 105 where 1st Right submains drove north to access longwall panels 7-12. This is sealed off. From crosscut 107 to the Joe's Valley Fault at 167, Main West was used as access to the bleeder for longwall panels 13-18. Now this bank of panels is sealed off and use is no longer needed. A number of years ago, BLM inspected Main West after the north longwall block was mined out and the first few panels to the south were mined out. The barrier planned on both sides looked like it was designed to only hold up for only a short while. The north entry was taking weight and extra roof supports and rebolting had to be done. Now the situation is even worse. Genwal plans to seal at 116. At 116, the depth of cover is about 1500 feet and rises to 2000 feet by crosscut 127 and stays 2000+ feet to 143. The depth is between 1500 and 2000 feet from 143 to 154 and drops off to 1000 feet at the fault, 167. It was apparent from traveling down the intake that the area is taking unacceptable weight. Main West is a 5 entry main entry system that was mined to the Joe's Valley Fault back in 1995. The entries were on 90 foot entry and crosscut centers, leaving a 80 x 80 foot pillar. However, the crosscuts from the belt (middle) entry to the left intake (number 2) entry, were driven on an angle off of 90 degrees due to the need for the continuous haulage system then in use to have a easier turn for gathering the track mounted belt. The end result of cutting this crosscut on an angle is that the intersections have tended to be wider and irregular and they are caving in under the pressure. I traveled down the number 1 or left most intake entry and noted the inside pillar rib rash that was occurring past crosscut 123. I peeked past check currents at crosscut 141, 142 and 149 and noted large intersection caves. Genwal is maintaining the left intake but is being told by MSHA that if Main West is to be used in the near future for access, then all travel ways need to be cleaned up and supported against any future caves. It is very apparent that pressure arches from both side gobs are sitting right down on the main entry pillars. At this depth, the pillars are failing. Genwal tried to split a pillar around an intersection cave and could not hold the top and side pillar failures were occurring.

The situation in Main West is untenable for future pillar recovery. No mining company in the area has ever pulled pillars in main entries with mined out sides and under 1500+ feet of cover. That Genwal had thoughts and plans to try pillar recovery was wishful thinking and was more wanting to extend mine life when they failed to get the Mill Fork lease and the need to blend off high sulfur coal from West Ridge.

At the same time, I noted the area for any materials left before sealing. All equipment in the travelable areas had been removed. Belt structure had been also taken out except for a 50 foot section that had been caved on in an intersection. No other materials were noted that had been left. James will file out the haz-mat certification sheets and get them to me.



## Close Out Discussion:

Closeout Discussion:

After the inspection, the following items were noted and agreed on. First, Main West past crosscut 116 is no longer of any use and sealing off would release the extra ventilation air for other use. Second, the pillars in Main West are failing over time with greater than 1700 feet of cover. Caves are occurring at intersects compounded by irregular intersection dimensions. Third, attempts to split pillars under this depth could not hold the top and prevent pillar outbursts.

Conclusions: Main West was designed only to hold up until longwall panels were mined out on both sides. Depth of cover precludes pillar recover even if there were no mined out sections next door. Weight on the pillars is substantial and dangerous conditions are present. Mining any of the coal in the pillars will result in hazardous mining conditions such as pillar bursts and roof falls. Original mine plans called for pillar recovery only in general sense and recent plans conditioned recovery on favorable geologic conditions. If any further mining is to be in this area, MSHA will require making both intake entries travelable and some of the belt and structure would have to be replaced. I agree that further mining in this area would be dangerous and most likely too expensive to rehabilitate. The reserves left in the pillars and the two barriers were never included in the recoverable reserve base as far as I can determine and Genwal not required for further coal recovery in this area. The sealing should go forth and revisions to the R2P2 for this area will be covered in an approval for mine-wide revisions recently submitted.

## Inspection Addenda

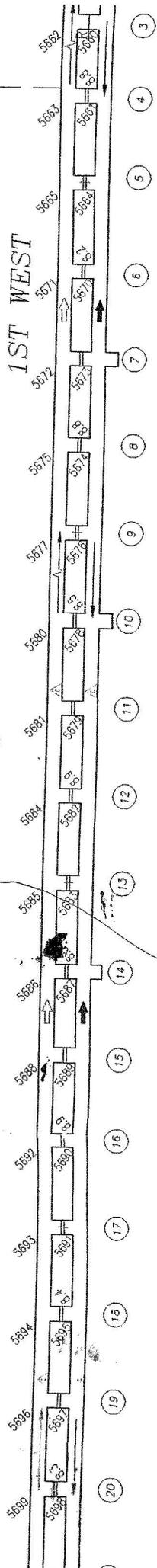
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**Entry Date:** 1/24/2005

**Comments:** After the inspection was completed, a question about the in-mine water monitoring well MW-7, located near the back end of Main West, was raised. Upon inquiry, this well was stopped monitoring in 2002 with the consent and knowledge of DOGM due to dangered off area from pillar failure. The well was only 40 feet deep into the Starpoint sandstone and the well did not flow. A pipe cap was place on the well and no notes of any water inflow was recorded. We conclude that sealing Main West will not adversely affect any aspects of the abandoned monitoring well.

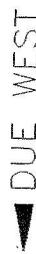
N 35

1ST WEST



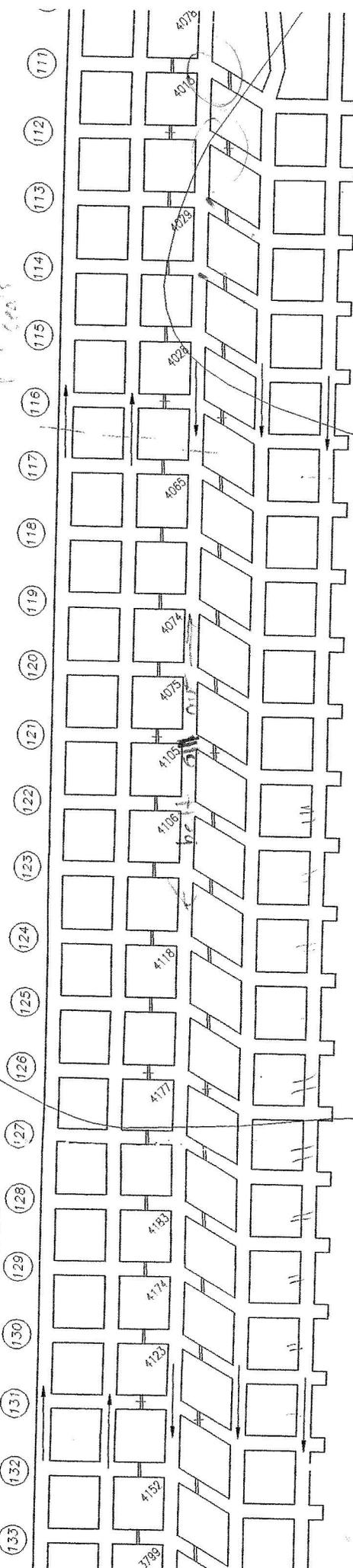
435' BARRIER

MAIN WEST



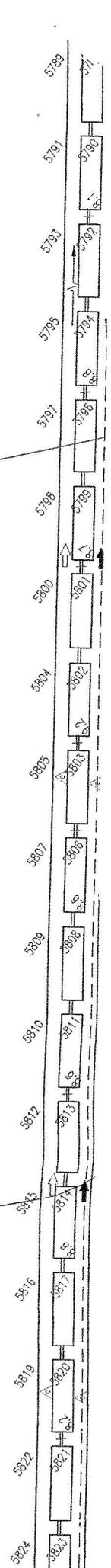
DUE WEST

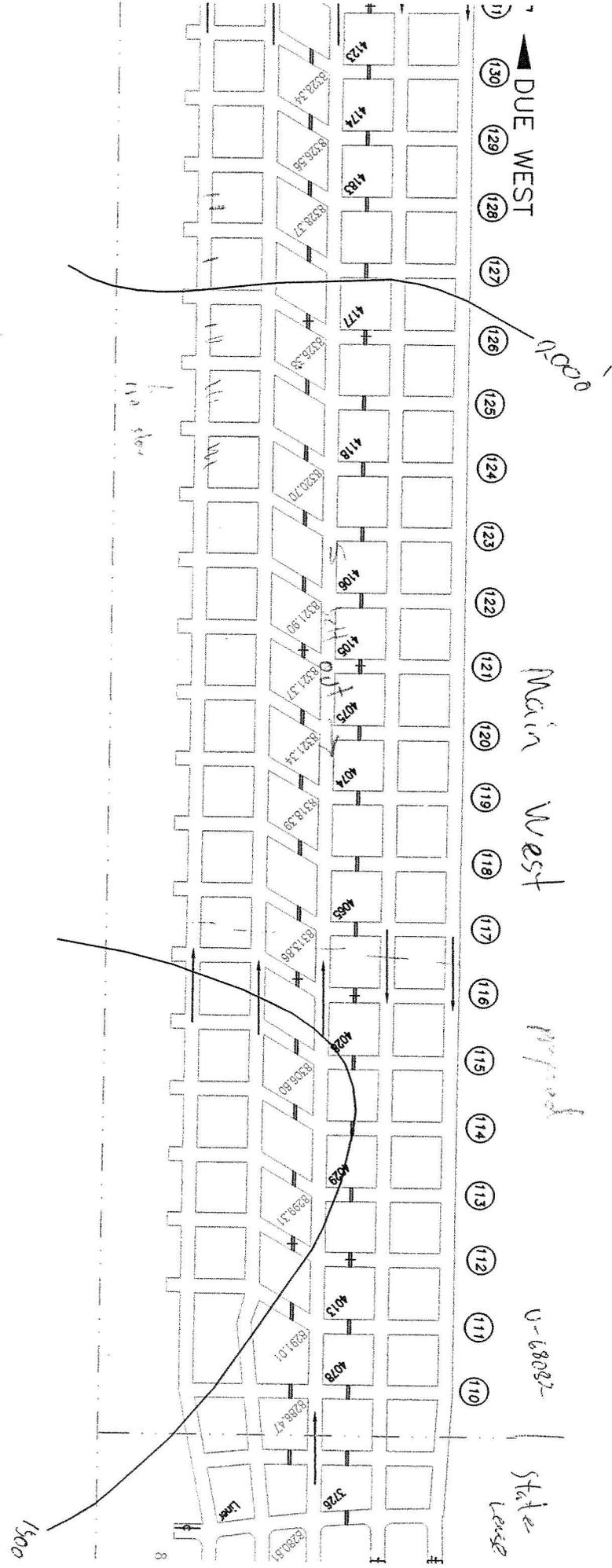
*proposed*



430' BARRIER

*1505*







**From:** Hurst, Tom  
**Sent:** Tuesday, February 20, 2007 4:09 PM  
**To:** 'Steve Falk'  
**Cc:** Glasson, Mike; Hibbs, David  
**Subject:** Crandall Canyon Main West North Barrier  
**Attachments:** Cran Main West Barrier short 02 20 07 .pdf

Steve,

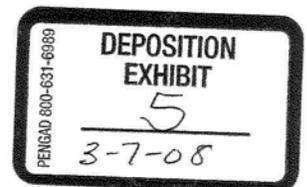
As Mike mentioned on the telephone. Water inflows have caused development mining to cease in the North Barrier Block of Main West. We have started to extract pillars.

Attached is a map of the area.

Call if you have questions.

Tom Hurst  
Mining Engineer  
UtahAmerican Energy  
[REDACTED]

1/10/2008

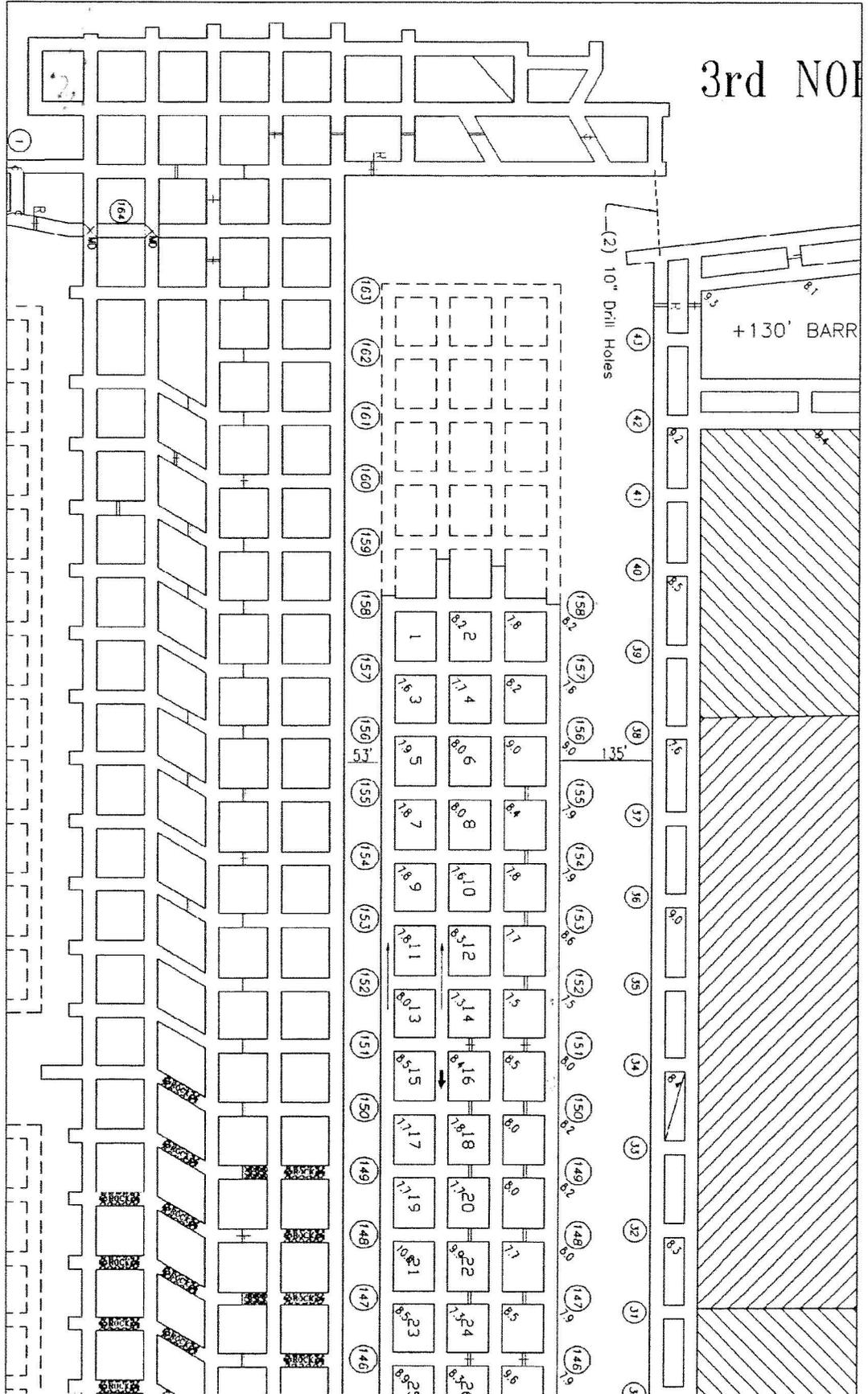


UEICONG-K000033338



MAINS WEST  
Scale: 1" = 200'

02-16-07



# Inspection Report - IE/PV

Printed On: 7/12/2007  
 Period: 2007-Q2  
 Period End Date: ~~6/30/2007~~ 3/31/07

Inspection Number: SWF022707

Mine Name: Genwal  
 Mine Owner: Andalex/IPA  
 Inspector: Steve Falk *S.F.*  
 Operator: Genwal  
 Operator Rep:  
 Fiscal Year: 2007  
 Period Type: Quarterly  
 Active Faces: 1  
 Accompanied By:  
 Finalize Date: 7/12/2007

**Remarks:** On Tuesday, February 27, 2007, I (Stephen Falk) inspected the Crandall Canyon Mine, operated by Genwal Coal Company, a subsidiary of UtahAmerican Energy, Inc.. UtahAmerican is a 50 % owner along with Intermountain Power Agency, of the property and lessee of record. Tom Hurst, Senior Mine Engineer, was my company rep.

Just one section is at this mine and personnel are being transferred to other UtahAmerican mines. The section is in the north barrier to Main West. Very little of the coal remains. This section is trying to pull all the remnant coal in the Main West area. Besides the west main pillars and barriers, the only other coal blocks remaining is in the 2nd North area and only if they can mine 5 to 6 feet of clean coal and keep production rates up with one miner section. South Crandall Mine is idled but is ventilated and inspected. Total personnel is down to about 60. The one section is run on a 4 day 10 hour shift with 2 shifts going and a overlapping maintenance shift. Then they have one super weekend shift of 3 day 12 hours. But it seems that Genwal will just finish out with this one section until Lila Canyon comes on line.

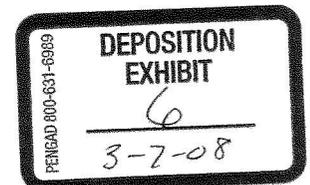
The one mining section was visited. Conditions were noted and spot measurements were taken of the section working faces. These measurements will be compared with the submitted monthly production maps to verify volumes from monthly production verification. These spot measurements are shown on the attached maps to this report and will be transferred to the monthly production maps. Genwal is mining according to the approved mine plan and no incidents of non-compliance were noted. The section visited follows below:

North Barrier Section, West Mains, Hiawatha Seam, Federal Lease UTU-68082

This section finished driving 4 entries on 92 foot entry centers and 80 foot crosscut centers. These were driven in the north barrier pillar between Main West and mined out longwall panel # 12. The barrier pillar is 450 foot wide which accommodates the 4 entries. This leaves only 130 foot barrier to the north longwall panel. This section started out back at Main West crosscuts 108 - 110 and drove out to crosscut 158. Here the section starts to dip down to the west before the Joe's Valley Fault. At this place, the section experienced large inflows of water. They could not control it enough with pumps. We think this is water flowing through fractures close to the fault, draining the gob to the north. Crosscut 158 is about 400 feet short of the bleeder entries along the fault. With the water coming in too fast, the company stopped advance at this point and began pulling pillars back. They got a special pillar plan approved by MSHA to pull the south two of three pillars and have the return out the north most entry. So far, the crews have pulled 18 pillars or 9 rows. Currently they are pulling the pillars between crosscut 149 and 150. I have been concerned about pulling pillars in this environment with mining a narrow block with little coal barriers to mined out blocks on both sides. Fortunately, the beginning depth on the west end toward the Joe's Valley Fault is somewhat shallow starting at 1300 feet. So far no inordinate pillar stresses have been noted, though thing should get interesting soon. The face is under 1600 feet of cover now and will increase to over 2000 feet by crosscut 139. The working face looks ok and coal is good. There is some cap rock in the roof that is not holding up during mining. Coal height is running about 9 feet. The rate of retreat mining is well ahead of water build up as the seam has a incline down to the west fault starting with pillar row 144, so the water is running down to the end of the entries. Measurements are noted on the attached map.

## Leases

Lease Number	Lessee	Assignee	Status
ROW-UTU-6683	_____	_____	Terminated
ROW-UTU-7797	_____	_____	Terminated
SL-062648	Intermountain Power Agency &	Genwal	Active Mine Works
State ML-21568	_____	_____	Producing



State ML-21569

Active Mine Works

U-54762      Andalex      Genwal

Active Mine Works

UTU-68082      Andalex      Genwal

Producing

UTU-78953      Andalex      Genwal

Producing

Was approved plan reviewed?      Yes

Was I&E plan reviewed?

Was PV plan reviewed?

Was previous inspection reviewed?      Yes

Was mine status reviewed with MSHA?      No

Was approved plan followed?      Yes

Was a noncompliance encountered?      No

Was an undesirable event encountered?      No

Was the reported production acceptable?      Yes

subpt images

4.540' X 7'

# SECTION 35

3rd NORTH

+130' BARRIER

## FEDERAL LEASE UTU-68082

MAIN WEST

MAIN West North  
PILLAR SECTION  
Scale: 1" = 200'

### 02-27-06

JUN 99

JUL 99

AUG 99

SEP 99

300' BARRIER

# Inspection Report - Special

Printed On: 8/13/2007

Period  
Period End Date: 2<sup>nd</sup> Qr FY 2007  
3/31/07

Inspection Number: SWF031507

Mine Name: Genwal  
Mine Owner: Andalex/IPA  
Inspector: Steve Falk  
Operator: Genwal  
Operator Rep:

Fiscal Year: 2007  
Period Type: Quarterly  
Active Faces: 1  
Accompanied By:  
Finalize Date: 8/13/2007

**Remarks:** On Thursday, March 15, 2007, I (Stephen Falk) made a special inspection of the Crandall Canyon Mine to observed adverse conditions in the pillar section. Tom Hurst, Mine Engineer of Genwal, was my company rep.

Tom had called me earlier in the week and informed me of some tough conditions in the one continuous miner section in the North Barrier off Main West. I informed him I would be up on Thursday and look at the section. Upon arrival, we went to the section and I noted conditions.

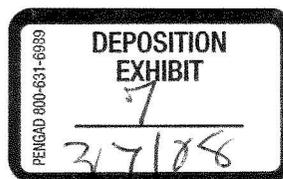
Recap of events and last inspection.

After UtahAmerican obtained the property in August 06 and withdrew the longwall out of South Crandall along with the development section. the only section left was the section pulling pillars coming out of South Mains. They finished up in October 2006 and moved right up to the North Barrier of West Mains. They drove out four entries all the way out to crosscut 158 where they encountered too great of water inflow that pumps could not control. This was about 400 feet short of the maximum length before running into the extra north entries up from West Mains along the Joe's Valley Fault. They started to extract two of the three pillars in retreat pillar mining with a MSHA approved pillar plan to leave the top pillar and use the top or north entry as the return. They started right at crosscut 158 which is at about 1200 to 1400 foot depth. The 1st quarter FY 2007 inspection, made in mid December had the crew developing out the four entries at crosscut 129 (see SWF121406). At the end of January, Hurst called me to inform me that the section did not go all the way out parallel to Main West in this North Barrier entries as they encountered fractures that had water inflows much greater than available pumping facilities. This was at crosscut 158 which was about 400 feet short of the back end of Main West next to Joe's Valley Fault. I informed them that that was far enough after confirming with MSHA about the water and to go ahead and start pillar retreat as per their MSHA pillar plan for this section. My next inspection on Feb. 27 had them retreat pillar pulling back to crosscut 149 (see SWF022707). This was the last inspection up to this report.

North Barrier Section, West Mains. Hiawatha Seam, Federal Lease UTU-68082

I arrived at the section and was able to get to between 133 and 132 crosscut where there was a dangerous off tape across the bottom 3 entries. A map of the aftermath with some of my notes written on the map is attached. It shows where pillar coal has spalled out into the entry and the condition of the stoppings along the north entry. I traveled down the north bleeder entry well in by the dangerous off area and verified the items on the map. The situation at this section is clear. The section pulling the two bottom pillars on retreat out of this area was experiencing greater stresses on the pillars. This is coinciding with an increase of overburden from about 1400 feet depth back at crosscut 158 to now at crosscuts 137 - 133 where it is about 2000 feet deep. Pillar bumps were increasing and some damage to the stopping to the north bleeder entry were occurring. Genwal tried to stop the stress override and left two rows of pillars at 137 to 135 and then started up again with the south pillar at 134 - 135 crosscuts. Hurst reported that a few large bounces occurred on off shift soon after start up of pillar mining which did most of the damage. Entry ways out by two breaks from the face had extensive rib coal thrown into the entry way. Stress overrides out by the face were very concerning. The bounces had either knocked out or damaged all the stoppings to the north bleeder entry from crosscut 132 in by to crosscut 149. I could only travel the north entry to 143, but the observed conditions were severe. The weight of the area will only be the same or worse as this is under the ridge top on the surface. If Genwal was to try again, they must under law repair all damaged stopping along the north bleeder entry. They would also need to drop back out by the affected area at least 3 crosscuts and build seals that meet standards that are not yet established as a result of the Segó Mine explosion back east. Hurst said the risks are too great that this event will happen again out by should they try pillar pulling again and they can't justify all the extra expensive to repair and establish new seals. I gave them verbal approval to stop retreat mining for the rest of the section. Tom will send a modification to leave the rest of North Barrier and start on the south barrier. I gave them an ok to start on the south barrier as the boundary between UTU-68082 and the state lease runs down the barrier so that only the top or north most entry will be on federal. I asked how they would mine the south barrier and Tom said they are working on the MSHA roof control and ventilation plan amendment for the south barrier but was not sure if Genwal is asking to pull pillars after what they have seen in north barrier. The conditions noted in

Monday, August 13, 2007



Page 1 of 2

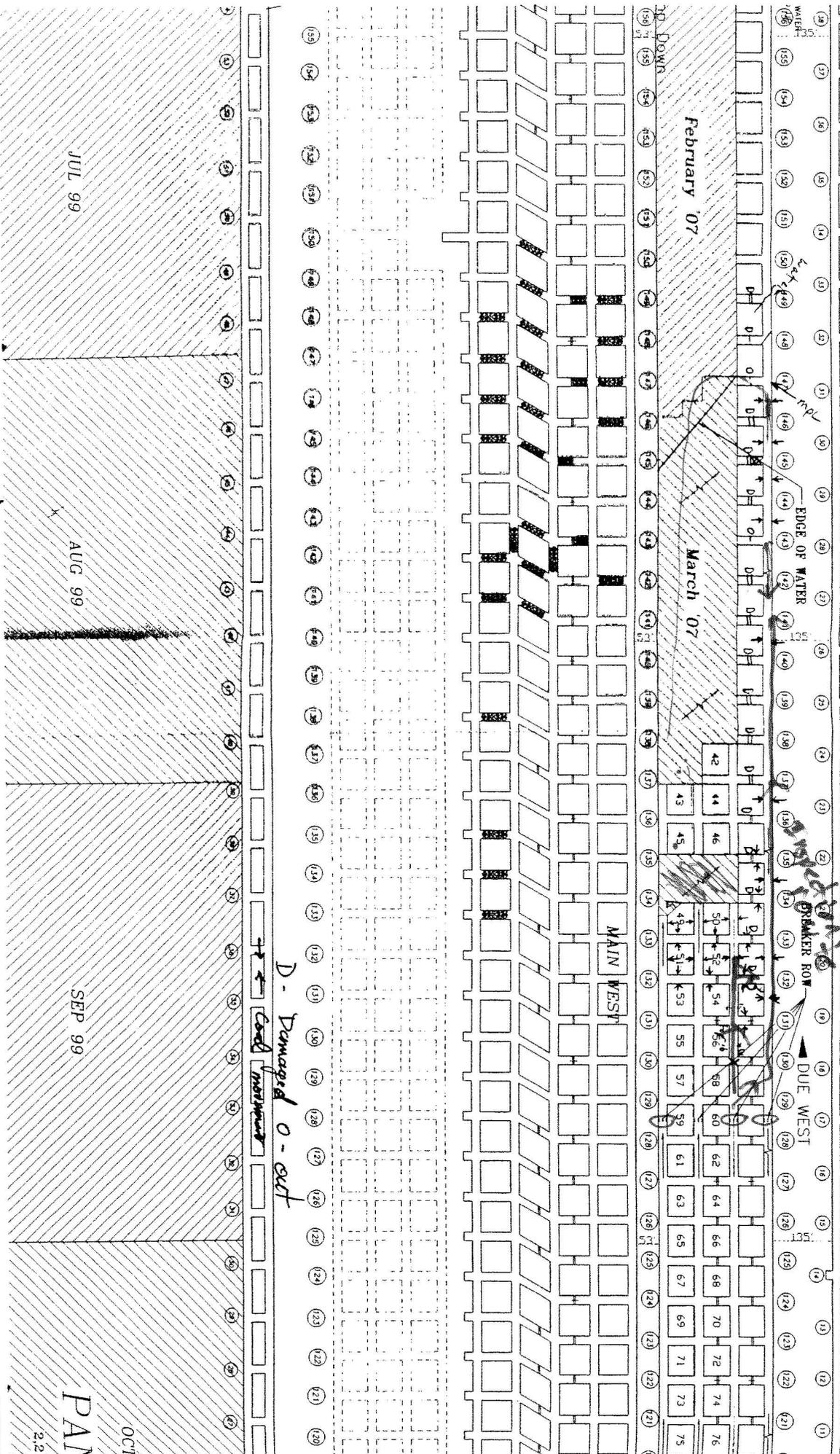
North Barrier were adverse and as depicted on the mine map. Prudence dictates that any further mining of this area would result in more of the same and leaving the remaining coal is necessary. We will act on the written request when received for the official record.

## Leases

Lease Number	Lessee	Assignee	Status
ROW-UTU-6683			Terminated
ROW-UTU-7797			Terminated
SL-062648	Intermountain Power Agency &	Genwal	Active Mine Works
State ML-21568			Producing
State ML-21569			Active Mine Works
U-54762	Andalex	Genwal	Active Mine Works
UTU-68082	Andalex	Genwal	Producing
UTU-78953	Andalex	Genwal	Producing

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SECTION 00



JUL 99

AUG 99

SEP 99

PAN

OCT

2.21

D - Damaged 0 - self  
Cord Insulation

MAIN WEST

PRIMER ROW

DUE WEST

February 07

March 07

DOWNS

WATER

EDGE OF WATER

**UtahAmerican Energy, Inc.**



**Crandall Canyon Mine**

**Hwy31 MP 33, Huntington, UT 84528**

**PO Box 1077, Price, UT 84501**

**Phone: (435) 888-4000**

**Fax: (435) 888-4002**

Mr. Stephen Falk  
Bureau of Land Management  
Moab District  
Price River/San Rafael Resources Area  
125 South 600 West  
Price, UT 84501

June 19, 2007 Revision

Dear Mr. Falk:

Please find enclosed the volumetric calculations and the scale tonnages for the month of May, 2007, from our Crandall Canyon Mines. A copy of our mine map showing areas mined is included.

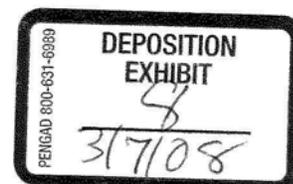
Volumetrics for the month of:	May, 2007
Volumetric calculated tonnage:	50,743.47 tons
Actual total mine production:	65,775.00 tons

Please note there was a positive stockpile adjustment of 8,017 tons in May.

Should you have any questions please feel free to call.

Sincerely,

Tom Hurst  
Mining Engineer



UEICONG-K000033309



# Inspection Report - IE/PV

Printed On: 10/16/2007  
Period: 2007-Q3  
Period End Date: 9/30/2007

Inspection Number: SWF061307

Mine Name: Genwal  
Mine Owner: Andalex/IPA  
Inspector: Steve Falk  
Operator: Genwal  
Operator Rep:

Fiscal Year: 2007  
Period Type: Quarterly  
Active Faces: 1  
Accompanied By:  
Finalize Date: 8/17/2007

**Remarks:** On Wednesday, June 13, 2007, I (Stephen Falk) inspected the Crandall Canyon Mine, owned by 50 percent UtahAmerican and Intermountain Power Agency (IPA) and operated by Genwal Resources, Inc., a wholly owned subsidiary of UtahAmerican Energy, Inc.. Boodie Allred, Mine Superintendent, was my company rep.

Only one section remains mining at this operation. This continuous miner section is in the Crandall Canyon Mine while the South Crandall Mine is idle. This one section is going for the full week with weekday and weekend shifts. This section is developing 4 entries down the south barrier block between Main West and the south longwall block. They moved over to this section from the north barrier block at the end of March when pillar pulling in the north barrier block was halted about half way through due to damaging bumps and outby pillar loading. Since the first of April, the crew is developing these four entries with the hopes to drive out to but not connect to the back end bleeder entries near the Joe's Valley fault, some 4800 feet inby. This plan was submitted by Genwal back in March when they were having the tough conditions in the North Barrier and asked to leave the rest of the pillars. I gave approval then (see SWF031507) to leave the rest of North Barrier and to start South Barrier development. This approval of South Barrier was only a technicality since only the north entry of the 4 entry system was on lease UTU-68082 while the rest of the three entries were driven along the lease line inside State Coal Lease ML-21568. Written approval is coming to the company as we are trying to rectify the recoverable reserves for the Federal lease as they have already mined over the estimated 13 million recoverable originally thought of.

Future thought for this mine is in flux as it has been reported that Genwal will supply the crews and equipment for when Lila Canyon comes on line. South Crandall Mine plan is put off until 2010 in their plan to allow for feasibility if they ever can mine this low coal. Right now the South Crandall main entries are being ventilated and maintained. This I witnessed. Current work force is down to less than 60 and they are trying to go with little overhead employees.

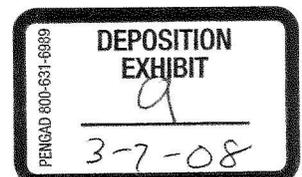
I traveled to the working face with Boodie Allred. Spot measurements were taken and recorded. Conditions were noted. Spad numbers were noted to correspond to the mine map. These are shown on the attached map and will be transferred to the monthly production maps for product verification. Genwal is mining according to the limited Federal portion of the mine plan. The section visit follows:

South Barrier Section, West Mains, Hiawatha Seam, State Lease ML-21568 and Federal Lease UTU-68082

This 4 entry development section has mined out to crosscut 137. Advance has been rapid and production has been nearly 50,000 tons per month. Boodie said that he thinks they are meeting the companies production goal but was unsure that this was truly mining a profit. Conditions are not too bad considering the depth and mined out to the south and Main West entires to the north. Coal height is running at about 7.5 feet and the miner is trying to cut close to the roof rock but not dilute the product. They were not sure they had their pillar plan approved by MSHA yet. Here again little of this section is on Federal lease but I took measurements of all faces and recorded them in the field book. I will transfer them to a mine map as the strip map got run over in the section.

## Leases

Lease Number	Lessee	Assignee	Status
ROW-UTU-6683			Terminated
ROW-UTU-7797			Terminated
SL-062648	Intermountain Power Agency &	Genwal	Active Mine Works
State ML-21568			Producing



State ML-21569

Active Mine Works

U-54762	Andalex	Genwal	Active Mine Works
UTU-68082	Andalex	Genwal	Producing
UTU-78953	Andalex	Genwal	Producing

Was approved plan reviewed? Yes

Was I&E plan reviewed?

Was PV plan reviewed?

Was previous inspection reviewed? Yes

Was mine status reviewed with MSHA? No

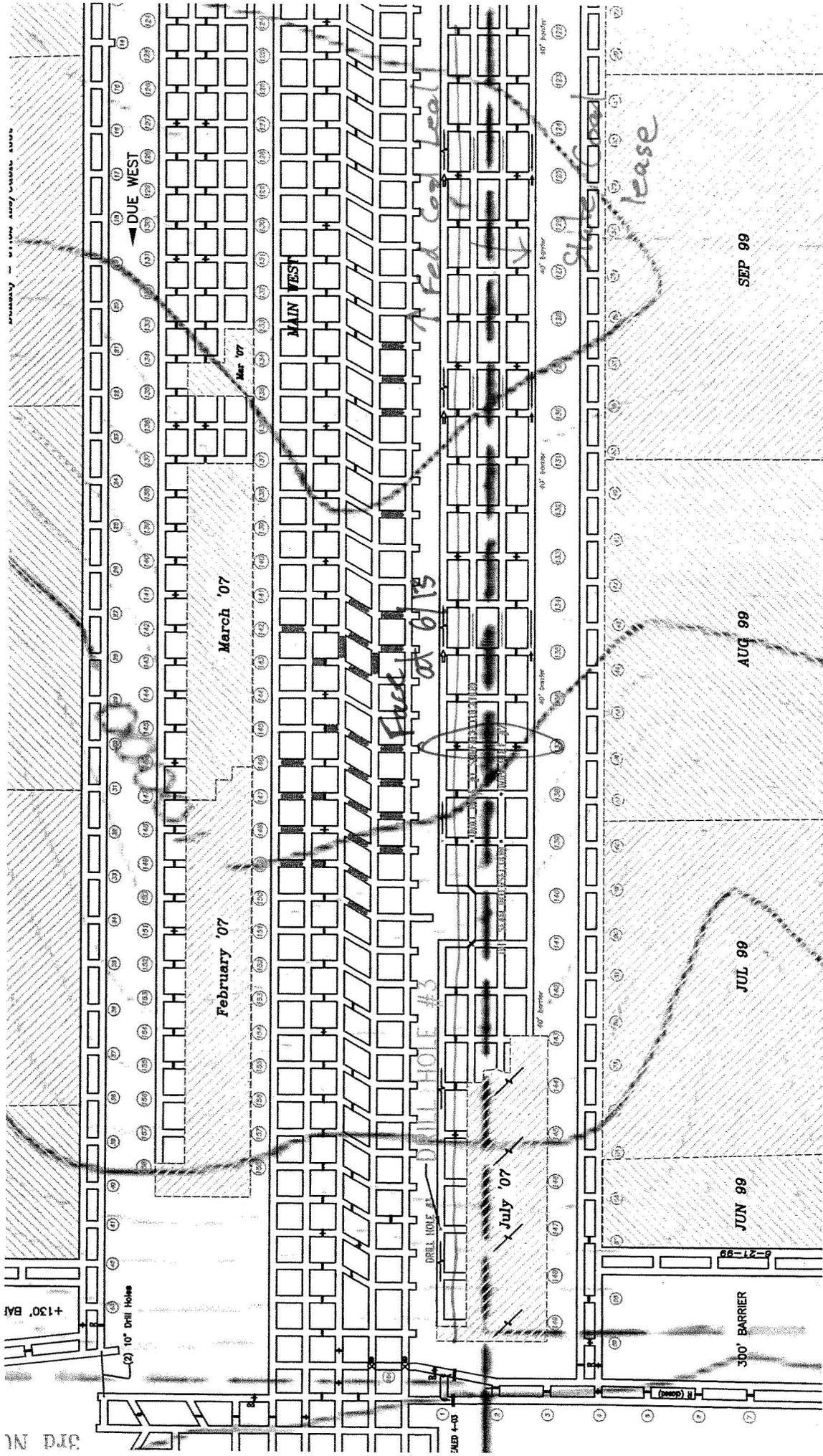
Was approved plan followed? Yes

Was a noncompliance encountered? No

Was an undesirable event encountered? No

Was the reported production acceptable? Yes

**subrptImages**



NORTH BARRIER - SOUTH BARRIER

DEPOSITION  
EXHIBIT  
10  
3-7-08

PENGAD 800-631-6989