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Transcript of the Testimony of Lincoln Selfe

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Case:

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STATEMENT UNDER OATH
OF
LINCOLN SELFE

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health and Safety Academy, 1301 Airport Road, Room C-123, Beaver, West Virginia, on Tuesday, May 18, 2010, beginning at 9:53 a.m.

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DESCRIPTION

IDENTIFIED

One

Map

76*

*exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Good morning. We're here with Link Selfe
5 to conduct an interview as part of the Upper Big
6 Branch accident investigation. My name's Bob Wilson.
7 I am with the Office of the Solicitor, United States
8 Department of Labor. With me is Tim Watkins, an
9 accident investigator with the Mine Safety and Health
10 Administration. Also present are officials of the
11 State of West Virginia. I'd ask at this time that
12 they state their appearance for the record. Pat?

13 MR. MCGINLEY:

14 Patrick McGinley for Davitt McAteer's
15 investigation team.

16 MR. FARLEY:

17 Terry Farley with the West Virginia
18 Office of Miners' Health, Safety and Training.

19 MR. O'BRIEN:

20 John O'Brien with the Office of Miners'
21 Health, Safety and Training.

22 ATTORNEY WILSON:

23 There are also several other members of
24 the Accident Investigation Team present in the room.
25 All members of Mine Safety and Health Administration

1 Accident Investigation Team and all members of the
2 West Virginia Accident Investigation Team
3 participating in the investigation of the Upper Big
4 Branch Mine explosion shall keep confidential all
5 information that is gathered from each witness who
6 voluntarily provides a statement until the witness
7 statements are officially released. MSHA and the
8 State of West Virginia shall keep this information
9 confidential so that other ongoing enforcement
10 activities are not prejudiced by a premature release
11 of information. This confidentiality requirement
12 shall not preclude investigation team members from
13 sharing information with each other or with other law
14 enforcement officials. Everyone's participation in
15 this interview constitutes your agreement to keep this
16 information confidential.

17 Government investigators and specialists

18 have been assigned to investigate the conditions, the
19 events and circumstances surrounding the fatalities
20 that occurred at the Upper Big Branch Mine-South on
21 April 5th, 2010. The investigation is being conducted
22 by MSHA pursuant to Section 103(a) of the Federal Mine
23 Safety and Health Act and by the West Virginia Office
24 of Miners' Health, Safety and Training. We appreciate
25 your assistance in this investigation.

1 After the investigation is complete MSHA
2 will issue a public report detailing the nature and
3 causes of the fatalities in hope that greater
4 awareness about the causes of accidents can reduce
5 their occurrence in the future. Information obtained
6 through witness interviews is frequently included in
7 these reports. You should know that if you request
8 confidentiality, confidentiality will only be granted
9 on a case-by-case basis. Your statement may also be
10 used in other enforcement proceedings. You may have a
11 personal representative present with you during the
12 taking of this statement and you may consult with that
13 representative at any time. Link, do you have a
14 personal representative ---

15 MR. SELFE:

16 No.

17 ATTORNEY WILSON:

18 --- with you? You may refuse to answer
19 any questions and you may request a break at any time.

20 MR. SELFE:

21 Okay.

22 ATTORNEY WILSON:

23 This is not an adversarial proceeding.

24 Formal Cross Examination will not be permitted,
25 however, clarifying questions will be allowed as

1 appropriate. The court reporter will record the
2 interview. Please speak loudly and clearly. If you
3 do not understand a question, please ask that the
4 question be rephrased.

5 MR. SELFE:

6 Okay.

7 ATTORNEY WILSON:

8 Please answer each question as fully as
9 you can, including any information that you may have
10 learned from someone else. Again, I want to thank you
11 in advance for appearing here today. We appreciate
12 your assistance in this investigation. Your
13 cooperation is critical in making the nation's mines
14 safer.

15 After we have finished asking questions,
16 we will provide you with an opportunity to provide us
17 with any additional information that you believe may
18 be relevant to the investigation. We will also
19 provide you with an opportunity to make any kind of a
20 statement if you would like to make one at that time.

21 MR. SELFE:

22 Okay.

23 ATTORNEY WILSON:

24 If at any time after the interview, you
25 recall additional information that you believe to be

1 relevant to the investigation, please contact Norman
2 Page. I'll provide you with a copy of the letter
3 requesting your appearance here today and Norman's
4 contact information is included within that letter.
5 At this time, I will ask the court reporter to swear
6 you in.

7 -----
8 LINCOLN SELFE, HAVING FIRST BEEN DULY SWORN, TESTIFIED
9 AS FOLLOWS:
10 -----

11 ATTORNEY WILSON:

12 All right. And I'll ask Tim Watkins to
13 begin the questioning.

14 EXAMINATION

15 BY MR. WATKINS:

16 Q. Good morning, Link.

17 A. Hey, Tim.

18 Q. I appreciate you coming in today. Link, just for
19 the record I need you to state your full name and
20 spell your last name, please.

21 A. Lincoln Leon Selfe, Jr. Selfe is S-E-L, F as in
22 Fred, E.

23 Q. Okay. Could you please state your address and
24 phone number, please?

25 A. (b) (7)(C)

1 (b) (7)(C)

2 Q. Okay. And are you appearing here today
3 voluntarily?

4 A. Yes.

5 Q. Okay. Just for background information, Link, how
6 long have you worked for MSHA?

7 A. Since 1982, September 1982.

8 Q. Okay. And what is your current duty station?

9 A. Mount Hope, 100 Bluestone Road, Mount Hope, West
10 Virginia.

11 Q. Okay. And how long have you been at that
12 location?

13 A. Since October 2001.

14 Q. Okay. And what is your current position?

15 A. Assistant district manager for enforcement
16 programs.

17 Q. Okay. And how long have you been in that
18 position?

19 A. Since October of 2001.

20 Q. Okay. And your current supervisor, manager is?

21 A. Bob Hardman.

22 Q. Bob Hardman. Okay. Just as a background, give us
23 just a bit of mine history and experience, where you
24 started at and ---.

25 A. I started at Clinchfield Coal Company as a

1 management trainee, went through engineering,
2 industrial engineering, safety. Then I was a foreman,
3 assistant mine foreman, at Training Mine, where we
4 took people right off the street and trained them to
5 be miners. They spent 21 days on each function in the
6 mine. As a foreman and assistant mine foreman, I had
7 to evaluate the people to determine whether they
8 passed, failed to go on to the other mines that we had
9 after they completed their tour at the training mine.

10 Clinchfield had 21 company on deep mines, 65

11 underground contract mines, 4 surface mines and 3
12 preparation plants, and I worked in every one of them
13 during that industrial engineering part of my career.

14 Q. Okay. What about your MSHA career, where did you
15 start at?

16 A. MSHA I started in Norton, Virginia in September of
17 1982. I was an inspector with accident investigation
18 duties just about the whole time I was in Norton. I
19 was in Norton until '88, '89 and I started in an MSHA
20 training program, management training program, where
21 we would have training and on-the-job functions until
22 we completed a year program. With that, I went all
23 over the country. In 1991 I joined the MSHA mine
24 rescue team, mine emergency unit and participated in
25 all mine emergencies. I guess I was on it for almost

1 15 years.

2 Q. Okay. Do you have any --- other than mine
3 emergency, any specialized training or certifications,
4 mine foreman papers, anything like that?

5 A. I was a mine foreman preparation plant foreman in
6 the State of Virginia.

7 Q. You mentioned your current duties are assistant
8 district manager ---

9 A. Yes.

10 Q. --- enforcement?

11 A. I have got four field offices. I have got
12 Summersville Field Office, Montgomery Field Office,
13 Mount Hope Field Office and Princeton Field Office.

14 Q. And how many mines are ---?

15 A. Probably 70 or 80 underground mines.

16 Q. Active underground mines?

17 A. Active underground mines. In the district right
18 now we probably got 160-something active underground
19 mines and we got probably 380-some inspectable
20 entities that we have to inspect.

21 Q. There's actually two different ---?

22 A. Two different divisions. Luther Marrs is the
23 other assistant district manager. He's got Madison
24 Field Office, Logan Field Office and Pineville Field
25 Office.

1 Q. So the UBB Mine, what ---?

2 A. UBB Mine is under my jurisdiction out of the Mount
3 Hope Field Office.

4 Q. And which field office supervises that?

5 A. I've got two supervisors in Mount Hope, Thomas
6 Moore and Michael Hicks. I have them change mines
7 annually. Every October they switch mine assignments.
8 So I'm not sure which --- right now Thomas Moore would
9 have had it for the quarter that the accident
10 occurred.

11 Q. Before we get into the citations and things like
12 that, let's talk a little bit about the plan approval
13 process, if you will.

14 A. The approval process, when a plan comes into the
15 district, it goes to the specialty group for the plan.
16 They contact the inspector at the mine and discuss the
17 plan with him and the inspection supervisor at the
18 mine that has the mine. They discuss the plan with
19 him. The specialist signs off on the plan. It goes
20 to the specialist's supervisor. He signs off on the
21 plan. It goes to the assistant district manager for
22 engineering, and he has to sign off on the plan and
23 then it comes to me. I review the plan and initial
24 off on it that I've reviewed it. Then it goes to the
25 district manager for signature.

1 Q. Okay. The CMI, does he ever get any input into
2 the plan?

3 A. He does right in the beginning when they contact
4 the supervisor. The supervisor generally discusses
5 the plan with the CMI, and then upon approval of a
6 plan, a copy is faxed to the field office where it
7 goes into a uniform mine file and a copy is put on the
8 then inspector's desk.

9 Q. Okay. Let's just focus a little bit now just on
10 the UBB Mine. As far as the last plan approval
11 process, do you remember when --- the last time you
12 actually sat down with them and went over the UBB
13 plan?

14 A. I don't remember the last specifically. I
15 remember we had some problems. One, we had a problem
16 that you could not travel the return in its entirety
17 because of water. In December a ventilation
18 specialist put an imminent danger order because of
19 water in it and it not being travelable. At that
20 point in time we had discussions with them, and I went
21 to the mine and traveled that return. And there's no
22 possible way that they can maintain it, separated from
23 the gob because it's squeezing and the stoppings were
24 all crushing out. You had bad ribs and you had water.

25 Q. Let's back up to ---.

1 A. More recently, though, they --- an inspector went
2 over and found an air reversal on this side, on the
3 tailgate side, I think, and there was some issues with
4 it, the ventilation pretty much handled it. I wasn't
5 that involved with that.

6 ATTORNEY WILSON:

7 For the record, can you just explain what
8 area of the mine you're referring to?

9 A. Okay. The return for headgate --- for the
10 sections inby the longwall was running right down the
11 solid rib entry of the headgate and coming out and
12 going to Bandytown fan.

13 BY MR. WATKINS:

14 Q. This map here, you can mark on it. It might be
15 easier, if we talk about the travel, to just color one
16 of them in.

17 A. Okay. Well, you all should be familiar with the
18 return.

19 Q. Yeah, we are, but whenever we get ---.

20 A. Okay. It would be this entry right here
21 (indicating).

22 Q. That's the one you're marking in yellow?

23 A. In yellow, yes. So then I had a meeting with him
24 after that, and I told him that there's no way that
25 they would be able to drive this up and mine that

1 panel. They're going to have to drive a new tailgate.
2 The day I went to the mine, you know, you couldn't get
3 all the way through there. The water was getting deep
4 and we didn't really want to get wet, so we went up
5 probably to the top of high boots and stopped and came
6 back out, but we had an imminent danger order on it
7 anyway. And to get the order lifted I think they
8 re-routed the return and made a ventilation change,
9 and it was to the plan approval process that they got
10 that citation --- or that order lifted.

11 Q. Okay. So your --- I guess your last visit
12 underground at UBB, ---

13 A. Uh-huh (yes).

14 Q. --- you went there not being able to travel the
15 headgate because of water?

16 A. Right.

17 Q. Is that your reason for ---?

18 A. Actually, it was --- the return for the other
19 section was on the headgate of Longwall 21.

20 Q. Who did you travel with?

21 A. I think I had Benny Clark, acting field office
22 supervisor, Michael Hicks field office supervisor,
23 Kevin Lyall, CMI. I'm trying to think who was with
24 me. I can't remember who the company representatives
25 were, whether it was Chris Blanchard or Jason

1 Whitehead or
2 --- it was someone, because when I went in I was
3 aggravated, because from the time we got off the track
4 walking up to the headgate there was trash there,
5 bags, a lot of combustible materials.

6 Okay. I came over to the stage loader and they
7 had the lifeline right there at the edge of the stage
8 loader and when I started --- I started walking down
9 the stage loader. And there was not enough clearance
10 and the lifeline was routed overtop the cables and
11 everything else, so that was another violation that
12 was cited. We went across to get into the return and
13 they had a set of airlock doors. They had a scoop and
14 charger being charged in between those airlock doors,
15 so when you opened the return side airlock doors the
16 scoop and charger was actually in return air course,
17 so we cited that.

18 When I got to the mine I was kind of aggravated.

19 I came in. I was planning on traveling with the
20 acting supervisor, Benny Clark. When I got there he
21 and the conference officer, Dana Hosch, had already
22 gone to the mines, so I told Mike Hicks, I said, they
23 told me about Keith Sigmon issuing the (a) order, and
24 I said, I want to go look at it. I said, Mike Hicks,
25 do you want to go look at it, too? He said, yeah, I'd

1 like to see it. So we rode it up and went to the
2 mine.

3 We got to the mine, we met with Benny Clark and
4 Dana Hosch, and we had Kevin Lyall with us, and I had
5 issues with Benny Clark who was going to do a 103(i)
6 spot on another section. I told him we had a problem
7 in the mine, you go where the problem is. You don't
8 go somewhere else, you know, because we got very young
9 inspectors in Mount Hope. I mean, their most
10 experienced inspector is probably four years in that
11 work and they need a lot of training and a lot of
12 mentoring and a lot of coaching, you know. And I felt
13 like he shouldn't have been doing that, so I forced
14 him --- I told him that he was going with me to look
15 at this water, because when I got to the mine he
16 indicated he didn't really see as much in the (a)
17 order. I thought it was a pretty good (a) order. I
18 was like I want to go look at it. And so we went in
19 and we traveled up into --- got close, I'd say, 80
20 Break, 70-something or 80. I can't remember, but one
21 of the things that I found odd when we started up
22 through here they had started building a Kennedy
23 stopping, and man, that Kennedy stopping ran forever,
24 but they didn't close the ends in. You know, it was
25 open, but they thought that they could isolate that

1 with a Kennedy stopping all the way down through
2 there. And it looked like the Great Wall of China.
3 And I told them, you know, that's not an option,
4 and then when I got back to the office I went and told
5 Joe Mackowiak what I had seen, but they did not have
6 it, you know, closed off. They was just going to
7 drive one big wall up through there. And I told Chris
8 Blanchard when I got outside that that was not going
9 to be acceptable and he just wasted a lot of manpower
10 carrying those Kennedy panels back in there. A lot of
11 exposure because the ribs were really bad.

12 Q. Okay. There was no discussion with MSHA prior to
13 them building this wall?

14 A. No, not to my knowledge. And Mackowiak didn't
15 know anything about it when I got back to the
16 district.

17 Q. And this wall was built in the Number Three entry
18 of the headgate?

19 A. Yes.

20 Q. Do you remember about --- approximately where
21 else?

22 A. I got to figure out where I was at when I went in
23 there. I probably went in --- they had closed doors,
24 but I don't see them on this map. Showing doors up
25 here, but I know I wasn't up there. I was back here

1 whenever I crossed from the face and went to the doors
2 and got into the return, and I'd say that that wall
3 was probably starting somewhere around 65 Break going
4 inby, but all your stoppings had crushed down, through
5 there. So you didn't have an isolated return.

6 Q. Okay. Now, you mentioned you ran into water up
7 around between 70 Break and 90 Break somewhere?

8 A. It was probably. I'm not sure exactly what break
9 it was, Tim, but we walked through the water for a
10 long distance. And you go through areas that had the
11 water and then you come out on places where the water
12 --- there was no water. Then you'd go back into the
13 water. There's several places that there were low
14 swags that you go through water and come out.

15 Q. Okay. This long stopping line, it was before you
16 got to the water?

17 A. Yes.

18 Q. Okay. Some distance in there.

19 A. But you had a lot of rib problem where the ribs
20 had really started to --- stop and crushed, and the
21 top didn't look bad, but it was the bottom heaving.

22 Q. And that water that you talked about wading in,
23 was that the one where that the order was issued on?

24 A. Yeah, it's the water where the order was issued.
25 I don't remember exactly what crosscuts he put it on

1 his order.

2 Q. I think in the order, I think he mentioned
3 somewhere around 73.

4 A. Okay. Well, I know we walked up --- I think we
5 got almost to 80 and the water started getting deep
6 and we backed down.

7 Q. Okay. And he issued an order on not making a
8 weekly, or what was ---?

9 A. He issued an order on the return not being safe to
10 travel.

11 Q. Okay.

12 A. I think Kevin issued --- he issued some citations
13 that day. I can't remember what all they were. I
14 know he cited everything that I --- that we found, you
15 know, that I mentioned like the combustible materials,
16 the lifeline, escapeway, alternate escapeway and the
17 scoop between the doors and the charger not being
18 outside the return when the doors were open.

19 Q. Do you remember taking any air quantity --- or air
20 quality readings that day when you was in there?

21 A. No, I don't.

22 Q. Nothing sticks out in your mind as to ---?

23 A. No, I really wouldn't have thought that because I
24 had a ventilation specialist there the night before,
25 the day before and I would expect he had all the

1 quantities documented.

2 Q. Okay. You didn't go across the longwall face, ---

3 A. No.

4 Q. --- you just ---?

5 A. No, the shearer was almost back to the head. I
6 watched the shear run coming toward the head, and then
7 that's when I took off down the stage loader, because
8 I wanted to see what kind of clearance and stuff they
9 had down through there. When I saw the lifeline I
10 thought it was odd that the lifeline was up there
11 where it was at.

12 Q. You mentioned a large number of people who you had
13 there that day traveling. Did everybody travel
14 together up here? Did they split up and go different
15 places?

16 A. Yeah, we all went down through there and Dana
17 stopped. Because when I came back out Dana was
18 sitting down waiting at us someplace. He said he had
19 on leather boots and he didn't really want to get wet,
20 so Dana didn't go all the way with us. He stopped and
21 sat by himself while the rest of us went inby.

22 Q. Okay. After the water portion you stopped and did
23 you still have airflow going overtop the water?

24 A. Yes, yes.

25 Q. What was the result --- after that, what did the

1 company do? Did they do anything after that?

2 A. They did a ventilation change and re-routed that
3 return to bring it down around the longwall and back
4 out.

5 Q. When they done that and they re-routed it to bring
6 it down and around, what did that do to the airflow
7 that was in the headgate?

8 A. You still had airflow going through. We had EPs
9 on it. It was a worked out area. It turned out to be
10 a work-out area at that point and we --- I think Joe
11 put EPs --- gave them EPs on it.

12 Q. Do you remember where those EPs are at, by any
13 chance?

14 A. No, I don't.

15 Q. Okay. Was there any meetings with the company
16 after your visit with this concerning ---?

17 A. Yeah, there were meetings because I met with them
18 and told them, you know, that I would never sign off
19 on anything for them to mine this panel right here
20 when it's ---

21 Q. By right here you mean ---?

22 A. --- backed up from ---. Their next headgate
23 panel. Yeah, their next --- not the longwall panel.
24 If they wanted the longwall, they're just going to
25 have to drive another tailgate.

1 Q. And you also mentioned an air reversal on the
2 tailgate side.

3 A. Yeah.

4 Q. Can you tell us about that a little bit?

5 A. Since that time --- and it's been more recent. I
6 remember them coming in and talking with Joe Mackowiak
7 and Keith Sigmon had went out. It had an air reversal
8 over here on the tailgate, or air wasn't split and
9 doing what it was supposed to be doing. And I think
10 they were shut down three or four days getting their
11 air right before they could start --- the longwall was
12 shut down until they got it fixed and I don't know
13 what all they did to fix it. I didn't really get
14 involved with it that much, but I know the ventilation
15 group dealt with it.

16 Q. Had any of your inspectors come to you with any
17 concerns that they had at this mine as far as
18 ventilation or doors or anything like that?

19 A. No. They've had a lot of, I guess, changes in
20 management at the mine, and you know, the mine was a
21 PPOB mine, potential pattern mine. I don't remember
22 the dates on that even, but it doesn't seem like it
23 was that long ago. I lose track of time. And when
24 that was the case I went to the mine. I went to the
25 mine another time when they had a belt fire. A tail

1 piece gobbled off and fell in the belt and it smoked it
2 up and they brought everybody out. And at that point
3 in time we wrote a bunch of (d) orders on belts and
4 stuff like that. We had a time getting the
5 belts decent. We wrote a lot of orders on belts at
6 this mine. We've got some good people in the
7 ventilation group right now and I pretty much trust
8 them to take care of the ventilation in the mines. If
9 they have a problem with enforcement or anything that
10 they need from me, I'm willing to go do whatever needs
11 to be done. But I trusted them to take care of the
12 ventilation.

13 Q. Did you ever travel up the headgate side?

14 A. No. The headgate side, yes.

15 Q. I mean, the tailgate side. I'm sorry.

16 A. No, no.

17 Q. Okay.

18 A. That problem was a lot later than the one we had
19 on the headgate. It was recent, probably since the
20 headgate problem and the headgate problem's in
21 December, so it had to be sometime between December
22 and now.

23 Q. The issue with the belt, the belt fire, do you
24 remember when or where it was at?

25 A. I don't remember the date, Tim. I just remember I

1 took Fred Wills. It was before he became a
2 supervisor. He was an inspector. He and I went there
3 and I had inspectors tell me that they had been to the
4 tail and there wasn't no problem at the tail. I went
5 to the tail and we took a rock hammer and dug it out,
6 and it was really fouled up at the tail.

7 Q. Do you remember where that was at?

8 A. No, I don't.

9 Q. Okay. Do you remember what all was issued in
10 regards to that as far as citations go?

11 A. No, we wrote (d) orders is all I remember. I
12 don't remember specifics. That's been probably a
13 couple years ago.

14 Q. Any other complaints or anything that you received
15 at this mine?

16 A. No, I really don't recall the complaints. We've
17 had 144 complaints filed since October 1st this year
18 and we had a record number of complaints last year,
19 but I don't recall this mine being specifically
20 targeted with complaints. I have complaints all over
21 the place, most of them are drug complaints. I had
22 several meetings with the company, and I always talked
23 about this mine because of the number of violations
24 they were getting and their lack of leadership to go
25 in and maintain compliance. And I guess it's been a

1 month or better ago --- and I told this mine in some
2 of the meetings that I would not be surprised if they
3 didn't get back on a potential pattern.

4 And I had another one of their mines on my
5 division on potential patterns, Slabcamp Mine. They
6 had a superintendent there, Wayne Persinger. Wayne
7 implemented a lot of good processes at that mine for
8 oversight to see that, you know, everything was
9 checked and it improves the compliance to the mine.
10 And sometime, I guess, prior to me going to the mine
11 --- or maybe it was after, I can't remember the times,
12 Chris Adkins called me one evening and asked me what I
13 thought about it, if I had seen Persinger at this
14 mine. I told him, I said, I don't manage the mines,
15 that's not my job. And I said, I can't make a
16 recommendation either way because it's not my
17 function, but then Chris sent Persinger to the mine
18 later. And Persinger called me wanting to have a
19 meeting, and I had a meeting with Wayne, and he wanted
20 to tell me that he was going to try to get a handle on
21 it, but he says, right now, he said, I'm in the
22 process --- I've been there a week and a half and I
23 don't know who I can trust and who I can't. He said,
24 I've already gotten rid of some that I know I couldn't
25 trust, but I felt like Wayne would have been good for

1 this mine, but he was there a short time before this
2 had occurred.

3 Q. Do you know when they actually started having the
4 ventilation problems at this mine?

5 A. December was when we ran the headgate and it seems
6 like they had some problems since then. I know in the
7 past --- I can't say specifics.

8 Q. Did that relate to any of the personnel changes at
9 the mine or anything like that do you think?

10 A. I think just the general compliance history had
11 something to do with the personnel changes at the
12 mine.

13 Q. How was the company to deal with when they brought
14 the plans or the changes in when you met with them?

15 A. They're hard to deal with. They want to argue
16 everything and they're so argumentative. That's about
17 it.

18 Q. Who did you usually meet with from the company?

19 A. When I meet, I would meet with usually the
20 president, vice-president and I told them --- I had
21 issues with the company for a long time. It seems
22 like engineering would bring you in something and you
23 could tell them what you needed and they'd put it on a
24 map, but it would never get back to the mine. I'd go
25 back to the mine and it'd be different.

1 I had Black King Mine, another mine, that I went
2 to before any of this and they had made a bunch of
3 ventilation changes without approval of a district
4 manager, so the inspector cited them. He initially
5 cited them for moderate negligence. I went to the
6 mine and met with them and came to find out the
7 vice-president of the company had directed the
8 changes. So I changed modified to unwarrantable
9 failure. And then I started looking at all the mines,
10 and you'd find places where the ventilation had been
11 changed. And inspectors, especially young inspectors,
12 when they're on a section they can do pretty good with
13 the face ventilation in the section, but I have
14 trouble getting my inspectors to back up and look at
15 the big picture. And we had some staff meetings with
16 the inspectors who had talked about that, looking at
17 the ventilation scheme of the mine, not just on the
18 section. And after that, it seems like we cited
19 several of their mines for where we'd find where they
20 made ventilation changes without approvals.

21 Q. Do you remember anything ---?

22 A. No, I don't remember anything in particular at
23 UBB.

24 Q. Okay. You said you met with the president/vice-
25 president. Who would that be?

1 A. It'd be Chris Blanchard, Jason Whitehead, at times
2 had Chris Adkins, sometimes had Elizabeth Chamberlin.
3 They came in after --- Slabcamp got a pattern letter,
4 and I was talking to them about UBB's compliance.
5 They committed to developing a safety program they
6 called Kill the Spider and Bob Hardman met with them
7 on it also, and they put Gary Frampton, who used to be
8 one of their inspectors out of Luther's division to
9 head up the Kill the Spider Program. And they had a
10 lot of policy and things that they put into place and
11 we --- Luther and I had at least quarterly meetings
12 with Gary Frampton and talked about ---. He tells us
13 what they've done and we tell him about the compliance
14 history.

15 One time Elizabeth came to the meeting, Elizabeth
16 Chamberlin in safety --- I don't know what her title
17 is. She's in safety, but they were trying to, ---
18 Chris Adkins was in a meeting, too, that they had
19 really done well at the end of the quarter. What
20 Luther and I pointed out to them, at the end of the
21 quarter, we didn't have any inspectors at the mine.
22 We finished the mine and going on trying to get the
23 inspection quarter completed at other mines, and they
24 were trying to take credit for times when we weren't
25 there to issue citations. So we explained that to

1 him. And then they've got a policy that they don't
2 run a section, if they don't have 20,000 open
3 crosscut, and I asked Chris who follows up to see.
4 Because we go out and we cite them every day. We look
5 at the books and in the books they've now got 20,000
6 to run. So they really have a program that they have
7 no oversight over that's really doomed to failure
8 because they don't have any follow up on it.

9 Q. So the Kill the Spider program that they had
10 didn't seem to resolve ---?

11 A. I didn't see --- I have not seen very many results
12 at all from it. I think they tried to tell me it was
13 doing better in Kentucky than it is in West Virginia.
14 I don't know.

15 Q. You mentioned the number of citations, which I
16 believe since fiscal year ---?

17 A. From October 1st to this occurrence this mine had
18 already been issued over 200 pieces of paper. I'm not
19 sure how many orders. Over the past two years it's
20 500 and some pieces of paper with probably 60
21 unwarrantable failure orders, if I'm not mistaken.
22 Sixty (60) to 70, something like that.

23 Q. What about manpower, how much --- how many
24 inspectors --- how many man hours do you think goes
25 into ---?

1 A. I forget. I've looked at it, but I only use one
2 inspector then try to give the spots to another
3 inspector, so I've got two people working there
4 through the quarter to get the mine made. But it has
5 taken a pretty good while to get everything covered.

6 Q. It pretty much runs the entire quarter to ---?

7 A. Yeah, close to it.

8 Q. Okay.

9 A. And a lot of it is where we cite so much stuff and
10 have to go back and cover the same ground twice to
11 cite it and they can't correct it immediately. So
12 that means you got another day you got to go back to
13 the same place to look at it to terminate the
14 violation whenever they get it done. I told the
15 inspectors to enforce the law to the maximum extent
16 that they could because when you shut them down it
17 seems --- normally when you shut a mine down they get
18 really serious about taking care of it. I was told
19 while we were at the National Mine Rescue contest last
20 year, this mine was down the entire week that we were
21 at the mine rescue contest, and nobody said a thing to
22 me about it. Normally the company would be crying,
23 raising cane, but nobody said anything about Upper Big
24 Branch being down.

25 Q. Do you know why ---?

1 A. And then recently, you know, when we had the air
2 reversal, while we're standing probably three or four
3 days, nobody --- no phone calls, no nothing. It's
4 weird.

5 Q. Do you know why they were down, the nationals?

6 A. No, I don't. We had a (d) order on it.

7 Q. Okay.

8 A. I can't recall, but I do remember it was in a
9 unwarrantable failure order, and normally when they
10 get them they want to cry about them, but nobody said
11 anything.

12 Q. You don't recall why they were down at the time?

13 A. No. No, but I had a phone call from the district
14 telling me that they had shut the wall down probably.
15 More than likely it was ventilation.

16 Q. Not enough air on the wall?

17 A. Something, yeah.

18 Q. How much air do they usually keep on the longwall
19 across the face?

20 A. I figure they usually have 60,000 to 80,000. It's
21 just a rough guess. I don't recall what the plan says
22 or anything, but it was a pretty good amount of air.

23 Q. Did they have a hard time keeping air across the
24 face?

25 A. They had a lot of ventilation problems since they

1 got Bandytown fan in. All the other places never ---
2 prior to that we were having problems getting air back
3 there, but after they got Bandytown fan in, then they
4 opened up Ellis Portals. And we cited --- I went to
5 the mine one time. An inspector cited them for not
6 having their return the most direct route out of the
7 mine and they were trying to tell me they didn't have
8 room to do it at Ellis, and since then, they've opened
9 all that up and had a portal in on that side, but at
10 that point in time they said they couldn't do it, but
11 we kept the paper on them and they did do it.

12 Q. You said they had problems after they put the fan
13 in in Bandytown or ---?

14 A. No. No, it was prior to that they had a lot of
15 problems. They didn't have enough air.

16 Q. Okay. So the Bandytown helped?

17 A. Bandytown helped.

18 Q. Okay. I misunderstood what you said there.

19 A. No, prior to Bandytown fan they had a lot of
20 ventilation problems, but their answer to it was get
21 the Bandytown fan in there to correct all the
22 problems, and it has helped.

23 Q. What about roof conditions, how was the roof in
24 the mine?

25 A. I never thought of the mine having bad top, bad

1 roof. Even when I went up the headgate, the roof was
2 not bad. The bottom was heaving, but the roof wasn't
3 bad. They've not had bad roof conditions.

4 Q. Let's talk about the bottom heaving there a little
5 bit since you mentioned it. How bad was it heaving
6 up?

7 A. I'd say probably two feet. Two and a half, two
8 feet places where you could stand up and it'd be easy
9 travel, easy walking. You would have a couple feet
10 over your head. You were back up almost to the top.

11 Q. That was actually ---?

12 A. It's filled with wood, too. It was full of cribs
13 and timbers and ---. And they're big on timbering bad
14 ribs. And if the ribs knock the timbers out you still
15 got the hazard.

16 Q. You're talking about being full of cribs. You're
17 talking about all three --- I mean, both entries ---?

18 A. No, just the entry that I traveled.

19 Q. Just the Number Three entry outside?

20 A. Yeah.

21 Q. When you had these --- did the floor hoove all the
22 way or just ---?

23 A. No, just inby the wall. We went inby the wall, I
24 don't know, ten breaks or so and then you started
25 seeing signs, the rib conditions and the hooving.

1 Q. Did it pretty much follow the wall out ---

2 A. Yes. Yeah.

3 Q. --- as the wall advanced out ---?

4 A. Yeah, the wall advanced out, it came with it.

5 Q. Was there any methane or anything that ---?

6 A. We didn't detect any methane that day. Maybe one
7 or two-tenths at the most.

8 Q. How about underlying seams, is there any seams of
9 coal underneath this that you're aware of?

10 A. I'm not --- I don't recall. I know there's a lot
11 of seams overtop of it.

12 Q. Yeah, I believe there's --- I report to maybe one
13 seam, that's 24, 30 inches, something like that that's
14 below it.

15 A. Yeah.

16 Q. Have you had any ---?

17 A. I don't know.

18 Q. Okay. Are you aware of an incident back in
19 somewhere around 2004 where they had a methane
20 inundation that they contributed to a ---?

21 A. Methane feeder?

22 Q. Yeah.

23 A. Yeah, they've had a couple on the longwall face.

24 Q. A couple?

25 A. Of inundations based on methane feeders.

1 Q. On this current longwall or ---?

2 A. No. No, in the past. I can't remember the exact
3 times or anything, but I do remember that they've had
4 methane inundations, and I've seen inspectors there.

5 Q. You don't remember which wall it was or anything
6 like that?

7 A. No, no.

8 Q. Do you remember how long they were down or
9 anything like that?

10 A. Probably a couple of days. It seems like they
11 didn't clear right up. It took a couple of days to
12 get it cleared.

13 Q. Do you know if tech support or anybody came down
14 to assist you ---?

15 A. No, I don't. I don't recall.

16 Q. You said you believe there's a couple of them
17 that ---?

18 A. I think there was a couple of them. I think
19 there's more than one that the face has been inundated
20 methane. But part of that was before I came down
21 here, too, I believe. One of them was --- I think
22 it's happened once since I've been down here.

23 Q. One before you got here and one ---?

24 A. Yeah.

25 Q. You got here in 2001?

1 A. 2001.

2 Q. The one that occurred after you got down here, did
3 you have any meeting with the company or anything? Do
4 you remember ---

5 A. I don't recall.

6 Q. --- meeting with the company or ---?

7 ATTORNEY WILSON:

8 Link, I'm going to just remind you. He
9 can't take down both of you talking at the same time,
10 so ---

11 A. Okay.

12 ATTORNEY WILSON:

13 --- try to wait for Tim to finish his
14 question before you answer.

15 A. Okay.

16 ATTORNEY WILSON:

17 Thank you.

18 OFF RECORD DISCUSSION

19 BY MR. WATKINS:

20 Q. Okay. So you had one since you came down in ---

21 A. Yes.

22 Q. --- 2001?

23 A. I had Thomas Moore, the supervisor, went down on
24 it. He wasn't a supervisor then, he was an inspector.

25 Q. You don't remember anything that they changed and

1 done differently following that ---?

2 A. No, I don't. I think the fan was adequate until
3 you hit the feeder, and you know, the feeder just
4 overrode there. I've never had problems with them
5 tell me --- you know, we've had times where we've had
6 problems getting air before Bandytown fan and their
7 answer was getting back to Bandytown fan. But really
8 major problems? I don't recall ever being faced with
9 --- they just can't mine. I mean, we had problems
10 when we was trying to get into the Glory Hole area.
11 That was before Bandytown fan, but that's when they
12 said that was going to be the answer to everything.

13 Q. Okay. What about --- as far as rock dust in the
14 mine, did you have any problem with the ---?

15 A. No, the mine --- every time I was in the mine it
16 was very well rock dusted. They had a citation that
17 came up after the explosion --- on the inspection
18 prior to the explosion, Headgate 22. I had 1 sample
19 out of, I think, 12 samples bad. It was 3 percent low
20 at 77 percent where 80 percent was required, and all
21 the other samples were well above the required limits
22 for the rock dust. Now, I think that survey was done
23 in March.

24 Q. Do you remember where it was taken?

25 A. Headgate 22.

1 Q. Headgate 22?

2 A. Yeah, that was the most recent one that I saw. We
3 cited it.

4 Q. The only one you can remember ---

5 A. Uh-huh (yes).

6 Q. --- in recent history about the rock dust?

7 A. Right.

8 Q. Now, you mentioned about the water accumulation
9 that you found in the headgate of the longwall panel.
10 Do you have any other water problems with the mine?

11 A. They had water problems before, but they had
12 Castle pumping their water into UBB. When I first
13 came down here and UBB had some water problems, but I
14 went and met with the superintendent, and I can't
15 remember his name now. But he didn't know that Castle
16 was pumping water into his mine. But they've sealed
17 off, I think, a lot of that area --- those areas that
18 were involved when I first moved down here.

19 Q. And Castle is the mine above it?

20 A. The mine above it.

21 Q. Do you know what area they was pumping it into?

22 A. No, it was one of the areas that's already been
23 sealed. I can't remember.

24 Q. It's behind a sealed area?

25 A. Yeah. It wasn't sealed at that time. We were

1 still having to travel around it and all. There's
2 another time Allen Dupree and I went in the mine when
3 Allen was acting DM, and we went through water, had
4 water problems. It's a place where you had like a 45
5 going into the longwall. Their longwall is they
6 stair-stepped a bunch of them.

7 Q. There's a larger map back here. Here's a pointer,
8 if you ---.

9 A. Okay. It would have been back --- I'm thinking
10 Allen and I were there. It'd probably be right in
11 there or right in there, and we went through water
12 probably up over --- up chest deep to get back to see
13 if we could get to an EP. It'd either be in there, I
14 think.

15 ATTORNEY WILSON:

16 Inby by either the Number Eight or Nine
17 longwall panels; is that right?

18 A. Probably. That would have been --- it was Allen
19 acting up here? This was Pinnacle. Do you recall,
20 John?

21 ATTORNEY WILSON:

22 The map shows that these panels were
23 mined in 2006?

24 A. No, it wasn't that. It was before that.

25 ATTORNEY WILSON:

1 2002, 2003?

2 A. Okay. It's probably in that 2003 area.

3 ATTORNEY WILSON:

4 These outby areas here show 2006.

5 A. Okay. They had some water issues then and Allen
6 Dupree and I went through the water chest deep to get
7 back there to see if we could get to an EP and make
8 sure we had air movement.

9 BY MR. WATKINS:

10 Q. Let me ask you a couple of questions about these
11 older longwall panels, if you don't mind. We notice
12 there's several locations coming out of these panels.
13 They skip.

14 A. Uh-huh (yes).

15 Q. Do you know why they would skip those?

16 A. I can't recall right now, Tim. I really don't
17 recall.

18 Q. And the other one was the diagonal at the back end
19 across the old setup, air used to be, they got
20 diagonals across that way. Do you remember why they
21 would drive those?

22 A. No, but I remember the stair stepping. I didn't
23 like it because it gives you problems. I think they
24 did more or less to be able to get back there to make
25 their piece. I don't know.

1 MR. WATKINS:

2 Before we get into --- before we get too

3 far along I'll let guys ask some questions, give me a
4 break.

5 EXAMINATION

6 BY MR. FARLEY:

7 Q. A couple of questions just to clarify, Link.

8 A. Okay.

9 Q. You referred to the methane feeders on a couple of
10 occasions in the past.

11 A. Uh-huh (yes).

12 Q. Do you know if the feeders emanated from the face,
13 the bottom or the gob?

14 A. I was thinking it was the bottom coming out.

15 That's what I thought, if I recall right.

16 Q. And to make sure I followed you correctly. When
17 you traveled the longwall headgate entry you saw
18 evidence that the bottom continued to hoove as the
19 longwall advanced; ---

20 A. Right.

21 Q. --- is that correct?

22 A. It was like the hooving was following the longwall
23 out. After the longwall passed it, you started having
24 problems.

25 Q. Okay. I don't know what the value of this is, but

1 the so called Kill the Spider program, why they chose
2 such a name for the program?

3 A. I have no clue. I got a copy of it at the office
4 if y'all would like to see it.

5 MR. FARLEY:

6 All right.

7 EXAMINATION

8 BY MR. MCGINLEY:

9 Q. You said 144 complaints since October?

10 A. At various mines at District 3 --- at District 4.

11 Q. And you mentioned a number of unwarrantable
12 failures at this mine ---

13 A. Right.

14 Q. --- in the last two years?

15 A. I figure 60 to 70, somewhere in there.

16 Q. When those were issued, did the company dispute
17 --- I mean, did they argue with you or did they go and
18 fix it, fix the problem?

19 A. There's not a whole lot of arguing when you put an
20 order and shut them down. They're down until they fix
21 it. They argue a lot, yeah, but it surprised me, like
22 lately they've not been arguing about the orders.
23 They're down and they'll be down three or four days
24 and you don't hear anything out of them.

25 Q. But they appeal them?

1 A. Yeah, I'm sure they do.

2 Q. Do you hear of the appeals?

3 A. No.

4 Q. So you don't know which ones ---

5 A. No.

6 Q. --- appeal?

7 A. No, I don't.

8 Q. Would that surprise you if you knew that they
9 appealed a significant percentage of them?

10 A. Yeah, I didn't know that until I read it in the
11 newspaper. No, that doesn't surprise me, not at all.

12 Q. Why not?

13 A. Because it delays having to pay the fine for one
14 thing, plus if they can get it through to get a
15 settlement on it --- generally they'll automatically
16 get a 30-percent deduction on penalty.

17 Q. And because there's a backlog, there's much more
18 pressure to settle?

19 A. Right.

20 Q. You were in a meeting with Chris Adkins and ---?

21 A. Jason Whitehead, Elizabeth Chamberlin, Chris
22 Blanchard.

23 Q. Discussing the Kill the Spider safety program?

24 A. We also had a meeting, Bob Hardman and I think
25 maybe Rich Kline was in the meeting, when they started

1 the Kill the Spider program and they had supposed to
2 be their top managers. They had Chris Adkins,
3 Elizabeth Chamberlin, Mike Snelling for surface
4 operations, they had Keith Hainer, they had the
5 attorney --- what's Keith's sister's name? Stephanie.
6 I can't remember Stephanie's last name. Jason
7 Whitehead. I remember they were telling us they were
8 a, I think, 6,500 employee company and they said this
9 was their top management team for that company. And
10 they discussed --- you know, they were wanting to mine
11 in compliance and all that, and they developed
12 policies, and they presented the Kill the Spider
13 program to us at that time.

14 Q. And you said it was doomed to failure?

15 A. If you have no follow up to see --- I don't care
16 what policies you put in place, if you don't have
17 follow ups to see if you're complied with, you're
18 failing.

19 Q. And you also said that when you would suggest
20 changes they would put it on the map and then would go
21 back in the mine?

22 A. No, no. I'm saying that's just typical for Massey
23 Mines and their engineers. You know, if you've got
24 them in a bind, you're not going to approve their plan
25 unless they put a regulator right here. Those

1 engineers would put that regulator right there, but
2 then if you didn't go to the mine and look you didn't
3 know if it got mined or not because there's a
4 communication problem between engineering and the mine
5 --- actual mine sites. You go and sit down with an
6 engineer about the stoppings in here, you can't be
7 sure those stoppings are in there because that
8 engineer don't know because he doesn't go in the mine.

9 Q. That's a real problem.

10 A. Yeah, it is a real problem. And we've pointed
11 that out to them several times.

12 Q. How did they respond?

13 A. Well, one time at Black King where they were
14 making ventilation changes without approval from
15 district manager, while I was up there that day, they
16 said that they were going to make that engineer come
17 there once a week and get with the mine foreman to
18 find out if any changes had been made in the
19 ventilation controls. And he was supposed to be
20 trying to get underground at least, you know, once a
21 month to check up on what plans they had, but I don't
22 think --- they didn't follow up on that and that
23 didn't take place either. It was just for the time I
24 was there when I was talking and citing them an
25 unwarrantable violation.

1 Q. So they would respond to you positively, but then
2 not follow up?

3 A. Right.

4 Q. And with regard to making changes that were not
5 approved, did --- you said that happened a number of
6 times?

7 A. Right.

8 Q. Not only at UBB, but at ---?

9 A. I didn't say --- I said I don't know if it really
10 happened in UBB. I said it happened at several of the
11 other mines.

12 Q. Okay. And what explanation did they give you?

13 A. They give us an explanation that the plans --- we
14 were so backed up with plans in the district that
15 they'd have the plan in for two months and they hadn't
16 heard from ---. But they really needed this or
17 something like that. They had a very poor excuse for
18 what they did. You know, my explanation is, no, you
19 cannot do it until it's approved, period. And they
20 said, do you expect us to shut our mine down waiting
21 on approval? If that's what it takes, that's what it
22 takes. That's compliance.

23 Q. And were you aware --- in December you mentioned
24 they had ventilation problems in December at UBB;
25 right?

1 A. Right.

2 Q. Were you aware that --- was Chris Adkins --- who
3 else came to talk to Mr. Mackowiak? Showed up
4 unannounced and asked for a revision to a plan that
5 had just been approved a few days before?

6 A. One time we had a lot of revisions to their plans.
7 You know, you'd have a ton of revisions. It's hard
8 for an inspector to go through and tell what it's
9 really supposed to look like today. I said --- I
10 don't remember saying that Chris Adkins showed up
11 unannounced. I don't remember saying any of that.

12 Q. No, no. You didn't, ---

13 A. Okay.

14 Q. --- but that's what Chris Mackowiak ---. We were
15 talking to him at some point.

16 A. Okay.

17 Q. I was wondering if you're aware that ---.

18 A. I'm aware that they would show up and stay at the
19 office. They'd be sitting in the halls, because I
20 teased some of them that we was going to have to give
21 them an office, they're there so much.

22 Q. Maybe it wasn't Mackowiak.

23 A. Okay.

24 Q. But that wasn't an unusual they have ---?

25 A. No.

1 Q. Is Massey unique in that sense, that the top
2 executors come in ---?

3 A. No.

4 Q. Is it common ---?

5 A. It's not uncommon if they --- if you got a mine
6 that needs something really bad or really fast for
7 their top management to come in, no.

8 Q. Is Massey and subsidiaries, management more or
9 less aggressive than other companies? Do you have any
10 sense of that ---

11 A. No.

12 Q. --- in terms of getting what they want?

13 A. No, I don't think so.

14 MR. MCGINLEY:

15 All right.

16 ATTORNEY WILSON:

17 Why don't we take a short five-minute
18 break and then we'll come back and resume questioning.

19 All right?

20 A. Okay.

21 ATTORNEY WILSON:

22 Off the record.

23 SHORT BREAK TAKEN

24 ATTORNEY WILSON:

25 Go back on the record. Tim?

1 MR. WATKINS:

2 Yeah.

3 RE-EXAMINATION

4 BY MR. WATKINS:

5 Q. Just a couple follow-up questions here, Link. You
6 mentioned the communication between the engineers and
7 people at the mine, company people.

8 A. Uh-huh (yes).

9 Q. Does UBB utilize an in-house engineering staff or
10 how does that ---?

11 A. Well, they did have in-house, but then they
12 switched and put everything and called it Route 3
13 Engineering. And recently I had a place where we
14 found a ventilation change without approval, and I
15 asked if we could co-cite Route 3 Engineering as a
16 contractor, but what Massey did --- you go to Route 3
17 Engineering, some of the people working there, they
18 will assign to their different mines. So you'll have
19 like eight transmit men assigned to this mine or that
20 mine or whatever. And the way the organization offset
21 after the solicitor said that I can't cite them
22 because they have employees at Route 3 Engineering
23 assigned to the specific mine.

24 Q. What about the chief engineer, who is the chief
25 engineer at Route 3 Engineering?

1 A. I haven't a clue, no.

2 Q. Okay.

3 A. Talking about ventilation, one time I guess I had
4 been down here maybe a year, maybe two years and I had
5 one mine, Castle Mine, which is above this mine, and
6 nobody could tell me how the mine's ventilated. When
7 an engineer came in for ventilation for a vent change,
8 he just couldn't really explain to me how the mine's
9 ventilated, so it didn't sound like anybody knew. So
10 I did a ventilation saturation inspection at that
11 mine. It took probably 14, 15 inspectors, and it was
12 a very long day. And we went underground and we --- I
13 think we issued 48 or 49 citations.

14 And they basically went in and mapped the mine,
15 the ventilation controls and everything, the air
16 courses, and it was a long day. And I got a call from
17 the administrator, who told me it was inefficient use
18 of manpower to take that many people to a mine and
19 only write 40-some pieces of paper. I tried to
20 explain to him that nobody could tell me how the
21 mine's ventilated, so we sent our inspectors in there
22 to map it out so we could determine how it was
23 ventilated. Then one of the things that was funny to
24 me, which I might have an odd sense of humor, when I
25 came outside I asked the responsible person, if an

1 event occurred in this mine, how would you evacuate
2 the people? And he panicked and got in his truck and
3 left, so I cited him for not having a responsible
4 person.

5 Q. That's one way, I guess. You mentioned there's
6 several seams above this mine?

7 A. Yes.

8 Q. Do you know if anyone has ever done a stability
9 analysis concerning the seams above ---

10 A. No, I don't.

11 Q. --- or roof support or anybody from Route 3, the
12 company, or anybody has ever done one?

13 A. I don't know.

14 Q. The same question, I guess, as far as the next
15 panel coming up. Did they anticipate the same
16 problems as far as the headgate and the tailgate?

17 A. I don't know. I really don't know if they
18 addressed it or not. I just know that they started
19 driving the tailgate because they knew they couldn't
20 use the headgate anymore.

21 Q. Did you have any conversations with MSHA's roof
22 control department in District 4 concerning the next
23 panel as far as seeing the same effects of what the
24 current panel saw?

25 A. No, I don't recall.

1 Q. Okay. Just one more question on the water. Had
2 that always been there? Did you get a sudden on rush
3 of water that caused this to build up or ---?

4 A. No, it wasn't a sudden on rush of water. I'm not
5 sure where the water was coming from. I just ---
6 they've had it since they started down through there.

7 Q. Okay. Did they have pumps set back to pump it out
8 or ---?

9 A. They told me that everything would drain downhill,
10 that it would not roof and they said that all this
11 would drain down. And I think they've got a pump down
12 next to Bandytown fan.

13 Q. But there was no pump in this area ---

14 A. No.

15 Q. --- that you guys ---?

16 A. Well, wait a minute. Yeah, there was pumps back
17 in there. There were air pumps back in there.

18 Q. Air pumps?

19 A. Yeah, there were several air pumps because, you
20 know, I was telling you, there's lots of swags and
21 every swag would have an air pump pumping it to the
22 next swag. So they kept piggy-backing and pumps down
23 through here to get it to where it would flow to
24 that ---.

25 MR. WATKINS:

1 Okay. Do you guys have any follow-up on
2 this before we move on to the ---?

3 MR. FARLEY:

4 I don't think so.

5 MR. WATKINS:

6 Do you have any follow-up?

7 RE-EXAMINATION

8 BY MR. MCGINLEY:

9 Q. Let's go to the water you encountered there. You
10 said you had water and then no water?

11 A. Right. In and out of puddles.

12 Q. Right. How deep was the deepest that you
13 encountered?

14 A. I'd say probably the most I went in was probably
15 around 18 inches. If you got much more than that,
16 it's going to be up to my knees and I didn't want to
17 get wet that day. I was tired.

18 Q. But there was ---?

19 A. There was water. It justified the (a) order that
20 was issued.

21 Q. And was the water --- did you ---?

22 A. When I stopped, you could see back there. The
23 water was significantly deeper than where we were at.

24 Q. Do you have any sense of how long that condition
25 had existed?

1 A. No, I don't. I know that they were talking about
2 that they had been given waders through their
3 examiners. They were claiming that they had made the
4 area, but they wore waders, and I told them that
5 that's not acceptable because there's been times in
6 Pennsylvania we've had people drown because of waders
7 getting full of water.

8 Q. Right. And who did you --- who was the management
9 that you talked about the water problem to, do you
10 recall?

11 A. It would have been Chris Blanchard and Jason
12 Whitehead.

13 Q. And what would it have taken to avoid that
14 problem? I mean, other than --- you know, what you
15 said ultimately what they did was just re-circulate
16 the air, but ---.

17 A. After they started losing the stability of the
18 pillars, there's no way that they could resolve the
19 problem except drive another tailgate.

20 Q. Right. But before that, there was accumulation of
21 water. Could they have been pumping that out?

22 A. Yeah, they could pump the water.

23 Q. So they just didn't do that?

24 A. No, they weren't maintaining it.

25 Q. Right.

1 A. But see, you had more issues than water. You had
2 stability factors of the pillars.

3 Q. Pillars were too small?

4 A. I can't say. I wouldn't say the pillars were too
5 small. I'm saying that the pillars were failing, the
6 rib sloppage, and it was crushing out the stoppings
7 because of the bottom heaving.

8 Q. Was that the area where you said they were sort of
9 set up as a Chinese wall?

10 A. Yes. And I don't know where they came up with
11 that idea. They said it was Chris Blanchard's idea.
12 He had had them doing it forever. I couldn't believe
13 how far it was.

14 Q. So when you went in there, that was the first time
15 you had observed that?

16 A. Right.

17 Q. So it had been going on for some time?

18 A. Right. From the length of the wall, it had been
19 going on for a while.

20 Q. Was that a part of the approved ---?

21 A. No, it was not.

22 Q. You said there were lots of --- when you went in
23 you were kind of aggravated. By the way, what was the
24 date of that just so the record's ---?

25 A. December 15th.

1 Q. When you went in there was lots and lots of bags
2 of combustible materials?

3 A. Yeah, garbage. Trash. I hate trash.

4 Q. Was there any excuse for that?

5 A. No. There wasn't a trashcan on the section
6 either.

7 Q. Did management have any response to that?

8 A. Their management's response was that they'd get it
9 taken care of and I wouldn't find it again, but I
10 didn't really believe that either.

11 Q. You heard that before?

12 A. I've heard that before.

13 Q. And you observed the --- a lifeline routed over
14 cables?

15 A. Yes.

16 Q. That's an obvious violation?

17 A. Yes, it is.

18 Q. So ---?

19 A. They didn't have the clearance down through there
20 either.

21 Q. That's obvious?

22 A. It was very obvious.

23 Q. Do you have any idea how long that existed?

24 A. No.

25 Q. It could have existed for days?

1 A. Could have. I don't know, but then their thing is
2 that the law didn't require there, the law required it
3 back at the tail piece from the loading point outby.
4 But they had it there --- if they had it there they're
5 going to have to maintain it.

6 Q. Right.

7 A. And that was my explanation to them.

8 Q. And the scoop and the charger in the return air
9 course ---?

10 A. It was between two double doors, but when you
11 opened the return side double doors, it was in the
12 return air course.

13 Q. Anybody familiar with the rules would know
14 that's ---

15 A. Yes.

16 Q. --- off limits?

17 A. Yes.

18 Q. Do you know how long that was ---?

19 A. No, I do not. But I mean, those are things that
20 stuck out to me.

21 Q. Sure.

22 A. Just jumped right out at me.

23 Q. Right. So they would have jumped out at anybody
24 that knows anything about ---

25 A. Yes.

1 Q. --- mine safety?

2 A. Yes.

3 Q. And would you agree that management --- anyone in
4 management who saw that knew that that was a
5 violation ---

6 A. Yes.

7 Q. --- of the law and that it had potential to cause
8 safety problems?

9 A. Yes. It's just like the district manager I used
10 to have asked me how long has the law been in effect?
11 Twenty-five (25) years. He said, well, is why
12 everything we write not unwarranted? You know, they
13 know the law.

14 OFF RECORD DISCUSSION

15 BY MR. MCGINLEY:

16 Q. So when you told him you wouldn't sign off on the
17 new longwall panel, their response was what?

18 A. They didn't have a response.

19 Q. They didn't like that?

20 A. No. They just sat there with their mouth open.

21 Q. They understand --- are you confident that they
22 understood why you were telling them that?

23 A. Yes.

24 Q. Now, who did you tell that to?

25 A. Chris Blanchard and Jason Whitehead.

1 Q. You mentioned that --- I don't know if this was at
2 UBB. I just want to clarify the record. You took
3 Fred ---?

4 A. Fred Wills. It was at UBB. It was a mine fire,
5 belt fire.

6 Q. Okay. And that was a couple of years ago?

7 A. Right. It wasn't --- I don't know if it was
8 really a fire. It just smoked everything up and they
9 took people out intake escapeway.

10 Q. And you found the tail was really fouled up?

11 A. Yes.

12 Q. What did you mean by that?

13 A. I'm talking about the rock and everything
14 compacted around it to where there's so much friction
15 it couldn't turn.

16 Q. Had another situation where there was an obvious
17 problem that management should have corrected?

18 A. It's obvious to me, yes.

19 Q. Ms. Chamberlin, what was her first name?

20 A. Elizabeth.

21 Q. Elizabeth. She's a lawyer?

22 A. She's a lawyer. She came from Consol. She was an
23 attorney and then she became --- I know she's got a
24 mining degree also, if I'm right. But anyway, they
25 put her into safety and she was one of the safety

1 people at Consol, and then when Frank Foster left
2 Massey and went with Magnum, they hired Elizabeth as
3 safety director down here --- or as a corporate safety
4 something. I'm not sure of her exact title.

5 Q. And you've met with her occasionally, many times?

6 A. Occasionally. She does --- she's not ---. To me
7 she's not that involved. I would have expected more
8 out of somebody I would be hiring, paying that kind of
9 money.

10 Q. If you had discussions with her, was it about law
11 or engineering?

12 A. Usually when you talk to Elizabeth, she's going to
13 argue a violation, and that's one of the things that I
14 brought up when we had the meeting on Kill the Spider.
15 You know, we're sitting here with all their people
16 around a table and I asked, I said, okay, I've got
17 problems because I've got Elizabeth sitting over here.
18 We've issued paper at UBB. She would take the
19 violations away from the inspector and look at her
20 people and say, don't worry about it, we'll litigate
21 it. Is that the ---?

22 Q. She said that in front of you?

23 A. No, she said that in front of my inspectors. This
24 is hearsay from what my inspectors told me.

25 Q. What inspectors?

1 A. I can't recall right off the bat. Probably Joe
2 Athey. But anyway, they said they'd give her the
3 paper and she'd tell her people not to worry about it,
4 they'd litigate it. I said, is that the way upper
5 management is supposed to think if you're talking
6 about implementing a safety program for compliance?
7 Also Jason Whitehead was sitting over there. He was
8 the vice-president that okayed the ventilation changes
9 without approval. I said, take Jason over there. You
10 know, he has given permission to make ventilation
11 changes without approval from district manager. And
12 is this the type of people that you're going to have
13 running your safety program, running your 6,500
14 employee company? And you expect me to believe that
15 you're sincere about safety.

16 Q. Is Jason with Performance or with Massey?

17 A. Jason, he was vice-president at Elk Run. I'm not
18 sure what his various titles have been. Most recently
19 they told him he was under Chris Adkins, over all
20 underground operations. I'm not sure of his exact
21 title.

22 Q. So a mine like UBB, the corporate entity is
23 Performance ---?

24 A. Right. But see, they have all these little
25 companies, it's hard to ---.

1 Q. And you deal with representatives of these other
2 companies?

3 A. Right.

4 Q. Including the parent company like Adkins?

5 A. Yes.

6 Q. About specific problems at ---?

7 A. At his various little companies, yeah. If I had a
8 problem at Performance, it's not uncommon to get a
9 call from Chris to talk about it. I had a call from
10 Mammoth Coal Company, it's run by Larry Ward. It's
11 not uncommon to deal with Larry Ward and deal with
12 Chris Adkins or Elizabeth Chamberlin. You've got Elk
13 Run and --- the president of Elk Run has an accounting
14 degree. Chris Blanchard, he's the president so he
15 probably got two or three other little companies. He
16 started off with just one, but I think Benny got
17 Performance also. I'm not sure of what all companies
18 he has now, but I think Marfork is one of them. But
19 you know, it's not at all uncommon to deal with them
20 and deal with corporate, too.

21 Q. So an example of Massey, or the parent company's
22 success in mine safety, you said was when Elizabeth
23 Chamberlin came to a meeting and indicated they had
24 been doing really well?

25 A. Yes.

1 Q. And it was when the inspectors were ---?

2 A. The inspectors were not at the mines, yeah. But
3 yet they weren't on paper. It looks good. The
4 numbers were low for that period of time, but we
5 weren't there.

6 Q. You said that there are times when you've issued
7 citations or your people have issued citations that
8 they can't correct it immediately that sort of doubles
9 your work because you have to come back?

10 A. Right. It's easier to inspect a compliant mine
11 than it is a non-compliant mine. Non-compliant mines
12 take a lot more time.

13 Q. So is it fair to say --- did that happen fairly
14 frequently?

15 A. I would say it happens quite a bit ---

16 Q. So ---?

17 A. --- at the non-compliant mines.

18 Q. So it would be erroneous to contend that every
19 citation that Massey receives is corrected the very
20 same day?

21 A. Yes.

22 Q. You said there was --- earlier, a few years ago
23 there were problems when they were trying to get in
24 the Glory Hole area?

25 A. They had ventilation problems at that time.

1 Q. And do you know just some ---?

2 A. Time frame?

3 Q. Time frame.

4 A. Three years ago. I don't know. I lost track of
5 time. I've been here since 2001. It doesn't seem
6 like I've been here a year or two. You know what I
7 mean?

8 Q. I understand.

9 A. I mean, you're staying busy, time flies.

10 Q. Absolutely. There were some citations for
11 accumulation of coal dust at UBB. Are you familiar
12 with those?

13 A. No. I'm more familiar with them at Black King.
14 We cited all the belts. During the time of the belt
15 fire we really hit the belts hard at the time. They
16 didn't have any belt people. You might have one
17 person who had four belts and during that time ---.

18 Q. One person for four belts?

19 A. Well, I'm not --- that's just, you know, me saying
20 that. But anyway, they went and hired some
21 contractors to come in and work the belts, and they
22 hired several contractors, and it took them a while to
23 get the belts in decent shape. But then they finally
24 got them there, and they've been maintaining them, so
25 I assume they got belt people on them.

1 Q. So if you --- if a company puts forth the effort
2 and they have the personnel, they're not going to have
3 the accumulations of ---?

4 A. Right. It depends on where you put your
5 priorities. Priorities on trying to maintain your
6 mine, you can maintain your mine. Priority is only on
7 trying to maintain your coal, your mine is going to go
8 in the pot and you're going to run out of coal.

9 Q. Do you think in your experience with UBB and the
10 other Massey subsidiaries, that their priority was on
11 running coal?

12 A. Coal pays the bills. Yeah, I'd say so, but I'll
13 also say that Massey has got a lot of levels of
14 management they've put in. It's just like, you know,
15 we're going to --- okay, I've got a two unit mine.
16 You've got a superintendent, you've got two block
17 superintendents, two mine foremen and section foremen
18 for a two unit mine. It's really top heavy with
19 management people, and none of them is doing their
20 daggone job because I'm still going there citing stuff
21 that I should never be seeing.

22 Q. So that's really the line of questions I was
23 asking you. If you have any violations, that
24 management should be ---?

25 A. Management's failing, yeah.

1 Q. Right.

2 A. You've got a failure.

3 Q. So it's not a question of not having enough
4 supervisory personnel to ensure that safety
5 requirements are being met?

6 A. They've got more supervisory personnel than any
7 company I've ever seen in my life, and they're not
8 getting their job done.

9 Q. Are they going in the mine?

10 A. I don't have a clue. I assume that they are.

11 Q. So if they're going in the mine, they're seeing
12 the same things you're seeing, and they're not ---?

13 A. They're not taking action to get it corrected.

14 Q. You mentioned when we resumed a little while ago,
15 the situation where no one could tell you how the mine
16 was ventilated. Was that at UBB or no?

17 A. No, that was at Castle. I said that it was at
18 Castle.

19 MR. MCGINLEY:

20 That's all. Thank you.

21 RE-EXAMINATION

22 BY MR. FARLEY:

23 Q. Link, have you ever heard of an employee at the
24 UBB mine by the name of Wendell Wills?

25 A. Wendell was the superintendent when we had the

1 belt issues.

2 Q. Okay. That was about two years ago?

3 A. Uh-huh (yes).

4 Q. Okay.

5 A. Wendell's since retired I think. I think I saw
6 him at Walmart or somewhere. He had retired.

7 Q. Okay. Was he a person known to be very
8 knowledgeable in ventilation matters?

9 A. He's supposed to have been knowledgeable in mining
10 is what they told me. I'm not sure if it was
11 ventilation, but they told me he was a very
12 knowledgeable miner.

13 MR. FARLEY:

14 Okay. All right.

15 RE-EXAMINATION

16 BY MR. WATKINS:

17 Q. We're going to change gears a little bit now
18 and ---

19 A. Okay.

20 Q. --- talk about the ---.

21 A. April 5th.

22 Q. There you go.

23 A. April 5th was a great day until about 3:30 in the
24 evening. I got up, I went to a staff meeting at
25 Summersville Field Office with Ernie Ross, the

1 conference officer and David Fowler, our supervisor at
2 Princeton Field Office. I was --- my function I
3 really wanted to really discuss the note keeping, and
4 I had Ernie Ross to help me with documentation needed
5 to sustain the violations. And I had Dave Fowler to
6 talk about efficiency of planning an inspection, what
7 Dave requires his inspectors to do on the first day of
8 the inspection. So we went to Summersville and we
9 were there probably three to four hours, because I did
10 a presentation on what I felt like it takes to
11 document the violation.

12 Ernie did a presentation very similar to mine and
13 David did his presentation. Okay. We left there and
14 we went to the Mount Carbon Field Office, they were at
15 a staff meeting. We did the same presentations at
16 Mount Carbon that we did in Summersville and we came
17 back to Mount Hope. Got back to Mount Hope about
18 3:15, 3:20, something like that. It's a great day,
19 and I got a phone call between 3:30 and four o'clock
20 to tell me I had a problem at UBB, that the air
21 reversed on the Ellis belts and they were picking up
22 concentrations of gas. They didn't say what kind of
23 gas. I figured CO, so the implication was you had a
24 mine fire. I called Jonah Bowles and asked Jonah what
25 he had, and Jonah said he didn't know yet. He hadn't

1 got there yet, but he knew he had a problem.
2 So at that point in time, Johnny told me that he
3 had an inch and a half or two inch spike in pressure
4 at the Bandytown fan. I said, Johnny, you've had an
5 explosion. Bob Hardman and Mike Dickerson got ready
6 to go, and I was --- started making phone calls to get
7 people to come to the mine. I had to find people
8 because it's right at quitting time, you know, people
9 are in transition between the office and home.
10 So I made calls to try to get enough people that I
11 felt like could get us through to the next day, and I
12 went down and changed clothes, got in the vehicle and
13 went to the mine. When I got there, I was headed to
14 Ellis Portal, so I met Bob Hardman and Mike Dickerson
15 coming back towards the North and South Portals. And
16 so about the time I turned around to follow him, so I
17 turned around, and so I turned around and went up to
18 the North, South Portals. They had a command center
19 set up in the office. Chris Adkins was in there. We
20 put Reba Crawford taking notes. Bob said that he
21 would stay in the command center, for me to brief
22 Arlington. I think I was briefing Arlington every
23 hour, and for me to brief the mine rescue teams. I
24 found out at that point in time that Chris Blanchard
25 and Jason Whitehead were running around underground

1 bare faced. They had Massey teams underground. I
2 found out they had brought a mantrip out with six
3 fatalities on it. Three people went to the hospital.
4 And then we started --- I would try to stay in the
5 command center to get enough information to go brief
6 headquarters every hour, but constantly you're
7 briefing headquarters, going straight from there to
8 brief mine rescue teams and by that time you're behind
9 what's going on because you don't know. You've not
10 been in the command center, so you've got to go back
11 to the command center. My whole night was spent doing
12 briefings and trying to get in the command center long
13 enough to find out what was going on. We had a couple
14 of times where someone else would call headquarters
15 and tell them we had located bodies, but you couldn't
16 find out. It was bodies that had already been located
17 and it was a time keeping track of how many bodies we
18 actually had located.

19 When the teams finally came out I went in to
20 partially debrief them, because we did it right there
21 in the command center and you could look in their eyes
22 and you could tell what they had seen. And what ---
23 you know, lost hope because the explosion was so
24 violent and so fast. You had hope that perhaps people
25 in Headgate 21 might have gotten to a shelter. People

1 from Headgate 22 had come outby and were found in a
2 mantrip outby the doors, but you still know you hadn't
3 been able to contact anybody and conditions were bad.
4 We had mine rescue teams coming in very fast. I
5 couldn't keep up with how many teams we had. You
6 know, they'd call me when they had teams ready to be
7 briefed. My concern was I had equal number of back-up
8 teams for the teams I had underground. I also had an
9 issue, I questioned if the teams underground were
10 following procedure, because one of their people ---
11 one of my supervisors called out, but the
12 communication was poor. He said if the back-up team
13 was not staying assembled, that they were out roaming
14 around, that you really didn't have a back-up team. I
15 found this out after the fact.

16 Finally it got smoothed down. I had sent Fred
17 Wills, supervisor, to stay at the fresh air base.
18 When I finally came outside, I found out they had
19 radio problems because radios --- three different
20 teams had different frequencies, so they couldn't
21 communicate. You find out problems after the fact,
22 but those are things that we'll address the next time,
23 if there is a next time.

24 It was just a while trying to get the mine
25 explored, and the fact that there's so much damage and

1 it all had to be done on foot and walking. And I
2 could never determine by night how far outby the
3 damage came. I had concerns about these seals, but I
4 had Blanchard check the seals and they were intact
5 they said and damage --- we had ventilation controls
6 destroyed over in here, but I couldn't tell how far
7 outby. The only thing we really knew about was the
8 track entry. The people driving the track were asked
9 to check the stoppings on their right coming out, and
10 they said I think they might have had a couple block
11 out here or there, but they were pretty much installed
12 I think.

13 ATTORNEY WILSON:

14 Link, if we could just --- yeah. You're
15 referring to the map, Selfe Exhibit One.
16 (Selfe Exhibit One marked for
17 identification.)

18 A. I'm referring to the track entry.

19 ATTORNEY WILSON:

20 And you're referring to outby where the
21 diagonal Six North belt ---?

22 A. Yeah, I'm talking about the track entry. What is
23 it, Five North?

24 ATTORNEY WILSON:

25 And you've drawn --- let the record show

1 you've drawn a ---?

2 A. I've drawn a green mark down it. It's already
3 marked in yellow on the map, but I'm putting a green
4 highlighter mark ovetop of it.

5 ATTORNEY WILSON:

6 This is in the lower right-hand corner of
7 the map.

8 A. Seventy-eight (78) Crosscut was as far as they
9 could get, so everything inby there was walking in.
10 We was trying to take it, move that, get
11 communications installed and then bring the back-up
12 teams to where we had the communications and advance
13 again. This is very common to the way we normally do
14 when we have a problem.

15 BY MR. WATKINS:

16 Q. The seals that you referred to that Whitehead and
17 Blanchard had checked, that's seal ---?

18 A. Seal 15.

19 Q. Fifteen (15)?

20 A. Yes. Blanchard and Whitehead said they got almost
21 up to the tailgate and conditions were poor so they
22 came back.

23 Q. Who did they report that to, Whitehead and
24 Blanchard?

25 A. They always report to the command center and they

1 would locate some bodies. You know, they called the
2 body locations in and the teams would call the body
3 locations in. That's how we would get duplicate. How
4 many people have we really found? Are these the same
5 people that they found earlier or if they found
6 somebody different? That was one of the issues that
7 night.

8 Q. Before we get too far into this, let's back up
9 just for a second.

10 A. Okay.

11 Q. You said you got called. Who called you?

12 A. The hotline reported it and then after we got the
13 hotline, I took the number off the hotline call and
14 called and got Jonah Bowles. Jonah Bowles called it
15 into the hotline apparently. I issued a (j) order
16 over the telephone. It was reduced to writing and
17 modified to a (k) order when we got on site.

18 Q. Okay. Do you know about what time you got to the
19 mine?

20 A. Somewhere around 6:00.

21 Q. Six o'clock?

22 A. Yeah.

23 Q. Okay. Bob Hardman and ---?

24 A. Mike Dickerson were already --- had already been
25 to Ellis Portals and were coming back. I guess they

1 had the command center set up at North, South, so I
2 didn't figure Bob and them were too much far ahead of
3 me. I drove like crazy getting down there.

4 Q. And so you went to the UBB Portals?

5 A. Yes, to North, South Portals.

6 Q. And ---?

7 A. To the bathhouse area.

8 Q. They had already set up a command center or ---?

9 A. They had a command center set up in the
10 superintendent's office, I think was the office it
11 was.

12 Q. Okay. And you said ---?

13 A. They gave me a phone in the maintenance
14 superintendent's office --- or chief electrician's
15 office that I could use to update headquarters.

16 Q. Okay. Chris Adkins was in ---?

17 A. Chris Adkins was --- had the communications in the
18 command center, and he was talking to him underground
19 when I got there.

20 Q. Do you know where at underground he was talking to
21 him? Was it 78 or ---?

22 A. They were already in by 78 at that point in time.
23 They were talking from 78, I think.

24 Q. From 78?

25 A. Yeah. I know that they had already been up in

1 here, and I think they had been up in here. We found
2 people on in the mantrip here.

3 Q. When you say they, you're talking about ---

4 A. The teams.

5 Q. --- the teams that had already been up there?

6 A. Yes.

7 Q. Okay.

8 A. Or Blanchard and Whitehead had already been up in
9 here. I don't think the teams --- I'm not sure when
10 the teams --- or if the teams had been up in here.

11 Q. Up in here, you're referring to the tailgate?

12 A. I'm referring to the tailgate for One North. And
13 then --- no. While all this was going on, I'm trying
14 to look at a map and try to think what could have
15 happened. And you formulate a hypothesis at that time
16 as to what you think might have happened.

17 Q. What do you think might have happened?

18 A. What do I think might have happened? I think that
19 these guys came out and you got all these doors, and
20 you've got your intake escapeway separated by doors,
21 your primary intake. If these doors are left open
22 that air could short circuit and go to Bandytown fan,
23 and that would probably deaden that airflow in here.
24 It could possibly come up and bring stuff out of the
25 gob through these connectors into the new Tailgate,

1 Headgate 22, and from the damage in front of those
2 signs of fire, you probably loaded up in this area.

3 ATTORNEY WILSON:

4 Can you mark that on the ---?

5 MR. MCGINLEY:

6 In this area, you're saying the
7 diagonal ---?

8 A. I'm saying Six North and Seven North and crossover
9 between Headgate 21 and Headgate 22.

10 ATTORNEY WILSON:

11 If you can, put a green X?

12 A. I'm saying I could possibly contaminate that
13 (indicating), I could contaminate that (indicating), I
14 could contaminate every bit of this outby. My
15 question --- the part that bothered me, how long would
16 I have to have this sitting like this for this to
17 occur?

18 MR. MCGINLEY:

19 So let the record show you've put three
20 large ---.

21 A. And I've circled the doors down here where the
22 intake is.

23 MR. MCGINLEY:

24 That's in the lower right-hand corner.

25 A. It's actually at the mouth of Six North.

1 MR. MCGINLEY:

2 Right. The map's a little ---.

3 MR. FARLEY:

4 And would the doors be in the vicinity of

5 the intersection known as 78?

6 A. Yes. You know, everything's destroyed now, so I
7 can't tell, but thinking about it and looking at it
8 that night, you know, I thought, damn, what if they
9 left these doors open and they short circuit their
10 intake? Okay. Then that's going to kill my intake in
11 here. Can I reverse the air back through here to the
12 gob and bring methane out into these crossovers? But
13 come through here, all it would take would be a
14 battery charger, anything to do it.

15 The other thing that bothers me about that night
16 --- well, not that night, later when we located all
17 the people, your shearer is set up on the tail ready
18 to cut back to the head. They hot seat on the
19 longwall, so those people should have been at that
20 shear mining. They should have been hot seated, but
21 they weren't. They were at mid-face. They were at
22 103 to 105 Shield. That tells me they had a problem
23 or think that --- you know, something's happening to
24 make them leave and never coming back, in my opinion,
25 to look for the problem.

1 Okay. Tailgate 22, they're gone. Did they leave
2 doors open on their way out? Come over to Headgate
3 21. I've got six people sitting in a mantrip. I've
4 got three people, probably at a break and a half to
5 two breaks, three breaks inby the mantrip. They were
6 coming. They were not at the faces, they were not
7 running equipment, they weren't mining, they weren't
8 doing anything. They were leaving. What else could
9 it be? I have a lot of sign of fire here. I have a
10 lot of sign of fire in Five and Six North and a lot of
11 sign of fire on the longwall face.

12 ATTORNEY WILSON:

13 Maybe you can use a different color to
14 show the signs of fire.

15 A. I didn't see one.

16 ATTORNEY WILSON:

17 Do we have ---?

18 A. Okay. Let's say, you know, I've got a lot of sign
19 of heat --- or flame here. I've got a sign of heat
20 and flame here. When the teams went in they found a
21 small fire ---.

22 ATTORNEY WILSON:

23 Blue circle.

24 A. They found a small fire, what, 80-something I
25 think in the track entry and then later we found a

1 fire at 116 or something on the offside of the stop in
2 between the track. It was not in the same mantrip as
3 the previous fire, so we had a lot of heat and flame
4 there (b) (7)(C)

(b) (7)(C)

7 It bothers me that they went past the body at Number
8 Two shield and didn't see it two times before they
9 found it.

10 By force it seemed to be coming out of the
11 longwall. You had --- was it the inby or outby? At
12 night I thought they said we found it. I thought they
13 said the inby canopy was blown off of the mantrip,
14 then later they told me it was the outby canopy. So
15 I'm not sure which one it was, but it seemed like I
16 had forces coming out.

17 ATTORNEY WILSON:

18 Wait. Let's just stop for a second just
19 so that we can get the record straight here. The
20 canopy, you're talking about the mantrip?

21 A. The mantrip on Headgate 21 --- 22. Twenty-two
22 (22). I'm sorry. Twenty-two (22).

23 ATTORNEY WILSON:

24 Okay. And you drew an arrow indicating
25 the direction that the canopy was ---?

1 A. The night that I was told --- it was done I
2 thought it was going from forces coming out, unless I
3 was misinformed when I was told which canopy it was,
4 because later they told me, no, it was the canopy on
5 the outby side.

6 ATTORNEY WILSON:

7 You also indicated at the longwall face.

8 You circled that indicating ---?

9 A. Signs of heat and fire and forces coming out of
10 the gob toward the face.

11 ATTORNEY WILSON:

12 And you've indicated that by arrow ---

13 A. Arrows.

14 ATTORNEY WILSON:

15 --- in the gob area?

16 A. Yes.

17 ATTORNEY WILSON:

18 And then you've also ---?

19 A. I circled the area on Seven North --- Six North,
20 Seven North because we had a sign of flame and we had
21 a fire in that area.

22 ATTORNEY WILSON:

23 All right.

24 A. And this is just from listening in the command
25 center, my brain working, because I'm going nuts

1 trying --- what could have happened? What could have
2 happened? And then I keep coming back to these
3 daggone doors down here. If I leave these doors open
4 I short circuit. Okay. What if I leave doors open
5 somewhere else? There's more doors.

6 MR. MCGINLEY:

7 Well, we have to make sure this record is
8 clear.

9 A. The doors are at 78 Crosscut, somewhere in that
10 neighborhood, close. So it's the mouth of Six North,
11 and they're circled in blue.

12 MR. MCGINLEY:

13 Circled in green?

14 A. Blue and green now. Right here's your specific
15 doors.

16 MR. MCGINLEY:

17 Dark blue circle.

18 ATTORNEY WILSON:

19 Why don't we take a pen and draw an arrow

20 and just write doors so that we know. Okay. And
21 you're doing that in red?

22 A. Yes, doors.

23 ATTORNEY WILSON:

24 Okay. So those are the doors that you
25 were concerned ---?

1 A. Those were the doors that I thought if those are
2 left open, it's going to short circuit my intake,
3 because I've got a wide open space here that it wants
4 to go to that fan back there. And then I started
5 thinking, well, are all the stoppings --- is this map
6 right? But I started trying to track this, this
7 intake, and I bring it back through here and I come
8 over here and I get in here. How can it go? Can it
9 get there from here?

10 ATTORNEY WILSON:

11 Right. And you're indicating down the
12 tailgate side of the ---?

13 A. I'm indicating down the tailgate side of the
14 longwall, but I started looking, trying to get me a
15 route of travel that that could go. Then it brings me
16 back to, is this map adequately marked? You know, are
17 these controls all here? I don't know, but I'm just
18 trying to figure out something to make some logic to
19 what went on. But I think everybody there that night
20 was probably doing the same thing. What went wrong?

21 Then I started thinking, you know, at the end of
22 the shift these guys could come out, leave doors open
23 saying, well, our buddy is going to be right behind
24 us, he'll get them doors. But if I did it just for
25 this shift is that long enough for everything to

1 happen, for it to come up and back --- methane back in
2 to all these places? I don't have --- to me I would
3 have thought my ---. Reality tells me it's going to
4 take longer than just a short time for them people to
5 go through them doors, but then I'm asking myself, why
6 are these people not at the shearer? Why are they
7 going down? Did they realize they had an air change
8 and are they going to look and find out what it is?

9 MR. WATKINS:

10 Are you all right?

11 A. Yeah. It just bothers me.

12 BY MR. WATKINS:

13 Q. When you got to the mine, okay, and you had Chris
14 Adkins at the command center and you had Whitehead and
15 Blanchard underground, ---

16 A. Underground.

17 Q. --- was anybody else besides Whitehead and
18 Blanchard underground that you know of?

19 A. Yeah, there's --- Massey teams were already
20 underground.

21 Q. I mean, --- yeah.

22 A. Massey had two teams.

23 Q. Besides rescue team members?

24 A. No. It was also --- we got two teams underground,
25 plus we got a third team with just Blanchard and

1 Whitehead.

2 Q. Okay.

3 A. And then later I was told that one of the people
4 that was taken to the hospital died, so I had seven
5 victims. And then we found these people here and then
6 I had six more. And then you start, well, how many
7 people's in the mine? You know, that was one of the
8 questions? How many people do you know? Are you sure
9 how many people's in the mine? Then they found out
10 that number changed because they had extra people on
11 the longwall that they hadn't thought about in the
12 beginning. I think there were two or three extra
13 people that were here that they hadn't thought about
14 in the beginning.

15 Q. The people that were outby in the mantrip, the
16 victims that was in the mantrip, had they brought that
17 mantrip out prior to you ---?

18 A. Prior to me getting there, it was already brought
19 out and they died of CO poisoning, and on my way to
20 the mine Bob Hardman called me. I was going down
21 Route 3 and he said, Link, it's worse than what we
22 initially thought. He said, Elizabeth just called me
23 and said that they had people on the ground and that
24 it's bad. So I already expected worse, but you don't
25 expect it to be what it really was.

1 Q. Do you know who brought the mantrip out?

2 A. No. There was some guy I was told later --- I was
3 told that some guy that was there and he tried ---.
4 He put his SCSR on as soon as he felt the pressure
5 change and that he actually went around the mantrip
6 trying to put SCSRs on the people on the mantrip
7 before they brought it out. I don't know if that's
8 true or not, but that's what I was told.

9 Q. And the mantrip was outby 78 Break?

10 A. Yes. And I'm not sure exactly where it was at,
11 but my impression was they died from CO poisoning.
12 They didn't have damage. Is that right, Terry? Did
13 you hear of that?

14 MR. FARLEY:

15 That's my understanding.

16 A. That was my understanding.

17 BY MR. WATKINS:

18 Q. Okay.

19 (b) (7)(C)

1 (b) (7)(C)

3 But throughout the whole thing after the first
4 day, I took midnight shift and Bob stayed on dayshift.
5 And I stayed in the command center most of the time.
6 If I wasn't briefing teams or talking with teams or
7 briefing Arlington or trying to update the MAU log,
8 trying to get people to sign to do that. I'd have
9 supervisors and probably four or five inspectors a
10 shift. And I would have the supervisors stay in the
11 Blue Goose and try to keep the MAU log up to date.

12 I had people running samples. But I tried to stay
13 in the command center as much as possible, although I
14 had a recorder in the command center the full time.
15 And when I'm in there, I can't help but writing stuff
16 down when they call it out. And the State had a very
17 unique thing that we were able to use. I liked that
18 thing, it's a lifesaver. Always before we've had to
19 put a speakerphone in there, but they had a thing
20 where everybody used their own --- how many sets of
21 headphones can you run off of that, Terry, six or
22 eight?

23 MR. FARLEY:

24 Half a dozen or so, something like that.

25 A. Yeah. No, you can get headphones and put them in

1 and listen and I did that most of the time. Unless
2 they had a question about mine rescue.

3 BY MR. WATKINS:

4 Q. You mentioned there was two teams underground in
5 addition to ---.

6 A. They were Massey teams.

7 Q. Massey teams.

8 A. And teams started coming --- we started sending
9 teams underground and trying to keep it and make sure
10 you had equal back-up teams as to what you were
11 putting underground. And it scares me, you know me,
12 to have a bunch of teams running around in here in all
13 different directions because you can't keep up with it
14 all. And I've still got a mine that I felt like was
15 unstable, you don't know what you got. And I was
16 nervous putting all those teams in that mine that
17 fast. But I understood the urgency of it if we could
18 find somebody.

19 Q. Was anybody from MSHA underground?

20 A. Yeah. I sent Fred Wills in right --- as soon as I
21 got there he came and I put him --- sent him in with
22 one of the teams to stay at the fresh air base.

23 Q. Which was at 78?

24 A. Yes.

25 Q. Okay. So the teams advanced up --- how far had

1 the teams gotten that night?

2 A. That night I'm not --- the State team got in this
3 area and it was bad and they pulled back out.

4 Q. This air ---?

5 A. They went --- this area being in the Glory Hole.

6 Q. Okay.

7 A. The teams made it up to the headgate. They found
8 the bodies --- I can't recall right off the top of my
9 head, but you know, we were plotting the bodies as
10 they were going. And we got everything done except
11 Headgate 22. We couldn't get in there. We got run
12 back out. I don't remember teams going in to Eight
13 and Nine North but I was told later that somebody went
14 partially ---. But what we did we weren't traveling,
15 we were just traveling basically one entry. And there
16 was debris everywhere. Because later when we went in
17 to recover we were trying to figure out how we could
18 get that permissible ride around, and we really didn't
19 have any routes plotted that we could do it. I'd love
20 to go in and take pictures.

21 Q. Do you know when --- when MSHA's mine emergency
22 unit, when they arrived, what happened?

23 A. I talked to Virgil. On my way I think I called
24 Virgil and he was headed back from Pittsburgh, if I
25 recall. And I got my mine emergency people, Mike

1 Hicks, Jerry Cook, Otis Matthews, Mike Shumate. I
2 called them and got them headed to the mine as I was
3 --- I either called them on the cell phone on the way,
4 or I called them before I got dressed to leave.

5 Q. Okay.

6 A. And I think they had Jerry Cook and them went to
7 the Academy and got the MEU truck with the equipment
8 and got it there. They got there pretty quick. And
9 as soon as they got there I started sending MSHA
10 people, MEU people in with the teams I was sending in.
11 And I had Dave Morris from Somersville, I assigned him
12 then to start briefing the teams because it was hard
13 to get Arlington briefed and the teams briefed and
14 stay in the command center long enough to find out
15 something to brief anybody with. And I had Charlie
16 Thomas smoking, wanting to know every body we found,
17 when and where and all that. So it was taxing.

18 Q. Do you remember who the first MEU members were
19 that went underground? Was it Cook and Hicks?

20 A. Cook and Hicks, I think. Because Hicks was the
21 one that had the problem with the back-up teams
22 running around everywhere. But he called outside, but
23 he didn't explain it well enough because it was
24 dismissed, because we said you guys --- he indicated
25 he was the back-up team. And if it was a back-up team

1 we had no problem, keep going, you know. But this was
2 later that I found all this out. I didn't know any of
3 this that night. But I know it was a long night.

4 Q. The teams, the company teams from Massey, they had
5 to come back outside before the first pull?

6 A. No. I don't recall teams coming outside until a
7 long time. They were under a long time. Because I
8 thought --- I remember at times I had thoughts we need
9 to switch them teams out. We was getting teams in and
10 teams were coming faster than I could keep up with
11 them. That's why I assigned Dave Morris to go down
12 and help with them because they were just getting
13 there so fast.

14 Q. Were they bare-faced or were they under oxygen; do
15 you know?

16 A. Most of them were doing it bare-faced. We had
17 teams going under oxygen and --- because of high CO in
18 places. I think CO is what got them up here.

19 Q. Up here behind the Glory Hole?

20 A. Yes.

21 Q. Okay.

22 A. And I think when they came up and went through
23 here they --- I remember as they were making this,
24 they were in high CO, so that was --- but your team
25 might be under apparatus for 15, 20 minutes and then

1 be back in out from under air, you know.

2 ATTORNEY WILSON:

3 You're referring to high CO in that ---?

4 A. The high CO in the crossovers, yes, between
5 Headgate 22 and Tailgate 22. It was a wild night.

6 BY MR. WATKINS:

7 Q. Had they made it across the longwall face?

8 A. I'm thinking that one of the teams did. Somebody
9 went down to longwall face. I don't know --- they
10 didn't go all the way to tailgate, but I think they
11 went down --- because we found some bodies on the face
12 I thought that night. But we didn't find them all.

13 Q. Why didn't --- and Blanchard communicated before
14 that they made it to tailgate ---?

15 A. They were out by tailgate, they didn't get all the
16 way to the tailgate. They were one or two crosscuts
17 outby was as far as they got.

18 Q. Do you know what stopped them?

19 A. CO.

20 Q. CO.

21 A. They got scared. Because I'm figuring they were
22 wearing SCSRs, is what I'm thinking.

23 Q. You don't --- are you figuring that? Did anybody
24 tell you that?

25 A. No. I think I heard that later that they did,

1 they used several SCSRs. But at that night I'm
2 thinking they're in there, they got to be wearing
3 SCSRs, because they were in --- when you get up to
4 where your detector goes over on the CO, and even
5 though they're using the Solaris, which is a piece of
6 crap, I think, my personal opinion. If those guys had
7 on SCSRs, we wouldn't have been able to go in there.
8 That's what I'm thinking. And later I heard they used
9 several --- I asked Whitehead about it and he kind of
10 laughed. He never gave me an answer.

11 Q. What exactly did you ask him?

12 A. I said, you all wearing SCSRs in there running
13 around the mine like that, because I know what
14 atmospheres you're seeing? And he said, no, man,
15 we're okay. We're okay. I said are you sure, is your
16 mouth burning? I was expecting him you know, to have
17 a burning mouth or something, but he neither --- he
18 nor Blanchard indicated any of it.

19 Q. Chris Adkins, he was already at the command
20 center. Do you know where he normally works at?

21 A. His office is over on 119. Right? Is that where
22 your office is, 119?

23 MR. ADKINS:

24 Yes. It's ---

25 A. What's the name of it?

1 MR. ADKINS:

2 --- in the area approximately near
3 Julian.

4 A. I thought it had a name.

5 MR. ADKINS:

6 It's roughly halfway between ---

7 A. Between Charleston and ---

8 MR. ADKINS:

9 --- Charleston and Danville.

10 A. --- Danville. Yeah.

11 MR. ADKINS:

12 Roughly halfway between the South Ridge
13 Mall area and Danville.

14 BY MR. WATKINS:

15 Q. About how long would it take him to get to the
16 mines? I'm not familiar with that area.

17 A. I'm not familiar with that either from there.
18 Kevin Stricklin got there fast. I can't believe he
19 was there as quick as he was.

20 Q. He was coming down ---.

21 A. I know.

22 Q. And why hadn't Blanchard already entered the mine
23 before Chris got there, or do you know?

24 A. I don't know. They were close. They got in
25 pretty quick, I think.

1 Q. The check-in and check-out system at the mine,
2 does anyone man that or ---?

3 A. They had someone logging --- they were logging the
4 teams as we went in, writing their names down and
5 everything. It should have been turned in with the
6 notes from the command center.

7 Q. Was this company or MSHA person doing that; do you
8 know?

9 A. My head company --- and I got Dave Morris down
10 there staying with them. He helped. He was
11 overseeing it pretty much for us.

12 Q. Did they go in the UBB Portal?

13 A. Yes. They went in the North Ports.

14 Q. Why were they going in?

15 A. They had no power at Ellis. They knocked the
16 power at Ellis.

17 Q. Okay.

18 A. And they wanted me to allow them to bring --- they
19 came and asked me one time if they could bring two
20 more mantrips from Ellis through the mine, and I
21 wouldn't let them. Because they couldn't charge or
22 anything over on that side, but they wanted to bring
23 them --- come across out the north, and I wouldn't
24 allow them do anything over there.

25 Q. Do you remember as the teams were exploring or

1 Blanchard or anybody calling out any methane readings
2 or that they encountered ---?

3 A. The teams were calling out methane readings as
4 they encountered ---.

5 Q. Do you remember anything that was sticking out as
6 far as high readings?

7 A. It seems like I remember it was five or seven
8 percent at times. I can't remember for sure.

9 Q. Do you remember where that was at?

10 A. I was thinking it was up in here. I think that's
11 why we pulled out. We had fire back here and we had
12 explosive natures up here, and I thought that was why
13 we pulled the teams out that night.

14 Q. Up on Headgate 22?

15 A. Yeah.

16 Q. Okay.

17 A. The best of my recollection. I might be wrong,
18 Tim, but that's what it seems like.

19 Q. Only just the best you remember about it.

20 A. I know we did have explosive methane. We had
21 fire, we had CO and we had to withdraw.

22 Q. Okay. I know from looking at the books there was
23 some discussions early on about the borehole, about
24 putting boreholes down. Were you involved in any of
25 those discussions?

1 A. I was in the command center when we first started
2 putting boreholes down. We were going to try to put
3 them close to the refuge alternatives, originally that
4 was the plan.

5 Q. Okay.

6 A. And I remember the drillers say --- I mean, at one
7 time it was like one out of ten for hitting the mine,
8 I think. They started probably ten holes and hit the
9 mine with one of them; is that right, Terry?

10 MR. FARLEY:

11 I can't give you an exact number.

12 A. Exact numbers, but it's something like that.

13 That's why I was saying I thought damn ---

14 MR. FARLEY:

15 High failure right on drilling.

16 A. Yeah. High failure right on drilling.

17 BY MR. WATKINS:

18 Q. But that discussion took place fairly early;
19 didn't it?

20 A. Yeah. It took place probably within the first
21 three hours we were there.

22 Q. Had the teams made it to the end of the refuge
23 chambers by then?

24 A. No. As I recall, we got in, there was a refuge
25 chamber somewhere in here. We came over there was a

1 refuge chamber somewhere in here.

2 ATTORNEY WILSON:

3 Where are you indicating?

4 A. I'm indicating before you go into the crossover.

5 What's this red X right here? What's that cross?

6 MR. FARLEY:

7 I don't know what ---.

8 A. But there was a refuge --- I think --- I was

9 thinking there was two down in here somewhere. There

10 was one here and then there was one up here on this

11 side.

12 ATTORNEY WILSON:

13 You indicate on the tailgate ---?

14 A. I'm indicating on the tailgate side of the

15 longwall. I'm indicating next to the crossovers in by

16 the longwall face. I'm talking about up Headgate 22

17 between Number One and Number Two entries.

18 MR. FARLEY:

19 How many total?

20 A. I was thinking there was four that I thought about

21 when we were there. I think these were the first ones

22 we got to and there was nothing. This was the second

23 one we got to and there was nothing. And that one was

24 the one that we had left.

25 ATTORNEY WILSON:

1 That one meaning up on Headgate 22?

2 A. Up by Headgate 22. And we plotted holes for here.
3 I think they plotted holes for Nine North, because I
4 don't think we had got in there. And I went looking
5 for holes, and we got a pair of borehole up here, but
6 it's going to tell you the same thing that you're
7 going to get at Bandytown fans, they're basically
8 useless. We had nothing in Headgate 21. We had
9 nothing in the longwall. Because I was looking for
10 anywhere I could put a tube in the mine. And I
11 couldn't find anywhere. So then I think they decided
12 to drill at the refuge chambers first.

13 We started planning on getting people in there to
14 survey the sites in and get building roads and
15 building sites. And I was thinking they had that
16 started by the time I left the next morning. I can't
17 remember.

18 BY MR. WATKINS:

19 Q. You mentioned teams got pulled out due to high
20 readings on the Headgate 22, do you remember how long
21 it was before you got to go back --- teams got to go
22 back in the mine?

23 A. There's a couple of times I thought we was going
24 to be down for like a day, or at least we would wait
25 until a hole went through and then we'd go back but

1 then we went back before. Like I'd be leaving in the
2 morning and we were out we were down and I'd get back
3 that evening thinking I was still going to be down but
4 it would be --- we'd be still going again.

5 Q. You mentioned you put 15 teams in, you put
6 somebody else in ---.

7 A. Doug Morris, my supervisor from Summersville.

8 Q. Did you ever presume the responsibilities of ---?

9 A. I went down, yes. On some of them I did. I
10 didn't do them all, but I was there for a lot of them.
11 And then it's hard trying to keep up with how many
12 teams I had underground and making sure that he had
13 equal teams on the surface to back up those teams I'm
14 sending in. And one time I'm not --- I was told we
15 had 25 teams in on the recovery. But at any one time
16 that night, it seemed like a half a dozen, probably
17 six or seven teams is what we had actually going
18 around that night, total. But then the thing that
19 bothered me was, because I don't remember --- we
20 didn't bring these teams out when we sent these teams
21 in. I can't remember when --- Robbie Asbury's team
22 was underground when I got there, and I can't remember
23 what time they came out and we debriefed them. But I
24 remember looking in his eyes and his eyes were crazy.
25 And I thought he's seen some stuff tonight that he

1 should never have had to see.

2 And when you see these --- and another thing I

3 think about, this kind of thing gives you a whole

4 different perspective on compliance. You have whole

5 different ideas on how to enforce regulations and

6 interpret the regulations and you see what can

7 actually happen and what it will do. And then I

8 thought if someone would go in and photograph the

9 damage and put it in a presentation and explain this

10 thing from the start to the completion, and do that at

11 presentation at annual retraining classes and things

12 like that, make it available from somebody that has

13 the experience that's been there. It would be worth a

14 lot.

15 How much more you've got? I mean, I'm just

16 curious as to what else there is for us to talk about.

17 MR. WATKINS:

18 I'll let these guys ask some follow-up

19 questions, and I'll go back to the mine and make sure

20 I didn't --- what I missed and then we'll see how much

21 we got.

22 RE-EXAMINATION

23 BY MR. FARLEY:

24 Q. Excuse me, just let me walk around here where I

25 can get a better perspective on the map. Your theory

1 about the doors being left open in the area of 78,
2 which would have short circuited the air up along the
3 tailgate entry?

4 A. Yes.

5 Q. How would that have impacted the ventilation
6 going ---

7 A. There would have been none.

8 Q. --- going up to the two sections?

9 A. You would have no ventilation going inby 78 Break.

10 Q. Would that have shut off all the intake going that
11 direction?

12 A. Yes, sir. Yes, sir. Your intake all comes --- it
13 comes across right here in front of this set of doors.
14 And it comes up and it splits and it provides intake
15 for the longwall for Tailgate 22 and Headgate 22.

16 Q. Okay. Maybe I didn't catch it. What were your
17 thoughts on how long those doors might have to be
18 open ---?

19 A. I didn't have --- that's the thing it's just --- I
20 mean, just long enough for this trip to go through and
21 set there --- or go through and get no further then
22 what it was before they found them. I can't imagine
23 that. It would take longer --- it would have to take
24 longer than that for all this to fill up with methane
25 coming out of here.

1 Q. All this --- all through the active working ---?

2 A. All the active workings. But then my question ---
3 when I bring that intake up here, how am I going to
4 reverse this air, what's going to cause it. But if it
5 did happen I could fill my neutrals up, too.

6 Q. Okay. I'm about a hundred miles from being a
7 ventilation expert.

8 A. Me too, but I mean, I'm just searching for an
9 answer.

10 Q. We'll qualify that. But even if the door is open
11 for, let's say, just an hour or two, does that, in any
12 way --- short circuiting that intake up those tailgate
13 entries, does that force some of the air out of the
14 gob possibly towards the longwall face?

15 A. The night I was looking at it, I got it in my head
16 that it could. And where I normally had air going
17 this way, I'm fulfilling it over here and I'm not
18 going to have it. And it'll migrate out.

19 Q. Now, you're talking about the ---?

20 A. I'm talking right on the longwall. Yeah, on the
21 headgate of the longwall. I don't know, it was just
22 that night this is what I was thinking. And I thought
23 about it a lot since, and I really am not positive,
24 but I don't understand anything else that could cause
25 what happened, other than not having air. And with

1 that being --- reverse my air here or change my air
2 here where these guys would go looking for what's the
3 problem.

4 Q. You got here --- meaning the longwall?

5 A. Meaning the longwall face. Would that be enough
6 to have the guys on the longwall face say, hey, I've
7 got a problem, I got to go find out what it is. It
8 got to 102 to 105 Shield and it popped. Okay. Then
9 it --- my ignition source, I don't have the --- I
10 don't have the shearer running, I don't have Tailgate
11 22 running, I don't have Headgate 22 running, so it
12 would have took a battery charger or something
13 non-permissible. And I would have it back there over
14 that methane ridge. I don't know, it's just --- it
15 happens, you want to try what could have happened.
16 What could have happened? It's just what I thought.
17 Have you all talked --- has anybody else talked about
18 this stuff or thought about this?

19 Q. There are theories going rampant.

20 A. Okay. Heard any better than mine that might
21 explain it to me?

22 Q. I don't know that any one is better than the other
23 right now.

24 MR. WATKINS:

25 Hopefully at the end of this thing we can

1 give you that answer.

2 A. I can't wait. I want to know what happened.

3 ATTORNEY WILSON:

4 Let's go off the record for a second.

5 OFF RECORD DISCUSSION

6 BY MR. FARLEY:

7 Q. Next question.

8 A. Okay.

9 Q. Since the event on April 5th, have you acquired
10 any information indicating that the longwall shearer
11 may have been down for repairs prior to the explosion
12 during the dayshift on April 5th?

13 A. No. No one said anything to me about the longwall
14 being down. I thought it was up on the tail getting
15 ready to cut back to the head, which was normal.

16 Q. Okay.

17 A. But I thought that there's something --- these
18 guys had become aware of something or they would not
19 have left it because they hot seat.

20 Q. Okay.

21 MR. FARLEY:

22 Do you have any follow-up questions on
23 anything?

24 MR. MCGINLEY:

25 I got a couple.

1 RE-EXAMINATION

2 BY MR. MCGINLEY:

3 Q. Going back to what was a good day.

4 A. Right.

5 Q. Get back to the office, you got the call. That
6 was about what time?

7 A. Between 3:30 and 4:00, I can't remember exactly.
8 I was thinking it was something like 20 to 4:00, or
9 something like that I think. I can't recall for sure.
10 But I just know my day went to pot when that happened.

11 Q. Do you know, I guess there's the data on the fan
12 that said the pressure ---?

13 A. Spiked. The pressure spiked.

14 Q. So that would be ---

15 A. As when the explosion occurred.

16 Q. --- when the explosion occurred. Do you know what
17 time that was?

18 A. Still after 3:00. I think, 3:01.

19 Q. When you got the call that the explosion had
20 occurred ---?

21 A. But the initial call didn't discuss the pressure
22 spike, it was when I called back at the mine and
23 talked to Jonah Bowles, that he told me that they had
24 a pressure spike. And that's when I thought you've
25 had an explosion, because my first thing was they had

1 some CO, they had a belt rubbing or air reversal on
2 the belt, but then air reversal I didn't understand
3 why they would have that at Ellis. And then he said
4 we had air reversal with high gas readings. I said
5 what kind of gas? CO.

6 Q. So when was the --- when was the shift change that
7 afternoon?

8 A. I can't recall the shifts. I know the longwall
9 worked a ten-hour shift, was supposed to be about ten
10 and a half hours. I know that Tailgate 22 ran a
11 nine-hour shift and Headgate 22, I think, was running
12 a ten-hour shift. They had different staggered
13 shifts. Then I found out I had an inspector there but
14 he was not in any part of this mine. He was back at
15 the barrier section. But no, they weren't consistent
16 on their shifts.

17 Q. So ---.

18 A. So I'm thinking --- I've got them written down in
19 my office, but I can't think of them off the top of my
20 head.

21 Q. So the men that were on the mantrip, they were 78
22 Break?

23 A. They were from the tailgate section.

24 Q. Had their shift ended?

25 A. Their shift would have ended.

1 Q. Okay. And ---?

2 A. And you should have had people probably coming in
3 to switch out at the longwall or close to it. And
4 then I never can recall how many total people were
5 underground when the event occurred. I know how many
6 bodies we got. But how many people were totally in
7 the mine, I can't recall. But they told me that while
8 I was there that night.

9 Q. So how many --- where were the people that were
10 sort of out of place, from where you would have
11 expected them to have been? At the longwall face?

12 A. The longwall face.

13 Q. Any other place?

14 A. Well, as I'm thinking about it --- my mind is
15 blowing up. And I've got people on Headgate 22. I've
16 got six in a mantrip. And they're waiting on the
17 other three coming down. So my question first of all
18 would they have been at the face but when we found
19 them they weren't. You know, you're trying to figure
20 what could have ignited it and what --- where was it.

21 I know these were going, and these were coming off
22 and these were coming off. So I have nobody running
23 equipment when the explosion occurred.

24 Q. Now, does that suggest to you that at least one,
25 or maybe all of these places, they thought there was a

1 problem?

2 A. No. These guys down here I don't think they had a
3 problem.

4 Q. No. I didn't mean down there. I meant up ---?

5 A. Up here, no, I don't really think these people
6 thought they had a problem. These people right here I
7 think did.

8 Q. That's the ones on the ---?

9 A. The ones on the longwall face, yes.

10 Q. How far were they from the shearer?

11 A. So you had 170 or 80 Shields, and there's 103 to
12 105, so they're almost halfway off the face from the
13 shearer, from the tail.

14 Q. So put it in feet, roughly?

15 A. 500.

16 Q. It seems significant.

17 A. It seems significant to me.

18 Q. The ---.

19 A. I got --- I'm doing a lot of speculation. All
20 this is just my thoughts on this, and everybody that
21 looks at it has got thoughts about it.

22 Q. Sure. But it's a fact that these folks at the
23 face were not --- were not at the shearer, they
24 were ---

25 A. Right.

1 Q. --- a significant distance away?

2 A. Right.

3 Q. On your speculation about the doors, where was it,
4 78?

5 A. Seventy-eight (78).

6 Q. Seventy-Eight (78) Break.

7 A. Around 78 Break. I won't say exactly, they're
8 right there. That's where the intake --- just outby
9 the intake, escapeway.

10 Q. Your speculation about the opening of the doors,
11 would that be a concern at any mine, or is that
12 because ---?

13 A. That would be a concern to any mine that uses
14 doors to isolate their intake escapeway, yes. It
15 would be mine, but yet it's legal. It's not good
16 mining practice.

17 Q. Did the ventilation setup here --- and I
18 understand you're not a ventilation expert, but did
19 the setup here, and the way they were running the
20 ventilation, would that have caused more of a concern
21 with the open doors than anything else?

22 A. It does after you've had a mine blow up. Prior
23 to, you might not pick up on it as much but after
24 you've had a mine blow up and kill 29 people, yeah, it
25 stands out like a sore thumb. If you had an overcast

1 there, you wouldn't have had to worry about it, huh?

2 Q. But this was part of the approved plan, of course?

3 A. Right. And legally, they can do it. But it's
4 poor mining practice, in my opinion.

5 Q. Is it costlier to build the overcast than doors?

6 A. Yes.

7 Q. Significantly more expensive?

8 A. I would say so. They've got doors everywhere.

9 Just like these equipment doors up here with this
10 stoop charger in between.

11 Q. How many doors --- do you have any sense?

12 A. No, I have no clue. I mean, I just know ---
13 really, it's not something I sat down and thought
14 about until after this right here. Now, I look at
15 this map and this --- man, do you realize how many
16 doors they have in here.

17 Q. So it's unusual in this size mine in terms of ---?

18 A. I couldn't say that. I've not really sat down and
19 looked at the others.

20 Q. It's something that deserves some consideration,
21 though, in your view?

22 A. Right, in my view. From now on when I look at an
23 event plan I'll be looking.

24 ATTORNEY WILSON:

25 It's about ten after. It's about ten

1 after 12:00. And then come back and keep going.

2 A. Okay. I thought you all beat me to death by now.

3 I've done told you everything I can think of.

4 ATTORNEY WILSON:

5 Let's go off the record.

6 SHORT BREAK TAKEN

7 ATTORNEY WILSON:

8 We're back on the record after a

9 five-minute break. We're just going to go ahead and
10 continue.

11 RE-EXAMINATION

12 BY MR. WATKINS:

13 Q. I just got a couple quick questions here. The
14 command center, when you first got to the mine, you
15 mentioned Chris Adkins was in the command center.

16 A. Yes.

17 Q. Was anyone else in that company that would have
18 maybe taken notes?

19 A. Yes. They had a note keeper in there, and they
20 had --- Stephanie was running back and forth in there,
21 too, the lawyer, the attorney. I'm trying to think,
22 there was more people in there.

23 Q. They were in there taking notes?

24 A. Yeah. They had a note keeper.

25 Q. Do you know who it was, by any chance?

1 A. No, I don't. Because we put Reba to doing it.

2 Q. Okay. What time was it that you put Reba to doing
3 notes?

4 A. When we went in, that was --- she went in with us
5 and then she was assigned. She got there the same
6 time, she was behind me, you had Bob, me and then
7 Reba.

8 Q. Okay. Just remind me, what time --- about what
9 time was that when ---?

10 A. About six o'clock.

11 Q. About six o'clock?

12 A. Yeah. A little bit after, maybe. Between 6:00
13 and 6:05.

14 Q. Okay. The only other question I got, you went
15 over what you thought and your concerns, for
16 example ---.

17 A. I might not should have done that because that's
18 just total speculation on my part, I don't know what
19 you guys ---.

20 Q. No. No. This got nothing to do with you.

21 A. Apparently I'm the only one that's done it so far.

22 Q. This got nothing to do with that. Okay. But you
23 did have a question about why the people wasn't at the
24 shearer.

25 A. At the shearer, yeah.

1 Q. Did you discuss that with anyone from the company
2 that night?

3 A. No. This is just me thinking, Tim.

4 Q. That's fine. I just wondered if you brought that
5 up to anybody in the company and if they had a
6 response to why they wasn't --- may not have been
7 where they --- where you thought they should have
8 been, I guess.

9 A. No. I never talked about anything because that
10 night the most important thing was trying to locate
11 the people and try to find live people and get them
12 out safely.

13 Q. That night, also did you talk to Blanchard and
14 Whitehead after they came out or anything?

15 A. Briefly. Not in-depth, because they were wild.

16 Q. Do you remember anything that they told you that
17 was ---?

18 A. I mentioned the rescuers, and they both didn't
19 admit to it. I said you've seen some wild stuff
20 tonight; haven't you? And I said I've been over the
21 leverage explosions CD with them showing them what
22 damage could be done. I said you've seen stuff like
23 I've showed you on a CD; haven't you, and they said
24 yeah. But they were not in any shape to sit down and
25 talk to. They weren't really in shape to debrief at

1 that point in time.

2 Q. All right.

3 A. It got the same way with Robbie Asbury and his
4 team. When you looked at their faces, you could tell.

5 Jerry Cook was --- it felt like Sago to Jerry Cook.

6 He had that same look in his eyes that he did at Sago.

7 Q. Okay.

8 A. Sago about wiped their team out, and I didn't want
9 to see that happen here.

10 MR. WATKINS:

11 That's all I got. You guys got anything.

12 ATTORNEY WILSON:

13 We're done.

14 MR. FARLEY:

15 Just one more question. Just go back to

16 the question I asked earlier.

17 RE-EXAMINATION

18 BY MR. FARLEY:

19 Q. We were talking about your conversations with the
20 Massey engineers, and they put something on the map
21 and then it wouldn't take place in the mine. Is that
22 common for other companies?

23 A. I've not picked up on it in other companies like I
24 have at this company. It might happen sometime but
25 it's not as obvious.

1 Q. You get a strong impression that ---

2 A. Right.

3 Q. --- that what they say is not what they do?

4 A. Not always what they do.

5 MR. FARLEY:

6 Thank you.

7 A. And basically you've got to follow up. That's
8 just like back when we were talking about their
9 people. They have all these people in positions to
10 provide oversight but they don't follow up.

11 ATTORNEY WILSON:

12 Link, on behalf of MSHA and the Office of
13 Miners' Health, Safety and Training, I want to thank
14 you for appearing and answering questions today. Your
15 cooperation is very important in the investigation as
16 we work to determine the cause of the accident.
17 Because we're going to be interviewing additional
18 witnesses, we require that you not discuss your
19 testimony with anyone. After questioning other
20 witnesses, we may call you back if we have any
21 follow-up questions that we feel we need to ask you.
22 If at any time you think of any additional information
23 that you would like to provide to us, please contact
24 Norman Page at the phone number that was provided to
25 you.

1 A. About any additional information I have is in
2 writing and I turned it in with the notes, because
3 every note I took I turned to Bob to turn in with the
4 log.

5 ATTORNEY WILSON:

6 And we have that. I'm just saying if, in
7 the future you think of anything else or come across
8 anything else that you think we should know about,
9 please contact us. Before we finish, I just want to
10 give you an opportunity, if there's anything you want
11 to go back over and clarify or if there's any
12 statement that you would like to make, I'll give you
13 that opportunity at this time. Is there anything that
14 you'd like to add?

15 A. No. The only thing I'd like to add is, you know,
16 everything that I've talked about on this map is just
17 thoughts I've had. You know, just trying --- what
18 went wrong. Trying to come up with some reason why
19 this happened and that's just my thoughts.

20 ATTORNEY WILSON:

21 That's helpful.

22 A. I don't know.

23 ATTORNEY WILSON:

24 We appreciate it.

25 A. It's just a hypothesis.

1 ATTORNEY WILSON:

2 And I know how busy you are, so we

3 appreciate you taking the time and coming down here

4 and meeting with us.

5 A. I appreciate you all. Find out what caused it.

6

7

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STATEMENT UNDER OATH CONCLUDED AT 12:18 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Brett Steele, a Notary Public in and for
the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Brett Steele