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Transcript of the Testimony of Gregory Clay

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Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
GREGORY CLAY

taken pursuant to Notice by Danielle Ohm, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia on Wednesday, June 23, 2010, beginning at 1:00 p.m.

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ROBERT S. WILSON, ESQUIRE
U. S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

PATRICK C. MCGINLEY
West Virginia Independent Investigation
West Virginia University College of Law
P.O. Box 6130
Morgantown, WV 26506-6130

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ERIK SHERER
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

BARRY KOERBER, ESQUIRE
West Virginia Office of Mine Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

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PAGE

NUMBER	DESCRIPTION	IDENTIFIED
One	Subpoena	9*
Two	Return of Service	9*

* Exhibit not attached

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ATTORNEY WILSON:

We're now on the record. Good afternoon.

My name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. Today is June 23rd. We are here to conduct an interview of Gregory Clay. With me is Erik Sherer, who's an investigator with the Mine Safety and Health Administration. Individuals present from the State of West Virginia, I'll ask that they identify themselves.

MR. FARLEY:

I'm Terry Farley, West Virginia Office of Miner's Health, Safety and Training.

ATTORNEY KOERBER:

I'm Barry Koerber. I'm the Assistant Attorney General representing the Office of Miner's Health, Safety and Training.

ATTORNEY MCGINLEY:

Patrick McGinley with the Governor's Independent Investigation Team.

ATTORNEY WILSON:

Before we go further, I'm going to ask that the court reporter swear you in. So if you'll raise your right hand?

1 -----

2 GREGORY CLAY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
3 AS FOLLOWS:

4 -----

5 ATTORNEY WILSON:

6 Barry?

7 ATTORNEY KOERBER:

8 Mr. Clay, you were served with a subpoena
9 compelling your appearance here today; correct?

10 A. Yes.

11 ATTORNEY KOERBER:

12 What I would like to do is have the
13 subpoena as well as the return of service, which was
14 what the sheriff's office filled out and sent back to
15 me after serving you with the subpoena entered into
16 the record. I'd like you to look at them first. This
17 is a copy of the subpoena. This is the return of
18 service, and with the return of service, I also
19 attached a copy of the subpoena, but it's the same
20 subpoena, except notations were put on by the
21 sheriff's office. Take a look at those and make sure
22 you're okay with those two documents. You have never
23 seen those documents?

24 A. I didn't see this, no.

25 ATTORNEY KOERBER:

1 I would ask that the one-page document
2 called a subpoena be marked as Exhibit One and the
3 three-page document marked as return of service
4 containing another copy of the subpoena be marked as
5 Exhibit Two.

6 (Exhibits Clay One and Two
7 marked for identification.)

8 ATTORNEY WILSON:

9 I've marked those as Exhibit Clay One and
10 Exhibit Clay Two.

11 ATTORNEY KOERBER:

12 Would you please state your name for the
13 record and spell your last?

14 A. Gregory Clay, C-L-A-Y.

15 ATTORNEY KOERBER:

16 And is Gregory with an O?

17 A. Yes.

18 ATTORNEY KOERBER:

19 And what is your street or box number?

20 A. (b) (7)(C) .

21 ATTORNEY KOERBER:

22 It is my understanding that you were here
23 once and were denied access and you had to go back
24 home and you've been here twice?

25 A. Yes.

1 ATTORNEY KOERBER:

2 So my question is on both trips, counting

3 both trips, what would be your roundtrip mileage?

4 A. About 25 miles.

5 ATTORNEY KOERBER:

6 For both trips?

7 A. Approximate, yes.

8 ATTORNEY KOERBER:

9 And that's roundtrip?

10 A. I would think so, yes.

11 ATTORNEY KOERBER:

12 Okay. In traveling those 25 miles, did

13 you pass any toll booths?

14 A. No.

15 ATTORNEY KOERBER:

16 What I have calculated is \$10.12 and a

17 half cents mileage, which I've rounded up to \$10.13

18 mileage together with your \$40 witness fee comes to

19 \$50.13. Please look that over. If you're okay with

20 that, and if you're okay with writing in your Social

21 Security number, write it in here, sign your name

22 there and give that ---.

23 WITNESS COMPLIES

24 ATTORNEY KOERBER:

25 I have no other preliminary questions,

1 but Terry still has the one question after you give
2 the rest of your statement.

3 ATTORNEY WILSON:

4 Okay. I'll proceed. Mr. Clay,
5 government investigators and specialists have been
6 assigned to investigate the conditions and events and
7 circumstances surrounding the fatalities that occurred
8 at the Upper Big Branch Mine South on April 5th, 2010.
9 The investigation is being conducted by MSHA pursuant
10 to Section 103(a) of the Federal Mine Safety and
11 Health Act and by the West Virginia Office of Miners'
12 Health, Safety and Training. We appreciate your
13 appearance here today.

14 There are several members of the
15 investigation teams present in the room. All members
16 of the Mine Safety and Health Administration Accident
17 Investigation Team and all members of the State of
18 West Virginia Accident Investigation Teams
19 participating in the investigation of the Upper Big
20 Branch Mine explosion shall keep confidential all
21 information that is gathered from each witness who
22 provides a statement until witness statements are
23 officially released.

24 MSHA and the State of West Virginia shall
25 keep this information confidential so that other

1 ongoing enforcement activities are not prejudiced or
2 jeopardized by a premature release of information.
3 This confidentiality requirement shall not preclude
4 investigation team members from sharing information
5 with each other or with other law enforcement
6 officials. Everyone's participation in this interview
7 today constitutes their agreement to keep the
8 information confidential.

9 Mr. Clay, your identity and the content
10 of your interview today will be made public at the
11 conclusion of the interview process and may be
12 included in a public report of the accident unless you
13 specifically request that your identity remain
14 confidential or your information would otherwise
15 jeopardize a potential criminal investigation. If you
16 request us to keep your identity confidential, we will
17 do so to the extent permitted by law. In other words,
18 if a judge orders us to reveal your name or if another
19 law requires us to reveal your identity, we may do so.

20 Also, there may be a need to use the
21 information you provide to us today or other
22 information we may ask that you provide in the future
23 in other investigations into the accident or hearings
24 about the accident. Do you understand what I've just
25 said about your right to request confidentiality?

1 A. Yes.

2 ATTORNEY WILSON:

3 You may have a personal attorney or
4 representative present with you during the taking of
5 this statement. Do you have a representative with
6 you?

7 A. No.

8 ATTORNEY WILSON:

9 This is not an adversarial proceeding.

10 This is a fact-gathering exercise. And formal Cross
11 Examination questions will not be allowed; however,
12 follow-up questions will be permitted as appropriate.
13 After the investigation is complete, MSHA will issue a
14 public report detailing the nature and the causes of
15 the fatalities in hope that greater awareness about
16 the causes of accidents can reduce their occurrence in
17 the future. Information obtained through these
18 witness interviews is frequently included in the
19 reports.

20 We will be interviewing additional
21 witnesses, so therefore, we request that you not
22 discuss your testimony with anyone else after this
23 interview is completed. A court reporter will be
24 recording the interview today. We ask that you speak
25 loudly and clearly. If you do not understand the

1 question, please ask that the question be rephrased.

2 Please answer each question as fully as you can,
3 including any information that you may have learned
4 and from what source.

5 After we have finished asking questions,

6 we will provide you with an opportunity to add any
7 additional information to the record or if you would
8 like to make a statement. If at any time after the
9 interview you recall additional information that you
10 believe might be useful, contact Norman Page, who is
11 MSHA's lead accident investigator here at the Mine
12 Academy or someone from the State of West Virginia.

13 You should know that any statements given

14 by miners as part of this investigation are considered
15 to be an exercise of statutory rights and protected
16 activity under Section 105(c) of the Mine Act. If you
17 believe any discharge, discrimination or any other
18 adverse action will be taken against you as a result
19 of your appearing and giving an interview today, you
20 are encouraged to immediately contact MSHA and file a
21 complaint under Section 105(c) of the Act. Remedies
22 under the Mine Act include back wages and immediate
23 temporary reinstatement to your most recent position
24 pending a complete investigation of your complaint.

25 In order to file such a complaint, you should contact

1 the MSHA District 4 Office located in Mount Hope, West
2 Virginia, or you can go to MSHA's website at
3 www.MSHA.gov and find additional information there
4 concerning your rights.

5 Terry, do you have anything you wanted to
6 add?

7 MR. FARLEY:

8 Yes. Mr. Clay, on behalf of the West
9 Virginia Office of Miners' Health, Safety and
10 Training, I'd also like to advise you that West
11 Virginia Code Chapter 22(a), Article Six protects a
12 person from any potential discrimination activity or
13 participating in hearings and investigations such as
14 this. So I'm going to provide you some contact
15 information if you experience such discrimination,
16 along with my business card and one from Mr. Bill
17 Tucker, who's also my lead investigator.

18 ATTORNEY WILSON:

19 Is there anything else before we get
20 started? Mr. Clay, did you have any questions before
21 we get started with the questioning?

22 A. No.

23 ATTORNEY WILSON:

24 All right. Terry Farley is going to
25 begin your questioning.

1 EXAMINATION

2 BY MR. FARLEY:

3 Q. Mr. Clay, we will begin by just saying, where are
4 you currently employed?

5 A. Performance Coal, Upper Big Branch Mine.

6 Q. Okay. How long were you employed there?

7 A. A little over 15 years.

8 Q. Is that consecutively?

9 A. Yes.

10 Q. So obviously you were employed at UBB Mine on
11 April 5th of this year; is that correct?

12 A. Yes.

13 Q. What was your normal shift and working hours at
14 the UBB Mine?

15 A. 7:00 a.m. until 4:00 p.m. Monday through Friday.

16 Q. Who is your immediate supervisor at UBB?

17 A. At that time, Everett Hager.

18 Q. Everett Hager?

19 A. Yes.

20 Q. What was your position as of April 5th of this
21 year?

22 A. Purchasing.

23 Q. Just purchasing supervisor, I guess, or ---?

24 A. Purchasing agent, yes.

25 Q. Do you supervise any people?

1 A. The warehouse personnel. Warehouse personnel is
2 the dispatcher also, so dispatcher and warehouse.

3 Q. Now, can you give me a brief overview of what your
4 normal job duties were?

5 A. Purchasing for daily supplies, parts for the
6 equipments. I don't know. Man hour reports,
7 production sheets. And then every half hour I take a
8 report from the longwall production, the beginning
9 spads where the longwall started, and then I would
10 every half hour until 4:00 p.m. That's when I finish.

11

12 Q. Did you have any West Virginia coal mining
13 experience?

14 A. Yes.

15 Q. What were those?

16 A. I just got an underground miner's card.

17 Q. So you got experience ---?

18 A. Yes.

19 Q. How much experience do you have?

20 A. A couple years.

21 Q. Was that with Upper Big Branch?

22 A. Yes.

23 Q. How recently did you work underground?

24 A. It's been several years. I don't know. It's been
25 several years. It wasn't a daily job. You know, I

1 have to go underground to move equipment or belt or
2 something like that.

3 Q. You received production reports from the longwall
4 section; is that correct?

5 A. Yes.

6 Q. Did you also receive production and downtime
7 reports from the continuous miner section?

8 A. No, only longwall.

9 Q. Who would have received information from the
10 continuous miner section?

11 A. The dispatcher.

12 Q. Do you recall who the dispatcher was on April 5th
13 of this year?

14 A. Adam Jenkins.

15 Q. Now, 30-minute intervals during your shift, what
16 information's in the longwall report precisely?

17 A. Start with they would give you the amount of
18 passes, whether it'd be one pass, 1.2, just score them
19 where the shearer was, whether they was running,
20 whether they was down. If they was down, they would
21 give you like five minutes down --- the amount of time
22 they was down, the problem they was down for and
23 estimated starting time from what they was down from.
24 And if they was running and they had no downtime, feet
25 per --- feet per minute of what the shearer was

1 traveling.

2 Q. Okay.

3 A. Like I said, location of the shearer.

4 Q. The location of the shearer if they cut off ---?

5 A. Yes.

6 Q. So in terms of these reports you received from the
7 longwall section, was a normal day they would call
8 every 30 minutes?

9 A. Yes.

10 Q. Okay. Now, the information that was called out to
11 you from the longwall section, was it reported? Did
12 you report it on your reports or did you have to take
13 written notes or was it entered on some type ---?

14 A. Entered it on my computer.

15 Q. Okay. Now, what computer did you enter it on?

16 A. My computer. We enter it and then we have got
17 like an Excel sheet we fill out and then we e-mail
18 that sheet in.

19 Q. Do you maintain any written notes at all?

20 A. No. I entered it straight into the computer.

21 Q. Okay. Now, what person typically called from the
22 longwall?

23 A. The headgate operator.

24 Q. Was that pretty consistent?

25 A. Yes.

1 Q. Was that the case on April 5th?

2 A. Yes.

3 Q. Now, the information you recorded on your computer
4 on April 5th of this year, where is that computer now?

5 A. The FBI came in and confiscated all that.

6 Q. Okay. When did that happen?

7 A. I don't know what day. It's been probably a month
8 ago.

9 Q. Now, on April 5th, at what time did you arrive
10 that morning?

11 A. Probably 15 to 7:00 a.m.

12 Q. Okay. What time did production commence on the
13 longwall section on April 5th?

14 A. I don't know because I'm --- I would have to look
15 back in my records. I can't tell you, but I'm
16 assuming anywhere from 7:10 to 7:25 because it changes
17 every day.

18 Q. But production did commence on the morning of
19 April 5th, as best you can remember?

20 A. Yes.

21 Q. Now, was it normal routine for the longwall to
22 call out whenever production started at the beginning
23 of the shift?

24 A. Yes. They would call out, like an estimated
25 starting time at 7:00 a.m., and then I would put the

1 estimate on the computer and send it in. And then
2 when they would start up, they would say, hey, we're
3 running at 7:25 and then I would enter that.

4 Q. When you entered your information on the computer
5 on this Excel spreadsheet, once you entered the
6 information, where did you send it?

7 A. I e-mailed it to the executive secretary at
8 Marfork Coal, Lisa Williams.

9 Q. Lisa Williams. Now, from that point, where did
10 Ms. Williams send the information?

11 A. Well, I would add to that. I would send it to
12 Chris Blanchard, he's the president, and Jason
13 Whitehead and then Lisa would have --- she would have
14 --- automatically she would have sent it to Chris
15 Blanchard and she would send it to Chris Adkins and
16 Don Blankenship.

17 Q. Okay. Now, as far as you know, did she do that
18 immediately upon receipt?

19 A. That's the policy. Whether she done it or not, I
20 don't know, but I would assume that she did.

21 Q. Did you e-mail or fax or telephone the information
22 to anyone else other than Ms. Williams?

23 A. No.

24 Q. Okay. And she took care of it from there in terms
25 of it anywhere?

1 A. Right. Now, a lot of times, if the longwall had a
2 lot of downtime or it was going to be relatively
3 light, I would have to e-mail to Chris Adkins and Mr.
4 Blankenship by myself.

5 Q. Okay.

6 A. But a typical day, you know, nothing out of the
7 ordinary, I'd just send it to Lisa.

8 Q. Okay. So you would send information to Mr.
9 Blankenship and Mr. Adkins directly if they were some
10 out of --- unusual problem?

11 A. Yes.

12 Q. Now, if there was going to be some disruption or
13 if production had a problem on the longwall, even
14 though it wasn't time for the 30-minute report, would
15 they call you anyway?

16 A. Can you say it again?

17 Q. Sure. I didn't state that very well. If there
18 was a breakdown on the longwall, in other words,
19 production would be interrupted, would they call you
20 immediately when production ceased or would they wait
21 until the next 30-minute interval?

22 A. Well, they wouldn't know that production was down
23 until I sent the 30-minute report. Like if it was 20
24 minutes before the hour, they wouldn't know until on
25 the hour. So if I estimated the time --- or if they

1 would estimate the time in 20 minutes and then on the
2 next half hour they hadn't started up when I e-mailed
3 it in, they then would call me and, you know, have me
4 communicate to the headgate operator.

5 Q. Okay. Let me try this again. I'm confusing
6 myself here. Let's say you received a production
7 report from the longwall panel at 8:00 a.m. and then
8 they break down at 8:10, would the longwall people
9 call you at 8:10?

10 A. Yes.

11 ATTORNEY WILSON:

12 And Terry, just to follow up, they would
13 report to you at 8:10. Would you then wait until 8:30
14 to report that to Lisa Williams or would you report
15 that at 8:10 when you were notified?

16 A. If it is something major that I knew they was
17 going to be down two hours or more than one hour, I
18 would call them immediately. But if they was only
19 going to be down ten minutes, then I would log it on
20 the next half hour and send it in. Anything over one
21 hour, you automatically call Chris Blanchard.

22 ATTORNEY WILSON:

23 I'm sorry, Terry.

24 MR. FARLEY:

25 That's okay.

1 BY MR. FARLEY:

2 Q. I think you stated earlier that you didn't
3 maintain any written records of production reports; is
4 that correct?

5 A. No.

6 Q. Do you know if Ms. Williams would maintain any
7 written reports?

8 A. I don't know. All mine was on the computer.

9 Q. Okay. Now, on April 5th, 2010, did you receive a
10 call from the UBB longwall section at any time
11 advising you that the shearer was inoperative?

12 A. Yes.

13 Q. Okay. What time did you receive that call?

14 A. I really can't remember. It's been so long. I
15 don't know. I'd have to look back at the report. But
16 it was somewhere around 10:00 a.m., just guessing.
17 I'm not sure.

18 Q. Around 10:00 a.m.?

19 A. Yes.

20 Q. Do you recall what the nature of the problem was
21 when they called you?

22 A. It was a hinge pin on the ranging arm had come
23 loose.

24 Q. Hinge pin on the ---?

25 A. The ranging arm.

1 Q. Hinge pin on the ranging arm?

2 A. Uh-huh (yes).

3 Q. Okay. Do you know if the repairs required the use
4 of any welding or other cutting torch equipment?

5 A. That I don't know.

6 Q. Do you know who on the --- do you know where the
7 on longwall face the repairs might have been made?
8 Did they report to you where the shearer was located
9 when the malfunction occurred?

10 A. They did, and that was on my report as far as ---
11 I'm thinking the shearer was around midface, somewhere
12 around the midface. You have 176 shields on the
13 shearer, so it's somewhere around --- I want to say
14 80, 90 shields, somewhere around there.

15 Q. And that's as best as you remember?

16 A. Yes. I mean, if I had, you know, the reports ---
17 see, Massey won't let me take the reports or even a
18 copy of it.

19 Q. Okay. Now, when you say your reports, are you
20 referring to written documents?

21 A. No, it's what I entered into the computer.

22 Q. Okay. Now, does Massey have anything on the
23 computer --- the computer is not there anymore?

24 A. No, the FBI confiscated that.

25 Q. Okay. But you would have e-mailed this

1 information to Ms. Williams?

2 A. Yes.

3 Q. Okay. And she would have possibly just sent it to
4 Mr. Blanchard and Mr. Blankenship and Mr. Adkins?

5 A. Yes.

6 Q. So is it reasonable to assume that the information
7 would still be available on their computers?

8 A. They confiscated their computers also.

9 Q. Okay. Is there a computer left anywhere ---

10 A. No.

11 Q. --- at Massey right now?

12 A. No. Not one that was there prior to the accident.

13 Q. Okay. All right. Did anyone from management
14 travel to the longwall section after learning of the
15 breakdown on April 5th somewhere around 10:00,
16 longwall coordinator, superintendent?

17 A. The longwall coordinator, superintendent, was on
18 the other portal, which is a few miles from where I'm
19 located. As far as --- and I'm not the dispatcher, so
20 I do not know. So I really don't know if they went up
21 on the longwall or not. The only thing I do know is
22 Jack Roles, which is their longwall coordinator, he
23 was underground on the face that day. So, you know, I
24 can't tell you what time that was. I just know he did
25 come outside somewhere around 2:00, 2:30. So I'm

1 assuming that he was up on the longwall, by him being
2 the longwall coordinator.

3 Q. Now, under normal circumstances at UBB, would it
4 have been typical for Mr. Roles, in his capacity as
5 longwall coordinator, to go to the longwall section if
6 they were to be down for more than a few minutes?

7 A. Yes.

8 Q. Would it be typical for anybody else to go with
9 him?

10 A. Possibly, yes. Maybe the superintendent, yes.

11 Q. Okay. Now, you believe that the longwall was down
12 around 10:00 a.m. Now, do you know what time the
13 repairs would have been completed?

14 A. Well, see, it was up and down different times that
15 day with the hinge pin. They had kept on having the
16 same problem. What it was, they was going to change
17 the hinge pin to another style on the bednight shift
18 that night, so it was run and then it went down, then
19 it come back up, then it went back down. The last
20 time that they called out and it was down, that's when
21 I think it was around, like I said, midface. I don't
22 think --- they didn't run nothing that day hardly. It
23 was like 1.2 passes or something like that.

24 Q. 1.2 passes?

25 A. Just guessing, yes.

1 Q. Okay. Now, when did they last call you to tell
2 you that they were down?

3 A. At 2:30.

4 Q. Okay. Did they tell you what their location was?

5 A. Yes.

6 Q. What was that location?

7 A. Again, I can't remember. That's on the report
8 that I sent in.

9 Q. Okay. Now, did they call you after 2:30?

10 A. No, they don't. No. I was waiting on the 3:00
11 report, and that's when I got on the phone, and I was
12 trying to get ahold of the headgate operator.

13 Q. Okay. Who was the last person you spoke with
14 underground prior to the explosion?

15 A. Rex Mullins, the headgate operator.

16 Q. I'm sorry?

17 A. Rex Mullins.

18 Q. Rex Mullins, headgate operator?

19 A. Yes.

20 Q. Now, what did he actually say to you the last time
21 you talked to him?

22 A. He said that they was still down, experiencing a
23 problem with the hinge pin and they estimated another
24 ten minutes to start up.

25 Q. Okay. Now, at that point did he tell you that

1 they were at about midface?

2 A. I can't tell you. I'd have to look at the report.
3 I mean, it's been so long, I can't remember.

4 Q. Okay.

5 A. You know, thinking back, I think that's about
6 where the shearer was, midface.

7 Q. Prior to the explosion on April 5th, did you have
8 any contact with the Headgate 22 Section?

9 A. No, I did not.

10 Q. Would the dispatcher have taken production reports
11 from the Headgate 22 Section?

12 A. Yes.

13 Q. Okay. Did the dispatcher report any problems to
14 you on April 5th emanating from the Headgate 22
15 Section?

16 A. No.

17 Q. Did he specify at any time that a foreman might
18 have called out to discuss a ventilation problem or a
19 problem with the accumulation of methane to Headgate
20 22 Section?

21 A. No. I didn't discuss it with him. It's not a
22 common practice for them to discuss the miner sections
23 with me. That would automatically go to Lisa
24 Williams. She's the one that takes the reports. I
25 think it's around every two hours, two or three hours

1 that they get a report from the miner section.

2 Q. Did you have any contact with the Tailgate 22
3 Section on April 5th?

4 A. No.

5 Q. Now, did you order any parts or equipment on April
6 5th?

7 A. I'm sure I did. I would have to look back.

8 Q. Do you recall what?

9 A. No, I couldn't recall.

10 Q. Now, I think you said Adam Jenkins was the
11 dispatcher?

12 A. Yes.

13 Q. Now, I just want to make sure I got this clear.
14 Your office would have been located at the UBB
15 Montcoal Portal; is that correct?

16 A. Yes.

17 Q. Now, where would the dispatcher have been located?

18 A. At the UBB Montcoal Portal also.

19 Q. Okay.

20 A. We have a dispatcher both in the warehouse and the
21 office over front of me. They also dispatch out of
22 the office.

23 Q. Now, at the time the explosion occurred, what was
24 your exact location?

25 A. In my office there at UBB portal.

1 Q. Can you describe your office?

2 A. How do you want me to describe it?

3 Q. Is it on the top floor of the building?

4 A. Yes, it's upstairs, ovetop of the warehouse.

5 Q. Okay.

6 A. It's probably 250 feet from the portal.

7 Q. Do you have a view of the supply yard from a
8 window?

9 A. Yes.

10 Q. You have a view of the supply yard or the portal
11 side of the building; is that correct?

12 A. Yes.

13 Q. Can you describe what happened at the moment of
14 the explosion, what did you see and/or hear?

15 A. Okay. I was trying to get ahold of the headgate
16 operator because I was waiting on the three o'clock
17 report. And I guess about three minutes after 3:00, I
18 just heard this bam (indicates noise). I thought the
19 fan had thrown a blade or something because it's
20 making a real bad noise. And I raised up out of my
21 chair. And when I raised up out of my chair, I looked
22 out the window and I could just see rock dust and
23 debris blowing out of the portals. And it just
24 sounded like jet engines at each portal. The air was
25 just gushing out of the portals.

1 Q. Okay.

2 A. And then you could hear the fan just making a real
3 bad --- my understanding, they said it reversed the
4 fan, stalled the fan out and reversed it, just make a
5 real dull sound. Because when you're sitting at the
6 mine there, you hear the fan all day and you kind of
7 just get immune to it. So when it makes a different
8 sound, automatically you know that it's not making the
9 right sound.

10 So it done that probably for three and a half,
11 four minutes. And then the fan just went back. It
12 was still making a strange noise, and then it just
13 went back to its normal sound. And the air quit
14 coming out, and like I said, it sounded like a jet
15 engine.

16 Q. And you estimated this went on for three and a
17 half, four minutes?

18 A. Yes.

19 Q. And if I understand you correctly, at the time
20 this occurred, you said you were attempting to call
21 the longwall section?

22 A. Yes, trying to get the 3:00 p.m. report.

23 Q. Okay. And the last time you had spoken to them
24 was about 2:30?

25 A. Yes.

1 Q. Okay. Now, when you last spoke to ---.

2 A. Well, I take that back.

3 Q. Oh, go ahead. I'm sorry.

4 A. I think I spoke to him about --- I want to say
5 about 18 minutes before 3:00 because they called out
6 the longwall later.

7 Q. That would be --- if my math is correct, that
8 would be 2:42 p.m.?

9 A. Yeah, that's probably right, yeah.

10 Q. Who called you at 2:42?

11 A. Rex Mullins.

12 Q. Rex Mullins. And he told you they were running?

13 A. Yes.

14 Q. Did he tell you anything else?

15 A. No. I'm sure he probably told me where the
16 shearer was at, they were running, going on the tail.

17 Q. You don't recall where he said the shearer was at
18 the time?

19 A. No. Again, I'd have to look at the report.

20 Q. I think you said earlier you thought it was around
21 midface?

22 A. Yes.

23 Q. Based on your experience, do you know how long it
24 would typically take to make a pass, again depending
25 on what speed you're running at?

1 A. I would say you could make a pass in probably 45
2 minutes, you know, if you didn't have any rock falling
3 out or downtime.

4 Q. Okay. During the shift of April 5th, did you
5 speak to anyone else in the longwall section other
6 than Rex Mullins?

7 A. No.

8 Q. Did the longwall foreman call out a pre-shift
9 examination report at any time on the afternoon of
10 April the 5th?

11 A. He might have called out to one of the fire
12 bosses. He wouldn't have called out to me.

13 Q. Okay. Who would the longwall foreman typically
14 have phoned his pre-shift report to?

15 A. I don't know that. Just some of the fire bosses
16 outside. You would have a couple fire bosses outside.
17 I don't know which one it would be.

18 Q. Did you ever take those reports yourselves?

19 A. No.

20 Q. 2:42, you heard nothing to indicate that there
21 would be a potential problem?

22 A. No.

23 Q. All right. At the time the explosion occurred,
24 you're in your office and you're attempting to call
25 the longwall, and it all happened, you look out. Who

1 was with you at the time?

2 A. Adam Jenkins, the dispatcher. That was all that
3 was in my office.

4 Q. Just you and Adam?

5 A. Yes.

6 Q. Okay. Who else was in the building at the time?

7 A. Gary May. Gary May is a superintendent for two of
8 the sections, and then Everett Hager is the
9 superintendent for the other two and the longwall. So
10 Gary May was on this side where I was located. So
11 it's Gary May, myself, Adam Jenkins, Berman Cornett,
12 Jim Walker, which is our safety director, and Rick
13 Foster, which is a mine foreman.

14 Q. Okay.

15 A. And I think that was all that was in the building.
16 There was some of the people outside, some of the fire
17 bosses. They was just kind of outside. There was two
18 or three fire bosses outside in our yard, supply yard.

19 Q. Did you see Mr. Chris Blanchard at the UBB Portal
20 area prior to the explosion?

21 A. No.

22 Q. Did you see him at any time shortly after the
23 explosion?

24 A. Not shortly after. I did see him that evening
25 probably 8:00 p.m. --- 7:00, 8:00 p.m., something like

1 that.

2 Q. You saw Mr. Blanchard at 8:00 p.m. on April 5th?

3 A. Sometime late day, yes.

4 Q. Okay. Where did you see him?

5 A. At the UBB Portal.

6 Q. Okay. Now, was he dirty at the time?

7 A. Yes.

8 Q. He appeared to have been underground?

9 A. He was, yes.

10 Q. Okay. You're sure it's around 8:00 p.m.?

11 A. Everything happened so fast. I was there so many
12 hours. I don't know. I just know it was late that
13 night.

14 Q. Okay. All right. Speaking of times, now, you're
15 in your office when the explosion occurred? What time
16 did it happen?

17 A. 3:03.

18 Q. 3:03. Now, what time piece did you base that
19 upon? What were you looking at that told you it was
20 3:03?

21 A. The clock on the wall. I mean, I was trying to
22 get my report, and if I don't get that report, I mean,
23 they're really hard on me if you don't get that report
24 on time. So I was on the phone scrambling underground
25 getting that report. So I knew I was going to be

1 late. And I kept looking at the clock, and at 3:03,
2 was when it --- when I jumped up.

3 Q. Okay. Can you estimate how long you were calling
4 for Rex? I know you've answered, but how long were
5 you calling before the explosion occurred?

6 A. Probably two or three times, something like that.

7 Q. How long --- when you were calling the longwall
8 section, how long does it typically take them to
9 respond?

10 A. Within --- well, it varies. Sometimes within 20
11 seconds. Sometimes it might be five minutes. It's
12 according to what he's doing because I know he's got a
13 job, he's going to take out --- I think he's got to
14 take out structure and turn things on, so he might not
15 be right there at the phone and he can't hear.

16 Q. Okay. Rex Mullins is the only guy you talked to
17 on April 5th?

18 A. Yes.

19 Q. After the explosion occurred, did you take any
20 notes, any written notes?

21 A. Yes.

22 Q. Okay. Where are those notes now?

23 A. I really don't know. I know the notes I took ---
24 the dispatcher automatically told me --- I told him, I
25 said, you need to keep your dispatcher's log. I said,

1 you know, don't lay that down nowhere because I knew
2 you would eventually be asking for them. So I took my
3 notes and my dispatcher's log, and I put it in the
4 cabinet and locked it up in my office.

5 Q. In your office?

6 A. Yes. Because Adam told him, he said he didn't
7 want nobody to have it but me. He said take it and
8 lock it up. So I locked it up. It's like three days
9 later MSHA come down, they wanted a copy of it. Well,
10 you know, they was there the whole time, but they just
11 wanted a copy of it, plus the Massey lawyers wanted a
12 copy of it. So we was letting MSHA make a copy of it.
13 And at that time Gary May, the superintendent, he said
14 I want those records, plus I want the dispatcher's
15 log. I told him, I said, Gary, I don't want to give
16 them to nobody, I said, I want to lock them up.
17 They've been locked up for three days, I don't want
18 them out of my hands. Adam was very adamant that he
19 didn't want nobody else to have them either. Well,
20 Gary's our boss.

21 Q. Sure.

22 A. So Gary said no, I want them, I want to lock them
23 up. So he takes them and locks them up.

24 Q. Okay. Now, did MSHA --- you said MSHA wanted a
25 copy of it?

1 A. Yes.

2 Q. Did MSHA get a copy of it?

3 A. Yes.

4 Q. Do you recall what MSHA person got a copy of it?

5 A. No.

6 Q. But the MSHA person got a copy of everything that
7 you gave to Mr. May; is that correct?

8 A. I don't know if he got a copy of my records
9 because every time I called someone, every time they
10 called out and was telling me what they actually saw
11 and what time it was, then I would write that down.
12 What time I called mine rescue, what time I called the
13 ambulances. I don't know if they got a copy of that,
14 but they did get a copy of the dispatcher's log. Like
15 I said, that was with ---.

16 Q. Okay. But at any rate, you gave all your notes
17 and all of Mr. Jenkins' notes to Gary May after three
18 days?

19 A. Yes.

20 Q. Do you know what Mr. May may have done with those
21 notes?

22 A. No. To start with, he come back to me and they
23 had lost them. I told him, I said, Gary, do you know
24 that you kept them for three days, you asked for them,
25 we gave them to you. Because there was some more

1 people in there questioning and wanting copies of the
2 dispatcher's report.

3 Q. Now, Mr. May told you he lost the notes?

4 A. He had locked them up in a locker back in the back
5 area of the offices upstairs. And he couldn't find
6 them.

7 Q. When you say that he lost them, you're convinced
8 that he misplaced them or they were stolen or ---?

9 A. No, there's a lock on the locker, so I guess he
10 might have misplaced them or that he might have let
11 somebody make copies and didn't get them back. I
12 don't know. I know later on they were found like days
13 later. But as far as where the copies is --- you
14 know, where the originals are, I don't know if
15 Massey's lawyers would ---.

16 Q. You did say they found the dispatcher ---?

17 A. Yes.

18 Q. Do you recall who found them?

19 A. Gary May.

20 Q. After he found them days later, do you know, what
21 did he do with them then?

22 A. No.

23 Q. Is it possible he would have turned them over to
24 Massey's attorneys?

25 A. I would think so, yes.

1 Q. So at this point, did you have a copy of the notes
2 you made after the explosion on April 5th?

3 A. No.

4 Q. Now, the notes that you turned over to Mr. May,
5 this is going to be redundant, I'm just trying to make
6 sure I understand, were the notes made by you and Adam
7 Jenkins after the explosion on April 5th?

8 A. Yes.

9 Q. Along with Adam's dispatcher's log?

10 A. Yes.

11 Q. Now, when the explosion occurred and you're
12 looking out your office window and you see dust and
13 debris coming out the different openings, what was
14 your initial assessment of what was happening?

15 A. To start with, I thought the overcast had failed
16 or stoppings blowed out or we might have had a roof
17 fall, change the air and short circuit the air and it
18 was just coming out. That's what my initial thoughts
19 were.

20 Q. At what point did you realize that it was
21 something more than that?

22 A. More than that?

23 Q. Yes, much more than simply a roof fall.

24 A. The CO monitors, they were all just like --- well,
25 it will show red if they were stopped, green if they

1 were running and grey if they're dead, that we've lost
2 communications. So when I couldn't get ahold of
3 nobody on the longwall and the CO monitors were
4 showing dead except for two belts that showed red,
5 which is stop, and the CO monitors were going off.

6 Q. All of them?

7 A. No, not all of them. So I said a lot of it wasn't
8 working. I guess the explosion took out some of the
9 cables. I don't know. I just know some of them
10 wasn't working. It wasn't even showing on the
11 computer, if it had taken everything off. I told
12 Adam, I said --- I had heard Adam give the mine ---
13 the section foreman the road outside, the guys that
14 was on the mantrip. And I heard him give him the road
15 to the Ellis Switch. And these two valve gauges, they
16 were showing high methane. I told him, I said, did
17 you just give him the road to the Ellis Switch, and he
18 said yeah. I said get ahold of him. I said, it's
19 unreal the COs is going off up there. And then I ---
20 that's when I looked at Gary, and I said I believe
21 this is major because he couldn't get ahold of the
22 track equipment that was traveling outside. We
23 couldn't get ahold of anybody else on other sections.
24 We got a light there and we turned the light on for
25 the sections. Didn't get ahold of anyone.

1 Q. All right. Now, you and Adam are in your office.

2 Where was Mr. May when the explosion occurred?

3 A. I guess he was in his office across the hall.

4 Q. What were his initial remarks? What was the first
5 thing you heard him say after the explosion occurred?

6 A. I don't know. Just guessing. I mean, he was
7 sitting there like, goodness, you know, what's going
8 on.

9 Q. Is it possible he said something like oh, Lord,
10 something bad has happened?

11 A. Possibly, yes.

12 Q. I say that because that was Adam Jenkins'
13 recollection.

14 A. I would say he probably did. Once the fan calmed
15 down and all the air quit coming out and we couldn't
16 get ahold of nobody, that's possibly what he said. I
17 mean, it sounds like Gary to me or, you know,
18 something that he would say.

19 Q. Okay. Now, as of April 5th, what was the UBB
20 procedure in place with regard to emergency
21 notification? What was your procedure in place? Do
22 you know what it was at time?

23 A. We have a procedure. You would try to get ahold
24 of the superintendent or, you know, can you have
25 access underground, the safety director. You would

1 call Chris Blanchard, the president, to let him know
2 if someone got hurt or, you know, a major roof fall.
3 And then you'd automatically call MSHA. Like, I know
4 you got to call within, I think, 15 minutes or
5 something like that to notify them.

6 Q. Do you recall who you made --- you personally made
7 the first call to? Who did you personally call first?

8 A. I think I called Lisa Williams. I spoke with
9 Chris Blanchard. I spoke with him.

10 Q. Before or after speaking to Lisa Williams?

11 A. I spoke with Lisa first.

12 Q. Okay. And then I spoke with Chris Blanchard, and
13 I don't know if that was after or before Gary and the
14 safety directors went underground. Because one of the
15 safety directors called Jonah Bowles, which is a
16 safety director for Massey also, and he notified MSHA
17 at that time. And then they went underground.

18 Q. Okay. So Gary May, Jonah Bowles, anyone else who
19 went underground?

20 A. No, Jonah Bowles was at Marfork. Berman, our
21 safety director, him and Jim Walker had spoke with a
22 gentleman about what we had seen. And I guess when
23 --- he was going to notify MSHA because he's the one
24 that notified MSHA.

25 Q. Jonah Bowles notified MSHA?

1 A. Yes.

2 Q. Okay. Did Mr. May go underground shortly after
3 the explosion?

4 A. Yes. Gary May, Rick Foster, Berman Cornett and
5 Jim Walker.

6 Q. That would have been at the UBB Portal?

7 A. Yes.

8 Q. Okay. Were they walking or riding?

9 A. They were walking. Gary took off walking and then
10 I think Jim Walker and Berman --- I think they took a
11 mantrip, because we was trying to get ahold of Gary
12 May to tell him, hey, you guys got --- I told Adam, I
13 said, tell these guys they need to stick together.
14 You know, this is something major. They need to stick
15 together. We don't need one over in the return or
16 intake and two or three of them get trapped. They
17 need to stick together.

18 Q. Now, when you first spoke to Mr. Blanchard, you
19 know, you called Lisa Williams and she put you through
20 to Mr. Blanchard, what did you tell Mr. Blanchard at
21 that point?

22 A. This is something that when it happened you do
23 things that you really don't remember and you said
24 things that you don't remember. And then later on you
25 sit back and you think about it, and it's just like a

1 big blur, the whole two weeks, until you got a day off
2 to just kind of relax and get everything out of your
3 mind. Over all this period of time, it's something
4 that you just kind of try to put out of your mind.

5 Q. Would you like to take a break, get some water?

6 ATTORNEY WILSON:

7 Let's go off the record.

8 SHORT BREAK TAKEN

9 ATTORNEY WILSON:

10 Go back on the record.

11 BY MR. FARLEY:

12 Q. Mr. Clay, I think when we left off, I inquired
13 about your conversation with Chris Blanchard. You
14 called him on April 5th after the explosion. And I
15 think I had asked you what you told him at the time.
16 Can you give us a sense of what you said to him?

17 A. I think I told him that we had no communications
18 going underground, couldn't get ahold of anyone, CO
19 monitors are going off. I told him about the fan and
20 the air coming out of the portals. And I think he
21 said I'll be right there.

22 Q. All right. After speaking to Mr. Blanchard, did
23 you call --- did you personally call anyone else?

24 A. No, not at that time. No.

25 Q. Okay. Did anyone call Chris Adkins?

1 A. I don't think. Nobody there at the mine. Lisa
2 Williams might have. I didn't.

3 Q. Okay. Do you know if anyone from the mine called
4 Elizabeth Chamberlin?

5 A. No.

6 Q. Do you know if anyone would have called Mr.
7 Blankenship?

8 A. Not at that time, no.

9 Q. Do you know what time Mr. Adkins and Ms.
10 Chamberlin arrived on site after the explosion?

11 A. It was late that evening. Elizabeth Chamberlin
12 arrived there late that evening. Chris Adkins arrived
13 there, I want to say, within an hour.

14 Q. Now, how did he arrive? Was he driving or
15 helicopter?

16 A. I think he was helicoptered in and then they
17 brought him over to Performance.

18 Q. Now, did Ms. Chamberlin arrive separately?

19 A. Yes.

20 Q. And you think she arrived after Mr. Adkins?

21 A. Yes. That's when I seen them. I mean, I ---.

22 Q. All right.

23 A. I don't know if they traveled together or not, but
24 that's when I seen Elizabeth Chamberlin was later.

25 Q. Whenever you saw them is all you can tell us.

1 Now, we discussed some notes that you made after the
2 explosion earlier. Now, after the explosion, during
3 the evening of April the 5th or into the morning of
4 April 6th, did you download any information from your
5 UBB office computer?

6 A. No, not after 2:30 p.m. ---

7 Q. Okay.

8 A. --- on the 5th.

9 Q. I'm sorry?

10 A. On the 5th.

11 Q. What about the 6th?

12 A. No.

13 Q. Any time after that?

14 A. No.

15 Q. You didn't download anything at all on disc?

16 A. No.

17 Q. Did you download any information from any other
18 computers at the UBB office other than the ones you
19 routinely used?

20 A. No.

21 Q. Do you know if anyone else might have?

22 A. Not that I know of.

23 Q. Now, I think you indicated the computer you used
24 at UBB is now in the possession of the FBI?

25 A. Yes.

1 Q. Okay. Do you know Tom Sheets?

2 A. Yes.

3 Q. What's his position at UBB?

4 A. He's an electrician. He mainly works on the CO
5 monitors.

6 Q. Did you see Mr. Sheets on April 5th?

7 A. I don't recall. I might have, but I don't ---.

8 Q. Is it possible that maybe you seen him the next
9 day?

10 A. Possibly, yeah.

11 Q. Now, following the explosion on April 5th or on
12 April 6th, the following morning of the following day,
13 did you participate in any meetings involving
14 Performance Coal management personnel, UBB Mine
15 management personnel or Massey Coal Services
16 personnel?

17 A. No meetings, no.

18 Q. Do you know if any such meetings were held that
19 you did not participate in?

20 A. No, not really. I mean, there's a lot of closed
21 door conversations. But as far as when you said
22 meeting, no.

23 Q. Do you know what time the command center might
24 have been set up following the explosion to facilitate
25 mine rescue exploration?

1 A. I mean, we was setting up a room that night. The
2 mine rescue has --- you know, I think Chris Adkins got
3 there before mine rescue, most definitely did, because
4 I was on the phone with a lot of getting them there.
5 And we got a phone in the superintendent's office.
6 It's a monitoring phone where you don't have to push
7 the page button. You can just talk and hear them
8 speaking without holding up the receiver. And at that
9 time, that's where Chris Adkins was, talking to the
10 people underground.

11 Q. Do you know who he was talking to?

12 A. Jason Whitehead and Chris Blanchard.

13 Q. Do you know where Mr. Blanchard might have been
14 calling from when he spoke to Mr. Adkins?

15 A. I know they was going to the longwall. When they
16 walked up on the mantrip where the guys --- where the
17 deceased was, they called out and that's whenever they
18 told me for ambulances. Rick Foster had called out
19 and said there's bodies everywhere. And I think I
20 might have called Chris ---- Chris Blanchard again at
21 that time. He hadn't arrived there at that time.

22 Q. He wasn't underground yet?

23 A. No. No, he was. You're right. I think I called
24 Lisa Williams because they was trying to get ahold of
25 Chris Adkins. He hadn't arrived yet. That's what it

1 was. When Gary and all of them went underground ---

2 let me rephrase this.

3 Q. Sure.

4 A. When they all went underground, the four guys that
5 I spoke of earlier, Gary, Rick Foster and the two
6 coordinators --- the safety coordinators, Rick Foster
7 called out to me and told me that there's bodies
8 everywhere. And Chris Adkins hadn't arrived there
9 yet. This was within, I want to say, 20 minutes. So
10 I called back, and that's when they was trying to get
11 ahold of Chris Adkins to get there. So then Chris
12 called me on the phone. And that's whenever I told
13 him, I said yeah, I said they had walked up to the
14 mantrip, and I said, they found bodies there. And
15 Chris said I'll be there in a few minutes. It was a
16 matter of a few minutes and he showed up. And then I
17 think I had called Lisa back, but Chris had already
18 left.

19 And then to my understanding, Chris and them was
20 there at the mantrip, Chris and Jason Whitehead,
21 because they took the mantrip and went out to the
22 other portal with the men.

23 Q. Okay.

24 A. And Wayne Persinger and Jack Roles, the
25 coordinator, they went underground trying to find out

1 what the problem was from the other portal. And I
2 could hear them on the phone talking.

3 And then when Chris Adkins arrived, that's when
4 they went in the superintendent's office where the
5 monitoring phone was, and that's when he was talking
6 to Chris Blanchard and Jason Whitehead, and they were
7 underground. And the men was coming outside on the
8 mantrip, and Jason and Mr. Blanchard went on towards
9 the longwall.

10 Q. Okay. Now, let me make sure I don't get confused
11 here. Was Adkins at UBB or Ellis Portal when he was
12 talking?

13 A. He was at UBB, here in my office.

14 Q. Okay. To Blanchard and Whitehead?

15 A. Yes.

16 Q. Okay. Can you estimate about what time?

17 A. That was 3:00 --- probably around --- somewhere a
18 little after 4:00 probably, somewhere around there.
19 Like I said, I wrote all this down when I talked to
20 him, like, when they walked up on the mantrip. When
21 they left outside, I wrote down the time and who went
22 underground. When they found the mantrip and they
23 called and told me to call the ambulances, that's
24 whenever I wrote that down. And then when they
25 started outside --- and then I heard Chris Adkins

1 talking to Jason Whitehead. Jason done most of the
2 talking and Blanchard was there with him. And that's
3 when they --- and at times, Blanchard would be on the
4 phone.

5 And they made it to --- I think they made it to,
6 like, the mother drive to where the longwall was and
7 they --- you could hear the monitor. I wasn't in
8 there, but I could hear the phone. And they found
9 more bodies, and they was experiencing some gas, and
10 that's when Chris Adkins told them --- he said, come
11 on out, don't be a hero, come on outside. So they
12 pulled back and came outside.

13 Q. Okay. Meaning Blanchard and Whitehead?

14 A. Yes. I don't know if anybody was with them.
15 That's the only two that I heard on the phone, was
16 Whitehead and Mr. Blanchard.

17 Q. But you heard Adkins instruct them to come
18 outside?

19 A. Yes, because they had come upon some more bodies.

20 Q. Okay. Now, you think this was in the location of
21 the mother drive?

22 A. Yes.

23 Q. Okay. Do you know how many bodies they had come
24 upon?

25 A. Just thinking back, it seems like I remember them

1 saying, like maybe three bodies. They had come upon
2 like three bodies.

3 Q. Okay.

4 A. Just thinking back, I think they were up on the
5 longwall. They didn't go to the miners section. They
6 was up on the longwall.

7 Q. Okay. And I think some of this information that
8 you are providing here, you detailed in the notes,
9 which you made, ---

10 A. Yes.

11 Q. --- which now are someplace?

12 A. Yes.

13 Q. At any time on April 5th or any time since, has
14 any UBB Mine management person, Massey Coal services
15 manager --- management person or Performance Coal
16 management person asked you in any way to destroy,
17 hide or make disappear any production reports from the
18 dayshift of April 5th?

19 A. Can you say, destroy, hide ---?

20 Q. Destroy, hide or make them disappear.

21 A. No.

22 Q. Did anyone ask you to do anything else with them
23 that I didn't describe?

24 A. I mean, don't volunteer anything. They tell me
25 not to volunteer anything.

1 Q. Okay. If I understood you correctly, all the
2 production reports, you would have entered onto this
3 Excel spreadsheet?

4 A. Yes.

5 Q. Okay. We know that Jason Whitehead was on the
6 site. Do you know what time he arrived and where he
7 came from?

8 A. I don't know.

9 Q. Okay. During the week preceding the explosion,
10 did you order any blocks that would be typically used
11 to build stoppings or seals?

12 A. Stoppings, yes. Seals --- they were building some
13 seals. I think that was around February. They had a
14 company in there pouring some seals. But as far as
15 did I buy blocks, I get probably five, six trailer
16 loads a week, you know, ordering them a couple times a
17 week.

18 Q. So this is common, then, blocks coming in?

19 A. Yes. But the seals was --- you know, that's not
20 something we build very often. But they went in there
21 in, probably, February.

22 Q. Okay. Back to the production reports that I asked
23 about, will we find in the production reports from
24 April 5th, 2010?

25 A. No.

1 Q. Now, the weekend prior to the explosion on April
2 5th, are you aware of any contract work being done in
3 the mine?

4 A. We had contract laborers, you know, the men ---
5 they would have been Stanley Contracting Company,
6 Mountaineer Labor.

7 Q. Okay. Stanley and Mountaineer contract laborers?

8 A. Yes.

9 Q. Concerning production reports, again, do you know
10 why we won't find any for April 5th?

11 A. Well, the guys didn't come outside, so they didn't
12 fill out their reports. The only thing you would have
13 is the call-outs that I would have. That's the only
14 thing pertaining to production on April 5th.

15 Q. Okay. I think Easter Sunday was --- it might have
16 been April 4th.

17 A. Yes.

18 Q. Prior to April 5th, 2010, what was your last
19 shift?

20 A. I worked that Thursday. I didn't work Friday,
21 Saturday or the Sunday.

22 Q. Okay. So you had a three-day weekend?

23 A. Yes.

24 Q. Do you recall any problems with CO monitors on
25 Thursday, April 1st?

1 A. No.

2 Q. Okay. On Thursday, April 1st, during your
3 conversations with the longwall section on that day,
4 they would have reported production or downtime every
5 30 minutes; correct?

6 A. Yes.

7 Q. Did anyone report any downtime or problems
8 associated with methane accumulation?

9 A. No.

10 Q. Did anyone report any problems associated with
11 ventilation problems from the longwall on that day,
12 Thursday, April 1st?

13 A. I know we've had some ventilation problems. But
14 as far as the downtime on April 1st, I couldn't say
15 without looking back.

16 Q. Okay. When you refer to ventilation problems,
17 prior to April 5th, can you recall a specific day when
18 there was lost production or evacuation of miners
19 resulting from ventilation problems?

20 A. Not on evacuation, no. But we have had downtime
21 due to ventilation, the lack of ventilation.

22 Q. Okay. Can you give me a time and place where you
23 had the downtime resulting from a ventilation problem
24 prior to April 5th at UBB?

25 A. I can't give you a date. February --- I mean,

1 there was some in February. No, I really couldn't
2 tell you. I mean, I save the reports. I mean, I
3 could look back on them if we had them. But as far as
4 giving you a date, no.

5 Q. All right. In your position as purchasing agent,
6 do the company president or mining superintendent or
7 mine foreman discuss any planned ventilation changes
8 with you in advance?

9 A. No.

10 Q. On April 5th, as you monitored the conversations
11 going on underground, particularly conversations
12 between Mr. Adkins and Blanchard and Whitehead, did
13 Blanchard and Whitehead relay any information at any
14 time suggesting how and why the explosion might have
15 occurred?

16 A. No.

17 Q. Okay. Did they make any mention of any recent
18 ventilation changes in their conversations with Mr.
19 Adkins?

20 A. No.

21 Q. Okay. We've come to find out that there were
22 numerous ventilation doors installed throughout the
23 UBB mine. Is that an accurate assessment?

24 A. Right, I bought several doors, a lot of doors.

25 Q. Okay. Can you recall how many doors you purchased

1 in 2010? Meaning --- when I say doors I mean
2 ventilation doors that would be installed in an airway
3 such as a track entry in lieu of using overcasts. I
4 don't mean man doors that people crawl through.

5 A. Right. I'm guessing probably 26. I'm just
6 guessing.

7 Q. During the calendar year 2010?

8 A. Yes.

9 Q. Okay. How about 2009?

10 A. I don't know. Several.

11 Q. Okay. Who would you have purchase the doors from?

12 A. Blizzard's.

13 Q. Okay. Now, are they a manufacturer of doors?

14 A. Yes. They're out of somewhere in Virginia,
15 Tazewell County, Virginia.

16 Q. Okay. Would your personal records at UBB have
17 reflected how many doors you purchased over a certain
18 period of time?

19 A. Yes.

20 Q. Okay. Are those records still available?

21 A. No. The FBI has them all the way back to 2006.

22 Q. Okay. Maybe they'll share it with me someday.

23 A. I'd like to have my records back to me myself.

24 Because every time you order a set of doors, whether
25 it's two or five, you know, the purchase order

1 reflects to what section and what area.

2 Q. Okay. Now, was the company, Blizzard, you used to
3 install the doors, too?

4 A. No. Our people installed the doors.

5 Q. Okay. Don't contractors usually install doors?

6 A. No --- I mean, we have at different times, but not
7 on these doors, you know, not likely. No.

8 Q. Whenever there was downtime --- I think it was
9 your downtime on the longwall --- I mean, it was your
10 duty to report this to the company president and, in
11 some cases, Mr. Adkins, even Mr. Blankenship; correct?

12 A. Yes.

13 Q. Were you ever instructed by any of those people,
14 Mr. Blanchard or Mr. Adkins or Mr. Blankenship,
15 anyone, to relay a message to any foreman underground
16 ordering him or her to do anything in particular?

17 A. Mr. Blanchard, yes.

18 Q. Okay. Did Mr. Blanchard ever ask you to relay
19 instructions to a foreman underground advising that
20 foreman to continue mining coal even though he might
21 have had a problem at the time?

22 A. He wanted them back in the coal as soon as
23 possible.

24 Q. Okay.

25 A. He never was happy with ---. If you said you was

1 going to be down in 20 minutes, he wanted you back in
2 the coal in 5 minutes. He never was happy with any
3 answers on downtime.

4 Q. Okay. Do you recall any instances where a foreman
5 may have called out to you and indicated, we're down,
6 we're not operating because we do not have sufficient
7 ventilation?

8 A. Yes.

9 Q. Okay. Do you recall having to report a
10 circumstance like that to Mr. Blanchard?

11 A. Yes.

12 Q. Okay. Do you recall what Mr. Blanchard's response
13 was under that circumstance?

14 A. He would say we was stupid, that the guys are
15 stupid, call up there and fire them. He wanted them
16 in the coal in a few minutes, don't come outside.

17 Q. Okay. Did he, in effect, tell you to order them
18 to resume production, regardless of circumstances?

19 A. No. He wouldn't say --- he'd say tell them to get
20 it fixed and let's get back on coal now, you know, get
21 them running.

22 Q. Okay. All right. And I guess you would relay the
23 message?

24 A. Right.

25 Q. You were describing a situation where you may have

1 heard a foreman call out and say we doubt there would
2 be sufficient ventilation. And you would relay the
3 message from Mr. Blanchard to get it fixed and get
4 back in the coal right away. Now, did you ever get a
5 response back from the foreman that I can't do that?

6 A. No.

7 Q. Okay.

8 EXAMINATION

9 BY MR. SHERER:

10 Q. To continue on with that same general question,
11 how often would that sort of circumstance come up?
12 Was it a common thing?

13 A. With the ventilation?

14 Q. Yes.

15 A. Here in the last, I want to say, three months,
16 we've had a lot of ventilation problems.

17 Q. Do you know if there was any specific thing that
18 triggered the number of ventilation problems? Did
19 they all happen, say, after the Bandytown fan came on
20 line?

21 A. No. I think a lot of our ventilation problem was
22 we had a lot of water, and I think that was --- like I
23 said, I'm not really involved in ---

24 Q. Sure.

25 A. --- the ventilation plans and all this. I just

1 take the reports.

2 Q. Yeah.

3 A. And my understanding is from the water --- and
4 they just kept saying, there's no way that this
5 ventilation plan is going to work. Something about
6 the Headgate 22 Section and the longwall air, just it
7 wasn't going to work.

8 MR. SHERER:

9 Thank you. We appreciate these things.

10 You may not have been directly involved in them, but
11 any information helps us at this point in time.

12 EXAMINATION

13 BY ATTORNEY WILSON:

14 Q. You said they kept saying the ventilation plan
15 isn't going to work.

16 A. They would be the superintendent, some of the
17 longwall people because they would say they didn't
18 have any air at times. Dean Jones was one of the guys
19 that was a fatality. Dean said they never had any air
20 on that section.

21 Q. What was his position?

22 A. He was the foreman on the section.

23 Q. On the longwall?

24 A. Yes. No, no. He was on Headgate 22 Section. I'm
25 pretty sure it was 22.

1 ATTORNEY WILSON:

2 Thank you.

3 RE-EXAMINATION

4 BY MR. SHERER:

5 Q. You spoke before about the fan making a tremendous
6 noise and the fan reversing. Do you know if anybody
7 went to the fan and had to reverse the blades and get
8 it back on its normal function?

9 A. I'm just saying that was --- everybody was talking
10 about it stalled out. I'm not saying --- I don't know
11 if it reversed. Several people said the fan --- it
12 reversed. As far as me knowing it reversed, I don't
13 know. I just know it did some noise where it just
14 sounded like a loud humming noise.

15 Q. Have you heard or did you see like an electrician
16 go over to the fan after the fact?

17 A. No, I didn't see any.

18 Q. The tons that came out of the mine, how were those
19 measured? Were there belt scales?

20 A. Yeah, there were belt scales right before it goes
21 into ---.

22 Q. Okay. Are there any scales further up in the
23 mine?

24 A. No, not that I know of. No. And then we have the
25 other portal where the longwall comes across the road,

1 and there's belt scales on there on that portal also.

2 Q. Okay. Where would the records for those belt
3 scales be kept?

4 A. Okay. The belt scales where my office is, those
5 scale records are normally in the room next to me
6 where the CO monitor is and the silo, show me how you
7 start and stop. And those are gone now. As far as
8 the belt scales for the longwall coal at the Eunice
9 Portal, as I call it, a lot of them says Ellis Portal,
10 but we call it the Eunice Portal. I guess Marfork
11 Coal would keep those records.

12 Q. Okay. You pretty much kept up with what the
13 longwall was doing. Over the week or so prior to the
14 explosion, did it appear to be operating normally?

15 A. Yes.

16 Q. Okay. Are you aware of how the longwall performed
17 --- you said your last shift was Thursday. What would
18 that be, the 1st?

19 A. The 1st.

20 Q. Do you know or are you aware of how it performed
21 on the 2nd and I think it also operated on the 3rd?

22 A. Yes.

23 Q. Was that about normal?

24 A. Right. The longwall, it ran seven days a week.

25 Q. Are you aware of any excessive downtimes during

1 those two days?

2 A. No.

3 Q. Are you aware of any problem with the ventilation
4 during those two weeks?

5 A. No. There was rumors of that, and I went back to
6 pull the reports for those days and they wasn't there.

7 Q. Okay. Who kept up with the longwall reports while
8 you were off those two days?

9 A. The dispatcher.

10 Q. And he was ---?

11 A. At that time, it was Adam Jenkins. They rotate
12 shifts, so I don't know if Adam was working that
13 weekend or not.

14 Q. Okay. Thank you. You mentioned that you
15 purchased --- you've purchased a lot of doors
16 recently. Do you know roughly how many of those doors
17 were used for, say, new construction versus how many
18 were used for replacement?

19 A. No. Gary May, you know, you would have to talk to
20 him on that. I don't know.

21 Q. Okay. Sure. What about rock dust? Are you
22 involved with purchasing rock dust?

23 A. Yes.

24 Q. Is there some set quantity that you purchase, or
25 do you get requests from, say, the production people?

1 How does that work?

2 A. We have a --- Massey has a formula on roof bolts,
3 rock dust, pinner bits. You estimate what you're
4 going to run for that week, and you plug it into this
5 formula that tells you what you actually should buy.
6 Just like bolts, they say we're supposed to use one
7 bolt per foot.

8 Q. Okay. Sure.

9 A. Or 1.1 bolts per foot. It never worked out.
10 That's what they want you to buy, but you can adjust
11 it for your location just like we do a lot of rib
12 bolts and things like that, so you can just bolt in
13 different places. So ours is like 1.3 bolts per foot.
14 Rock dust is the same way. We had a formula, it's
15 like maybe --- it was like 0.2 on our scale for every
16 foot you mined. If it didn't work out --- if I looked
17 out in the yard and I ordered what they recommended,
18 then I looked out and I seen we only had like four
19 bags of the rock dust left, I'd automatically go ahead
20 and order that.

21 Q. Okay. Sure. And did you typically order more or
22 less than the formula would predict?

23 A. More.

24 Q. Okay. Have you noticed that that has varied over
25 the past month or so prior to the explosion?

1 A. No, I mean not --- no.

2 Q. Okay. So just about normal?

3 A. Yes.

4 Q. You mentioned that you kept up with bags of rock
5 dust. Did you also keep up with the bulk type dust?

6 A. Yes. Now, we didn't buy that much bulk dust. Our
7 dusters was done, and at times they would have crews
8 that that's all they did was rock dust, with the track
9 dust with what I call the tanker dust.

10 Q. Sure.

11 A. And for a long time we didn't use tanker dust
12 because the rock duster was done. Plus we didn't have
13 people to actually do the job.

14 Q. So they would just use the bag dust?

15 A. The bag dust and then the one-ton super bag dust.

16 Q. Okay. Did you increase the purchase of the bag
17 dust while the bulk duster was done?

18 A. Yes.

19 Q. Do you think that it is roughly the same amount of
20 dust?

21 A. I would say we used less at that time than what we
22 would have if we had the track duster.

23 Q. Okay. Sure. Are you qualified to run the AMS
24 system, or atmospheric monitoring system?

25 A. Yes.

1 Q. And that's diving into the CO monitors you were
2 speaking about?

3 A. Yes.

4 Q. When was the last time you were trained on the
5 system? Do you recall?

6 A. No, I don't recall. I think we do a retraining in
7 like March, April. I would say within the last four
8 months prior to this we was trained on it.

9 Q. What about do you have any underground --- you
10 mentioned that you don't go underground much. Have
11 you been to all the production sections recently?

12 A. No.

13 Q. Have you been to any of the production sections
14 recently?

15 A. Not recently.

16 Q. When was the last time you went to a production
17 section?

18 A. Probably three years ago.

19 Q. Okay. Are you familiar with the evacuation plan
20 at Upper Big Branch?

21 A. Not really. I don't go underground. No, we have
22 sheets --- I got them on the computer and I print them
23 out and have them in different locations. As far as
24 --- I mean, I know, but I really couldn't tell you the
25 steps and who does what. I would have to look at

1 that.

2 Q. How about emergency response plan?

3 A. I mean, I know if there's an emergency, who I
4 notify. But as far as underground, who they notify,
5 no.

6 Q. Are you a responsible person?

7 A. No.

8 Q. Do you know who is or was the responsible person?

9 A. Yes.

10 Q. And who is that?

11 A. At that time it was Gary May. On our side, it was
12 Gary May and Rick Foster. And a lot of times, they'll
13 put an electrician on there as a responsible person.
14 Rick Nicolau, he was --- that's the dayshift list.

15 Q. Do you know who was the responsible person at both
16 portals at the time of the accident?

17 A. Yes. On our side, it was Gary May, Rick Foster
18 and Rick Nicolau. At the other location, it was
19 Everett Hager. I can't think of the other guy's name.
20 I wasn't around him that much. He was the mine
21 foreman. I don't know his name. Terry --- I can't
22 remember.

23 Q. If you remember, let us know. Everyone has
24 different ways to keep up with what needs to be done,
25 and how did --- how was that done at UBB? Was there

1 some sort of work orders, or was there a whiteboard
2 or ---?

3 A. We had whiteboards. You had p.m. sheets for
4 maintenance. That was faxed in from the Massey
5 coordinator, basically the same on that.

6 Q. Sure.

7 A. And then you had whiteboards that told who took
8 care of what belt, what section.

9 Q. And where were those whiteboards at?

10 A. Excuse me?

11 Q. Where were those whiteboards located?

12 A. Okay. The superintendent had whiteboards in his
13 office, plus in the very back, what we call the fire
14 boss room, there's whiteboards back there and
15 different people's sections and what belt. Terry
16 Moore was the mine foreman on the other side.

17 Q. Okay. Thank you. On April the 5th, did you
18 notice anything on any of those whiteboards that
19 seemed unusual?

20 A. No.

21 Q. It was just the standard sort of things?

22 A. Well, I really never looked at them because I'd
23 come through the office, but as far as my name wasn't
24 on there, so I never paid any attention.

25 Q. You didn't have to any of those?

1 A. No.

2 Q. Okay. Thank you. What about floor heaves? Have
3 you heard anything about floor heaves?

4 A. No.

5 Q. Floor hooves some people call it.

6 A. No.

7 Q. Thank you. You mentioned that you were told not
8 to volunteer any information. Do you recall who told
9 you that?

10 A. Some of the Massey lawyers.

11 Q. Okay. So you spoke with the Massey lawyers?

12 A. Everyone there has.

13 Q. Okay. Are you familiar with Wright Concrete
14 Contractors?

15 A. That's the people that done the seals that we
16 spoke of earlier.

17 Q. Okay. And that was roughly in February. Do you
18 recall where those seals might have been billed?

19 A. No. I mean, it's notated on my purchase orders,
20 but no.

21 Q. Okay. When state or federal inspectors came on
22 site, do you know if that information was ever relayed
23 underground?

24 A. At different times, yes.

25 Q. Okay. How was that done? Or did you use code

1 words or ---?

2 A. No, I don't know.

3 Q. Have you ever relayed that information
4 underground?

5 A. I really don't want to answer that.

6 Q. Okay. Do you know if the mine ventilation was
7 adequate at all times?

8 A. Well, with the longwall calling out and telling us
9 they was done on ventilation, no. But as far as
10 that's something that, you know, I'm involved with,
11 I'm just relaying what they tell me.

12 Q. Sure. Do you know if ventilation changes were
13 commonly made at that mine?

14 A. As far as common, I mean, yes, we do ventilation
15 changes, I do know that. You know, I hear ventilation
16 changes.

17 Q. Was it every --- when would you hear about it,
18 every month, every week?

19 A. It varied. I mean, you might hear --- I mean,
20 they'd make a ---. Somebody wouldn't have enough air
21 in one section, they'd go down, they'd call a
22 regulator or just knock a block out or something.

23 Q. Sure.

24 A. I mean, that was done. It was common practice.

25 Q. Sure.

1 A. You would hear of that probably --- that was a
2 weekly thing, I'm sure.

3 Q. Okay. When they did that, was --- when did they
4 do it? Do you recall? Would they do it between shift
5 changes or ---?

6 A. I guess that would vary.

7 Q. Okay.

8 A. I would say it was done probably --- you're in
9 production, too, because they'd call up and you'd hear
10 them say, is your air better?

11 Q. Okay.

12 A. That's just me hearing things.

13 Q. Sure. Yeah, that's all you can do for us.

14 A. I know they made a ventilation change, they was
15 going from like sweep air to split air, and I think
16 the inspector went up on the section. I mean, you all
17 probably have records of those, where we got a
18 violation for them making the air change. Mr.
19 Blanchard told them to change the air. And I think
20 that was a D order, and they said they was going to
21 have to stop production on account of this. So Chris
22 said, we'll just change it back so we can get it back
23 to running. He was real mad about them having us down
24 for changing the air. And they said, well, if you
25 change it back, it will just be another D order.

1 Q. Sure.

2 A. So that was during production time hours.

3 Q. Have you ever heard of any mining taking place
4 without the ventilation curtains in place?

5 A. I know the inspector walked up on the section and
6 seen a curtain with nothing, us getting violations.
7 But as far as me knowing that they was doing it, no.
8 I don't know. I know it has happened.

9 Q. Sure. Have you ever heard of anyone tampering
10 with a methane monitor so it wouldn't read out the
11 correct data?

12 A. No.

13 Q. Every bridging out a methane monitor?

14 A. No.

15 Q. Okay. What about the miners that --- do you know
16 of any miner that's ever expressed any problems with
17 the conditions underground or safety concerns, how
18 would they handle that? Would you have some means to
19 sort of report problems like that?

20 A. The fire bosses would talk to the miner foreman or
21 the superintendent. Then they tried to correct
22 whatever it was, and you know, they would log it in
23 their books.

24 Q. Okay.

25 A. But it was relayed to the foreman or the

1 superintendent.

2 Q. Okay. What about individual miners? Are you
3 aware of any that ever made like a complaint about
4 safety or expressed some reservation, didn't want to
5 work in a particular location, anything like that?

6 A. I never heard myself. I never heard anybody ---
7 nobody come and told me that.

8 Q. Okay. Sure. Have you heard any rumors about
9 things like that?

10 A. I have heard rumors, yes.

11 Q. Do you know if these people were ever
12 discriminated against or any sort of bad consequences
13 or retaliation for making those expressions?

14 A. No.

15 MR. SHERER:

16 Okay. Thank you. That's all the
17 questions I've got.

18 RE-EXAMINATION

19 BY MR. MCGINLEY:

20 Q. Let me ask one follow up. You were talking about
21 purchasing rock dust.

22 A. Uh-huh (yes).

23 Q. Could you explain the process, how you would go
24 about purchasing the rock dust?

25 A. I mean, all that's on corporate contract. All I

1 got to do is pick a phone up and make a phone call
2 and, I mean, it's there the next day, if not the same
3 day.

4 Q. So you would just call the company directly and
5 ask them?

6 A. Yes.

7 Q. So you didn't have to get that approved by anyone?

8 A. Oh, no, it had to be approved.

9 Q. Well, that's what I --- yeah, that's part of that
10 process.

11 A. What you do is on Monday, you set up what you plan
12 on running for the week, punch it in. The foreman
13 would calculate how many tons of rock dust you should
14 buy for that section, and I always got 21 ton per
15 trailer load. So if I needed 18 tons, I'd always bump
16 it up to 21. You can go ahead and write in and why
17 you ordered 21 tons instead of 18 tons. And I'd
18 always put there, you know, the truck's 21 tons.
19 There's no use sending a truck down here half empty.
20 It's not going to go bad. We're going to use it. On
21 roof bolts, if I done that on roof bolts, a lot of
22 times Mr. Blanchard would put on there, you know, no,
23 don't buy them. You order what formula it says.
24 Because originally, like I said, it was supposed to be
25 1.1 bolts per foot, but ours is always 1.3. So that

1 gives us a bump, a few extra. But I'd always log on
2 there, you know, we're spot bolting or redoing an
3 intersection or something like that. A lot of the
4 times he would approve of it. Sometimes he wouldn't.

5 Q. But what about on the rock dust, when you would
6 bump that up, would that have to be approved by Mr.
7 Blanchard?

8 A. Yes.

9 Q. Did he ever deny the extra rock dust?

10 A. No. No, not the rock dust.

11 Q. What other examples of things that you had on a
12 purchase order that Mr. Blanchard would say no?

13 A. Pinner bits, resin, roof bolts, light gloves.
14 Everybody's got to wear the gloves. He'd say, you
15 know, we're using way too many gloves. Mainly just
16 roof bolts and resin and pinner bits.

17 Q. Did you order wading boots?

18 A. Yes.

19 Q. How many of those did you order?

20 A. Not very many. A lot of those was denied. Some
21 of the guys would ask for waders and he would deny
22 those.

23 Q. Why did they ask for them, do you know?

24 A. I would say where they're setting pumps and
25 working in water. The longwall was in a lot of water.

1 That's a lot of our downtime was water, and it'd be so
2 deep that the sheer couldn't go through it, and they'd
3 be up there working. I can recall the dog bones on
4 the excavator, keeps the face connected. They would
5 break and we'd have to --- the water'd be up over the
6 back boards. I've asked for waders and things like
7 that to work in to change different things.

8 Q. Did the water ever cause discontinuation of the
9 operation on the longwall?

10 A. Yes. We was down for line a couple weeks at one
11 time due to water.

12 Q. Do you have any ballpark estimate of when that
13 would have been in the five years?

14 A. Oh, it's been within the last four or five months
15 because we had bad water problems, and that would have
16 blocked off the ventilation. It roofed out, the water
17 had.

18 Q. Is that on the tailgate section or the ---?

19 A. I want to say that ---.

20 Q. Behind the longwall?

21 A. Excuse me?

22 Q. Is that behind the longwall, the tailgate?

23 A. That would be their intake to the longwall and the
24 miners section.

25 Q. That's where that roofed out?

1 A. Yes.

2 Q. So how did that impact on --- what was your
3 understanding? I know you're just hearing these
4 things, but what was your understanding of how
5 adjustments were made in the ventilation to account
6 for that?

7 A. Well, what the foremans done was they actually
8 shut the mines down, shut production down to pump the
9 water. And once they got the water down, ventilation
10 improved and that's when they started back up. And
11 then like I said, we had --- on the face of the
12 longwall had water problems there. And they'd wait
13 'til --- you know, they'd mark it, and the water got
14 down so low that they could run. And it would run
15 back up above the mark, and then we would have to shut
16 back down.

17 Q. So if Mr. Blanchard was upset about the longwall
18 being down, if he was told it would be down 20 minutes
19 and he would run in five, this must have caused a lot
20 of consternation in he and others. The management
21 must have been upset about that.

22 A. Absolutely. The men and the management part of it
23 was. They were just like, you know, you don't
24 understand. He needs to go up there and look at it.

25 Q. When you say he, you mean Mr. Blanchard?

1 A. Mr. Blanchard.

2 Q. Did he ever go look at it?

3 A. Yes. He was on the section several times.

4 Q. What were the men saying needed to be done? More
5 pumps?

6 A. More pumps, which we had several pumps on the
7 longwall face. And if the water got backed up, even
8 with these pumps, he would just be upset that we
9 wouldn't run, we weren't running.

10 Q. He must have been very upset.

11 A. Who, Mr. Blanchard?

12 Q. Right.

13 A. Oh, yes. Every day.

14 Q. Mr. Adkins, did he get involved, to your
15 knowledge, with regard to those water problems?

16 A. I spoke with him on the phone. That's when I had
17 to start e-mailing the reports to Mr. Adkins every
18 day. He never called and like told me that, you know,
19 everybody up here is stupid, you know, bring them
20 outside, fire them all. No. He understood that Mr.
21 Blanchard never did.

22 Q. So that was sort of a constant refrain of Mr.
23 Blanchard, when the longwall would be down, for
24 example, with these water problems, you know, these
25 men are stupid, you know, fire them?

1 A. Right.

2 Q. And did he want you to say that to them?

3 A. Yes.

4 Q. And did you say that to them, or something to that
5 effect?

6 A. Yeah, because I felt so bad because I always felt
7 like if it weren't for those guys underground, I
8 wouldn't have a job.

9 Q. Sure.

10 A. They created my job.

11 Q. Right.

12 A. And you know, I respect those guys, and you know,
13 I come up there and say, you know, I really don't want
14 to tell you what he said, but he wants you to stay in
15 the coal for five minutes. He's not happy.

16 Q. Right. And you knew they were asking for pumps
17 and they were asking you for waders, and they weren't
18 getting them?

19 A. No, the pumps, we were, yes. The waders, there
20 was different times that the waders was denied. And
21 there was different times that the guys would work in
22 water and they'd be in their boots and it would just
23 ruin their boots and he would get mad at that.

24 Q. Did you hear of times when guys would be --- the
25 water would be up to their waist or up to --- even to

1 their neck?

2 A. Their neck, I don't know, but up to their waist,
3 yes. I mean, these guys, the water would be --- when
4 you say up to their neck, I'm sure it was because the
5 dog bone broken on the excavator, that's right on the
6 ground, on the floor. And these guys had to work
7 basically over water to check the stuff out.

8 Q. So with regard to the entries roofing out with
9 water, did that go on for a long period, a couple
10 months?

11 A. Yes.

12 Q. Was it like that on April 5th?

13 A. No.

14 Q. Did there come a time when they were able to pump
15 that water down so the air wasn't roofed out?

16 A. Like I said, production ceased at that time. They
17 shut it down to pump this water, to get things right.
18 I'm saying this is like a two-week period that they
19 was down pumping water.

20 Q. Sometime in the last five months before the
21 explosion?

22 A. Right.

23 Q. And you recall they excavated a sump by the
24 Bandytown fan at some point to try to deal with the
25 water?

1 A. I really don't know what the procedure was.

2 Q. With regard to the doors that you ordered, there
3 were quite a few. I think you said 20-some?

4 A. Probably, yes, 26.

5 Q. Twenty-six (26). Did somebody tell you what doors
6 to order? I mean, there are lots of different types
7 of doors of this nature.

8 A. They would just tell me the dimensions and tell me
9 what's wrong. Gary May would. He's the mine
10 superintendent on our side. And Everett Hager would
11 call me from the other side for me to order doors for
12 him. We supplied from the UBB Montcoal Portal.

13 Q. I see. For both sides?

14 A. Yes.

15 Q. And so when they would want you to order them
16 would they tell you what --- anything other than
17 dimensions?

18 A. No, because everything is on contract. They would
19 tell me if it was a man door or, like you said, an
20 airlock, equipment door or whatever.

21 Q. So what you're saying is that everything is on
22 contract, the type of door that you order would
23 already have been determined?

24 A. Yes.

25 Q. Did you know there are different types of doors?

1 There's a range of expense in terms of the kinds of
2 doors that are available, airlock doors?

3 A. I mean, airlock doors, you just have the
4 dimensions on the contract and that's what you was
5 told to order.

6 Q. I understand. Were these automatic doors or did
7 that --- did you order the mechanism for automatic
8 doors?

9 A. Some was, yes, electrical or hydraulics in the
10 screw jacks that opened the doors. Some of them was
11 manual.

12 Q. Did you know some of those automatic doors didn't
13 work in the mine and men had to get out and open and
14 close them?

15 A. I've heard them say that, yes.

16 Q. Did you hear them say that some of them just
17 wouldn't close?

18 A. I've never heard them say that. I knew that they
19 had to get out and open a lot of the doors.

20 Q. Of those 20-some doors that you ordered in 2010,
21 had any of them been installed?

22 A. Yes.

23 Q. How many? Just a rough estimate if you have any
24 sense.

25 A. I probably had, probably five, six on the yard, so

1 probably 15 sets.

2 Q. And were they ordered as needed or --- what you've
3 been saying is there's sort of a formula, maybe not a
4 formula for doors, but there's a budget, so were you
5 just ordering them when on one side or the other the
6 superintendent would call and say we need them?

7 A. Yeah. I just ordered those as needed. That
8 wasn't something that I had to get if there wasn't a
9 formula. I'd type them up on requisition and send
10 them to Mr. Blanchard and he'd sign up on them.

11 Q. What's the delivery time from Virginia?

12 A. I could order a set of doors today and I could
13 possibly have them tomorrow. It might be two days,
14 according to how many you ordered.

15 Q. The ones that were in the yard when the explosion
16 took place, how long had they been sitting there
17 waiting to be installed? Do you have any sense of
18 that, I mean, just a rough estimate?

19 A. A week. Probably a week.

20 Q. So if I understand you correctly, I'm going off
21 of, I think, what you'd already answered, but just to
22 get in my mind correctly so the record reflects it,
23 the longwall was shut down on the Thursday before
24 Easter; is that right? It didn't run?

25 A. I'm pretty sure it ran.

1 Q. It ran through. When did it stop or did it stop
2 through the weekend?

3 A. Through the weekend? I don't know. I've never
4 seen a production report. Like I said, some of the
5 people was talking about they had ventilation
6 problems, so I went back to where we keep the old
7 reports because we've got them stacked in for the
8 daily reports one right after another, and they wasn't
9 there. Somebody had got them all.

10 Q. You mean the production reports?

11 A. Yes. There was no production reports there for
12 the Friday, Saturday and Sunday before the accident.

13 Q. But do you have any reason to think that they
14 weren't producing on those days? I mean that they
15 weren't regularly scheduled production days?

16 A. No, no, they was regular production days. They
17 would have worked.

18 Q. Both shifts?

19 A. Yes.

20 Q. And you said somebody --- there were people
21 talking about they had ventilation problems then so
22 you went to look?

23 A. Right.

24 Q. Who was talking about that?

25 A. I don't really remember who it was. I mean, it

1 just come up in conversation. I was like, well, I'll
2 go back and see what they ran and see what the problem
3 was. And as far as who, just some of them were
4 talking, you know. You got a group of men talking,
5 you know, they say ventilation problems, I don't
6 recall who it was.

7 Q. When would that have happened, if you have ---?

8 A. When did it happen?

9 Q. After the explosion we're talking about; right?

10 A. No, this was that Monday.

11 Q. Oh, okay.

12 A. It was Monday during the shift.

13 Q. Was it in the evening? Do you have --- I
14 understand ---.

15 A. It's the morning before the accident.

16 Q. Oh, before the accident?

17 A. Yes.

18 Q. And they weren't there?

19 A. No, I was there ---.

20 Q. No, no, no, the reports weren't there.

21 A. No. That's the reason I went back --- they was
22 talking about it so I went back to the reports and I
23 heard some of the guys talking that they had
24 ventilation problems. So I went back to the reports
25 to see what they ran because a lot of times upper

1 management will call and say well, what'd we run this
2 weekend? So you know, I'd want to notate that so ---
3 Q. You'd be ready.

4 A. --- I'll be ready for it. And they'll ask what
5 was you down for, so --- but nobody called and asked.

6 Q. So at least there were some folks there that you
7 were working with there in the office that thought
8 there were ventilation problems over the weekend,
9 Easter weekend?

10 A. Yeah, it was some of the workers. It wasn't the
11 office personnel. It was some of the men. See, a lot
12 of the men comes upstairs and they'll go by and look
13 at the board. And then you'll have different men that
14 just works on like roof bolters, they'll come by and
15 just hey, how you doing and things like that. So just
16 people coming through.

17 Q. Sure. So whose offices were in that building, all
18 the fire bosses?

19 A. Yes. All the fire bosses, all the maintenance,
20 the superintendent, mine foremen, everybody's office.

21 Q. Management?

22 A. Yes.

23 Q. You said --- did you know Dean Jones pretty well?

24 A. Yes.

25 Q. I have it in my notes, you said that he was

1 constantly or frequently saying he didn't have enough
2 air?

3 A. Right.

4 Q. He was on the longwall Headgate 22 Section; is
5 that right?

6 A. Yes.

7 Q. Over what period of time, if you recall? And
8 again, I'm not trying to pin you down to anything.

9 A. Probably within the last six months.

10 Q. This was an ongoing, constant ---?

11 A. Four to six months, yeah.

12 Q. Did he seem dismayed about that?

13 A. Oh, yeah. Dean was very concerned about it.

14 Q. Do you know his brother?

15 A. I just know him by name.

16 Q. Would you expect him to have written down in the
17 pre-shift reports these lack of air problems?

18 A. I would think. I guess. I didn't have a lot to
19 do with the miners section. I never looked at the
20 reports on the miners section.

21 Q. I understand.

22 A. I looked at the footage they ran, but ---.

23 Q. Do you think there was any reluctance to report
24 those sorts of problems? I mean, in writing. I'm not
25 --- reluctance to report them to their supervisors but

1 to call out and say we don't have enough air?

2 A. I would say he --- at times he probably would have
3 called out and tell the --- it wouldn't be on his
4 report, no. On the report that they would call in
5 every three hours, no.

6 Q. But that would ---?

7 A. That might be something he would discuss with the
8 superintendent or the mine foreman or even Chris
9 Blanchard. But I know different times he did
10 discussed it with Chris Blanchard and Dino would say
11 he told them, you know, if he can't go up there to run
12 coal, just bring your bucket outside and go home.

13 Q. That must have been fairly upsetting to Dean
14 Jones?

15 A. I'm sure it was.

16 Q. We've heard other testimony. He was really a
17 caring guy, concerned about his men working.

18 A. He worked as hard as anyone, if not more.

19 Q. You said if the longwall had unusual problems, you
20 were to e-mail Chris Adkins and Mr. Blankenship
21 directly on occasion?

22 A. Yes, on occasion.

23 Q. How would you --- would you give them details of
24 those problems or a shorthand --- how would you do
25 that, or how would they expect you to do that?

1 A. I put the downtime and then just a brief detail of
2 what the problem is, how they was going to correct it
3 and then estimate a start time.

4 Q. Then would --- if the estimated start time was an
5 extended period, would they expect to get a call?

6 A. Oh, absolutely.

7 Q. Did Mr. Blankenship ever call?

8 A. No, Mr. Blankenship.

9 Q. Mr. Adkins?

10 A. No, Mr. Blankenship. Sometimes Mr. Adkins, but
11 --- he would comment about it --- Chris Adkins would
12 comment about it, but it wasn't a negative comment.
13 It was like, boy, they must be having big time trouble
14 getting this and this done. It was never a negative.
15 He was always professional, I felt.

16 Q. Did Mr. Adkins ever comment about the water
17 problems and the downtime they had because of the
18 water?

19 A. I really --- at that time I didn't talk to him a
20 lot, it was just e-mails. He didn't really discuss
21 the water problem with me.

22 Q. Did you have any sense that either Mr. Blankenship
23 or Mr. Adkins were in contact with Mr. Blanchard and
24 saying, you know, we got to get production going here
25 when you had these unusual problems like the water

1 problem shutting down the longwall for a couple weeks?

2 A. Well, one of the discussions I had with Mr.

3 Blanchard was, I mean, he had knowledge weeks before

4 this, because he would just call over there and just

5 cuss and, you know, tell me, tell them guys to get the

6 coal, we got to get running. It got to the point

7 where I'd reach for the phone --- we got caller ID.

8 I'd reach for the phone and my hand would shake. I

9 mean, I was just --- it was --- I was at the end of my

10 rope almost. And he come in my office one day and I

11 discussed it with him. And he said, hey, Greg, he

12 said, you know, I don't mean this directly towards

13 you, but you ought to e-mail me, too. I said, well, I

14 understand that. And he'd always say that the guys on

15 the section was lying to him about their downtime. He

16 said, they're lying to me. And he would even say, are

17 you lying to me, Greg?

18 I said, Mr. Blanchard, I'm giving you the message

19 directly of what they said, it was their exact words.

20 And it was every day. He said, well, you know, they

21 lied to me. I said, well, you got a problem there.

22 If they're lying to you, you've got a problem there.

23 But as far as me knowing they were lying, I'm not

24 underground, I couldn't tell you. I'm telling you

25 what they --- you asked me a question, I ask them,

1 they give me an answer, I'm giving you an answer. I
2 don't add to it, I don't tear it away.

3 Q. So he's saying I've got a lot of heat on me, how
4 did you interpret that?

5 A. Upper management above him.

6 Q. So when you were going through this, obviously it
7 was really stressful. So on April 5th when you didn't
8 get a call from the longwall --- when did you expect
9 that call, at exactly 3:00?

10 A. We always try to get it a few minutes before 3:00.

11 And I would wait until 3:00 or 2:30 --- I always try
12 to get it like five minutes, at least five minutes ---
13 well, anywhere from five minutes to the half hour.

14 And if I didn't get it, then probably two minutes 'til
15 3:00 or three o'clock I would start calling. Because,
16 you know, the reports is not the only thing I did, you
17 know. I might have two or three vendors, receivers.
18 I might be working on that and I'll look up and I'll
19 say, oh, gosh, I'm two minutes late.

20 Q. And did that have consequences?

21 A. Oh, absolutely.

22 Q. That's why you said --- answered a previous
23 question when it got to be a couple minutes after 3:00
24 you were screaming into the phone.

25 A. Right.

1 Q. It wasn't because you were concerned about an
2 accident, you were concerned about getting ---?

3 A. At that time, this accident had not happened.

4 Q. Right.

5 A. I mean, I wasn't worried about the three o'clock
6 report after the fan and the air doing what it done.
7 I wasn't worried none about the roof bolter. I was
8 worried about the report up to that.

9 Q. And you were going to get ---?

10 A. Oh, I mean, I was going to get hammered. I mean,
11 they was going to --- Chris would berate you.

12 Q. How late did you have to be before you would get
13 hammered in terms of e-mail and production reports?

14 A. I've had e-mails sent back to me --- like at four
15 o'clock. He would say four o'clock is the most
16 important one of the day, you know, you've got to have
17 this, if you can't do it, we'll get somebody else to
18 do it. But they made --- they kind of made me do the
19 report for the longwall because they said I would get
20 more information. I knew more about like the
21 machinery, the downtime, I'd give them more details
22 than what the dispatchers would so they threw that on
23 me for some reason. I guess they wasn't getting the
24 detailed information. And the dispatcher, whether
25 dispatching or handing out supplies, unloading trucks,

1 they didn't have --- like at three o'clock they might
2 be on a truck unloading something, so they didn't get
3 to report in time, where I was there in the office the
4 whole time, I could get it on the half hour.

5 Q. It sounds like you were doing the work of a couple
6 men?

7 A. Everybody at Massey does that.

8 Q. It felt like that. So the dispatchers, they would
9 be janitors and they were outside loading?

10 A. Yes. The dispatcher, he just really wouldn't know
11 what the man had on him until you've done the job.
12 The dispatcher was very stretched out in his duties.
13 It's stressful. I mean, he had several duties. You
14 had to dispatch plus you had to type reports, you had
15 to unload trucks, you had to hand out supplies. Just
16 like purchasing, you know, you're not doing just
17 purchasing, you're typing reports. I do receivers. I
18 mean, I'm --- sometimes I unload trucks. Some days
19 you might be on the loader unloading stuff outside.

20 Q. So you were having a bunch of different
21 assignments that you had to get done and you had to
22 drop one and go to the other. The most important of
23 all was what? What was the most important of all your
24 duties, was it opening up --- e-mailing the
25 production?

1 A. At that --- five minutes before the half hour,
2 that was the most important thing.

3 Q. Was there a time when you had to make those
4 reports every 15 minutes from the longwall when you
5 first started?

6 A. I don't remember doing them every 15 minutes. I
7 might have, but I don't remember.

8 Q. Did you think on April 5th, when you didn't get a
9 call by three o'clock, was that unusual?

10 A. No. If they was taking out structure or shuffling
11 on the tail.

12 Q. Like you were saying before, you were just anxious
13 because ---?

14 A. I knew I was going to get tore up for not having
15 that three o'clock report. Like I said, sometimes
16 they might have been late and Mr. Blanchard would say,
17 you know, why are they late? And I'd say, well, you
18 know, they were --- they was trying to get to relay
19 the message, put the line or no communications or
20 something, but ---.

21 Q. Did the guys phoning in the report from the
22 longwall, did they know you were --- this was so time
23 sensitive, did they get hammered, too?

24 A. Yes.

25 Q. And how would they --- would it be when they came

1 out of the mine or would ---?

2 A. Well, there'd be a message from me, relaying the
3 message of what Mr. Blanchard said, if you can't call
4 out on time, we'll get somebody else up there.

5 Q. Is this the kind of stress --- did that exist
6 before Blanchard became president, or was it maybe,
7 you know, a different level or ---?

8 A. It wasn't very stressful under the ---

9 Q. Previous.

10 A. --- previous president. Not like this. Nothing
11 like this. I've never been to the point where I felt
12 like just getting up and walking out and leaving.

13 Q. That's terrible. You said with regard to
14 pre-shift reports there are two or three fire bosses
15 outside who would take the pre-shift reports. Who
16 were they? Did they usually work the same shifts?

17 A. No, they worked different shifts. They're all on
18 rotation, so they vary. A lot of times the miner
19 foreman would take it, whether that be Rick Foster or
20 Gary May, superintendent would take it sometimes.
21 Jack Roles, the coordinator, he would take it at
22 different times.

23 Q. The safety coordinator?

24 A. No, he does longwall ---.

25 Q. Oh, the longwall coordinator. That's right. You

1 talked about writing notes after the explosion. You
2 don't know where those are? I'm just trying to
3 refresh my recollection. My notes aren't very good.

4 A. No.

5 Q. Did you give those to somebody, or do you recall?

6 A. I gave them to Gary May, the superintendent.

7 Because they had the times when I'd speak with Chris
8 Adkins, Elizabeth Chamberlin, different mine rescue
9 teams, how far out they were before they arrive at
10 UBB.

11 Q. Right. That would be pretty important records.
12 Were you concerned or was anyone else there in the
13 office concerned that Chris Blanchard and Jason
14 Whitehead were in the mine there right after the
15 explosion?

16 A. Concerned?

17 Q. I mean, in terms of their safety, the fact that
18 they ---.

19 A. I mean, we had a mine explosion. I mean, yeah, he
20 was concerned, but I mean --- I wasn't saying nothing
21 because they're the boss, that's what they're going to
22 do.

23 Q. I understand. But do you know whether any
24 protocols followed? It seemed that there was some
25 concern at some point that there were people

1 underground there and there could be another
2 explosion.

3 A. I'm sure when Mr. Adkins, when he took the phone
4 and he would talk to them and tell them what to say,
5 you know, what the oxygen level and all that was, I'm
6 sure he was concerned about their safety.

7 Q. Well, you were even concerned because when they
8 left he said stick together?

9 A. No, that was Gary May, the superintendent, Rick
10 Foster, the mine foreman and the two safety directors.

11 Q. They went in right away around four o'clock?

12 A. Yeah, within minutes. I was just concerned we
13 didn't have no communications that we had a man on the
14 intake, two over here. And then they'd say, well,
15 where is everybody, and I'm like, I don't know. I
16 just know they took off on foot. They got a mantrip
17 but no communications.

18 Q. Well, that's what I meant in terms of protocol,
19 you've got something ---.

20 A. But as far as Mr. Blanchard and Whitehead, ---

21 Q. They're going to do whatever they want?

22 A. --- they're going to do what they want. I mean,
23 they're not going to listen to me.

24 Q. I understand. You said you called Lisa Williams,
25 I don't know, you might have said she was the first

1 person you called?

2 A. I think she was the first because I was --- I
3 called Lisa. You usually don't call Mr. Blanchard
4 direct. You call Lisa and then Lisa will transfer you
5 to Mr. Blanchard.

6 Q. And where was Blanchard? He said he would be
7 there in a few minutes? Did he live nearby or was
8 he ---?

9 A. I don't know where he lived, what location. I
10 mean, I was assuming he was there at the mines.

11 Q. But there were ---?

12 A. I think I talked to him. I know I talked to him.
13 I did talk to him.

14 Q. Well, there were orders to call him any time, day
15 or night if there was an accident or significant down?

16 A. If you're down more than 60 minutes, you call Mr.
17 Blanchard.

18 Q. So at least some of that time he would have been
19 home or calling his cell, beepers.

20 A. He worked late hours. But you got ahold of him at
21 home, I don't care what time of the night it was, day,
22 you did get ahold of him by pager, cell phone.

23 Q. Massey lawyers --- you met with Massey lawyers?

24 A. Yes.

25 Q. Like a lot of other people we've just talked to.

1 When did you meet with him?

2 A. Within three weeks of the accident the lawyers was
3 there during the whole ordeal. They're still there.

4 Q. Do you know who they are?

5 A. Yes.

6 Q. What are their names?

7 A. Eric Silkwood, last name Ojetta, I can't think of
8 her first name. Chris --- I don't know what Chris'
9 last name is. There's like four there on location at
10 all times.

11 Q. Do you know --- and you may not know this, but do
12 you know if they're Massey lawyers, they come from
13 some outside law firm?

14 A. I don't know.

15 Q. They've been there for a long time, what are they
16 doing?

17 A. Well, we set up different locations for them. Out
18 on the parking lot there's two double-wides that
19 Massey has brought in, one's for the lawyers and one's
20 for the engineering department. And then the State
21 and Federal's got a trailer there also. So as far as
22 what they do all day, I don't know.

23 Q. They're just in the trailer mostly or ---?

24 A. They'll come upstairs where I'm at if they want to
25 talk to me. Any time you have a subpoena or anybody

1 from MSHA or anybody calls you, you got to tell the
2 superintendent and then the superintendent relays the
3 message to them and then they'll come and talk with
4 you.

5 Q. So did you have --- you talked to them three weeks
6 after the explosion?

7 A. Oh, yeah. I mean, that whole week, I mean, you
8 talked to them all the time, but as far as the
9 accident, within three weeks of the explosion, yes.

10 Q. And then when you received the subpoena from the
11 state, you obviously told them you got that?

12 A. Yes.

13 Q. And gave them a copy and gave the original ---?

14 A. Yes. Gave them a copy.

15 Q. Is that when they told you not to volunteer ---
16 you didn't have to volunteer anything?

17 A. No. The first time they told me that was I had to
18 go --- he had a subpoena to go the grand jury in
19 Charleston. And that's when they told me that, not to
20 give them information, just answer the questions and
21 watch how you answer.

22 Q. Good lawyers.

23 A. I know the subpoena said to bring my documents.
24 That I had to be there plus my documents. The only
25 documents that I figured that I had to take was the

1 30-minute callouts. And I already been told by the
2 company not to tell anybody about them, but they knew
3 by other people talking, so --- you know, the FBI
4 asked me about it plus some of the MSHA people asked
5 me about it. So they was aware of it.

6 So I was going back to --- they wanted to see
7 documents, so I made copies from January 1st to
8 present day, April 5th. And the lawyer told us that
9 anything we took, that they wanted to look at anything
10 we took. So I made the copies, printed it out, and I
11 was getting ready to leave that day and I took it over
12 to Eric and that's when he told me I couldn't have it
13 because it was Massey documents.

14 Q. And what were the documents?

15 A. It was the 30-minute callouts from January 1st to
16 April 5th.

17 Q. And did you give those copies to Eric, the lawyer?

18 A. I showed him what I was taking and he kept them.
19 He said I couldn't take them off the property.

20 Q. And where are the originals? Did you make the
21 copies from the originals?

22 A. No. The originals is on my computer, so I just
23 printed them out. And then I made copies of them, I
24 run them through the copier and put them in the file
25 in my desk drawer so that I wouldn't have to reprint

1 them all if --- when I went before the grand jury, if
2 they took them and kept them. That way I would have
3 them without having to reprint, because it took so
4 much time to do it. Well, when the FBI come in, they
5 took those. And the lawyers has the copies.

6 Q. So at some point someone said don't tell them
7 about it, these reports?

8 A. Yes.

9 Q. And at what point did they --- were you given that
10 instruction?

11 A. The day of the accident.

12 Q. Do you recall who told you that?

13 A. Chris Blanchard --- or Chris Adkins.

14 Q. Did he say anything more than that?

15 A. No.

16 Q. And when he said don't tell them, who did you
17 think he was referring to?

18 A. He just said don't tell anyone about the callouts,
19 that you got them on the computer. I said no problem.

20 Q. You know, you do have a right to volunteer
21 information if you think it might be helpful to this
22 investigation team in trying to figure out what the
23 cause is of this really terrible accident. I mean,
24 we've got widows and children and, you know, they want
25 to find out what happened here. I mean, if something

1 occurs to you after this that you can think of that
2 you can share with us, we would really appreciate
3 that. I think we all understand, it's a difficult
4 situation for everybody in my opinion. I mean, we
5 really appreciate you being here to answer any
6 questions.

7 MR. MCGINLEY:

8 I don't think I have any other questions
9 right now.

10 RE-EXAMINATION

11 BY ATTORNEY WILSON:

12 Q. I just have a couple clarifying questions. You
13 testified you thought they would have produced coal
14 throughout the weekend prior to the accident?

15 A. Yes.

16 Q. Sunday was Easter Sunday. Do you know if they
17 produced that day?

18 A. I don't know what it was. Anything like Easter,
19 Christmas, New Year's, Thanksgiving, sometimes they
20 would shut down from the evening shift the day prior
21 until the late nightshift, the day of the holiday.
22 And a lot of times they'd have volunteer people,
23 people would sign that they would work and they would
24 work, they would run coal. As far as knowing that
25 Sunday, whether they had volunteers to run or not, I

1 don't know. I mean, I never asked anybody if they ran
2 that Sunday. All I knew was that they had --- someone
3 said that there was problems on that Saturday and
4 that's when I went to pull the reports to see and they
5 wasn't there. And I never even thought to ask if they
6 ran Sunday.

7 Q. So you don't know?

8 A. No, I don't.

9 Q. You talk about persons underground being notified,
10 there was a State or MSHA inspector on the property.
11 A mine this size, you had an inspector there most
12 days; right?

13 A. Mostly every day.

14 Q. How often would this notification be provided
15 underground?

16 A. I'm sure if they was there every day they would
17 know.

18 Q. How did people know to call underground and tell
19 them that the inspectors were there? I mean, was this
20 just something that people did or did they receive
21 instructions to do that?

22 A. We received instruction to do that. Well, I'll
23 tell you this, the first time that that person didn't
24 call and notify the section that an inspector was
25 there, the first time there'd probably be --- really a

1 good chewing, threatened. The second time you'd
2 probably be suspended. The third time you wouldn't be
3 there.

4 Q. Do you know who these instructions came from?

5 A. Upper management. I've been there for 15 years
6 and it's been like that since I've been there.

7 ATTORNEY WILSON:

8 Terry? Do you want to take a break or do
9 you want to keep going?

10 A. I'm fine.

11 RE-EXAMINATION

12 BY MR. FARLEY:

13 Q. The production information on your computer, Excel
14 --- Excel spreadsheet, how long did you keep that
15 information on your computer?

16 A. I turn on my computer and run history and it's on
17 there. I know all of last year, the engineer that
18 worked, what I call the ventilation engineer, Eric
19 Lilly, Eric took and put it in a folder on the
20 computer for me for all of last year. So two or three
21 years. It's been on there a long time.

22 Q. But your computer is now in the hands of the FBI?

23 A. Yes. That's one of the ways that I knew we had a
24 ventilation problem. Eric Lilly, which was the
25 engineering --- what I called ventilation engineering,

1 they did, too. Every day his office was just right
2 next to me, you know, my desk would be here and his
3 was just an open door right there. Every day he was
4 talking to the fire bosses discussing ventilation.
5 And the guys would talk about not having air that's
6 who they would talk to with the upper management.

7 Q. Who was that?

8 A. Eric Lilly.

9 Q. Is Eric Lilly still employed by Massey?

10 A. No, he is not. He's been gone probably, I want to
11 say --- estimate a month, maybe a month.

12 Q. And did he leave for another job or ---?

13 A. I don't know if he's working now or not. I mean,
14 he didn't quit from my understanding.

15 Q. You think he might have been fired?

16 A. Yes.

17 Q. Do you have any idea why?

18 A. I have not talked to him.

19 Q. Do you know a person with Massey Coal by the name
20 of Bill Ross?

21 A. Yes.

22 Q. Do you know if he was involved in the ventilation
23 work pertaining to Headgate 22?

24 A. I don't know. I very seldom see Bill Ross. I've
25 seen him a lot since this, but before, no. I think

1 that's one of the reasons they hired Bill Ross, for
2 the ventilation.

3 Q. We were talking earlier about you relaying a
4 message from Blanchard to a section foreman who had
5 had issues with ventilation problems. Do you recall
6 specifically who that section foreman was?

7 A. No, I don't.

8 Q. Okay.

9 A. I know I talked to Dino different times about it.
10 As far as on the longwall where they rotate shifts, I
11 really don't know what people will be there the next
12 five days. You have to wait and see who will be
13 there.

14 Q. Now, I know you didn't work on April 4th. Now,
15 since April 5th, have you seen any evidence or
16 required any information or communicate with anyone
17 was in the mine on that Sunday?

18 A. Rumors, yes. I don't know for sure, no.

19 Q. When you're talking about production reports for
20 the longwall for Friday and Saturday, April 2 and 3,
21 any idea what became of those?

22 A. No.

23 Q. Okay. All right.

24 RE-EXAMINATION

25 BY MR. SHERER:

1 Q. I've got one --- or actually two follow ups. The
2 days you're off, Friday, Saturday and Sunday, you
3 couldn't find the reports --- I think previously you
4 said the dispatcher on evenings would have made those
5 reports?

6 A. Well, what they do is we've got a cover sheet and
7 you put dayshift production on the longwall, how many
8 passes they ran, and then you collect their tonnage,
9 and then you got another line that says evening shift,
10 longwall production, and you collect that and total it
11 up for the day. Plus you have the miner sections down
12 here. Well, since they didn't work that Saturday ---
13 I don't think they worked that Saturday. One section
14 I think worked that Saturday. What they do is they
15 take all the production sheets and they put it on this
16 one cover sheet and then they make copies of it and
17 they fax it to Mr. Blanchard and Adkins and
18 Blankenship. And then they take the original ---
19 well, they take the original and make copies of it and
20 put it on the mine foreman's desk and the
21 superintendent's desk. And then they take the
22 original and put it in the file cabinet in my office.

23 MR. SHERER:

24 Thank you. That's all I've got.

25 RE-EXAMINATION

1 BY MR. MCGINLEY:

2 Q. A couple more things. You said that at times on
3 the holidays the longwall wouldn't run and that people
4 volunteered, they would sign up to work. What do you
5 mean by sign, was there a form to sign?

6 A. Well, they just put a sign sheet, like the week
7 prior to the holiday they'd say, you know, any
8 volunteers, who will work Sunday. And some of the
9 guys that didn't have plans or whatever, they would
10 sign the sheet. If they got enough people to sign ---
11 the longwall, you only had to have like five people to
12 run production. So if you had five or six people that
13 signed the sheet, they ran the coal.

14 Q. Where would the sheet be?

15 A. The bath house, bulletin board in the bath house,
16 in the fire boss room. Outside of my office there's a
17 board that people look at, and we put it there.

18 Q. Do you recall anything about a sheet like that
19 being up before Easter?

20 A. I was thinking that was Friday, Saturday and
21 Sunday being off.

22 Q. You were talking about Eric Lilly, the ventilation
23 engineer, and every day it seemed like the guys were
24 saying we don't have enough air. Can you give us a
25 time frame, you know, when that might have been?

1 A. They was really concerned about some of the
2 ventilation, more so here in the last three months,
3 the last three months.

4 Q. Are you familiar with the term S1 and P2?

5 A. Yes.

6 Q. What is S1?

7 A. Safety first, production second. It should be the
8 other way around.

9 Q. What do you mean by that? Do you mean in
10 reality ---?

11 A. They want production.

12 Q. That's paramount over safety, in your opinion?

13 Well, let me withdraw that question.

14 So beyond --- S1 means safety first, what else
15 does it mean?

16 A. What else does S1 mean? I mean, what they say, it
17 just says safety first.

18 Q. Do you know anything about an S1 manual, ever hear
19 of that?

20 A. No.

21 Q. So it's sort of S1, P2 is a slogan; would you say?

22 A. I think there's a P2 book, I think so. And then
23 M3, that's method. That deals with many methods of
24 purchasing. But I mean, we have a handbook. But as
25 far as --- I think there's a P2 book. I'm pretty sure

1 there is. But S1, I've never seen one.

2 Q. You said at some point there was a (d) order
3 issued for ventilation violation, and Chris Blanchard
4 was real mad about it.

5 A. Right.

6 Q. He said change it back?

7 A. Yes.

8 Q. In other words, change it back to the way it was
9 when they got the --- when the violation was issued?

10 A. No. What they done was, they changed the air and
11 they didn't have a plan for it, it wasn't in the plan.
12 So the inspector caught it and shut the section down.
13 He said, well, just change it back the way it was.

14 Q. After the inspector leaves?

15 A. Yes --- no, no, while the inspector was there.

16 Q. I get it.

17 A. And then the inspector called out and said if we
18 do that, I'll have to write you another (d) order and
19 you're still not going to run.

20 Q. And he was even madder?

21 A. Oh, yes. He showed up.

22 Q. He talked to the inspector?

23 A. Yes.

24 Q. Were you there?

25 A. I was there. But as far as in the conversation,

1 listening to it, no.

2 Q. You could tell it was an animated discussion?

3 A. Absolutely, yes. I don't think Mr. Blanchard was
4 very well liked out here or at Mount Hope.

5 MR. MCGINLEY:

6 That's all. Thank you.

7 ATTORNEY WILSON:

8 Mr. Clay, on behalf of MSHA and the
9 Office of Miners' Health, Safety and Training, I want
10 to thank you for appearing and answering questions
11 today. Your cooperation is very important to the
12 investigation as we work to determine the cause of the
13 accident. I'll remind you, because we are going to
14 interview additional witnesses, we request that you
15 not discuss your testimony with anyone. If anyone
16 questions you about your interview here today, you can
17 tell them that you were instructed not to discuss
18 that.

19 After questioning other witnesses we may
20 call you if we have any follow-up questions. If you,
21 at any time, do have additional information you would
22 like to provide to us, please contact Norman Page
23 right here at the Mine Academy. I will give you my
24 card with my contact information, and you've got the
25 contact information from the State.

1 At this time, before we finish and go off
2 the record, I want to provide you an opportunity to
3 add anything else to the record or to make a
4 statement. Anything that you would like to say at
5 this time?

6 A. No, I don't have any more to add.

7 ATTORNEY WILSON:

8 Then again, thank you for your
9 cooperation in this matter.

10 * * * * *

11 STATEMENT UNDER OATH CONCLUDED AT 4:15 P.M.

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CERTIFICATE

I, Danielle Ohm, 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.



Danielle Ohm