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Transcript of the Testimony of Scott Tilley

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CONFIDENTIAL STATEMENT UNDER OATH

OF

SCOTT TILLEY

taken pursuant to Notice by Alison Salyards, 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 Friday, September 10, 2010, beginning at 9:27 a.m.

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P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Pollyanna Hampton. Today is September 10th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me here is Erik Sherer. He's an accident investigator with the Mine Safety and Health Administration, MSHA, which is an agency of the Department of Labor. Also present are several people from the State of West Virginia, and I ask that they now state their appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

John O'Brien, with the West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY KOERBER:

And I'm Barry Koerber, Assistant Attorney General, assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

I'm Patrick McGinley, with the Governor's independent investigation team.

1 ATTORNEY KOERBER:

2 Would you please swear in the witness?

3 -----

4 SCOTT TILLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED

5 AS FOLLOWS:

6 -----

7 ATTORNEY KOERBER:

8 Sir, would you please state your full

9 name for the record and spell your last name?

10 A. Okay. It's Scott Davis Tilley, T-I-L-L-E-Y.

11 ATTORNEY KOERBER:

12 And would you please state your address

13 and your telephone number?

14 A. Address is (b) (7)(C)

15 (b) (7)(C)

16 ATTORNEY KOERBER:

17 And your telephone number?

18 A. Telephone is (b) (7)(C)

19 ATTORNEY KOERBER:

20 And sir, do you have an attorney

21 appearing here with you today?

22 A. Yes, sir, I do.

23 ATTORNEY KOERBER:

24 And I'd ask the attorney to identify

25 himself and the firm he's with.

1 ATTORNEY SEARS:

2 Chris Sears, Shuman, McCuskey & Slicer.

3 ATTORNEY KOERBER:

4 And Mr. Sears, is Mr. Tilley your client?

5 ATTORNEY SEARS:

6 He is.

7 ATTORNEY KOERBER:

8 And I notice we have another attorney in

9 the room. I would ask that he identify himself for
10 the record, the name of his firm and who his client
11 is.

12 ATTORNEY AKERS:

13 My name is Robert Akers. I'm with the

14 law firm of Allen, Guthrie & Thomas in Charleston, and

15 I'm here on behalf of Performance Coal Company.

16 ATTORNEY KOERBER:

17 Mr. Tilley, are you appearing here today

18 as a result of receiving a subpoena?

19 A. Yes, sir, I am.

20 ATTORNEY KOERBER:

21 And is this a copy of that subpoena?

22 A. Yes, it is.

23 ATTORNEY KOERBER:

24 And I just want to note for the record

25 that the subpoena calls you here on September 9th, at

1 3:30, and in fact, today is September 10th, at 9:00.
2 Due to some scheduling rearrangements, there was an
3 agreement made that this would be the proper time for
4 you to arrive, pursuant to your subpoena. Is that
5 your understanding?

6 A. Yes, sir.

7 ATTORNEY KOERBER:

8 I'd ask that that be marked as Exhibit
9 One.

10 (S. Tilley Exhibit One marked for
11 identification.)

12 ATTORNEY KOERBER:

13 This is a copy of the return receipt card
14 signed by --- I can't really --- (b) (7)(C) ---

15 A. Yeah, I guess.

16 ATTORNEY KOERBER:

17 --- (b) (7)(C) on 9/2/2010. I'd ask
18 that that be marked as Exhibit Two.

19 (S. Tilley Exhibit Two marked for
20 identification.)

21 ATTORNEY KOERBER:

22 Mr. Tilley, the statute that allows the
23 Director to subpoena witnesses to interviews such as
24 this requires the Director to offer to each witness
25 subpoenaed a \$40-a-day witness fee, plus roundtrip

1 mileage at the rate of 15 cents a mile, so long as you
2 drove in your personal vehicle, and reimbursement for
3 any tolls that you may have passed on your way here or
4 the way back. In order to receive that money, two
5 forms must be filled out, one which is an IRS Form
6 W-9, which is a request for your Social Security
7 number, because it is my understanding that the \$40
8 witness fee is considered taxable income and at some
9 later time you will receive a 1099 miscellaneous so
10 that you can report that on your taxes next spring.
11 Would you like to stay after the interview and fill
12 those forms out or would you prefer to decline?

13 A. I'll stay after the interview and fill them out.

14 ATTORNEY KOERBER:

15 Okay. Thank you, sir.

16 ATTORNEY HAMPTON:

17 All members of the Mine Safety and Health
18 Accident Investigation Team and all members of the
19 State of West Virginia Accident Investigation Team
20 participating in the investigation of the Upper Big
21 Branch Mine explosion shall keep confidential all
22 information that is gathered from each witness who
23 provides a statement until the witness statements are
24 officially released. MSHA and the State of West
25 Virginia shall keep this information confidential so

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

9 Government investigators and specialists

10 have been assigned to investigate the conditions,
11 events and circumstances surrounding the fatalities
12 that occurred at the Upper Big Branch Mine-South on
13 April 5th, 2010. The investigation is being conducted
14 by MSHA under Section 103(a) of the Federal Mine
15 Safety and Health Act and the West Virginia Office of
16 Miners' Health, Safety and Training. We really
17 appreciate your assistance with this investigation.

18 A. You're welcome.

19 ATTORNEY HAMPTON:

20 You may have a personal attorney present

21 during the taking of this statement or another
22 representative, if MSHA has permitted it. Since this
23 is not an adversarial proceeding, formal Cross
24 Examination will not be permitted. However, your
25 personal legal representative may ask clarifying

1 questions as appropriate.
2 Your identity and the content of this
3 conversation will be made public at the conclusion of
4 the interview process and may be included in a public
5 report of the accident, unless you request that your
6 identity remain confidential or your information would
7 otherwise jeopardize a potential criminal
8 investigation. If you do request us to keep your
9 identity confidential, we can only do so to the extent
10 permitted by the law. That means that if a judge
11 orders us to reveal your name or if another law
12 requires us to reveal your name or if there is another
13 law enforcement purpose for revealing your name, we
14 may do so. Also, this statement is only coming from
15 the Federal team. The State has their own
16 confidentiality rules that they must comply with, so
17 they cannot make that same promise.

18 Also, there may be a need to use the
19 information you provide to us or other information we
20 may ask you to provide in the future in other
21 investigations into and hearings about the explosion.

22 Do you have any questions?

23 A. No, ma'am.

24 ATTORNEY HAMPTON:

25 After the investigation is complete, MSHA

1 will issue a public report detailing the nature and
2 causes of the fatalities in the hope that greater
3 awareness about the causes of accidents can reduce
4 their occurrence in the future. Information obtained
5 through witness interviews is frequently included in
6 these reports. Since we are going to be interviewing
7 other individuals, we do request that you not discuss
8 your testimony today with any other person other than
9 with an attorney.

10 As you can see, a court reporter is here,
11 recording your interview, so we ask that you speak
12 loudly and clearly. If you don't understand a
13 question, please ask the person to rephrase it, and
14 they can do that to ensure that you do understand.
15 And please answer each question as fully as you can,
16 including giving us information that you might have
17 learned from someone else.

18 We would like to thank you in advance for
19 your appearance here. We appreciate your assistance
20 in this investigation. Your cooperation is critical
21 in making the nation's mines safer. After we have
22 finished asking questions, you will then have an
23 opportunity to make a statement or to provide any
24 additional information that you believe is important.
25 And if, after you leave here today you think of

1 something else that you'd like to share with the team
2 or you have anything else that you think that we
3 should know, please feel free to contact us. There is
4 information in the letter that I handed you before we
5 started the interview for Norman Page. You can
6 contact him. He is the team leader for the Federal
7 Accident Investigation Team. So please feel free to
8 do that after you leave here if you have something
9 else to share with us.

10 Any statements given by miner witnesses

11 to MSHA are considered to be an exercise of statutory
12 rights and protected activity under section 105(c) of
13 the Mine Act. If you believe any discharge,
14 discrimination or any other adverse action was taken
15 against you as a result of your cooperation with this
16 investigation, you may contact MSHA and file a
17 complaint under Section 105(c) of the Act.

18 MR. FARLEY:

19 Mr. Tilley, on behalf of the Office of
20 Miners' Health, Safety and Training, I'd like to
21 inform you that West Virginia Mining Regulations,
22 particularly West Virginia Code Chapter 22A, Article
23 I, Section 22, provides protection against
24 discrimination for miners participating in these type
25 interviews. I'd like to pass along some contact

1 information for the West Virginia Board of Appeals.
2 The board is charged with hearing complaints from
3 miners regarding discrimination. Should you
4 experience any such problems as a result of your
5 participation in this interview, you should contact
6 the Board immediately. And I would caution you that
7 if you should need to file a claim, you need to do so
8 within 30 days of whenever the event occurs. Thank
9 you.

10 EXAMINATION

11 BY MR. SHERER:

12 Q. I want to thank you for coming down here this
13 morning, Mr. Tilley.

14 A. Okay.

15 Q. We're interviewing you as part of this
16 investigation into the explosion that happened on
17 April the 5th. We're doing the investigation for two
18 reasons. The first is the families and the friends
19 and the coworkers of the miners deserve to know what
20 happened. And the other reason we're doing it is we
21 want to prevent this sort of explosion from ever
22 happening again. So any information you can share
23 with us would be greatly appreciated. Roughly, how
24 many years of mining experience do you have?

25 A. Almost ten.

1 Q. Okay. When did you start with the Massey
2 organization?

3 A. I started on September 25th of 2000.

4 Q. Okay. So most of that experience, if not all of
5 it, has been with the Massey organization?

6 A. Yes, sir.

7 Q. What's your present position?

8 A. I am an AutoCAD drafter.

9 Q. And where do you work?

10 A. I work for Route 3 Engineering in the old
11 Performance Engineering building.

12 Q. Were you involved with any of the drafting related
13 to the Upper big Branch prior to the explosion?

14 A. Yes, sir.

15 Q. What did you do, just in general?

16 A. Just made changes to maps, you know, just
17 modifications, under the supervision of my supervisor
18 and just basic drafting on the maps.

19 Q. And who was your supervisor?

20 A. Mr. Matt Walker.

21 Q. Okay. Have you had any other positions with Route
22 3 Engineering?

23 A. No, sir.

24 Q. Were you hourly or salary?

25 A. I am hourly.

1 Q. Do you direct any workers?

2 A. No, sir.

3 Q. Okay. Did you ever meet with the MSHA people out
4 of District 4 to discuss the maps or the plans?

5 A. No, sir.

6 Q. Do you feel like you had the responsible charge
7 over the production of the maps or plans?

8 A. No, sir.

9 Q. What's your educational background?

10 A. I have a Bachelor of Science degree from Bluefield
11 State in architectural engineering technology.

12 Q. Are you a professional engineer or professional
13 land surveyor?

14 A. No, sir.

15 Q. Do you have any engineering in training or land
16 surveyor in training license?

17 A. No, sir.

18 Q. Do you have any Federal or State mining
19 certifications?

20 A. No. No, sir.

21 Q. Are you a red hat or a black hat or do you have
22 any underground ---?

23 A. No, sir.

24 Q. Have you been underground at Upper Big Branch?

25 A. No.

1 Q. Have you been underground at any of the Massey
2 Mines?

3 A. No.

4 Q. Okay. Did you ever work with anyone from Upper
5 Big Branch?

6 A. Yes.

7 Q. Who did you work with?

8 A. Just various guys. Most of my work comes from
9 Matt Walker. Our engineers, they kind of deal with
10 the mine guys and the superintendents, and they kind
11 of pass the work on to me, and you know, I have very
12 little dealings with the guys at the mines.

13 Q. But you have met with them?

14 A. Yeah. Yeah. I know some of them, very few.

15 Q. Okay. What training have you received since
16 you've been with Route 3?

17 A. Well, the MIT training and basically the annual
18 refresher, annual training, you know, once a year.

19 Q. So that's the Massey initial training.

20 A. Yeah. Yes, sir. The MIT is the initial training.

21 Q. And the annual refresher is the eight-hour
22 training?

23 A. Yeah, the eight-hour, once-a-year annual
24 retraining is what we call it.

25 Q. Have you done your 80-hour training?

1 A. No. No, sir.

2 Q. Have you done any sort of professional training?

3 A. No. No, sir.

4 Q. Okay. Were you responsible for doing the maps for
5 just Upper Big Branch or were you responsible for more
6 than in that particular mine?

7 A. I wouldn't say I was responsible, but I work on
8 all the mine maps on Route 3, you know.

9 Q. And roughly how many mines are there?

10 A. I think we've got around 13 mines. I'm not really
11 for sure. It's roughly 12 or 13 mines.

12 Q. Do you take the survey data and plot that out?

13 A. No, sir.

14 Q. Who does that?

15 A. We've got two guys that do it, Keith Trent and
16 Daniel Snodgrass.

17 Q. Have you ever done that?

18 A. Yeah, I did it when I first started for a few
19 years, and then we consolidated and it kind of, you
20 know, went to some other guys and --- but I have
21 inputted notes before.

22 Q. Okay. When you were plotting out those survey
23 notes, did anybody ever tell you not to plot any
24 entries over 20 foot in width?

25 A. No, sir.

1 Q. What exactly --- what did you put on the maps that
2 you did?

3 A. Well, you know, it varies. Usually all the work
4 that I do, like an engineer such as Matt or Heath,
5 they'll mark up a map and hand it to me, and I'll make
6 the modifications, generally, you know, print it out
7 and they'll check it. So as far as, you know, putting
8 stuff on there, I'm on a cord. I'm always told what
9 to do. Do you understand?

10 Q. Sure. Did you put things like ventilation
11 controls on the maps?

12 A. Yes, sir.

13 Q. Did you put beltlines and rails and things like
14 that on the map?

15 A. No. No, sir.

16 Q. Would that come from the surveyors?

17 A. I really don't know.

18 Q. Okay. Did you normally plot anything in addition
19 to ventilation controls?

20 A. Yes, maybe projections.

21 Q. Okay. What about ventilation directions, air
22 showing return air, intake air, things like that, did
23 you do that?

24 A. Under the supervision of Matt, most of the time.

25 I've worked for Matt now for five years.

1 Q. Okay. Sure. Now, these projections that you
2 plotted, where did those come from?

3 A. They were usually drawn on a map by one of the
4 engineers, and I'd --- you know, I'd do the drafting,
5 then it goes back to them. And from there, I really
6 don't know.

7 Q. What about the ventilation controls, who actually
8 located where those were at?

9 A. The surveyors, I know they mark up their maps. I
10 don't have a whole lot of knowledge on that. But the
11 surveyors mark up maps and bring them in to Keith and
12 Daniel, and then we get mark-up maps from the mines.
13 And I don't know who marks them up.

14 Q. Did you do any maps associated with like
15 ventilation plan changes that were submitted to MSHA?

16 A. No. No, sir.

17 Q. Okay. At Upper Big Branch, did you have to change
18 the projections, the mining projections?

19 A. No, not really. I don't --- I haven't never
20 worked on projections at Upper Big Branch. Maybe a
21 long time ago, but it's kind of been engineers worked
22 on Upper big Branch as far back as I can remember.

23 Q. Okay. And you say you haven't worked on any
24 ventilation maps for Upper big Branch?

25 A. No, sir.

1 Q. Who worked on ventilation maps for Upper Big
2 Branch?

3 A. I really don't know. I would say that our --- as
4 far as --- are you speaking of who marks up the
5 controls?

6 Q. Uh-huh (yes).

7 A. Okay. Well, that would be Keith and Daniel. They
8 do most of the marking up and they put the take-up in.
9 And I really don't do --- I don't really work with the
10 controls and the ventilation controls. That's kind of
11 out of my area.

12 Q. Okay. Would you work with the projected
13 ventilation controls?

14 A. No. No, sir.

15 Q. Do you know who certified the Upper Big Branch
16 ventilation maps, the Professional Engineer?

17 A. It was either Paul McCombs or Ray Brainard. I'm
18 not for sure which one. I really don't know.

19 Q. And have you worked with Mr. McCombs or Mr.
20 Brainard to make changes ---

21 A. No.

22 Q. --- on the maps?

23 A. No, sir.

24 Q. Were you aware of the violations and orders that
25 MSHA issued at Upper Big Branch for ventilation

1 problems and deficiencies prior to the explosion?

2 A. No, no one speaks to me about that.

3 Q. Okay. When you're doing mining projections, do
4 you have some five-year plan or longer-term plan that
5 you reference?

6 A. Yeah. We have budget maps.

7 Q. Okay. Do the mining projections follow those
8 budget maps or do they change?

9 A. I really don't know. I think they follow them.

10 Q. Who develops those budget maps?

11 A. I really don't know.

12 Q. Do you ever work on the budget maps?

13 A. No.

14 Q. Who works on those?

15 A. Danny Acord has worked on them for the last couple
16 years.

17 Q. Okay. Thank you. Do you ever get involved in
18 anything like roof control or dewatering or anything
19 like that?

20 A. No, sir.

21 Q. When you get one of your maps, when you finish
22 putting the information on it, who reviews that map?

23 A. Matt Walker.

24 Q. Okay. Does he ever come back to you and ask you
25 to change anything?

1 A. If there was something there he wanted me to
2 change, I would change it until, you know, it was
3 right.

4 Q. Thank you.

5 A. Yes, sir.

6 Q. You've been there ten years and you've never gone
7 underground?

8 A. No, sir.

9 Q. Can I recommend that you do that sometime?

10 A. Well, I was supposed to a couple times, but --- I
11 was going to go with the surveyors and we didn't make
12 it that day. We got held up, and I didn't get to go.
13 And I was going to go another time and didn't get to
14 go, so ---.

15 MR. SHERER:

16 That's all the questions I've got.

17 A. All right. Thank you, sir.

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. Mr. Tilley, is it fair to say that you do not have
21 any input in any type of ventilation, roof control ---

22 A. Yes, sir.

23 Q. --- plan development?

24 A. Yes, sir.

25 Q. Do your superiors ask for your input on the

1 development of any plans whatsoever?

2 A. No, sir.

3 Q. Do your supervisors at any time ask for your input
4 on any type of changes that are to be made on mine
5 maps?

6 A. No, sir, not input, no.

7 Q. Now, --- not trying to minimize the significance
8 of your job ---

9 A. No, sir.

10 Q. --- or insult you in any way.

11 A. I understand.

12 Q. I'm just trying to understand what your role here
13 is.

14 A. Yeah.

15 Q. Is it fair to say that you work pretty much a
16 hundred percent at someone else's direction?

17 A. Yes, sir. Yes, sir.

18 Q. Now, Erik had just asked about you doing
19 underground. Have you ever been underground in any
20 underground mine?

21 A. No, sir.

22 Q. Now, just to be clear, you indicated that you're
23 employed by an organization known as Route 3
24 Engineering. Now, are you actually --- would it be
25 more correct to say that you're actually employed by

1 Performance or Marfork or Massey Energy? Where's your
2 paycheck come from?

3 A. It's Massey Coal Services.

4 Q. And has that always been the case since you've
5 been here?

6 A. Since we consolidated in 2003. Before that, I was
7 an employee of Performance.

8 Q. Okay. Are you aware of any ventilation surveys
9 that were performed at the UBB Mine prior to April 5th
10 of this year?

11 A. No, not that I can really say for sure. I don't
12 know --- I don't' want to say anything that might not
13 be true. I don't know for sure. I think there was
14 one done, but I don't want to really go on record as
15 saying because I don't know for sure. It was kind of
16 --- you know, I had no involvement in it, and just I
17 don't' want to speculate on hearsay, you know, or
18 something that I've heard somebody say. But I think
19 there was an --- that outfit came in and did a
20 ventilation survey a few years back. But I can't be
21 for sure about that because nobody ever spoke to me
22 about it.

23 Q. Okay.

24 A. I'm just trying to help, you know.

25 Q. Sure. Thank you. Appreciate that very much. The

1 outfit that may have done the survey some years back,
2 can you identify the outfit?

3 A. No, sir.

4 Q. Okay. Do you know who within the Route 3
5 Engineering organization might have knowledge of the
6 ventilation surveys conducted at the UBB Mine?

7 A. There was an engineer from Independence that came
8 over. I don't really know. I know his name was
9 Reddy, and that's Reddy, and that's really all I know.
10 And the only reason I know that is because he borrowed
11 my office, and he was --- they were --- I think they
12 were doing the ventilation survey, but I don't really
13 know for sure.

14 Q. The individual known as Reddy, could his name have
15 been something like Rayhuveer Thadisina?

16 A. Something like that. I just don't know. I hate
17 to --- I just don't --- you know, I hate to say
18 something that's not true, but I know he was involved
19 in it.

20 Q. I don't guarantee that my pronunciation ---.

21 ATTORNEY AKERS:

22 It sounded good.

23 ATTORNEY SEARS:

24 It sounded like you practiced that.

25 A. I just met him, and like I say, I had no

1 involvement in it and I don't really --- I just
2 remember something along those lines happening, and
3 that's the best I can do.

4 BY MR. FARLEY:

5 Q. Do you have any involvement in the development and
6 submittal of plans to mine into and through or in the
7 vicinity of gas wells?

8 A. No, sir. I may work on modifications to a map, do
9 the drafting on a map, under the supervision of, you
10 know, Matt or Heath Lilly, another engineer we have
11 there. That's pretty much my --- you know, all I have
12 on that.

13 Q. Okay. Aside from yourself and we also understand
14 that Dan Acord was an AutoCAD technician, ---

15 A. Uh-huh (yes).

16 Q. --- who might make modifications on the AutoCAD
17 system used by Route 3 Engineering?

18 A. Well, myself and Danny. We have another AutoCAD
19 technician, Craig Dickens, and the two survey ---
20 AutoCAD survey guys, Keith Trent and Daniel Snodgrass.

21 Q. Now, ---.

22 A. We are the drafting unit core, I guess you could
23 say.

24 Q. Aside from the designated drafting core or
25 designated technicians, would other engineers or other

1 management people be at liberty to utilize the system?

2 A. Yes.

3 Q. Do you have knowledge of any other engineers or
4 management persons who may have done so?

5 A. Just the ones I've worked with over the years, ---

6 Q. Okay.

7 A. --- the guys that's been engineers, you know, at
8 Performance or Route 3. You know, when we
9 consolidated we had several engineers, and it was kind
10 of a --- everybody worked on everything, you know,
11 just whatever needed done, you know. So it would be,
12 you know, several engineers, you know what I mean,
13 that could work on various mines.

14 Q. Whenever you would do map revisions, changes, ---

15 A. Uh-huh (yes).

16 Q. --- was there any type of sign-off sheet involved
17 with the process where you received directions from
18 one person or did another person have to review it or
19 sign off on it in any way? How did that routinely
20 work?

21 A. Just my supervisors would mark up a map, and I'd
22 take the map, make the changes, print a new map out,
23 you know, they go over it. If I still didn't get
24 something right, you know, they'd mark it up again.
25 As far as a sign-up sheet, no, sir.

1 Q. No complicated procedure?

2 A. No. It's just --- you know, just --- like I say,
3 I'm under their supervision, and I make changes per
4 --- you know, per what they tell me to do.

5 Q. Okay.

6 ATTORNEY HAMPTON:

7 Real quick, do you know an individual by
8 the name of Ed Thompson?

9 A. No, ma'am, I do not.

10 ATTORNEY HAMPTON:

11 Okay. Thanks.

12 EXAMINATION

13 BY MR. MCGINLEY:

14 Q. Mr. Tilley, can you give some rough ballpark
15 estimate of how much work you did with regard to Upper
16 Big Branch Mine over the period of time ---?

17 A. Well, at first I was very green. I had, you know,
18 very limited input or, you know, didn't work on much,
19 you know. But as times went on, you know, I've worked
20 on it as need be. As far as a ballpark figure goes, I
21 really wouldn't know how to quantify that, but ---.

22 Q. Is UBB the biggest of the mines that Route 3
23 Engineering works on?

24 A. It's one of the biggest. I would say Ellis Eagle,
25 the one at Marfork, is probably the biggest. Of

1 course, I'm just guessing, but it's about the same
2 size. Then we have Logan's Fork and Elk Run, and Elk
3 Run is a subsidiary. It's about the same size.

4 Q. Is there any one mine of the group of mines that
5 you work on that over the last couple of years you've
6 had to pay more attention to, to work on more than
7 others?

8 A. Yes, sir. For the past probably four or five
9 years, since the consolidation, I've been
10 predominantly Elk run, you know, work on drafting for
11 the Elk run mines.

12 Q. I see.

13 A. Since probably, you know, '03, '04, I've kind of
14 been, you know, the Elk Run drafter guy.

15 Q. So among the AutoCAD folks, including yourself,
16 are mines sort of assigned to the --- the group of 12
17 or 13 mines that you think are there, are they
18 assigned to different AutoCAD operators?

19 A. No. No, sir. Not really. Whatever needs done,
20 we kind of do it as a group. You know, one day I
21 might work on the Marfork Mine, you know, something
22 for Matt, and the next day I might be back on one of
23 the Elk Run mines, you know, doing something. But you
24 know, we have very --- we're staffed very low right
25 now, so we're --- you know, we're just kind of ---

1 we're just bouncing around and doing whatever is
2 needed.

3 Q. Sure. But you --- you just said that for Elk Run
4 you've done a lot of work for that mine.

5 A. Uh-huh (yes).

6 Q. I assume you understand the layout of that mine
7 more than you do of others because you've worked on it
8 more?

9 A. Yeah.

10 Q. Is that a fair statement?

11 A. Yes, sir.

12 Q. What about with the other AutoCAD fellows? I
13 mean, do they have one or two mines that they spend
14 more time on or are more familiar with than you would
15 be?

16 A. Well, basically they just take care of all of
17 them. You know, it's kind of hard to --- really,
18 we're not assigned any particular mine. You know,
19 they just never have done that. But you know, we kind
20 of just whatever --- it's just kind of a need --- you
21 know, what is needing to be done now.

22 Q. When you --- you take information given to you and
23 you input that into the computer, into the program; is
24 that correct?

25 A. Yes, sir.

1 Q. And that information comes in the form of a map
2 that has symbols and writing on it; is that correct?

3 A. Yes, sir.

4 Q. Do you get --- is there any other basis for your
5 input other than a map and information written --- or
6 symbols written on the map?

7 A. No, sir. I just handle drafting on maps.

8 Q. I mean, you don't get a sheet --- the company has
9 a map that has something written up?

10 A. No, sir, I don't.

11 Q. Okay. Who does? Does somebody get something like
12 that?

13 A. I don't know for sure. I don't --- you know, I
14 don't want to ---.

15 Q. It's all right to speculate.

16 A. Well, if I don't know for sure, I don't know.

17 Q. Well, but sometimes we can listen to what, you
18 know, in the movies they call hearsay. We just ---

19 A. Yeah, I understand.

20 Q. --- get little clues here and there and we can
21 understand --- or we ask other folks questions and
22 have been able to undercover some interesting
23 information that way.

24 A. I just really know what I do and what comes into
25 the other guys, you know, the engineers, you know, I

1 don't really know for sure, you know. I just know
2 what I do, you know, what I'm asked to do, and I try
3 to do the best I can and ---.

4 Q. It's probably about the same thing for all of you;
5 right?

6 A. Yeah, pretty much.

7 Q. In terms of all of you, meaning the AutoCAD
8 fellows?

9 A. Yes, sir. We work directly under --- you know,
10 like I say, under the engineers.

11 Q. Are any of the engineers you work under, are they
12 PEs?

13 A. Yeah, we have two P.E.s , Mr. Ray Brainard and ---
14 well, we used to have Mr. Paul McCombs. He's moved
15 on. Now we have Ken Brown, Mr. Ken Brown. And they
16 recently hired a guy, Mr. Brerry --- I can't think of
17 his last name now. Well, anyway, his last name
18 escapes me, but he's the --- he's going to be the
19 underground chief engineer. And he's only been there
20 a couple weeks.

21 Q. And he's taking Mr. McCombs' place?

22 A. Yeah. It's Hudson. His last name is Hudson,
23 Brerry Hudson.

24 Q. And where did Mr. McCombs go, if you know?

25 A. Marshall Miller & Associates.

1 Q. Okay. And when did he go to Marshall Miller, if
2 you recall?

3 A. About two months ago.

4 Q. After the explosion?

5 A. Yeah, it was after the explosion. Yes, sir.

6 Q. So in doing your work, it's exclusively you take a
7 map and it has things written on it and symbols on it,
8 and you basically translate that by inputting the
9 information you see on the map into the computer?

10 A. Yes, sir.

11 Q. And then you print it out and you walk about 30
12 feet, go out in the hall, walk about 30 feet, and
13 there's the plotter ---

14 A. Yes, sir.

15 Q. --- in the other room; is that right?

16 A. Yes, sir.

17 Q. You call it a plotter or a printer?

18 A. Both. Usually I call it a printer.

19 Q. Most people call it a printer?

20 A. Well, they're actually plotters, but I, you
21 know, ---.

22 Q. Right. And then what do you do with the map?

23 A. Submit it to Matt and --- or Heath, you know, the
24 two engineers we have now, and we go over it and make
25 sure I didn't leave anything out. And if I did or if

1 he wants to change something else, you know, then
2 I'll --- he'll mark it up again, and I'll go hang it
3 on the wall, make the changes and print out another
4 one. And I do that until he's satisfied, and then
5 that's kind of it for me.

6 Q. So you do make changes after sort of the first
7 pass at a map? That's not unusual to do that?

8 A. No, not --- you know, I try not to do that.

9 Q. I mean, when the engineer looks at it, it's not
10 unusual for the engineer or whoever, Matt Walker, for
11 example, to come up to you and say, I want to make
12 these changes; is that right?

13 A. Some. Not a whole lot. Usually we get them, you
14 know, on the first try.

15 Q. Okay.

16 A. Because usually when he gives a map to me, he's
17 marked it up, you know. As far as that, that's what
18 he does. I don't --- you know, I don't know. I'm not
19 him, but when he hands it to me I just do what I'm
20 told to do.

21 Q. Does he --- the changes of the information he puts
22 on the maps, are they --- does he put them on there in
23 handwriting or does he write them on?

24 A. Yes, sir, usually, yeah.

25 Q. Is there any other way you get information on the

1 map other than the handwriting that you have to input
2 into the computer?

3 A. No, sir.

4 Q. Okay. So are some of the maps that you get, is
5 the handwriting and the symbols written by somebody
6 other than Matt, somebody in management, like the
7 superintendent or president or mine foreman?

8 A. Yes.

9 Q. How often does that happen?

10 A. I don't know. I don't know for sure. I just know
11 that, you know, some maps are marked up, you know, by
12 mine management. It comes into us and then it filters
13 down to me just to do the drafting.

14 Q. Okay. So for example, Matt Walker wouldn't be
15 changing what mine management has written on the map?

16 A. No. No, sir.

17 Q. He just accepts whatever they write on the map and
18 it goes to you, is that basically ---?

19 A. To the best of my knowledge, that's what happens,
20 yeah.

21 Q. Because you've been working with Matt since
22 2006, ---

23 A. Uh-huh (yes). Yes, sir.

24 Q. --- you recognize his handwriting and symbols; is
25 that correct?

1 A. Yes, sir.

2 Q. And Heath, you work with Heath?

3 A. Yeah.

4 Q. And he's been there about two-and-a-half years?

5 A. Yeah, two-and-a-half. Close to it, yes, sir.

6 Q. And you recognize his handwriting?

7 A. Yeah. When some of the symbols are drawn, it's
8 --- you know, you don't know for sure.

9 Q. Sometimes you have to go back and ask what the
10 heck ---?

11 A. Yeah. But now if it's handwritten --- you know, I
12 kind of know everybody's actual handwriting.

13 Q. Right.

14 A. But as far as, you know, like marking up a
15 stopping line or, you know, something like that, that
16 usually --- you know, like I say, usually that ---
17 it's hard to tell exactly who put it on there. I
18 don't want to say that anybody specifically did it
19 because, you know, I don't want to talk about
20 something I don't really know.

21 Q. I'm not looking for any exact percentage, but how
22 often do you get the maps and the data you're supposed
23 to input comes from mine management rather than
24 engineers you work with? And you'd be able to tell
25 that at least in part because it's different

1 handwriting.

2 A. To be fair, I would say probably 90 percent of
3 what I do is directly from Matt or Heath.

4 Q. Okay. You know, now they may get something ---
5 because they deal with the mine management. You know,
6 I have very limited contact with anybody other than
7 then, and you know, that's just kind of ---.

8 Q. Sure. So they may be getting a mark-up map and
9 making some changes on another map and giving it to
10 you?

11 A. Yeah.

12 Q. You don't know how much instruction Matt or Heath
13 are getting from management?

14 A. No, sir, I really don't.

15 Q. Except to the extent you see the ---

16 A. Yeah.

17 Q. --- handwriting that's different than theirs?

18 A. Yeah, basically. I really don't know, you know.
19 You know, really don't know what --- as far as to
20 quantify how much. You know, I just work on the
21 drafting part of it and that's kind of it.

22 Q. And so Eric Lilly once had an office in your
23 building?

24 A. Yes, sir, he did.

25 Q. And he left about, what, a year-and-a-half ago?

1 A. I don't really know for sure, but he was with us
2 for a few months, and then he got moved up to UBB.
3 And after that, I had very limited contact with him,
4 but you know, would see him. You know, water cooler
5 talk would be about it.

6 Q. Did you ever see maps where you recognize his
7 handwriting, you know he's written on them?

8 A. At first when he came --- when he got hired, you
9 know, I worked a little bit with him, but it was
10 mostly on Elk Run stuff and Marfork stuff and, you
11 know, just whatever --- whatever he asked me to do,
12 you know. But you know, as far as --- now, his
13 handwriting I would know, you know.

14 Q. You would or would not?

15 A. Well, I might recognize his handwriting, you know.

16 Q. Right.

17 A. But as far as --- I don't know, you know, of him
18 --- his, you know, involvement in anything like that.

19 It's hard to remember, you exactly. I just know when
20 he first come --- got hired, you know, I did --- just
21 like I do now, you know. I work with him on some of
22 the Elk Run mines. But as far as Performance, I never
23 worked with him on anything.

24 Q. But now your understanding is that his
25 responsibility is solely Performance; is that right?

1 A. Yes, sir. That's what I was told.

2 Q. So you would expect if he's the mine engineer
3 there that he'd be having some input into what Matt
4 and Heath are doing?

5 A. I really don't know.

6 Q. Do you ever see him come up to your office?

7 A. I didn't see him much after he went up there.

8 Once a week probably. You know, he was just --- once
9 he went up there, he kind of like disappeared and, you
10 know, I just didn't have much contact with him. I
11 really didn't.

12 Q. How far is his office from where yours is located?

13 A. He was on one end of the hall and I was on the
14 other end.

15 Q. I mean now.

16 A. Oh, now? Oh, well, he had an office up at the
17 mines, which is maybe two miles from our building,
18 give or take a little bit, you know. It's up on top
19 of the hill and we're ---

20 Q. Right.

21 A. --- down at the bottom. About two miles, I'd say.

22 Q. So your work is important obviously to the
23 functioning of a mine. They couldn't operate a mine
24 without ---

25 A. Yeah.

1 Q. --- the AutoCAD folks, because they need those
2 maps and they need to be accurate. And of course,
3 you're just --- you've got the technical skills that
4 allow information that is developed by engineers and
5 professional people in the mining industry to develop
6 information, and you have the skills to put those into
7 effect and generate a mine map; correct?

8 A. Yes, sir.

9 Q. So you know, one of the things that is done in
10 your office is ventilation planning; is that correct?

11 A. Yes, sir.

12 Q. And I wasn't clear when Mr. Sherer was asking you,
13 but I thought you said you didn't work on any kind of
14 ventilation maps, or is that ---?

15 A. Yeah, that's true.

16 Q. Now, who would do the ventilation? Why would you
17 not work on a ventilation map?

18 A. Well, most of the ventilation maps are done by the
19 engineers themselves. I may, you know, just do some
20 drafting for one of them. If he's, you know, got a
21 lot on his plate or something, then he may hand me a
22 map with some, you know, markups on it and tell me
23 what to do, and then I'll get in there and make the
24 changes. And of course, you know, it's the same as
25 anything else. He'll mark up a map and I'll make the

1 changes, and then, you know, he'll check it. You
2 know, I guess it goes on down the line, but that's
3 pretty much my involvement, you know, in it.

4 Q. Now, someone in your office has said --- has
5 indicated that the Mine Safety and Health
6 Administration, MSHA, wasn't very well liked there.

7 A. No.

8 Q. There were concerns about MSHA ---

9 A. Uh-huh (yes).

10 Q. --- and that people in your office talked about
11 that. You've heard those conversations?

12 A. I try to stay away from that stuff, you know.

13 Q. But you've heard those conversations?

14 A. Just water cooler talk. You know, like I say, I
15 don't have an opinion either way. I don't deal with
16 MSHA myself, and I don't pay a whole lot of attention
17 to, you know, what people say. I just try to show up
18 and do my job, you know.

19 Q. Well, there came a time in April of this year when
20 the Upper Big Branch exploded.

21 A. Yes, sir.

22 Q. Do you know anybody that worked there?

23 A. I knew one guy. He worked with --- the only
24 reason I knew him was he worked with us for a little
25 --- a brief time in the engineering building there.

1 Q. And his life was lost there?

2 A. Yes, it was. Yes, sir.

3 Q. So was the explosion a topic of conversation in
4 your office?

5 A. Oh, yeah. It was --- yeah, it was probably the
6 worst --- one of the worst times that I've been
7 through. It was awful.

8 Q. Everybody was talking about it?

9 A. Yeah.

10 Q. Like they were in my office and around the
11 country?

12 A. Yeah. It was just pretty much nationwide there
13 for a while, but you know, ---.

14 Q. Well, there was discussion after the explosion I
15 would assume in your office because your office had
16 created ventilation maps and a ventilation plan about,
17 you know, what caused this explosion. What were
18 people saying, without any names?

19 A. Nobody said much at first because, you know,
20 nobody had a clue in the world what happened.

21 Q. It was a big surprise.

22 A. And we was in the office that day and we didn't
23 know about it until probably six o'clock that evening.

24 And you know, it was just --- really, nobody said a
25 whole lot. Everybody was kind of in shock and just

1 hard to digest. And nobody really ever speculated
2 what happened. And to this day all I know is what I
3 hear --- you know, press releases and, you know,
4 newspapers.

5 Q. You've heard, in fact, the CEO of Massey Energy
6 has said that MSHA forced Performance to change the
7 ventilation plan and that might have made the mine
8 less safe. Are you aware of that?

9 A. Yeah, very little.

10 Q. Was there some discussion in your office?

11 A. No, not really. I didn't --- honestly, I didn't
12 even know about it until a couple days ago. That's
13 something just nobody talks about, really.

14 Q. So was there any talk before the explosion or
15 afterwards about the high number of violations,
16 especially those relating to ventilation, that UBB had
17 received in the year before the explosion?

18 A. Not that I had any involvement with.

19 Q. So would the --- I mean, there's a lot going on
20 and there's --- at first it was just our office, you
21 know, was packed. And you know, I was just trying to
22 do whatever I was asked to do, you know,
23 drafting-wise.

24 Q. Sure.

25 A. And I had no idea --- you know how it is? It was

1 just crazy, and I don't really know what all went on.
2 And as times went on, it's all moved up to the mine.
3 And it's --- at our office now it's never --- we never
4 talk about it now. And I don't know what happened,
5 and I don't wan to speculate. That's one thing I'm
6 trying to stay away from. We were told at the
7 beginning, you know, we don't know what happened, and
8 it's best to, you know, let MSHA do their job, and
9 I've got faith that they'll figure it out.

10 Q. We do ask people who worked in the mine their
11 ideas about ---.

12 A. Yeah.

13 Q. And we've gotten some good feedback on that
14 because ---

15 A. Yeah.

16 Q. --- people care.

17 A. I do, too. I mean, I ---.

18 Q. I understand.

19 A. I want to make sure that, you know --- anything,
20 you know, happened that shouldn't have happened ---.

21 Q. If you --- after this interview if you think of
22 something that might be helpful to us that you
23 overheard, discussions that you had, ---

24 A. Uh-huh (yes).

25 Q. --- Norman Page is the head investigator for MSHA

1 and he'd be the person to contact.

2 A. Oh, I will, yeah.

3 Q. That would be kept confidential. Let me ask you
4 just a couple more questions.

5 A. Okay. Yes, sir.

6 Q. When you went to work for Massey, as you said, you
7 were pretty green?

8 A. Oh, yeah. Yeah.

9 Q. Matt Walker came to work in 2006?

10 A. Yes, sir.

11 Q. He was pretty green.

12 A. Yes, sir. I really don't know his --- you know,
13 his experience, just what he's told me. I know he was
14 a schoolteacher for a while, and that's really about
15 all I know.

16 Q. He worked as a security guard, did you know that?

17 A. I think he worked in Lowe's, too.

18 Q. In Lowe's?

19 A. Yeah. I remember him talking about that, but you
20 know, that's just friends talking.

21 Q. So there must have been a fairly significant
22 learning curve for Mr. Walker?

23 A. Yeah.

24 Q. Did you help him when he came in?

25 A. He was --- as far as, you know, AutoCAD, you know,

1 related, that's about all I could ---.

2 Q. Sure.

3 A. He was ---.

4 Q. Did you explain it to him?

5 A. He was pretty sharp. I mean, Matt's --- Matt's
6 really, really smart. I mean, he's sharp. I didn't
7 really have to help him. He knew as much about
8 AutoCAD as I did. And you know, I really haven't
9 really actually showed him ---.

10 Q. He knew about as much about AutoCAD when he came
11 there ---?

12 A. Well, he had had an AutoCAD course in college that
13 I know of and he --- you know, he does a lot of his
14 own AutoCAD work, and I don't want to say knew as much
15 as me. I just kind of paid him a compliment there,
16 but ---

17 Q. Sure.

18 A. --- you know, he --- just my personal opinion
19 about Matt is he's a very smart and very intelligent
20 guy.

21 Q. So he would use AutoCAD to do ventilation maps
22 himself? You didn't do them yourself?

23 A. Yes, sir. Yes, sir.

24 Q. And the same thing with Heath Lilly?

25 A. Yes, sir. Yes, sir. They do a lot of their own

1 drafting as well. Understaffed.

2 Q. Do you know whether Eric Lilly did any AutoCAD
3 maps?

4 A. I can't speak of anything after he left. But when
5 he was there, he did do AutoCAD work.

6 Q. Okay.

7 A. Yes, he did.

8 Q. Is it possible he continued to do them for UBB?

9 A. When he moved up on the hill, evidently he did it
10 all because, you know, we had no contact with him at
11 all. So you know --- but again, I, you know, don't
12 want to go on record as saying something that ain't
13 true, you know. I'm just speculating.

14 Q. So you think Eric Lilly did a great bulk of mining
15 engineering, producing documents in support of
16 Performance's mine plans?

17 A. I really don't know. I just don't know.

18 Q. Well, if he were doing the bulk of the work, the
19 two engineers in your office and you and the AutoCAD
20 people wouldn't be doing nearly as much for the UBB
21 Mine; is that fair?

22 A. Yeah, that's fair.

23 Q. And do you think that's what's been going on the
24 last couple years since Eric Lilly has left?

25 A. I really don't know, but I know that Eric did a

1 lot of his own work. That's really all I can say. I
2 mean, I don't know what Eric did and what he didn't
3 do. You know, I definitely don't want to say
4 something, you know, that ain't --- that's not ---.

5 Q. Do you know the name Doctor Wala?

6 A. Doctor Wala?

7 Q. Wala, University of Kentucky? Is he the one that
8 did the ventilation survey?

9 A. I don't know if I've ever --- I don't think I've
10 ever heard that name, sir, Doctor Wala.

11 Q. Do you know anything about the methane outburst at
12 UBB in 2003 and 2004, while you were working for
13 Performance; right?

14 A. Yeah, I was working --- well, we had already
15 consolidated there. I don't exactly know when it
16 happened. I remember it, but I didn't have any
17 involvement whatsoever in it.

18 Q. I understand. But you do remember it?

19 A. I remember it happening, yeah.

20 Q. And was it a big deal at the time?

21 A. Well, my knowledge of it is, you know, everybody
22 got out and they had to ventilate the mine, ventilate
23 the gas out for a few days, then everybody went back
24 to work. And that's really all they let me know.

25 Q. Sure.

1 A. I would assume that would have been something
2 people were concerned about ---

3 A. Yeah.

4 Q. --- and talked about; is that right?

5 A. Well, I --- like I say, I had very little input on
6 it and, you know, ---.

7 Q. Do you know anybody over the years that has
8 actually worked in the UBB Mine?

9 A. That's actually been ---?

10 Q. Worked underground there.

11 A. Yeah, I knew a few guys. Well, I knew, you know,
12 of course one of the guys that killed. I knew him.
13 And I've had a few friends work there over the years,
14 probably less than half a dozen guys since I've been
15 there. And you know, I see a lot of them guys. I
16 used to deliver maps, you know, whenever they would
17 be, you know, finished or signed --- you know,
18 whatever. Whenever they was complete, I would take
19 them up and drop them off at the mine, then I'd get
20 out of there as fast as I could. But you know, I seen
21 a lot of guys, but never did really get to know none
22 of them.

23 MR. MCGINLEY:

24 All right. I don't have any further
25 questions. Thank you.

1 A. Okay. You're welcome.

2 RE-EXAMINATION

3 BY MR. SHERER:

4 Q. I've got a couple follow-up questions, Mr. Tilley.

5 A. Okay.

6 Q. You mentioned that Mr. Lilly did a lot of the work
7 for Upper Big Branch or you thought he did.

8 A. Uh-huh (yes).

9 Q. Did he have a plotter up at Upper Big Branch; do
10 you know?

11 A. I don't know. I don't think so.

12 Q. Okay. Did he send maps to the plotter at Route 3?

13 A. Yes, he did. Yes, he did.

14 Q. Okay.

15 A. That's generally the only time I'd see him is
16 whenever he'd come in maybe once or twice a week and,
17 you know, come in and get stuff. But usually when his
18 stuff would come out on the plotter, Keith or somebody
19 would grab it out and pile it up somewhere, and then
20 he'd come down and get it. And that's how I really
21 --- that's pretty much all I know about that. But I
22 don't think he had a plotter up there. I'm pretty
23 sure he didn't.

24 Q. You were talking to Mr. McGinley about --- I think
25 it was Elk Run, and it sounded like you were kind of

1 the lead guy on Elk Run. Is that a fair ---?

2 A. Well, other CAD guys work on Elk Run, too.

3 Q. I understand that you all work on different mines,
4 but you seem to take a little pride in Elk Run maybe?

5 A. Well, I wouldn't --- no, I wouldn't know if it was
6 pride.

7 Q. Well, ---.

8 A. But you know, I mean basically I do more of my
9 drafting for the Elk Run Mines now, ---

10 Q. Okay.

11 A. --- but I will work on Marfork Mines, you know.

12 Q. Sure.

13 A. Yesterday I was working on a Marfork mine, doing
14 some drafting work, you know, so ---. I just --- I
15 bounce around, ---

16 Q. Sure.

17 A. --- you know, whatever they tell me to do.

18 Q. Who was the lead guy for Upper Big Branch, if
19 there was such a person?

20 A. I don't know if there ever was such a person.

21 When we --- when I first got hired there, there was a
22 guy named Ronald Collins. He was the --- I guess the
23 UBB Cad man back in my early days, and I kind of
24 worked under his wing until I figured out halfway what
25 I was doing. And he showed me what he did and kind of

1 trained me a little bit. And then really that kind of
2 went on until we consolidated, and then, you know,
3 there really wasn't nobody assigned to anything. It
4 was kind of a --- now, the engineers were assigned,
5 you know, kind of like they took care of such and
6 such, but as far as I know, you know, CAD guys, just
7 whatever an engineer can grab you. You know what I
8 mean? I mean ---

9 Q. Sure.

10 A. --- one of them grab you one day, and the next day
11 one of them will get me and I'll just work for them,
12 and that's kind of what I've done now for seven years.

13 Q. Thank you.

14 MR. SHERER:

15 That's all the questions I have.

16 ATTORNEY HAMPTON:

17 Okay. On behalf of MSHA and the Office
18 of Miners' Health, Safety and Training, we'd like to
19 thank you for appearing and answering our questions
20 today. Your cooperation is very important to the
21 investigation as we work to determine the cause of the
22 accident.

23 We do request that you not discuss your
24 testimony with any person other than with your
25 attorney. And after questioning other witnesses, we

1 might have some follow-up questions for you. So we'll
2 let you know if we have more questions.

3 A. Okay. That's fine.

4 ATTORNEY HAMPTON:

5 As I mentioned earlier, if you do have
6 anything else that you think of that you would like to
7 share with the team, don't hesitate to contact us and
8 share that information with us.

9 A. I will.

10 ATTORNEY HAMPTON:

11 And at this point now you may go back
12 over any of the answers that you've given us. If
13 there's anything you'd like to further clarify or if
14 there's any statement that you would like to make, you
15 may do so at this point.

16 A. I don't think I have anything else. I'm pretty
17 well satisfied and ready to go.

18 ATTORNEY HAMPTON:

19 Okay. Thank you very much for your
20 cooperation.

21 A. Thank you.

22 ATTORNEY SEARS:

23 And he would like to maintain
24 confidentiality and have the opportunity to review.

25 ATTORNEY HAMPTON:

1 Okay. Thanks.

2 * * * * *

3 CONFIDENTIAL STATEMENT UNDER OATH

4 CONCLUDED AT 10:27 A.M.

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards

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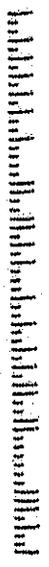
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April 4, 2011

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1301 Airport Road
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Beaver, West Virginia 25813-9426

Re: September 10, 2010 MSHA Transcript of Scott Tilley

Dear Mr. Page:

The United States Department of Justice has furnished me a copy of the MSHA hearing transcript of the testimony of my client, Scott Tilley, for review and preparation of an errata sheet. Although the time for review and correction was limited, my client was able to find and make the corrections as set forth on the enclosed errata sheet. Please append this errata sheet to Mr. Tilley's original hearing transcript and send a copy of the same to each person or entity to whom the transcript was sent prior to Mr. Tilley's review.

I reiterate my previous request to you that the transcript be provided to my client (or to me) for an unfettered thirty (30) day review which will allow my client sufficient time to locate additional transcript errors and necessary corrections.

A copy of this errata sheet is also being provided to Sargent's Court Reporting Service so that, as is the proper procedure, Sargent's may also append this errata sheet to the original copy of the transcript.

Norman Page
April 4, 2011
Page 2

Please confirm receipt of the attached errata sheet and that you have caused it to be affixed to all transcript copies in your possession and to others to whom you have transmitted this transcript.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. McCuskey". The signature is fluid and cursive, with the first name "John" being the most prominent part.

John F. McCuskey

JFM/mam
Enclosure

cc: Barry Koerber
Derek Baxter
Sargent's Court Reporting Service, Inc.

ERRATA SHEET

I, the undersigned, SCOTT TILLEY, do hereby certify that I have read the foregoing sworn statement taken on Sept 10th, 2010 at the West Virginia Mine Academy, and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below):

PAGE/LINE CORRECTION AND REASON FOR CORRECTION

page 22 / Line ¹⁶ 25 Replace Answers with:

Although I did not generate any changes to/
~~the~~ ^{ventilation/} ~~the~~ projections on the UBB maps, I
Have on occasion made modifications or placed
projections on these maps as directed by my
supervising engineers. Basically, I did the drafting
on these maps as instructed.

page 24 / Line 13 Replace Answer with:

Although I did not do the Budget planning,
However, I have done drafting work on ~~the~~ the
Budget maps under the direction of my super-
vising Engineers.

