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Transcript of the Testimony of Gary Wayne Wingrove

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STATEMENT UNDER OATH
OF
GARY WAYNE WINGROVE

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, May 10, 2010, beginning at 10:02 a.m.

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A P P E A R A N C E S (cont.)

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I N D E X

1		
2		
3	OPENING REMARKS	
4	By Attorney Wilson	6 - 9
5	WITNESS: GARY WAYNE WINGROVE	
6	EXAMINATION	
7	By Mr. Farley	10 - 38
8	EXAMINATION	
9	By Mr. Sherer	38 - 41
10	EXAMINATION	
11	By Attorney McAteer	41 - 51
12	RE-EXAMINATION	
13	By Mr. Farley	51 - 53
14	RE-EXAMINATION	
15	By Attorney McAteer	54 - 55
16	EXAMINATION	
17	By Mr. Sherer	55 - 56
18	RE-EXAMINATION	
19	By Attorney McAteer	56 - 60
20	RE-EXAMINATION	
21	By Mr. Farley	60 - 62
22	CLOSING REMARKS	
23	By Attorney Wilson	62 - 64
24	CERTIFICATE	65
25		

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4	One	Map	54*

5
6
7
8
9
10
11
12
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14
15
16
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*exhibit not attached

P R O C E E D I N G S

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ATTORNEY WILSON:

Mr. Wingrove, my name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. There are several other people here present, and I'll ask that the people from the State of West Virginia identify themselves for the record.

ATTORNEY MCATEER:

I'm Davitt McAteer.

MR. FARLEY:

I'm Terry Farley, Miners' Health, Safety and Training.

ATTORNEY KOERBER:

Barry Koerber, Miners' Health, Safety and Training.

MR. BECK:

Jim Beck. I work for Mr. McAteer.

MR. WILSON:

The following statement applies to everybody here in the room. All members of the Mine Safety and Health Administration Accident Investigation Team and all members of the State of

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

16 Government investigators and specialists

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

25 After the investigation is complete, MSHA

1 will issue a report detailing the nature and causes of
2 the fatalities in the hope that greater awareness
3 about the causes of accidents can reduce their
4 occurrence in the future. Information obtained
5 through witness interviews is frequently included in
6 those reports. You should know that if you request
7 confidentiality, confidentiality will be granted on a
8 case-by-case basis. Your statement may also be used
9 in other enforcement proceedings.

10 You may have a personal representative
11 present during the taking of the statement, and you
12 may consult with that representative at any time. You
13 may refuse to answer any question and you may request
14 a break at any time. This is not an adversarial
15 proceeding. Formal Cross Examination will not be
16 permitted. However, clarifying questions will be
17 permitted as appropriate.

18 A court reporter will record your
19 interview. Please speak loudly and clearly. If you
20 do not understand a question, please ask that the
21 question be rephrased. Please answer each question as
22 fully as you can, including any information you have
23 learned from someone else.

24 I would like to thank you in advance for
25 appearing here today. We appreciate your assistance

1 in this investigation. Your cooperation is critical
2 to making the nation's mines safer. After we have
3 finished asking questions, you will have an
4 opportunity to make any statement that you may wish,
5 to provide us with any other information that you
6 believe to be important. If at any time after the
7 interview you recall any additional information that
8 you believe may be useful, we ask that you either
9 contact Norman Page, the lead accident investigator
10 for MSHA here at the Mine Academy, or someone with the
11 Office of Miners' Health, Safety and Training. For
12 the record, are you appearing here today, by yourself,
13 without a representative?

14 MR. WINGROVE:

15 Yes.

16 MR. WILSON:

17 All right. At this time I will turn it
18 over to Terry Farley to begin the questioning.

19 MR. FARLEY:

20 Are you going to swear him in?

21 MR. WILSON:

22 Oh, I'm sorry. Please swear in the
23 witness.

24 -----
25 GARY WAYNE WINGROVE, HAVING FIRST BEEN DULY SWORN,

1 TESTIFIED AS FOLLOWS:

2 -----

3 EXAMINATION

4 BY MR. FARLEY:

5 Q. Wayne, if you would, please, let's begin with your
6 full name, mailing address and phone number.

7 A. All right. My full name is Gary Wayne Wingrove.
8 Address is(b)(7)(C) .

9 Q. Do you have a phone number you can share with us?

10 A. Phone number(b)(7)(C) .

11 Q. Now, you're employed by the West Virginia Office
12 of Miners' Health, Safety and Training; is that
13 correct?

14 A. Yes.

15 Q. How long have you been with the agency?

16 A. Twenty (20) years next month. Mid next month will
17 be 20 years.

18 Q. Okay. Now, how long have you worked in the coal
19 mining industry?

20 A. Fourteen (14) and a quarter years before I took a
21 job with the State.

22 Q. You're going on 35 years then; right?

23 A. Yeah.

24 Q. Who did you work with before you joined the
25 agency?

1 A. Westmoreland Coal Company.

2 Q. Any other companies?

3 A. No.

4 Q. Was all your work with Westmoreland underground
5 work?

6 A. Yeah. Now, I was going to work another job. I
7 went there to work one day. I don't even remember the
8 name of the company.

9 Q. Okay.

10 A. Fellows, I ain't even going to talk about that
11 company. I worked one day and quit.

12 Q. All right. Now, with Miners' Health, Safety and
13 Training, you've been employed as a district
14 underground inspector for the time you've been with
15 us; is that correct?

16 A. Yes.

17 Q. Have you held any other positions with us?

18 A. Yes. I'm currently the district inspector and
19 roof control inspector.

20 Q. So you do double duty as a ---?

21 A. Yes.

22 Q. Okay. Now, do you possess any coal miner or mine
23 foreman/fire boss certifications of any kind?

24 A. Yes.

25 Q. What, please?

1 A. Mine foreman/fire boss certification.

2 Q. Did you have that before you came to Miners'
3 Health, Safety and Training?

4 A. Yes. Shot Firer Certification.

5 Q. Any specialized training of interest?

6 A. No, just what training I've had along in the coal
7 mining industry.

8 Q. All right. Now, throughout your 20 or so years
9 with the agency, you've worked out of the Oak Hill
10 office; is that correct?

11 A. Yes.

12 Q. Okay. Now, if I'm correct, I understand that you
13 were inspecting underground at the Performance Upper
14 Big Branch Mine on April 5th, 2010, prior to the
15 explosion that occurred on that date; is that correct?

16 A. Yes.

17 Q. What type of inspection were you there to make
18 that day?

19 A. I started a general inspection that day. That was
20 the first day.

21 Q. Now, I think for the understanding of the other
22 parties here, what we call a general inspection would
23 be like a quarterly inspection; is that correct?

24 A. Yes.

25 Q. Now, prior to April 5th, 2010, had you inspected

1 the Upper Big Branch Mine?

2 A. Yes.

3 Q. When?

4 A. I was there on a roof control inspection in '08.

5 Q. 2008?

6 A. Yeah.

7 Q. Okay. Do you remember the month?

8 A. I think it was August.

9 Q. Okay. How much time did you spend there in 2008?

10 A. I'm not real sure, either one or two days.

11 Q. Okay. Did you actually go underground?

12 A. Yes.

13 Q. What area of the mine did you visit then or do you
14 recall?

15 A. Then it was called the Lower Big Branch section.

16 Q. Okay. Is it something you can point out on a map
17 to us? Would it be available on this map?

18 A. Let me see where we're at right here. It was near
19 the Glory Hole.

20 Q. That's way up there. That's off this one. I
21 don't even think we have the Glory Hole on this map.

22 A. Before you get to the Glory Hole, in that area. I
23 know as far as I would go would be the Glory Hole,
24 because at the time the other areas was in the process
25 of being developed.

1 Q. Okay.

2 A. They was in the process of driving.

3 Q. Okay.

4 A. It just rung a bell. They was in the process of
5 driving to the Ellis Portal, driving those entries to
6 the outside. So I was that far.

7 Q. Okay. Now, did you make it --- actually make it
8 to the so-called Glory Hole area then?

9 A. Yes.

10 Q. Okay. Can you describe what you saw then?

11 A. Just normal mining that was being done.

12 Q. Okay. But the Glory Hole area, the Glory Hole
13 itself, what --- will you describe what that is,
14 please?

15 A. The Glory Hole area ---.

16 MR. WILSON:

17 Hold on. Let's go off the record for a
18 second. We've got to switch the map around.

19 OFF RECORD DISCUSSION

20 MR. WILSON:

21 Let's go back on.

22 A. The Glory Hole area, it's a hole from the mines
23 above them to allow coal to come from that mines down
24 through the Glory Hole and go on a conveyor system to
25 the outside.

1 BY MR. FARLEY:

2 Q. Now, at that time, was the Glory Hole in use or
3 was it functioning as you described?

4 A. Yes.

5 Q. So it was --- coal was being dumped through the
6 Glory Hole portal at that time?

7 A. Yeah.

8 Q. Okay. Now, since that time, has the status or use
9 of the Glory Hole changed as far as you know? Or do
10 you know?

11 A. Just by asking, the Glory Hole, when I was there
12 on the 5th, that area was not being used anymore.

13 Q. Okay. All right. Let's go back to April 5th,
14 2010. What time did you arrive on the property that
15 day at the UBB Mine?

16 A. Around 7:00 a.m.

17 Q. Okay. Now, would that have been the main portal
18 that mined coal?

19 A. Yeah.

20 Q. Okay. We'll do this. Please start from the time
21 you arrived at the UBB Mine, that property, on April
22 the 5th and give us as detailed a description of what
23 you did as possible. Please be as specific as you can
24 regarding times.

25 A. When I first got there it was around 7:00 a.m.

1 It's usually an hour drive from where I live. I
2 wanted to know who the superintendent was and who the
3 mine foreman was. I went to the office to find out
4 all this, and found out it was Gary May. He was the
5 superintendent on that side. And the mine foreman was
6 Rick Foster. Because we done had the mine split up in
7 two different areas to where --- on the Ellis side, we
8 had the superintendent over there and a mine foreman
9 over there also. Of course, we had a color-coded map
10 of whose responsibilities was whose between the mine
11 foremans.

12 Q. Okay. Do you know who the mine foreman and the
13 superintendent was?

14 A. Yeah, Everett Hager was the superintendent over on
15 the Ellis side. That's what Gary May had told me.
16 And Terry Moore was the mine foreman over on that
17 side. I was more a fact --- or information gathering
18 that morning, and I wanted to see the map, see how
19 everything was laid out in the mine, see where
20 everything was at. And Gary May told me that the mine
21 foreman was underground with the federal inspector. I
22 didn't even ask who he was or where they was going or
23 anything. And I said, well, who you got to travel
24 with me? I'm starting a general inspection. And he
25 say, Wayne, he said, I'll travel with you if you give

1 me a little bit of time here to get my paperwork
2 caught up. I said, go right ahead. I'm still going
3 to be studying your map.

4 And I looked at --- I seen where one section was
5 called the barrier section. That's the neck of an old
6 longwall, where they'd had a plan to go in there and
7 mine some of that coal that was left. Well, I'm
8 already starting to figure out, well, I'll probably
9 --- I'm thinking to myself, I'll probably go to that
10 section, and I hadn't, you know, told nobody yet. And
11 I asked Gary, about how long are you going to be? He
12 said, I shouldn't be too long. And I said, well, I'm
13 going to start checking some track-mounted equipment
14 down in the motor barn. I said, as soon as you get
15 ready now, come on down and we'll get us a ride and
16 we'll go on in. And it wasn't too much longer after
17 that, I don't know the exact time or anything, then
18 Gary May come down. And of course, I done looked at
19 the fire boss report, too, for that section, and
20 everything seemed to be filled out good and
21 everything. And Gary come down, and I said, Gary, are
22 you ready to go, and he said, yeah, and we got on a
23 ride and we go underground. We go --- I tell him,
24 we're going to the barrier section because you need to
25 let the dispatcher know then. So we go to the barrier

1 section. And I just started making the faces from the
2 left side all the way across to the right side.
3 When we got --- back up a little bit. When we got
4 to the end of the track on that section, there was a
5 little water hole in front of us and they was pumping
6 it. And Gary May and I, we go to a breakthrough
7 between the track and the conveyor belt was the next
8 entry. It was Number Two breakthrough, because I
9 needed that number because I wrote a violation in that
10 crosscut. You could see a path where a lot of
11 people --- apparently that hole must be full of water.
12 People don't want to walk through it and get their
13 feet wet, because there's a path through that crosscut
14 to go around that water hole. And there's a kettle
15 bottom about 16 inch in diameter right above the path,
16 so I issue a violation right there and had the area
17 dangered off until they can get that supported.
18 And we walked over to the belt, and we go ahead
19 and walk up the belt entry, which wasn't very far.
20 And I get up to the tailpiece, I look, you know, for a
21 fire valve. I'm looking at the feeder to see if it
22 was gobbled off or anything that can cause a fire. I'm
23 looking at the tail roller. Fellows, as I'm going up
24 through an area, I'm looking at a lot of things. I'm
25 looking at the width. I'm looking at bolt spacing.

1 I'm looking at cleanliness. And since I've been in
2 the belt entry, I'm looking at idlers. I'm looking at
3 everything, everything and cleanliness, rock dusting.
4 When I get up to the feeder, you know, then I look
5 that area over, which now, fellows, all these areas
6 I'm looking at right there look pretty good. There
7 was no violations to be issued there.

8 So I tell Gary, let's go to the left side and
9 we're going to start making our way across the faces.
10 The Number One area, everything was fine. I go to the
11 Number Two face, which was about 60 feet deep. I
12 don't have my notes with me. When I write violations,
13 I don't scribble it down on my personal notes at the
14 time. Number Two face, at the end of the line
15 curtain, the blades on my anemometer would not turn.
16 So I checked for methane. No methane. I checked
17 oxygen deficiency, 20.9. I told Gary, you got a
18 violation here. Let's get at least a minimum of 3,000
19 cfm of air in this face. And I said, your problem is
20 right here with your line curtain and your check
21 curtain, the line curtain blowing against the rib,
22 check curtain just fluttering out, you know, in the
23 crosscut. I said, you're going to have to start using
24 some sort of weights or something behind this curtain
25 to hold it in place, because they had good air, good

1 air on that section. And they got it corrected pretty
2 quick. So I got 3,000 plus. That's a whole lot more
3 than actually what they needed. Got it corrected
4 pretty quick. Then I go ahead and make the faces all
5 the way across. And as I come to people, I talk to
6 them about safety. And depending on what job they do,
7 then I'll talk to them, you know, about safety
8 pertaining to whatever piece of equipment they're
9 running, and go all the way across the face.

10 If the air was good, check for methane, oxygen
11 deficiency. Didn't find nothing wrong. Then walked
12 down the intake just a little ways, not very far.
13 Because normally I'll do that all in one, you know.
14 I'll pick a day, and whatever day it is I'm going to
15 walk the intake air courses. I'll plan out enough to
16 do me all day. Sometimes I might get an intake and a
17 return. Just depends. And where I was actually
18 planning on working eight-hour shifts for that week
19 --- see, we can work eights or tens. And I decided,
20 you know, that morning I was going to put in eight
21 hours, you know, that day and --- but it ended up
22 being nine hours, but ---. It took a while, you know,
23 to do all this. And when I come ---.

24 Q. Can you give me some times? Start with when you
25 entered. What time did you enter the mine?

1 A. Somewhere between 8:30 or nine o'clock.

2 Q. Okay.

3 A. I didn't write those times down because I was
4 already in the inspection mode outside.

5 Q. Okay.

6 A. As I was going across the faces, I come across a
7 scoop. I told Gary, I said, I'm going to check that
8 scoop. And I told the scoop man to hit his foot
9 brake. He did. He stopped dead, you know, in his
10 tracks. I told him to get it rolling a little bit and
11 just hit your panic bar. That tells you two things.
12 It will tell me if your panic bar is working, and it
13 will tell me if the automatic brake is set up and
14 holding. So he did that, and it worked. And then I
15 checked permissibility of the scoop with a gauge.
16 Now, I don't know exactly what time this is, but it's
17 just during my inspection mode. I don't have it wrote
18 on my notes what time because I wrote a violation on
19 that scoop because the only thing I found wrong with
20 it after I checked was the manual disconnect. That's
21 the manual --- not electrical, but the manual
22 disconnect, where you're sitting in the operator's
23 deck. It wouldn't trip the breaker, and I wrote a
24 violation on it. And it wouldn't --- I didn't write
25 no order or nothing like that because there was no

1 imminent danger because the electrical disconnect
2 worked. You know, you can hit your panic bar and it
3 shut the machine down. And I gave them time, I think
4 it was through the next morning, to have that
5 corrected.

6 Anyway, and I'm talking to people, too, fellows,
7 as I'm doing this and --- it's just a habit I've got.
8 And I think it's a good habit that every inspector
9 ought to have, is to talk to these people. Anybody
10 can get in a rut. You know, if you're a human being,
11 you can get in a rut. And I try to keep people out of
12 that rut if I possibly can. So finally, I tell Gary
13 May, I said, what I want to do now, I want to walk the
14 off side of this section belt all the way down to the
15 belt drive, and when I get down there, which now I'm
16 doing this now, I'm walking the belt. When I get down
17 to the belt drive, I check the luge on that drive
18 system, and it worked fine. Good pressure and
19 everything, water pressure. I checked the slippage.
20 It worked fine.

21 I had --- fellows, normally when I check to see if
22 one belt goes off, if it's going to trip the other
23 belt. If there's a big pile of coal there, there's an
24 indication that something ain't working on that thing.
25 Well, it was clean as it could be, so I didn't have to

1 shut the other belt off.

2 Q. The belt head ---

3 A. Yeah.

4 Q. --- area was clean?

5 A. Yeah. Yeah, it was clean. Then I checked the
6 power center, checked all the breaker settings and the
7 cleanliness around the power center and on the power
8 center, I always try to look through the windows, see
9 how much dust is inside of them, always make sure when
10 you open the disconnect there's a way to lock it out,
11 you know, in case they ever have to do anything there,
12 you know, lock and tag that thing out. Fire
13 extinguishers worked good. The area, like I said, it
14 was clean and it was rock dusted. It wasn't bad at
15 all, fellows. It looked just like normal mines to me.
16 And then I told Gary, I said, well --- I looked at my
17 --- I remember looking at my watch. I said, it's
18 almost one o'clock, and I said, let's go outside. I
19 got three violations that I'm going to issue. And he
20 said, yeah. He said he already knows what they were.
21 So we get on our mantrip and we come outside.

22 Normally, I'll eat lunch while I'm writing. After I
23 got the violations wrote, I take them upstairs. And
24 Gary wasn't there at the time. I don't know where he
25 was at. I don't know if he done went back to the

1 mines or where he was at, but I laid them on his desk,
2 and then I left and I went home. Somewhere around
3 4:00 ---.

4 Q. Let me stop you there for a second. You cited
5 three violations and ---

6 A. Yes.

7 Q. --- you went outside about 1:00 p.m.?

8 A. Yeah, it was around 1:00.

9 Q. Okay. And what time did you leave the property?

10 A. Two o'clock.

11 Q. Okay. And what time did you arrive home?

12 A. I arrived home at 3:00.

13 Q. Okay. Now, when you came outside with May, did
14 you have any conversations with him about the
15 condition of the mine or --- other than the three
16 violations you wrote? Did he mention any problems
17 elsewhere or ---?

18 A. No. No, because Gary was with me the whole time.
19 And I'm talking to him, too, along, you know, about
20 how things was working. To me, that section there
21 looked pretty good, pretty good.

22 Q. Okay. Speaking of that section right there, I'm
23 going to raise this map up here, if you don't mind.

24 MR. BECK:

25 Terry, have we marked this first map, or

1 do we need to?

2 MR. FARLEY:

3 I don't think he made any notations on
4 it.

5 BY MR. FARLEY:

6 Q. Okay. Show us the portal you entered. Okay.

7 A. Right here.

8 Q. Now, the barrier section, would you point ---?

9 MR. FARLEY:

10 He's pointing to MMU-062-0.

11 BY MR. FARLEY:

12 Q. Is that right, Wayne?

13 A. Yeah.

14 Q. What was your approximate travel time to that
15 section?

16 A. It wasn't very long. I'd say probably maybe 20
17 minutes.

18 Q. Okay. What's that portal commonly known as there
19 where you went in?

20 A. The North ---.

21 Q. North Portal?

22 A. North UBB Portal.

23 Q. North UBB Portal, okay. All right. When you
24 first arrived at the mine, you looked at the maps and
25 you indicated that you looked at the --- some of the

1 examination books; is that correct?

2 A. Yeah.

3 Q. Now, obviously, you only went to the barrier
4 section and you walked the belt, the section belt; is
5 that correct?

6 A. Yes.

7 Q. Now, did you find --- your findings in the mine,
8 did they correspond to the entries in the examination
9 book for that area of the barrier section and that
10 section belt?

11 A. Yes.

12 Q. Okay.

13 A. You're talking about the fire boss book?

14 Q. Yes.

15 A. Yeah.

16 Q. I believe you indicated you cited three
17 violations, kettle bottom, ventilation in the Number
18 Two entry and a problem with the scoop.

19 Q. Was there anything in the pre-shift or on-shift
20 book about the Number Two entry that you recall?

21 A. None.

22 Q. Okay. What about --- and the examination books
23 for the section belt reflected approximately what you
24 saw, or did it?

25 A. I can't recall even looking at the belt book.

1 Q. Okay. Wayne, before you went underground, were
2 you satisfied that you were provided with
3 transportation in a timely manner?

4 A. Yes.

5 Q. Okay. And during the conversations with the
6 miners on that barrier section, did any of them raise
7 any safety issues or make any complaints to you?

8 A. No.

9 Q. None?

10 A. None.

11 Q. Okay. Now, you left the property at 2:00, got
12 home about 3:00. At that point, how did you
13 eventually learn that an explosion or an accident had
14 occurred at UBB?

15 A. Gerry Pauley, as I said before, he was running the
16 office that day. He calls me around 4:30, said
17 something bad had happened down at UBB. I said,
18 Gerry, don't kid me like that. It hasn't been that
19 long since I just left that place. He said, Wayne,
20 I'm serious. State got a call on the hotline. He
21 wants you to go back down there. And I said, Jerry, I
22 said, call Steve back and tell him. Well, Jerry had
23 emphasized to me, too, they think that they might have
24 had an ignition or something down there, said pressure
25 come out of all the openings, drift openings. And I

1 said, well, Gerry, you call Steve back and tell him
2 I'm on --- I'll go down there, but tell him I'm going
3 to need help. I said, I'm going to go to the new
4 portal. I never been to that portal, Ellis Portal. I
5 said, I'll go there, if anything major had happened in
6 there. He said, yeah, there's possibly bodies. And I
7 said, good God, I hope not. I said, if any --- if
8 they bring anybody out, that will probably be the
9 portal they'll bring them out because it will be
10 closer, because he emphasized, too, you know, that
11 they think it might have happened in that area, but
12 they wasn't sure. Don't have a clue. And I said, I
13 need somebody down here at UBB portal. That's the
14 North Portal. And I'll need somebody to go to the
15 bleeder fan on the Boone County side and monitor.

16 Q. Who did you say that to?

17 A. Gerry Pauley.

18 Q. Okay. You're still on the phone?

19 A. I'm still on the phone. Well, he said, Wayne,
20 hold on. Let me call Steve back. Well, he called ---
21 when I got off the phone, he called Steve back. And
22 it wasn't very long he called me back and he said,
23 yeah, Steve said he'll have people on the way. So I
24 go on down there and ---.

25 Q. What time did you arrive back at UBB?

1 A. I'm thinking around 5:15, fellows, but I'd have to
2 look at my notes, you know, to get it right to the
3 minute. I'll have it in my notes. And I had to get
4 them to clear me a path at the entrance where you go
5 up to the Ellis Portal, people blocking the road and
6 everything else, and they did. I told them they need
7 to try to keep this open because there's going to be
8 mine rescue teams and a lot of other people coming in
9 here. And I go on up to the office up there. That's
10 right beside the drift openings and ---.

11 Q. At Ellis Portal?

12 A. At Ellis Portal.

13 Q. Okay.

14 A. When I get there, I see bodies already outside,
15 fellows. Felt like somebody had their hand on my
16 heart and was squeezing the heck out of it.

17 Q. Who was blocking the road when you first went in?

18 A. I don't know who the --- he was sitting in his
19 vehicle, talking to somebody, right there where you
20 got to cross the bridge. I told one of the guys ---.

21 Q. A security person or do you know?

22 A. No. I don't know who it was.

23 Q. Okay. Continue. You saw bodies outside of Ellis.

24 A. Yeah, I saw the bodies. And then the mine --- it
25 wasn't much longer the mine rescue team started

1 pulling in and ---.

2 Q. And approximately how much longer? Can you
3 estimate?

4 A. I'm thinking somewhere around maybe 20, 30 minutes
5 maybe, Terry.

6 Q. Okay. Now, when you arrived at Ellis Portal, you
7 saw bodies outside. Where and how were these bodies
8 positioned? What was their location?

9 A. They were across from the opening of the track
10 entry, laying on the ground, with --- covered with
11 like plastic, and I could see their boots and ---
12 sticking out from underneath there.

13 Q. Okay. Now, who did you encounter when you arrived
14 at the Ellis Portal? Who did you talk to first?

15 A. I believe it was Everett Hager, the
16 superintendent.

17 Q. Okay. What did he tell you?

18 A. He was tore up, fellows. I said, my God. I said,
19 Everett, what happened here. I don't know, Wayne. I
20 don't know yet. We got to find out. And he was
21 running around every which way. So I go on upstairs,
22 and the first thing on my mind, I want to see some
23 record books, you know, to see where they're at. We
24 need those record books. And the Federal had already
25 had them in a box, the record books from that portal,

1 already had them in a box.

2 Q. And do you recall what --- did you encounter an
3 MSHA inspector or an MSHA representative at that
4 point?

5 A. Yeah, but I don't know who it was, Terry. I don't
6 know his name.

7 Q. One person or more?

8 A. I think it was two or three of them already there.

9 Q. Okay. Was anybody else from the Miners' Health,
10 Safety and Training there yet?

11 A. No, not at that time.

12 Q. Okay. Go ahead.

13 A. Then right after that, then the first person I
14 seen was Steve Snyder.

15 Q. Okay.

16 A. And from that point on, fellows, it was ---.

17 Q. Now, Steve Snyder is the inspector-at-large at Oak
18 Hill Ridge; is that correct?

19 A. Yes.

20 Q. Would he be your immediate supervisor?

21 A. Yes.

22 Q. Okay. Approximately what time did Steve arrive,
23 or can you say?

24 A. I can't say, fellows. I don't look at my watch on
25 every little thing, you know. Most of it is just

1 guesstimated times.

2 Q. Well, we're just trying ---

3 A. It wasn't very long.

4 Q. --- to piece together how the events played out.

5 A. Yeah, I know.

6 Q. Did you speak with anybody else from the UBB
7 management group other than Everett Hager?

8 A. That section boss on the barrier section from
9 earlier that day, ---

10 Q. Yes.

11 A. --- he come up to me and he said, Wayne, he
12 said ---.

13 Q. What was his name?

14 A. Larry somebody. Can't remember his last name. He
15 asked me how I was doing. I told him, I ain't doing
16 too good right now. He said, well, none of us are.
17 And I said, you all have any problems up here from
18 this? He said, we got some pressure from it. He
19 said, I thought maybe it was a roof fall, he said, and
20 then the pressure just kept coming and dust started
21 coming in the air. He said they got to the mantrip
22 and they got outside.

23 Q. Was he on the barrier section at the time of the
24 explosion?

25 A. Yes.

1 Q. He described it as pressure?

2 A. Yeah.

3 Q. Were those his exact words?

4 A. Yeah. Well, he said, I thought maybe it was a
5 roof fall down through there at some point, and he
6 said, but then the pressure kept coming. I can't
7 remember in the exact words what he did say, Terry,
8 but he said he got his men together and they left,
9 went outside.

10 Q. Did he indicate approximately what time they
11 left ---

12 A. No.

13 Q. --- the section?

14 A. No.

15 Q. He was at Ellis Portal when you encountered him;
16 right?

17 A. Yeah. Yeah. He come over to the Ellis Portal.

18 Q. How did he come to the Ellis Portal from ---?

19 A. He would have had to come from the UBB North
20 Portal.

21 Q. Travel down the highway?

22 A. Yeah. Now, I'm guessing on that. I don't think
23 he went through the mine.

24 Q. That's fine. Let me back up on a couple of
25 things. Now, did you speak to anybody else on the UBB

1 management staff?

2 A. No.

3 Q. Nobody?

4 A. No, because everything was in chaos.

5 Q. Did you have a conversation with anyone at any
6 time who seemed to offer some insight into what might
7 have happened, whether they were management persons or
8 not?

9 A. No.

10 Q. Okay. How long did you remain at the Ellis
11 Portal?

12 A. Until the next morning.

13 Q. Until the next morning. Okay. Back up. When you
14 went to the barrier section, if I recall correctly,
15 you found no methane during your face examination; is
16 that correct?

17 A. No methane.

18 Q. Same thing for the belt section?

19 A. Right, none along the belt anywhere where I was
20 at. I did not find no methane.

21 Q. In the conversations with --- in your
22 conversations with May and this section foreman or any
23 of the employees, did anyone mention methane
24 accumulations anywhere in the mine?

25 A. No. If anybody would have mentioned something

1 like to me while I'm there, fellows, I'm going
2 straight to it.

3 Q. Okay. A few general questions here. To arrive at
4 this North Portal, you enter the property through the
5 across the bridge at Montcoal; is that correct?

6 A. Yes.

7 Q. Now, when you enter the Performance property, you
8 go through a security gate; is that correct?

9 A. Yes.

10 Q. Okay. From there, how long does it take you to
11 get up to the mine, approximately?

12 A. Four or five minutes.

13 Q. Would you suspect that the security guard might
14 announce your presence to the people at the mine once
15 you pass through? Is that possible?

16 A. That is always a possibility. They can call ahead
17 and say, you got a State inspector here at the gate,
18 heading your way.

19 Q. Okay.

20 A. Fellows, that can happen --- I'd say it happens
21 all the time.

22 Q. Okay. So you know, to expand on that, if you
23 wanted to get underground unannounced, what would you
24 have to do?

25 A. Now, if I was on a blitz or something, we would

1 handle everything differently. I'd put an inspector
2 off right there at the guard shack as soon as I pull
3 up there. And that inspector is going to tell him not
4 to call ahead, don't warn anybody the inspector is
5 coming. Then I'll go on up to the mines and take
6 control up there until the --- and then call and have
7 the other inspector brought up. Okay? Well, he might
8 be in a separate vehicle. He can bring himself. Now,
9 we can get underground unannounced pretty easy.

10 Q. Well, how many people would you probably need to
11 get underground unannounced by the time you ---?

12 A. I'd like to have at least four when I'm doing
13 this, a minimum of four. Sometimes you get four,
14 sometimes less.

15 Q. All right.

16 A. And it depends on the --- you know, the size of
17 the mines, too, you know, how many people you need if
18 you're going underground, you know, on the --- say a
19 ventilation check or whatever, you know.

20 Q. Okay.

21 A. Most of the time we do that when we got a
22 complaint. But now if I --- on my normal duties as an
23 inspector, I don't really have a reason to tell this
24 guard, hey, don't call ahead and tell them I'm coming,
25 because when I get up to the mine complex they see me

1 pull in up there. They're going to get on the phones,
2 too, and start calling underground. I don't know
3 where he's going, but everybody straighten up, you
4 know.

5 Q. Now, since the explosion at UBB on April 5th,
6 2010, have you been approached by any UBB employee or
7 any person affiliated with UBB?

8 A. Yeah.

9 Q. Okay.

10 A. I didn't write his name down or nothing. Matter
11 of fact, I don't even --- didn't even know his name.
12 But it was just talk, though, you know, of what I
13 thought happened there. And I told him that I don't
14 have a clue what happened here. Well, I heard you was
15 underground. I said, yeah. Yeah, I was underground
16 that day, but I was down on this end of the mine, you
17 know.

18 Q. Did this person offer information about any safety
19 problems in the mine?

20 A. No. None at all.

21 Q. Do you know what area of the mine this person
22 worked in?

23 A. No.

24 Q. Okay. Just someone you knew or just someone you
25 ran into?

1 A. Just somebody that came to me, seen me out there.
2 It's been a while since I seen you. I thought you
3 done retired.

4 Q. Okay. Now, this encounter, was this at the mine
5 property or somewhere else?

6 A. It was at the mine property.

7 Q. Okay. Do you have any knowledge of any major
8 ventilation changes that would have been made at the
9 UBB Mine prior to April 5th, this year?

10 A. When Jerry had the mines, he was telling me, you
11 know, that they was going to do some ventilation
12 changes down there. He had never got his paperwork in
13 yet, you know, to get it approved or anything.

14 Q. Okay.

15 A. As far as that, no.

16 Q. Okay.

17 A. Not nothing major.

18 MR. FARLEY:

19 Erik, do you have anything?

20 MR. SHERER:

21 Sure.

22 EXAMINATION

23 BY MR. SHERER:

24 Q. Mr. Wingrove, when you got to the portals to go
25 underground, how did you check into the mine?

1 A. Through the check-in system.

2 Q. Is it an electronic system?

3 A. No, a place to hang a tag.

4 Q. You hung a tag?

5 A. Yeah.

6 Q. Did you have a track-and-tag that they provided
7 for you?

8 A. No.

9 Q. When you got up to the section you mentioned that
10 you checked the belt and the belt drive. Did you
11 check any additional belts and belt drives?

12 A. No.

13 Q. Okay.

14 A. That's the only one I checked out there. And I
15 was just getting started on the inspection.

16 Q. Sure. When you were talking to the miners up on
17 the barrier section, did any of them have any concerns
18 or complaints?

19 A. No.

20 Q. Did they mention any problems with production in
21 the recent history?

22 A. No.

23 Q. Okay. After the explosion, when you were up at
24 the Ellis Portal, who was in charge of the evacuation
25 at that point in time; do you know?

1 A. No, I don't know.

2 Q. Do you recall any notice concerning the
3 responsible person when you were at the mine earlier
4 that day?

5 A. Rephrase that.

6 Q. Do you recall seeing any notice concerning the
7 responsible person?

8 A. Notice? I don't understand what you mean by the
9 notice. They had one outside, a responsible person.

10 Q. Okay. Who was the responsible person? Do you
11 recall?

12 A. I can't recall, fellows, now. It's been a while
13 since I've been down there, and I'm not good on names
14 at all. If I don't write it down, then it's hard for
15 me to go back and recall.

16 Q. But you were aware that somebody was the
17 responsible person?

18 A. Yes.

19 Q. Were they --- do you know if they were handling
20 the evacuation of miners who may have been underground
21 at that time?

22 A. No, I don't know.

23 Q. Okay. Are you aware --- when you first arrived at
24 the property, were persons headed into the mine to try
25 to assess the damage and try to locate victims? Do

1 you know?

2 A. I was told by somebody down there on the Ellis
3 side when I went back to the mines that evening that
4 they was --- I was told that there was a federal man
5 or maybe two underground. Fellows, I don't know that
6 for a fact, if they were underground.

7 Q. Okay.

8 MR. SHERER:

9 Thank you.

10 MR. WILSON:

11 Go ahead, Davitt.

12 ATTORNEY MCATEER:

13 Thank you.

14 EXAMINATION

15 BY ATTORNEY MCATEER:

16 Q. Mr. Wingrove, thank you. You started in the mines
17 35 years ago?

18 A. Yes.

19 Q. And you started when you were six?

20 A. Well, thank you.

21 Q. How did the Glory Hole come to get its name?

22 A. I don't know. That's normal, what they call holes
23 like that. They'll call them Glory Holes.

24 Q. And why was it not being used anymore?

25 A. The mines above them wasn't running coal through

1 there no more, is what I was told.

2 Q. The barrier section that you checked, you said you
3 walked the conveyer belt ---

4 A. Yes.

5 Q. --- on the off side?

6 A. Now, from the Number Two break when I first went
7 in, I walked the walkway side, the side everybody
8 walked.

9 Q. Right.

10 A. And then when I left, then I walked the off side.

11 Q. How was the dust?

12 A. It was okay. It would have been bad, I would have
13 issued a violation. I didn't issue no violations on
14 that belt.

15 Q. And what about the pre-shift examination records,
16 did you look at those before you ---?

17 A. Yes, for that section.

18 Q. Did you see anything?

19 A. No.

20 Q. Tell me about some of the entries in those books.
21 What do they say?

22 A. I believe it was 0.1 methane, and either one or
23 two places that still needed bolted.

24 Q. Okay.

25 A. And they'll show reported, you know. And if they

1 find something wrong, they'll show reported. You
2 know, if it's a part cut, part bolted or whatever,
3 they'll show it on there that they reported it.

4 Q. Did anybody indicate there was this --- in the
5 pre-shift --- in the path under the kettle bottom, the
6 water path? Remember, you said you walked past to get
7 around the water?

8 A. No.

9 Q. That wasn't there?

10 A. No.

11 Q. But you saw a path there?

12 A. I saw a path right under that kettle bottom.

13 Q. So somebody was walking by?

14 A. Yes.

15 Q. Perhaps didn't take a chance to look up?

16 A. Didn't look up. Well, fellows, you don't know
17 what to do there. You know, ---

18 Q. I understand.

19 A. --- sometimes if you're looking down to see where
20 you're walking, you're not looking up. If you look
21 up, then you can stumble, ---

22 Q. I understand.

23 A. --- you know.

24 Q. But you said there was cleanliness there. Along
25 the barrier section it was clean.

1 A. Well, it wasn't swept clean, you know, with a
2 broom, ---

3 Q. I understand.

4 A. --- but normal coal mining clean.

5 Q. Okay.

6 A. Let me put it that way.

7 Q. But the idlers were all functioning, and ---

8 A. Yes.

9 Q. --- and the pick-ups and everything was in ---

10 A. Yes.

11 Q. --- order? Okay. The left side of the rib, you
12 said --- what kind of air did you have there?

13 A. Where are you talking about now?

14 Q. Okay. After you checked the faces and there were
15 --- you said you checked the left faces, One and
16 Two, ---

17 A. Yeah, going across.

18 Q. --- and you went across, ---

19 A. Uh-huh (yes).

20 Q. --- and then you ran into some bad air, where
21 there wasn't air up there?

22 A. Yeah. That was Number Two face.

23 Q. Number Two?

24 A. Yeah.

25 Q. Okay. That's what it was. And what was wrong

1 with that one?

2 A. Why they didn't have the air ---

3 Q. Uh-huh (yes).

4 A. --- on that face? The curtain was blowing against
5 the rib and they had a check curtain across the mouth
6 of the breakthrough, and it was flopping out. And
7 along the top, where they hang the curtain, it was
8 swooped down in between the bolts. So they had to
9 tighten all that up and fix that check curtain, and
10 they got their air in that face.

11 Q. Okay. And how long approximately did that take
12 just to do that?

13 A. About 15, 20 minutes, because they had to get a
14 ladder, too, in order to reach some of that.

15 Q. But there was no --- the methane was --- what was
16 the reading on the methane?

17 A. It was zero.

18 Q. Okay.

19 A. Now, I got zero across all those faces on my
20 detector.

21 Q. And the oxygen?

22 A. 20.9.

23 Q. You said it looked like normal mines, a normal
24 mine?

25 A. Yes.

1 Q. Okay. Just what do you mean by that, generally.

2 A. Well, they were mining on the centers.

3 Q. Okay.

4 A. Now, I'm just looking. I ain't measuring this.

5 Q. Sure.

6 A. But just looking, you know, where they had their
7 center lines painted, you can always cite them things,
8 too, just --- you know, sometimes they'll bury a
9 little bit, which that's normal.

10 Q. Sure.

11 A. The places looked clean. You know, you get a cut
12 and you have to get it bolted. They'll run a scoop
13 over there, you know, push everything up.

14 Q. Okay.

15 A. And the belt line, I thought it looked pretty darn
16 good. If it don't look right, then it's probably a
17 violation.

18 Q. Uh-huh (yes).

19 A. And it gets issued.

20 Q. Now, this was the first time you've been in this
21 Upper Big Branch Mine?

22 A. Since --- I'm thinking August of '08.

23 Q. Right. Who did the inspections before you for the
24 State? Well, if this was your first general
25 inspection, who would have done that ---?

1 A. I picked it up this year?

2 Q. Right.

3 A. Gerry Pauley.

4 Q. You had said when --- Gerry Pauley had called you
5 and he mentioned Steve had called him?

6 A. Yeah, through the hotline system.

7 Q. Who's Steve?

8 A. Steve Snyder. He's the inspector-at-large, Oak
9 Hill Regional Office.

10 Q. Okay. And you said you were having to get
11 somebody to move because of the path was blocked to
12 the mine. Was that a group or is that just one car?

13 A. No. That was a guy in a pickup truck. I needed
14 to cross the bridge right there, and he was talking.
15 And I told him, I said, get that guy to park somewhere
16 else and they can talk somewhere else. We need to
17 keep this open up through here.

18 Q. Okay.

19 A. And the guy from the fire department is the person
20 I told that to, and he cleared it up. And apparently
21 they maintained it open because everybody started
22 coming in not much longer after that.

23 Q. Now, you said there were bodies on the outside?

24 A. Yes.

25 Q. Do you know how many?

1 A. I didn't count them all.

2 Q. I mean, one ---?

3 A. There's --- I'd say seven because that's how many
4 was supposed to have been brought out. I didn't walk
5 over there. I just seen that from a short distance.

6 Q. And can you describe who was in charge?

7 A. I don't know who was in charge. There was a
8 Federal man there, I don't even remember what his name
9 was, and he was talking.

10 Q. Were there teams underground?

11 A. Then? At that time?

12 Q. Uh-huh (yes).

13 A. Rescue teams?

14 Q. Anybody.

15 A. No, not to my knowledge they weren't.

16 Q. Well, how did the bodies get out?

17 A. Well, okay. Now, Everett --- Everett Hager, him
18 and somebody else went in that mines after that. I'm
19 pretty sure it was Everett Hager, the superintendent,
20 on that side, telling me that, that they went in and
21 helped get these guys on out. You know, that was the
22 first mantrip. It was on its way out.

23 Q. Right.

24 A. Him and somebody else, and I can't recall their
25 name.

1 Q. Now, the record books, you said they had already
2 had them in a box?

3 A. Yeah, the ones at the Ellis Portal.

4 Q. At the Ellis Portal. And do you know where they
5 are or what happened to them or ---?

6 A. Well, they were in a box right there in that
7 office, and I asked them, let's take them down in this
8 other room and lock them up in there, and they did.

9 Q. And who did that for the company?

10 A. Who took them down there and locked them up? It
11 was a company person, but I didn't write his name
12 down. They've had a lot of new faces there since I've
13 been there last, management.

14 Q. Did you accompany him with the books, ---

15 A. Yes.

16 Q. --- to see that they were locked up?

17 A. Yes.

18 Q. And did the federal inspector go as well?

19 A. Yeah.

20 Q. And who had the key?

21 A. Management had the key.

22 Q. So you remained at the Ellis Portal until the next
23 morning?

24 A. Yes.

25 Q. Did any events occur after that?

1 A. Yes. Some of the family members, a couple of
2 them, they want to know if they can get their dad's
3 personal stuff just out of the locker, not what they
4 had on them when they comes out of the mine, just
5 truck keys or things like that, billfold. So we
6 allowed them to go in and get that. I got that wrote
7 down in my notes, the two families that wanted to know
8 if they could do that. It was me and a Federal man
9 and the company person that went with them to the
10 locker

11 Q. Are you familiar with the practice along the
12 highway if you pass a State Police official and you
13 flip your lights to another individual --- I mean,
14 just familiar with the practice. I know you wouldn't
15 do that, of course. Are you familiar with that
16 practice?

17 A. Yes.

18 Q. That's notification?

19 A. Yeah.

20 Q. Do you expect that happens in the mines as well
21 with the phones?

22 A. Oh, yeah. Oh, yeah.

23 Q. I'm familiar with the practice as well.

24 A. Uh-huh (yes).

25 Q. Was production in gear at the barrier panel when

1 you were there?

2 A. No.

3 Q. Was it producing?

4 A. Yeah, but they had stopped for a little while.
5 They was bringing the mine machines back to another
6 place.

7 Q. Could you tell when they stopped?

8 A. No. As a matter of fact, when I first got on the
9 section they wasn't running anything at the time. I
10 don't know if they had one of the machines break down
11 or what there. I didn't go in that far because I was
12 concentrating more on the faces and ---

13 Q. Uh-huh (yes).

14 A. --- as I was going across there.

15 ATTORNEY MCATEER:

16 That's all the questions I have. Thank
17 you, sir.

18 A. You're welcome.

19 RE-EXAMINATION

20 BY MR. FARLEY:

21 Q. On April 5th, 2002, when you examined some of the
22 pre-shift/on-shift books, ---

23 A. Uh-huh (yes).

24 Q. --- do you recall how many books you actually
25 looked at?

1 A. Just that barrier section book and I'm pretty sure
2 I looked at the longwall book, too, and didn't see
3 nothing in it. I looked mainly to see, you know, if
4 he's showing any high concentrations of methane and
5 see how the section is, you know, when the report gets
6 called out and make sure it's a certified person that
7 receives the report. More or less, just make sure
8 everything is filled out properly and if there's any
9 eye-catchers in it that maybe I need to look at or
10 anything.

11 Q. Did you see anything in any of the books that you
12 looked at that made any reference to a mine evacuation
13 the previous Friday, which would have been April the
14 2nd?

15 A. No.

16 Q. During your conversations with any of the
17 management people or any of the employees or anyone
18 else throughout the night after the explosion, did
19 anyone make any reference --- make any statement or
20 comment about a possible mine evacuation on the
21 preceding Friday, which would have been April 2nd?

22 A. No. I didn't know nothing about that.

23 Q. Okay. Also, when you evaluate how well any area
24 of the mine is rock dusted, do you have any scientific
25 testing equipment?

1 A. No.

2 Q. Okay. After the explosion, during that night, you
3 remained at Ellis Portal throughout the night. Did
4 you learn anything from conversations with management
5 during the night as to what might have happened?
6 Anyone have any ideas as to what happened? Did you
7 pick up on anything during your conversations
8 throughout the night?

9 A. Nothing.

10 Q. Okay.

11 A. Nobody knowed what happened.

12 Q. I may have already asked this one. Throughout the
13 night, after the explosion, what were your duties
14 again?

15 A. The mine rescue teams and everybody had to go to
16 the other side, to the UBB portal.

17 Q. Right.

18 A. And Steve told me, just stay on that side over
19 there, just monitor and --- in case I'm needed on that
20 side.

21 Q. Okay. I understand.

22 MR. WILSON:

23 Davitt, do you have anything else right
24 now?

25 ATTORNEY MCATEER:

1 No.

2 MR. WILSON:

3 Okay. Let's take a short break. We'll

4 go off the record and then we'll come back and we'll

5 finish up. We'll go off the record.

6 SHORT BREAK TAKEN

7 MR. WILSON:

8 Go back on the record. Go ahead and mark

9 the map that you were referring to as Exhibit Wingrove
10 One.

11 (Exhibit Wingrove One marked for
12 identification.)

13 RE-EXAMINATION

14 BY ATTORNEY MCATEER:

15 Q. Mr. Wingrove, could you just --- earlier you were
16 referring to the portal that you had entered.

17 A. The north portal.

18 Q. Could you just put your initials on the map with
19 an arrow pointing to where you went in?

20 A. I'll put WW for Wayne Wingrove.

21 Q. Okay. And does this map show the face areas that
22 you were referring to where you issued the citations
23 for low air?

24 A. Yes.

25 Q. Okay. Why don't you just go ahead and put a

1 circle around that Number Two entry that you had
2 referred to.

3 A. This is the barrier section, I think. It don't
4 say barrier on here, but it's Number Two, so ---.

5 MR. WILSON:

6 Terry, anything further?

7 MR. FARLEY:

8 I don't have anything else.

9 MR. WILSON:

10 Barry?

11 MR. SHERER:

12 I have a few questions.

13 EXAMINATION

14 BY MR. SHERER:

15 Q. Mr. Wingrove, when you were up there, I think, in
16 2008 doing some roof control inspections, you
17 mentioned that you went to the Glory Hole area?

18 A. Yes.

19 Q. Was that to investigate some specific problem or
20 just a general roof control investigation?

21 A. Roof control.

22 Q. Okay.

23 A. Because they were near that area mining.

24 Q. Were they having any problems at that time?

25 A. No.

1 Q. Have you ever been in the upper mines, like the
2 Black Knight Mine that overlaid this?

3 A. No.

4 Q. Okay. Thank you. When you went back up on the
5 afternoon of the 5th, after the event, did you go to
6 the Ellis Portal or the UBB Portal?

7 A. Ellis Portal.

8 Q. Ellis Portal. That's on the other side of the
9 road from the UBB Portal?

10 A. The other side of what?

11 Q. The --- I guess ---.

12 A. It's off the same highway, that Route 3.

13 Q. Okay. Did you notice if anyone was keeping up
14 with who was going in or out of the mine? Did they
15 have some tracking system set up up there?

16 A. No, I didn't notice.

17 MR. SHERER:

18 Okay. Thank you.

19 RE-EXAMINATION

20 BY ATTORNEY MCATEER:

21 Q. Just a couple questions. Before you visited the
22 mine, would you review the violation history or the
23 accident history or the records of the mine before you
24 go up to this --- to start a general inspection?

25 A. Just certain records. Now, that's just starting

1 out. I would review the fire boss report for that
2 section.

3 Q. Right. And that would be --- the fire boss report
4 would be at the mine?

5 A. Yes.

6 Q. But at the office --- would you have a record of
7 the mine at your office?

8 A. What kind of record? At our office?

9 Q. Yes.

10 A. Of what?

11 Q. Of ventilation, their ventilation plan that they
12 submitted or accident record history or ---?

13 A. Yes. We would have all of that at the office, Oak
14 Hill office.

15 Q. At Oak Hill, okay. And had you gotten to that
16 yet?

17 A. I carry a package with me similar to what we keep
18 at the office, and I'll review things before I start a
19 general inspection, so I'll know --- have a good idea
20 what's going on there --- what's supposed to be going
21 on when I start my inspection.

22 Q. Does that include production records and things of
23 that ---?

24 A. No, not production.

25 Q. Okay. Had you ever heard anything about this

1 mine, about how they were operating or good mine, bad
2 mine kind of thing? What's the talk?

3 A. Just talk, just hearsay stuff from different
4 people.

5 Q. Right.

6 A. No facts at all.

7 Q. Sure. Were you made aware that this man had
8 increased its productivity in the ---

9 A. No.

10 Q. --- months beforehand? And the --- how did you
11 tag in and tag out of this mine?

12 A. There's a place beside the motor barn where people
13 tag in and tag out.

14 Q. You use that ---?

15 A. You hang it on --- I got a tag, a brass tag, that
16 I hang on the ---

17 Q. Right.

18 A. --- board.

19 Q. Did they have an electronic tagging system for
20 their employees?

21 A. Not that I'm aware of.

22 Q. Did they have --- I'm blocking on the name, the
23 leaky feeder system hooked up, do you know, the
24 communication system?

25 A. Yes. It was still under violation. They had been

1 working on it to get their parts in, everything they
2 needed to complete the job. I noticed that.

3 Q. Right. But it was still under violation for not
4 having ---?

5 A. Yes, for not having it installed and up and
6 running.

7 Q. Right. But did you ask about that or any
8 conversations about that or ---?

9 A. Yes. That morning, in the motor barn, as a matter
10 of fact, there was two younger men working on the ---
11 something out there. It might have been the
12 track-mounted mantrip. And I asked them what was
13 their position there at the mines, and they told me
14 that they had been installing the track devices. And
15 I asked them, I said, how come you all are not
16 installing it now? Well, we had some --- had to order
17 some stuff. I said, has it come in yet? Yes. And I
18 said, well, what are you all doing out here then? How
19 come you all are not installing that system? Well, we
20 got to do what the boss says. Well, their boss, they
21 call him Doughnut, and he said, Wayne, he said, as
22 soon as they get done with this right here, I'll have
23 them in there to start working on that. And I said,
24 well, that will be fine then. And boys, I'm glad.
25 I'm glad now that I didn't absolutely make them guys

1 get in there to start on that or there might have been
2 two more bodies. I don't know where they would have
3 had to go, though, you know, to complete that.

4 Q. Sure. Okay. But Doughnut, who was their foreman,
5 said that he would have them start to work on the
6 installation of the tracking devices and the leaky
7 feeder system?

8 A. Yes. And he had mentioned that if they didn't get
9 done that day, it would be first thing in the morning
10 he'll put them right back on that to get it done.

11 Q. Okay.

12 ATTORNEY MCATEER:

13 That's all the questions I have. Thank
14 you, sir.

15 A. You're welcome.

16 RE-EXAMINATION

17 BY MR. FARLEY:

18 Q. Wayne, at UBB we know that there are other seams
19 above the seam that UBB Mine's in?

20 A. Yes.

21 Q. And we know that some of those are being actively
22 mined. Are you aware of a seam which underlays, or
23 underlies the UBB Mine?

24 A. I'm not aware of a mines that --- a seam that had
25 been mined underneath.

1 Q. A seam, not necessarily mine, just a coal seam
2 below the seam that was there?

3 A. Yes, I was told there was. But as far as looking
4 at it on a map or a borehole, no.

5 Q. Okay. Have you had any, I'll call it, I guess,
6 experience at this mine --- have you had any
7 experiences in the past at other mines where you had
8 methane liberating or migrating from underlying seams
9 from somewhere?

10 A. Yes.

11 Q. Okay. Is that common, in your experience?

12 A. Yeah. In these --- not in real gassy mines,
13 sometimes you'll have a little crack in the bottom.
14 If you put your detector right down on the bottom of
15 it, yeah, you can pick up a methane reading. But a
16 legal reading is about a foot above it. And then, I
17 mean, if you take a reading then, then it's dissipated
18 through the ventilation.

19 Q. Okay. Have you had any encounters with bleeder
20 feeders or ---?

21 A. Yes. Now, this is hearsay. I didn't have a mines
22 at the time that this was happening at UBB, that the
23 bottom halves opened up and they get a feeder of
24 methane out under pressure, and they'd have to shut
25 down and let it bleed off. Now, fellows, that's

1 hearsay. I don't know it for a fact.

2 Q. Okay. Now, when you say hearsay, is it just rumor
3 in the company in particular, or ---?

4 A. Just rumor. You hear it at other mines. You hear
5 about what happened at UBB the other day? No. What?
6 I don't have the mines ---. And then they'll tell
7 you, you know, that they had a feeder, a crack in the
8 bottom opened up and released a lot of methane and it
9 had to shut down and let it bleed off.

10 Q. Okay. All right.

11 MR. FARLEY:

12 Anything else?

13 MR. WILSON:

14 All right. Mr. Wingrove, on behalf of
15 MSHA and the Office of Miners' Health, Safety and
16 Training, I'd like to thank you for appearing and
17 answering questions today. Your cooperation is very
18 important in the investigation as we work to determine
19 the cause of the accident. We require that you not
20 discuss your testimony with any person, aside from if
21 you had a personal representative, since we will be
22 interviewing additional witnesses.

23 After questioning other witnesses, we may
24 call you if we have any follow-up questions that we
25 feel we need to ask you. If at any time you feel that

1 you have additional information regarding the accident
2 that you would like to provide to us, please contact
3 us or Norman Page, the lead accident investigator, or
4 Mr. Farley and pass on that information. We would
5 appreciate that.

6 Before we go off the record, at this
7 point I want to give you an opportunity to --- you
8 know, if there's anything that you want to go back
9 over and clarify or if there's any other statement
10 that you would like to make, I want to give you that
11 opportunity at this time.

12 A. Fellows, I don't know of anything now. I'm trying
13 to bring it back from memory. I was tore up pretty
14 good about it, too. I knowed some of these guys
15 through the years of coal mining. As far as me
16 writing down everything word for word that I done, I
17 didn't do that. If I told you anything wrong, I'm
18 sorry. To the best of my knowledge, I told you
19 everything that I know. If I can think of anything
20 else pertaining to this, I will let you know because I
21 want to know what happened also.

22 Fellows, I think what happened here is ---. Now,
23 these guys --- I know two of these bosses, the one on
24 the tailgate and the one on the headgate. If there
25 was an explosive atmosphere, they would have had the

1 mines evacuated and pulled that power themselves. I
2 didn't know the boss and stuff on the longwall.

3 MR. WILSON:

4 And who are the two people you're
5 referring to that you knew?

6 A. Steve Harrah, he was the section boss, and the one
7 they called Dino.

8 MR. WILSON:

9 All right. Again, Mr. Wingrove, we
10 appreciate you coming in. Unless there are any
11 follow-up questions, we're finished. Thank you. Off
12 the record.

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STATEMENT UNDER OATH CONCLUDED AT 11:24 A.M.

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CERTIFICATE

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



Brett Steele