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Transcript of the Testimony of Jason Stanley

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Case:

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STATEMENT UNDER OATH
OF
JASON STANLEY

taken pursuant to Notice by Danielle Ohm, a
Court Reporter and Notary Public in and for the
State of West Virginia, at The National Mine
Health & Safety Academy, 1301 Airport Road,
Room C-137, Beaver, West Virginia, on Saturday,
June 5, 2010, beginning at 3:30 p.m.

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

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ALSO PRESENT:

(b) (7)(C) - Grandfather of Jason Stanley

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I am with the Office of the Solicitor of the United States Department of Labor. Today is Saturday, June 5th. With me is Erik Sherer, an investigator with the Mine Safety and Health Administration. We're here this afternoon to conduct an interview of Jason Stanley. Also present are individuals with the State of West Virginia. And I'll ask them to state their appearance for the record starting with Pat.

MR. MCGINLEY:

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

MR. JASON STANLEY:

Jason Stanley. Nice to meet you.

MR. TUCKER:

Bill Tucker, Office of Miners' Health, Safety and Training.

MR. FARLEY:

Terry Farley, Office of Miners' Health, Safety and Training.

ATTORNEY WILSON:

There are several other members of the

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

19 Mr. Stanley, government investigators and
20 specialists have been assigned to investigate the
21 conditions, events and the circumstances surrounding
22 the fatalities that occurred at the Upper Big Branch
23 Mine-South on April 5th, 2010. The investigation is
24 being conducted by MSHA, pursuant to Section 103(a) of
25 the Federal Mine Safety and Health Act and by West

1 Virginia Office of Miners' Health Safety and Training.
2 We appreciate your assistance in this investigation.
3 You may have a personal attorney or other
4 representative present during this statement. You may
5 consult with your representative at any time. Do you
6 have a representative present with you today?

7 MR. JASON STANLEY:

8 Yes.

9 ATTORNEY WILSON:

10 And, sir, I'll ask that you state your
11 appearance for the record. Your name?

12 (b) (7)(C) :

13 (b) (7)(C) .

14 ATTORNEY WILSON:

15 And your relation to Jason Stanley is?

16 (b) (7)(C) :

17 I'm his grandfather.

18 ATTORNEY WILSON:

19 Okay. And you go by Jason; is that
20 right?

21 MR. JASON STANLEY:

22 Yes.

23 ATTORNEY WILSON:

24 All right. Jason, you may refuse to
25 answer any question and you may terminate your

1 interview at any time. This is a voluntary interview.
2 This is not an adversarial proceeding. Formal Cross
3 Examination is not permitted; however, follow-up
4 questions are permitted as appropriate.

5 Your identity and the content of this
6 interview will be made public at the conclusion of the
7 interview process and it may be included in the public
8 report of the accident unless you request that your
9 identity remain confidential or information would
10 otherwise jeopardize a potential criminal
11 investigation. If you request us to keep your
12 identity confidential, we will do so to the extent
13 permitted by law. In other words, if a Judge orders
14 us to reveal your identity or if another law requires
15 us to reveal your identity, we may need to do so.
16 There may be a need to use the information you provide
17 to us or other information that you may provide to us
18 in the future in other investigations into the
19 hearings of the explosion. Do you have any questions
20 about that?

21 MR. JASON STANLEY:

22 No.

23 ATTORNEY WILSON:

24 After the investigation is complete, MSHA
25 will issue a public report, detailing the nature of

1 the causes of the accident in the hope that greater
2 awareness about the causes of accidents will reduce
3 their occurrence in the future. Information obtained
4 through witness interviews is frequently included in
5 those reports. We will be interviewing other
6 individuals. We would request that you not discuss
7 your testimony with anyone other than with your
8 representative.

9 A court reporter will be recording the
10 interview. Please speak loudly and clearly. If you
11 do not understand the question, please ask that the
12 question be rephrased. Please answer each question as
13 fully as you can, including any information that you
14 may have learned from someone else. Again, I want to
15 thank you in advance for appearing here today. We
16 appreciate your assistance in the investigation. Your
17 cooperation is critical in making the nation's mines
18 safer.

19 After we have finished asking questions,
20 we will provide you with an opportunity to provide us
21 with any additional information that you believe will
22 be helpful to our investigation. If at any time after
23 the interview is over you recall additional
24 information, you can contact us --- contact Norman
25 Page, who's in the back of the room. He's the lead

1 investigator for MSHA and his contact information is
2 provided in a letter that I am providing to you at
3 this time.

4 Now, Mr. Stanley, you should be aware
5 that any statements given by miner witnesses to MSHA
6 are considered to be an exercise of statutory rights
7 and protected activity under Section 105(c) of the
8 Mine Act. If you believe any discharge,
9 discrimination or any other type of adverse action is
10 taken against you as a result of your cooperation with
11 this investigation, you should immediately contact
12 MSHA and file a complaint under Section 105(c) of the
13 Act. Remedies under the Mine Act include back wages,
14 and immediate temporary reinstatement to your most
15 recent position with the company, pending a complete
16 investigation of your complaint. And the way that you
17 would file such a complaint is you would contact the
18 MSHA District 4 Office in Mt. Hope. And their contact
19 information is also provided in the letter that I just
20 gave to you.

21 For more information concerning your
22 rights as a miner under the Mine Act, you can go to
23 MSHA's website at www.MSHA.gov. Do you have any
24 questions before we get started?

25 MR. JASON STANLEY:

1 No.

2 ATTORNEY WILSON:

3 Bill, did you have anything you wanted to
4 add?

5 MR. TUCKER:

6 Yes. Jason, we'd also like to thank you
7 for appearing here today. Terry Farley and I are the
8 lead investigators for the State in the UBB
9 investigation. And Mr. Wilson explained your Federal
10 rights under the law, but you're also protected under
11 State Law against discrimination. West Virginia Code
12 22A-1-22 protects miners' who discuss safety
13 violations and mine practices that may have
14 contributed to this explosion. So I'm going to give
15 you a memo with an address of the Board of Appeals.
16 This is an administrative body that hears and
17 determines cases of discrimination. So if you believe
18 that your employer has discriminated against you in
19 any way for speaking to us here today, you can file a
20 discrimination action by simply writing a letter and
21 sending it to that address.

22 The memo that I'm giving you also
23 contains a phone number where you can reach me if you
24 think of something later that might be relevant to
25 this investigation. Again, we'd like to thank you for

1 coming today.

2 ATTORNEY WILSON:

3 Patrick, do you have anything before we
4 start?

5 MR. MCGINLEY:

6 Just briefly. I'm with the Governor's
7 independent investigation team. What I want to say
8 is, and I'm sure that the rest of the group joins me
9 in this. What we're trying to do here, we know we've
10 got 29 men who lost their lives. We have widows who
11 have children. They want to know what happened here
12 and that's what we're trying to do, so it's really
13 important and we appreciate you coming in here. We
14 can get to the truth. Sometimes it's hard to talk
15 about what's happened and working conditions and so
16 forth, but we're not going to get to the bottom
17 without your help and the help of other folks who
18 worked in the mine, so thanks for being here.

19 (b) (7)(C) :

20 Just the matter of record, that's the
21 main reason we're here, to find out what happened.

22 ATTORNEY WILSON:

23 All right. Jason, I'm going to have the
24 court reporter swear you in at this time.

25 -----

1 JASON STANLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
2 AS FOLLOWS:

3 -----

4 ATTORNEY WILSON:

5 I'm going to turn it over to Erik Sherer
6 to begin the questioning.

7 MR. SHERER:

8 Okay.

9 EXAMINATION

10 BY MR. SHERER:

11 Q. Again, thanks for coming down, Jason. Will you
12 please state your full name and spell your last name
13 for the record?

14 A. Jason Matthew Patrick Stanley, S-T-A-N-L-E-Y.

15 Q. Thank you. Will you please state your address and
16 telephone number?

17 A. (b) (7)(C) -

18 (b) (7)(C)

19 Q. Are you appearing here today voluntarily?

20 A. Yes.

21 Q. Are you receiving any compensation for appearing
22 here?

23 A. No.

24 Q. How many years of mining experience do you have?

25 A. Five-and-a-half months.

1 Q. Will you please give us a brief description of
2 where you worked and what jobs you've had during that
3 time period?

4 A. I worked up in the coal works behind the longwall.

5 Q. Primarily at Upper Big Branch Mine?

6 A. Yes, the Upper Big Branch Mine.

7 Q. Okay. Have you worked at any other mines?

8 A. Right now I'm working at the Allen Powellton Mine
9 at Horse Creek.

10 Q. And I understand that you're a pumper at Upper Big
11 Branch Mine?

12 A. Yes, sir.

13 Q. And you worked primarily behind the longwall you
14 said?

15 A. Yes.

16 Q. When did you start in this position?

17 A. November 20th, 2009.

18 Q. So that's basically the only job you've done at
19 Upper Big Branch?

20 A. Yes, sir.

21 Q. In the same general area?

22 A. Yes, sir.

23 Q. Okay. Thank you. What training --- any
24 retraining have you had so far?

25 A. I've only had main --- I had no retraining.

1 Q. Okay. I assume you have the 40 hours of training?

2 A. Eighty (80).

3 Q. Eighty (80). Okay.

4 A. Yes.

5 Q. Who provided this training?

6 A. Bob Cozart with MSHA Safety.

7 Q. Okay. Have you had any evacuation training?

8 A. No.

9 Q. Have you had to walk off of the longwall here at
10 the ---?

11 A. No.

12 Q. Okay. Have you had any expectations' training,
13 with an SCSR simulator?

14 A. Yes.

15 Q. Have you had any expectations' training with a
16 refuge alternative?

17 A. Yes.

18 Q. What did you do on your very first day that you
19 went to work here?

20 A. I went behind the wall and started pumping.

21 Q. Okay. Did you travel throughout the other part of
22 the mine or ---?

23 A. No, sir.

24 Q. Do you have any Federal or State mine
25 certifications?

1 A. Yeah. I got my --- my card.

2 Q. Okay. But you don't have a fire boss card?

3 A. No. No. No.

4 Q. Are you aware of your miners' rights? Has anyone
5 gone over that with you?

6 A. No.

7 Q. Okay. Thank you. You state that you're primarily
8 behind the longwall, during your normal job. Have you
9 traveled across the face of the longwall?

10 A. The face of the longwall, I've traveled across one
11 section and that's about it.

12 Q. Okay. One of the development sections?

13 A. Yes.

14 Q. Okay. Do you remember which development section
15 that was?

16 A. It was driving the new panels for the new longwall
17 there.

18 Q. Was it the headgate up here or what's going to be
19 the tailgate side?

20 A. It was driving a new headgate.

21 Q. Okay. So it it this one, the one that's
22 identified on the map as MMU 029-0?

23 A. Yes.

24 Q. Okay. Thank you. Could you give me just a brief
25 rundown of exactly what you do as a pumper?

1 A. Maintain pumps and --- maintain pumps pretty much.

2 Q. So you're responsible for keeping the water pumped
3 out of that part of the mine?

4 A. Yeah.

5 Q. What sort of pumps do you maintain back there?

6 A. Air pumps.

7 Q. Air pumps. Are there any electrical pumps back
8 there?

9 A. We just put in two, but it wasn't --- they was not
10 hooked up yet.

11 Q. Okay. These air pumps, do you know where the air
12 comes that drives those pumps?

13 A. No.

14 Q. Okay. It's just a line?

15 A. Yeah, just a line.

16 Q. Okay.

17 A. There's a main pump up by the fan shack.

18 Q. And that's not an air pump, is it?

19 A. I thought it was. The way they talked, I thought
20 it was. It may not be.

21 ATTORNEY WILSON:

22 When you say that fan shack, do you mean
23 Bandytown?

24 A. Yeah, Bandytown fan.

25 BY MR. SHERER:

1 Q. Do you understand why it's so important to keep
2 the water pump down?

3 A. Yeah.

4 Q. Does the water ever get over the top of your boots
5 back there?

6 A. Yes.

7 Q. Often?

8 A. All the time.

9 Q. All the time. That's rough.

10 A. It's real rough.

11 Q. Would you describe the conditions in general?

12 A. Of the water?

13 Q. Yeah, where you're pumping.

14 A. Probably roofed out somewhere in 50 Break up to
15 probably I want to say 70 Break, in that area.

16 Q. Is that constant or does it go up and down?

17 A. Constant, we're trying to get it pumped out the
18 best we could.

19 Q. Is that across all of those entries or part of
20 them?

21 A. Just Number Four entry.

22 Q. Just the Number Four entry?

23 A. And the Number Three entry, it was probably waist
24 deep, Two entry, ---

25 Q. Uh-huh (yes).

1 A. --- and One entry was dry.

2 Q. So it restricted all of Number Four, part of
3 Number Two and Number One?

4 A. That would have been right.

5 Q. Okay. Thank you. Are you familiar with what's
6 been referred to as the Great Wall of China?

7 A. Yes.

8 Q. Will you please describe that for us? Tell me
9 about it. I've never seen it, so ---.

10 A. I've never see it either.

11 ATTORNEY WILSON:

12 Are you aware of anything in the mine
13 that's been referred to as the Great Wall of China?

14 A. No.

15 BY MR. SHERER:

16 Q. Okay. Thank you.

17 A. Sorry about that.

18 Q. No, that's my fault. I understand that there is
19 one entry off the headgate that's being used as a
20 section return. Are you familiar with that?

21 A. No.

22 Q. Okay. Thank you. In the portion of your pumping
23 duties, you mentioned that the water gets fairly deep.
24 Have you ever had instances where you'd slip and fall
25 in that water?

1 A. Yes, sir.

2 Q. Is that a regular occurrence?

3 A. Yes.

4 Q. Have you gotten hurt doing that?

5 A. No.

6 Q. Do you feel comfortable working in that sort of
7 water?

8 A. No, sir.

9 Q. Are you familiar with a program called S1?

10 A. Yes.

11 Q. Could you tell me what that is?

12 A. Safety First.

13 Q. Safety First. How about P2?

14 A. I'm not real sure that P2 stands for.

15 Q. Okay. Thank you. Are you familiar with the
16 ventilation around the longwall?

17 A. Yes.

18 Q. Are you aware of any problems that may have been
19 associated with that ventilation prior to the April
20 5th event?

21 A. They had us working on ventilation just about
22 every day. There was something wrong with ventilation
23 every day.

24 Q. What sort of duties did you do on ventilation?

25 A. Rebuild stoppings, regulators, that's been ---

1 pushed out, you know.

2 Q. Sure. And that's in addition to your pumping
3 duties?

4 A. Yes.

5 Q. You're a busy fellow?

6 A. Yeah.

7 Q. What was the general feeling about ventilation?

8 Did you and/or any other miners that you spoke with,
9 did they feel like it was ---?

10 A. It was never running.

11 Q. It was never running. Were people concerned about
12 that?

13 A. Yeah.

14 Q. Are you aware of any fireballs that may have
15 occurred on the longwall, prior to the event?

16 A. Excuse me, fire ---?

17 Q. Fireballs or ignitions.

18 A. No.

19 Q. How about when you were working as a pumper, did
20 you have a gas detector?

21 A. Fire boss did, yeah.

22 Q. Fire boss did?

23 A. Yes.

24 Q. So somebody would have fire bossed that area
25 before you went in to do your pumping duties?

1 A. While we were going down to do our pumping duties.

2 Q. Okay. Do you remember some of the methane
3 readings that the fire boss got during that period of
4 time?

5 A. No. He never discussed that with us.

6 Q. Okay.

7 A. It was mostly him and two or three red hats, ---

8 Q. Okay.

9 A. --- including myself.

10 Q. Would he ever ---? While he was doing his fire
11 boss run and you were there, would he ask you to help
12 him make changes in the ventilation?

13 A. Yes.

14 Q. Could you please describe those changes?

15 A. Rebuilding stoppings that's been pushed out or
16 regulators, tear regulators down, remove them. Just
17 whatever needed to be done.

18 Q. Okay. Did they make big changes in the amount of
19 air going through there?

20 A. Yes.

21 Q. Were there other people working inby that point?

22 A. No.

23 Q. Okay. You said that you worked almost every day
24 on ventilation and controls up around the longwall
25 itself?

1 A. Yes. We would park at 75 Break and walk all the
2 way back to the Bandytown fan.

3 Q. Uh-huh (yes).

4 A. And all this stuff through here (indicating), the
5 stoppings, were the ones mostly crushed out ---. And
6 lastly we parked right here at 50 --- 52 Break, ---

7 Q. Uh-huh (yes).

8 A. --- by a set of mandoors and walk 'em down and
9 repairing whatever needed to be repaired.

10 ATTORNEY WILSON:

11 Jason, so that the record's clear, you
12 were referring to the tailgate side of the active
13 longwall; is that right?

14 A. Yes.

15 ATTORNEY WILSON:

16 75 Break and 50 Break on that side?

17 A. On the tailgate side.

18 ATTORNEY WILSON:

19 And then I think you indicated that you
20 worked on stoppings inby that 75 Break on that
21 tailgate side; is that right?

22 A. Yes, inby. Yes.

23 ATTORNEY WILSON:

24 Okay.

25 BY MR. SHERER:

1 Q. And you mentioned that it was a fairly common
2 occurrence for these stoppings to crush out?

3 A. Yes. It was taking on a lot of weight.

4 Q. Do you know if it was primarily the floor hooving
5 up or ---?

6 A. Yes, it was the floor hooving up. The top was in
7 good condition, most of it.

8 Q. Okay. How were the ribs back through there?

9 A. Ribs wasn't too --- too nice.

10 Q. They weren't too nice?

11 A. No.

12 Q. So did you scale a lot of ribs or ---?

13 A. I didn't, no.

14 Q. Did the ribs themselves cause problems with the
15 stoppings?

16 A. Yes.

17 Q. Okay. The floor hooving, did you notice any big
18 cracks occurring along there?

19 A. Yes.

20 Q. Was there any particular area along there where
21 those cracks occurred?

22 A. I would say on the tailgate side at about 95

23 Break ---

24 Q. Okay.

25 A. --- to about 100 Break.

1 Q. Okay. Did you hear any gas coming out of those
2 breaks or see it bubbling up and ---?

3 A. No, sir.

4 Q. Thank you.

5 A. The water didn't move ---.

6 Q. Did what?

7 A. You had to go through the water back in ---.

8 Q. On the headgate side?

9 A. On the headgate side.

10 Q. Any place in particular or just all along there?

11 A. Every now and then.

12 Q. Okay. Kind of like working in a Jacuzzi?

13 A. Yeah. A lot colder, though.

14 Q. Yeah. Did you notice any floor hooving up near
15 the active longwall?

16 A. No.

17 Q. Okay. Any cracks or unusual conditions up near
18 the active longwall face?

19 A. The day we was --- the day of the accident, on
20 April 5th, we was walking out ---

21 Q. Uh-huh (yes).

22 A. --- and straight across from the longwall, the top
23 had came down to --- probably two-and-a-half breaks.

24 Q. And could you please locate that on the map for
25 us?

1 A. I want to say about 60, probably 60 Break ---
2 anywhere from 60 to 65 Break.

3 Q. Okay. In which entry?

4 A. Track entry up here. Three and Two.

5 Q. Okay. Would you mind marking the map there?

6 WITNESS COMPLIES

7 ATTORNEY WILSON:

8 You're just circling the area in orange?

9 A. In that area. I wasn't real sure.

10 BY MR. SHERER:

11 Q. Sure. I'm just trying to get an idea of anything
12 that can possibly help us out.

13 A. Okay.

14 Q. We really appreciate the information. And you
15 said you had a roof fall through there. Was it a big
16 high fall or it was a major fall?

17 A. Major fall.

18 Q. Was there any other major falls back through that
19 area, that you're aware of?

20 A. The bottom had done shoved most --- most of the
21 entries, Four and Five entry to the top.

22 Q. They were closed off?

23 A. Yes.

24 Q. Was there significant floor hooving up on the
25 headgate side?

1 A. Yes, on the headgate side around 75 up through
2 that area.

3 Q. Okay. Was it in all three entries or just some
4 entries?

5 A. All three entries.

6 Q. Was any halfway closed, three-quarters of the way?

7 A. I was --- they was in the water, so I really don't
8 know. You could tell when you stepped off.

9 Q. Okay. That sounds extremely dangerous.

10 A. Yeah.

11 Q. Could you see where your feet were going in that
12 water?

13 A. No.

14 Q. I guess it was muddy and dark?

15 A. Yes.

16 Q. Okay. I appreciate that information. Could you
17 tell us a bit about your last shift that you worked?

18 First of all, where do you enter the mine?

19 A. Entered the mine --- the mid portal at Ellis.

20 Q. Uh-huh (yes). And you rode in on a mantrip?

21 A. Rode in on a mantrip up to --- there's a set of
22 double doors there.

23 Q. You said right here (indicating)?

24 A. Yeah. Rode up to the ---. On the last --- on
25 April 5th, we rode up to that set of double doors

1 right there on the mantrip and walked up to --- didn't
2 maintain the whole time. All the way up to the
3 Bandytown fan, ---

4 Q. Yeah. Uh-huh (yes).

5 A. --- and worked our way back working pumps, worked
6 our way all the way back to --- the pumps started at
7 80 --- 89 Break.

8 Q. Uh-huh (yes).

9 A. And that was our last pump to maintain that day on
10 the way back out. On the way back out, as we was
11 going in the mine that day, I didn't notice that
12 fall, ---

13 Q. Uh-huh (yes).

14 A. --- but on the way out, I noticed it and I told
15 them ---.

16 ATTORNEY WILSON:

17 When you say, that fall, can you just
18 clarify for the record where you mean?

19 A. Anywhere from 60 to 65 Break when I hit the
20 tailgate side.

21 ATTORNEY WILSON:

22 Where you drew a circle in orange?

23 A. Yes.

24 ATTORNEY WILSON:

25 Thank you. And just to clarify for the

1 record, when you say you parked the mantrip by the
2 double doors, that would be ---?

3 A. These double doors right here.

4 ATTORNEY WILSON:

5 Okay. On the tailgate side of the
6 longwall that looks like it's about around 33 and 34
7 Crosscut; is that right?

8 A. Yes. We call it the old Two section that way. We
9 crossed that ---.

10 BY MR. SHERER:

11 Q. Roughly what point in time did you enter the mine?

12 A. What time did we enter the mine ---?

13 Q. Sure.

14 A. Started around 6:00. Anywhere from 6:00 to 6:05.

15 Q. Sure. And how long did it take you to get to
16 those double doors where you parked the mantrip, just
17 roughly?

18 A. Thirty (30) minutes, ---

19 Q. Okay.

20 A. --- roughly.

21 Q. Did you go through more than --- did you go
22 through any other doors to get into that point?

23 A. Yes.

24 Q. How many sets of doors, do you remember?

25 A. Two sets of doors.

1 Q. Okay.

2 A. A set --- well, yeah, two sets of double doors.

3 Q. Okay. Were those doors in good condition?

4 A. Yes.

5 Q. Were they automatic doors or did you have to get
6 out and open 'em?

7 A. You had to get out and open 'em.

8 Q. Okay. Have you ever seen those doors opened when
9 you got there?

10 A. No.

11 Q. Okay. Thank you. When you got through, was there
12 pumps --- later on that afternoon, do you recall
13 approximately when you left the working area?

14 A. We got on the mantrip about 20 after 2:00, ---

15 Q. Okay.

16 A. --- somewhere in that area.

17 Q. And then you headed out?

18 A. Headed on my way out.

19 Q. So you got out roughly 10, 20 minutes to three
20 o'clock?

21 A. Ten to 3:00, probably.

22 Q. Ten to 3:00. Do you recall where you were at when
23 you heard of the explosion?

24 A. Just walked out of the drift mouth.

25 Q. Just walked out of the drift mouth. Did you

1 notice anything?

2 A. I didn't notice nothing, just a large amount of
3 wind.

4 Q. Okay. Any dust?

5 A. Dust, debris.

6 Q. And that was approximately ---?

7 A. 3:05.

8 Q. 3:05. Okay. Did you look at your watch at that
9 point in time?

10 A. No. Roughly in that area, ---

11 Q. Okay.

12 A. --- because of the mantrips and ---.

13 Q. Okay. Was there any --- at that point in time,
14 did anybody tell you what to do or how to do it?

15 A. No.

16 Q. Okay. Do you remember who the responsible person
17 was at the mine, at that point in time?

18 A. Superintendent ---.

19 Q. There's supposed to be a responsible person that's
20 in charge of the evacuations. Do you know who that
21 was?

22 A. No, sir. Timmy --- Timmy Davis, I thought, was
23 one of them.

24 Q. Okay. Was that --- have you ever seen anything
25 like that on a bulletin board or ---

1 A. Yeah.

2 Q. --- whiteboard?

3 A. They had a piece of paper outside and Everett
4 Hager, the superintendent, was one of 'em, and Timmy
5 Davis.

6 Q. Okay. Do you know if Mr. Davis at that point in
7 time started directing the evacuation?

8 A. No, sir, I don't know.

9 Q. Did you notice anything else going on at the Ellis
10 Portal at the time of the explosion or soon after?
11 Did the power go off?

12 A. The power went off first.

13 Q. Okay.

14 A. And nobody knowed why, and by the time I turned
15 around and looked, that's when dust was going across
16 the parking lot.

17 Q. Okay. So probably five seconds, ten seconds? How
18 long would you guess was ---?

19 A. A minute, probably 60 seconds.

20 Q. Oh, okay. Immediately after the explosion, what
21 did you do?

22 A. I really didn't know what to do. I went and they
23 told us to go ahead and belts and stuff off, get
24 changed and stuff.

25 Q. Uh-huh (yes).

1 A. They were saying it was just a rock fall at the
2 time. And I come back outside and seen all the
3 rescue ---.

4 Q. Sure. Have you ever heard of a rock fall like
5 that?

6 A. No, sir.

7 Q. What was your thoughts immediately after this
8 incident? What do you think may have happened or
9 could have happened?

10 A. I just don't know if it was an explosion and the
11 force . And I had no idea on what might have
12 happened. Going back to when we left that day, ---

13 Q. Uh-huh (yes).

14 A. --- I forgot to mention, it got real hard to
15 breathe and real foggy like on the way out.

16 Q. Had that ever happened before?

17 A. No.

18 Q. Do you feel that the air was --- quantity was less
19 than normal?

20 A. Yes.

21 Q. And exactly where was that, do you recall?

22 A. At about --- it was 75 Break that it was not that
23 --- it was at 78 Break, in that area.

24 ATTORNEY WILSON:

25 Do you want to mark that on the map, the

1 area where you experienced the low air?

2 WITNESS COMPLIES

3 ATTORNEY WILSON:

4 Why don't you put a line out here and

5 write low air.

6 WITNESS COMPLIES

7 ATTORNEY WILSON:

8 And let's go ahead and mark this map as

9 Exhibit Stanley One.

10 (Stanley Exhibit One marked for
11 identification).

12 BY MR. SHERER:

13 Q. Did anyone on the trip make any comment about the
14 air?

15 A. My buddy behind me, which was --- I know he was a
16 black hat. He just got a black hat. And he mentioned
17 something about running the miner.

18 Q. Uh-huh (yes).

19 A. But he said it wasn't nothing like the dust off of
20 sandstone. He mentioned it wasn't nothing like that.
21 He just told me to cover my nose and getting out of
22 the mine.

23 Q. Okay. Did anyone on the mantrip have a handheld
24 gas detector?

25 A. Yes, the fire boss.

1 Q. Do you remember if there was any alert or alarm on
2 that?

3 A. It never went off.

4 ATTORNEY WILSON:

5 What was your buddy's name?

6 A. David Farley.

7 ATTORNEY WILSON:

8 And how long did this last, that you
9 experienced this difficulty breathing?

10 A. Five or six breaks outby.

11 ATTORNEY WILSON:

12 And then what happened?

13 A. Well, it was following me all the way up to Five
14 Head on the Ellis side. The breathing --- you was
15 able to breathe normal again.

16 ATTORNEY WILSON:

17 At what point?

18 A. Actually to about 68 Break or so, you was able to
19 breathe normal again.

20 BY MR. SHERER:

21 Q. When you were having trouble breathing, did you
22 feel like you had to breathe deeper?

23 A. Yes.

24 Q. Okay. Did you notice that you were breathing more
25 rapidly or harder?

1 A. No, just deeper breaths.

2 Q. That's interesting. That's ---.

3 A. My buddy he was going through --- he was doing the
4 same thing as well.

5 ATTORNEY WILSON:

6 Who's the --- were you with the boss at
7 that time?

8 A. Yes. He was driving the mantrip.

9 ATTORNEY WILSON:

10 And who was that?

11 A. Jeremy Burdoff.

12 ATTORNEY WILSON:

13 And did he comment on this at all, low
14 air?

15 A. No.

16 ATTORNEY WILSON:

17 Did you experience any burning in your
18 eyes?

19 A. No, not that I recall.

20 BY MR. SHERER:

21 Q. Just hard breathing?

22 A. And real foggy. Like you couldn't see this far in
23 front of you, real white like.

24 ATTORNEY WILSON:

25 When you say this, you're like putting

1 your hand out in front of your face?

2 A. Yes, putting your hand out in front of your face.

3 BY MR. SHERER:

4 Q. Did you smell anything like smoke or fire or
5 anything like that?

6 A. No.

7 Q. No odor associated with it?

8 A. No odor.

9 Q. That's unusual.

10 ATTORNEY WILSON:

11 When you say foggy, could you just

12 explain --- describe what you mean by foggy?

13 A. Look like they'd rock dusted already, but they
14 hadn't.

15 ATTORNEY WILSON:

16 So it was dust in the air that was making
17 it foggy?

18 A. Yes. Real white dust.

19 BY MR. SHERER:

20 Q. Did you notice if it come from any particular
21 direction or was it just throughout the entry?

22 A. It was throughout the entry.

23 Q. Okay. Have you heard of any similar conditions
24 from anybody else?

25 A. No.

1 Q. Okay. And that was just a few minutes after you
2 left the double doors, I would imagine?

3 A. Yes.

4 Q. So that was probably 20 --- maybe 25 minutes
5 before the event?

6 A. Yes.

7 Q. Interesting. Any other unusual things that come
8 to mind, either during the day or as you were exiting
9 the mine?

10 A. No.

11 Q. Okay. When you were under the longwall that day,
12 did you run into any of the miners working on the face
13 itself?

14 A. No, sir.

15 Q. Did you run into those miners previous to that
16 when you were like working and building ---?

17 A. No, sir.

18 OFF RECORD DISCUSSION

19 BY MR. SHERER:

20 Q. Okay. Have you heard of any problems with methane
21 outbursts or methane feeders along the longwall?

22 A. No.

23 Q. Okay. Have you ever heard of that an inspector
24 that was on the mine site?

25 A. Yes.

1 Q. How did you hear of that?

2 A. The boss just told us we got an inspector and he
3 was outside and you knew when an inspector would
4 be ---.

5 Q. So the boss saw him or something like that?

6 A. Yes. Well, we all saw 'em.

7 Q. Okay.

8 A. Normally he'd come down and have, you know, a talk
9 with us.

10 Q. Okay. Do you know anyone who ever complained
11 about safety issues in the mine?

12 A. Yes.

13 Q. Do you know if they ever suffered any sort of
14 retaliation or threats for doing that?

15 A. One friend of mine, he worked in the water wells
16 and it broke his skin out real bad ---

17 Q. Oh, geez.

18 A. --- and after he went to the doctor over it, ---

19 Q. Uh-huh (yes).

20 A. --- two weeks later they done a layoff and they
21 got rid of him.

22 Q. Oh, geez. Did he miss any time from work because
23 of going to the doctor?

24 A. No, sir. He left that day after work and he was
25 back there the next morning.

1 Q. Oh, geez. I guess he paid for the doctor's visit
2 himself?

3 A. He has no insurance, a contractor.

4 Q. And he was laid off a couple weeks later?

5 A. Yes, when the big --- they laid off several
6 people.

7 Q. Approximately when was that layoff?

8 A. Two weeks before the explosion.

9 Q. You didn't happen to know any of the people who
10 did rock dusting? Did you know any of those miners?

11 A. No, sir.

12 Q. Were you involved in any of the mine recover ---
13 rescue and recovery effort?

14 A. No, sir.

15 Q. So you basically left the mine approximately what
16 time?

17 A. Around 8:00. About 8:00

18 Q. And did you go back up there in the intervening
19 days?

20 A. Just to get my ---. No. No, sir.

21 Q. Okay. Before you left the mine property, did you
22 hear anyone --- did you talk to anybody or hear anyone
23 speculating on the cause of explosion?

24 A. No, sir.

25 Q. Has anyone interviewed or prepared to brief you

1 prior to this interview?

2 A. Yes.

3 Q. Could you please tell us who and when?

4 A. Yesterday, as a matter of fact, I was supposed to
5 meet with Massey lawyers at the Marfork office.

6 Q. Uh-huh (yes).

7 A. I went up there and waited until six o'clock and
8 went on home.

9 Q. Okay. Did they contact you to set that meeting
10 up?

11 A. No. They contacted my superintendent.

12 Q. And who is that superintendent?

13 A. Shawn Belcher.

14 Q. Shawn Belcher. And he's with David Stanley
15 Consultants?

16 A. No. He's over at Horse Creek, Allen Powellton
17 Mine.

18 Q. Okay. Thank you. What would you recommend that
19 MSHA and/or the State look at as far as this
20 explosion? You can give us any direction.

21 A. I really don't know, to be honest with you, other
22 than that area where the rock fall occurred on the
23 tailgate side.

24 MR. SHERER:

25 Okay. I really appreciate that. I'm

1 going to turn it over to Bill Tucker.

2 EXAMINATION

3 BY MR. TUCKER:

4 Q. You mentioned the rock fall and realizing the map
5 that's in front of you there is the longwall face
6 being at the end of the --- right there. So that was,
7 what, ten breaks or so inby ---

8 A. Yes, the face.

9 Q. --- the face of the longwall?

10 A. Roughly, yes.

11 Q. When you were travelling each day by the longwall
12 face, did you --- could you ever tell if the longwall
13 was running when you went by?

14 A. Yes. You can hear it.

15 Q. You could hear it?

16 A. Yes.

17 Q. So that morning when you went up, was the longwall
18 running?

19 A. No.

20 Q. That evening when you came out, what time would
21 you estimate that you went by the longwall face?

22 A. Two o'clock or so.

23 Q. Was the longwall running?

24 A. No, sir, not that I recall.

25 Q. Okay. So you went by, you got a good idea of

1 where the longwall face is at?

2 A. Yes.

3 Q. And did you see anything else unusual at all in
4 the area of the longwall in those entries on the
5 tailgate side, as far as maybe anything in the bottom
6 or anything?

7 A. No, sir.

8 Q. So your foreman was the only one on your crew that
9 carried a detector?

10 A. Yes.

11 Q. Did you ever hear it detect or alarm?

12 A. Yeah.

13 Q. Do you recall what areas you were in when you
14 heard it alarm, headgate, tailgate?

15 A. Headgate side.

16 Q. It was on the headgate side? What about the ---
17 since we're talking about a detector, I'll bounce on
18 the day of the explosion, when you were outside, was
19 your forearm close by when --- did you all walk out
20 together?

21 A. Yes, we walked out together.

22 Q. Did you hear his detector alarm ---

23 A. No.

24 Q. --- any during that time?

25 A. No.

1 Q. So you worked at the UBB Mines for five-and-a-half
2 mines; is that correct?

3 A. Yes.

4 Q. When you first started there as a red hat --- you
5 said from day one you've been a pumper, so they put
6 you back ---

7 A. Yes, sir.

8 Q. --- working on the water?

9 A. Day one we traveled to the headgate side through
10 all that water, for about two weeks, then we started
11 training on the tailgate side.

12 Q. What's the deepest you ever waded in water?

13 A. Almost to the neck.

14 Q. Did they ever offer you a life jacket?

15 A. Just waders.

16 Q. Did they provide a pair of hip waders?

17 A. Yes, chest waders.

18 Q. Chest waders. So on your first day you didn't
19 take a tour of the mines or anything, you just went to
20 the longwall and started work?

21 A. To the Mother Drive ---.

22 Q. Did anybody go over the mine map and ---

23 A. Yes.

24 Q. --- show you the escapeway ---

25 A. Yes.

1 Q. --- and stuff like that?

2 A. The superintendent.

3 Q. How many people is typically on your crew?

4 A. Normally three, boss, me and another red hat. If
5 we had a lot to do, they would get more help, three to
6 five.

7 Q. After the layoff, did you all get cut back any, as
8 far as your manpower?

9 A. Yes.

10 Q. And sometimes you need that extra guy and couldn't
11 get him?

12 A. Yes. After the layoff was when we went down to
13 three of us. Before the normal was four to five.

14 Q. Do you have the names of some of your buddies
15 there that typically was on your crew?

16 A. Yes. David Farley, Mark Aludey. He's the one
17 that they laid off. Wesley Honaker and sometimes ---
18 I'm really not sure of anyone else.

19 Q. Are you ever sent to get things on your own? I
20 mean, let's say your first month or two --- first two
21 or three months in the mine, were you ever left alone
22 for ---

23 A. No.

24 Q. --- to do things on your own without the foreman,
25 say you and another red hat?

1 A. No, sir. There was always somebody to go back and
2 forth with you.

3 Q. So would it always be a foreman or a black hat
4 with you or sometimes two red hats go by
5 themselves ---?

6 A. Sometimes two red hats, if we were still in sight,
7 probably --- see you at probably 20 breaks apart, not
8 too far.

9 Q. And that was during your first couple months
10 of ---?

11 A. Oh, no that was within --- after about my third
12 month, ---

13 Q. Okay.

14 A. --- around in there.

15 Q. So for the first 90 days, basically ---?

16 A. Yes. There was always a black hat, foreman.

17 Q. Okay. And you mentioned the fire boss's areas
18 when you all go in there. Do you ride there with him
19 when he's making his exam or how do you do that?

20 A. I had went --- just gone up through there ---.

21 Q. You mentioned you all put in a couple electric
22 pumps. You just hadn't hooked 'em up yet?

23 A. Yes. They dropped it down --- they drilled a
24 borehole up by the Bandytown fan and dropped 'em down
25 to us. 125 Break.

1 Q. Did you ever work on the cable thingy on those
2 or who wired 'em up?

3 A. They prepared 'em ---.

4 Q. I mean, not wired 'em up, but as far as making
5 the slices, did you all have splices made for you?

6 A. Yes, sir. There was an electrician for that.

7 Q. And you wasn't sure where they got the air
8 supplies, the air pumps?

9 A. No, sir.

10 Q. Do you know how many air pumps they had back in
11 the longwall?

12 A. Roughly around 25. Roughly. Three-inch pumps.

13 Q. And did those pump down toward the Bandytown fan?

14 A. Yes. There was a sump pump down by the Bandytown
15 fan and the pumps would pump down that --- that had at
16 least three --- One, Two and Three entry, that would
17 have up here (indicating) on the headgate side. There
18 was no --- we was trying to pump it out.

19 Q. Did it seem like you was ever make any headway
20 with the pump or the water up on the headgate side?

21 A. No.

22 Q. It was coming in faster than you could get rid of
23 it?

24 A. Faster than you can get rid of it. At one time we
25 pumped it down to about a good foot. Over the

1 weekend, it went back up.

2 Q. So when you come out each day, even though you had
3 chest waders, did ever get in over your waders?

4 A. Yes. After about a week, they were no good
5 anyhow. All that dragging ---.

6 Q. So I guess everything you all need as far as
7 supplies ---?

8 A. We had to drag them.

9 Q. You had to hand drag 'em back?

10 A. Yes, sir.

11 Q. When you went back in that area, how did you do as
12 far as --- did somebody call and let the dispatcher
13 know that you were going back in down to the tailgate,
14 so they'd know, ---

15 A. Yes.

16 Q. --- you know, what time you went in?

17 A. And we would let 'em know what time we was in our
18 work area and let 'em know what time we was leaving
19 our work area.

20 Q. You mentioned the ribs were bad, not too good, but
21 did you ever have any roll off and, you know, roll end
22 up at your feet or hit you in any way?

23 A. No, sir. We would sometimes walk down, make our
24 way down and we went back, the rib done rolled out
25 since we've been down there.

1 Q. All right. Have you ever came up on areas where
2 the top would slough down around the bolts and you had
3 bolts hanging down?

4 A. Yes.

5 Q. What are the largest areas you saw like that as
6 far as one bolt, five bolts?

7 A. Ten bolts, 12 ---.

8 Q. And what would they do? I mean, would they ---?

9 A. We would set timbers.

10 Q. Did they ever have you transfer through it without
11 supporting it?

12 A. No.

13 Q. Do you all use any battery-powered tools?

14 A. No, sir.

15 Q. No? Since you all were going down there every
16 day, did they place any first aid supplies in
17 different locations down in that area?

18 A. As far as first aid supplies, about the only ones
19 was the mantrip or 32 Break or so.

20 Q. There's none down in what, two-and-a-half miles
21 you said, you're estimating?

22 A. Estimation, yes.

23 Q. Did you have --- what was visibility like? Did
24 you have any area that were dusty or anything like
25 that?

1 A. While the longwalls was running, it would get
2 dusty from time to time. You could see. I mean, you
3 could see. It wasn't a problem.

4 Q. While you were back in the area behind the
5 longwall, did you ever smell anything, any different
6 --- did you smell something out of the norm and wonder
7 what it was?

8 A. Yes. They would just say it was a longwell oil
9 smell. I don't know for sure that's what it was.

10 Q. Did you ever have anything that burned your eyes
11 or burning sensation?

12 A. No, sir. The water would burn your skin. It felt
13 like it was burning you skin but it was nothing there
14 that would bother your eyes.

15 Q. I'm sure you all talked about that, with the water
16 burning your skin. Did you all have any idea why it
17 was having a kind of reaction on you?

18 A. We had asked around --- asked around and they said
19 --- told me it was the oil that was in the water
20 and ---.

21 Q. I don't guess they ever said anything about
22 sending you off and getting it tested?

23 A. No. The red hats kind of said that ---.

24 Q. I understand. And you're still currently working
25 for a contractor, you haven't been hired on yet?

1 A. No, sir. They sent me for my interview. They
2 never sent me for my physical.

3 Q. What do you think it takes --- I mean, when you go
4 there as a contractor and you're starting out and I
5 think you mentioned that your buddy went to the doctor
6 and didn't have insurance?

7 A. No insurance.

8 Q. So you don't have the benefits that you would have
9 that the company would provide?

10 A. Company, no.

11 Q. So what do you think it takes to be hired on as a
12 contractor?

13 A. Hard work and show up to work and don't be late,
14 that's about it.

15 Q. You think you did bring issues out as far as
16 safety that concerned you then, as far as getting on
17 if you spoke out about things?

18 A. Yes.

19 Q. You mentioned just like working in the deep water
20 not really liking that, but do you feel like if you
21 just spoke out about it, it would have been okay
22 or ---?

23 A. If I spoke out about it, it wouldn't have been a
24 good thing to do.

25 ATTORNEY WILSON:

1 Let me just follow up on that. Could you
2 just tell us why you felt that way? I mean, did
3 somebody say something? Did something happen? Why
4 did you have that perception?

5 A. Other people talk, their experiences, if you've
6 got a problem with the safety, environment around you,
7 if you say something, they talked about like trying to
8 get rid of you. I wasn't real sure --- I was just
9 real nervous about that.

10 ATTORNEY WILSON:

11 Thanks.

12 BY MR. TUCKER:

13 Q. So I guess being a contractor is kind of --- you
14 feel like it's a tryout or an audition?

15 A. Yes.

16 Q. Are you aware of a battery-powered four-wheeler
17 being left like around the longwall?

18 A. No, sir. They had ordered two of 'em. They said
19 they never got 'em.

20 Q. So the whole time you've been behind the longwall
21 working you've never seen a battery-powered
22 four-wheeler?

23 A. Yes. There's one under water down there, under
24 water.

25 Q. Could you see if the batteries were plugged up on

1 it or could you tell?

2 A. You couldn't tell. The water would have buried
3 the batteries.

4 Q. Did you ever hear anybody say why they left it
5 behind?

6 A. No, sir.

7 Q. Did you ever see a scoop brought down in behind
8 the longwall to be used for anything?

9 A. They brought a scoop as far as 100 Break on the
10 tailgate side. From the fresh air --- traveling that
11 entry, take most of their supplies down. From 100
12 Break down we had hand power. It was across in the
13 way. Like I said, it was roofed out. The bottom had
14 hooved up in other entries.

15 Q. Did you say you all typically traveled the Number
16 One entry?

17 A. Number One entry.

18 Q. Is there any other entry that's traveled, you
19 think is safe to travel?

20 A. No, sir, not at all.

21 Q. So you to one way in and one way out?

22 A. One way in and one way out.

23 Q. Did you ever hear anybody on the phone or hear
24 your boss call out reporting methane problems, maybe
25 high methane he had picked up?

1 A. No, sir. For a long time we had a phone down that
2 way. It fell out over in Two somewhere. We couldn't
3 get to the line to figure out where it was cut to.
4 For the last month, month and a half, we didn't have
5 no phones ---.

6 Q. So you didn't have any communications ---

7 A. No, sir.

8 Q. --- at all? So was the tailgate entry --- and I
9 know you had a lot of water down here, but you
10 mentioned one place the entry was dry. Was it ---
11 could you see rock dust?

12 A. Yes. It was dry. The rock dust, you could see.

13 Q. Just a couple more. You mentioned that when you
14 all came out on the day of the explosion at around 78
15 Break, when you got on your --- from the time you got
16 on your mantrip until you got to 78 Break, did you
17 notice anything unusual?

18 A. No, sir.

19 Q. Then when you got down in the head area ---?

20 A. Seventy-eight (78) Break is when we got ---. You
21 could stick your hand out in front of your face and
22 you couldn't see it. Like I said, it went on for
23 probably anywhere from Five to Ten Break. And then
24 your breathing come back and your vision still wasn't
25 there.

1 Q. Did the air seem warmer?

2 A. It was a lot warmer than normal.

3 Q. And you described this all looked like white dust?

4 A. Yes.

5 Q. Do you think it could have been smoke or ---?

6 A. It didn't smell like smoke.

7 Q. There's no smell ---?

8 A. No, there's no smell.

9 Q. And I know that one of them asked about your eyes
10 burning. Did any of your buddies say anything about
11 your eyes burning?

12 A. Nothing mentioned about eyes burning.

13 Q. Nothing all the way?

14 A. No.

15 Q. Then you mentioned until I got down to around
16 60-some break and then after that, it would just clear
17 up and just like a normal day or was it still foggy?

18 A. It was still foggy all the way out until 20 breaks
19 in, I'd say, because that's where the chargers was for
20 some of the mantrips. It cleared up there.

21 Q. All the way down until at least, then, to Ellis
22 Switch?

23 A. At Five Headgate, all the way to Five Head there
24 it was foggy, and from Five Head out it was clear.

25 Because we had picked up another crew there at Five

1 Head and brought 'em the rest of the way out.

2 Q. And you never --- all the other trips you made,
3 you've been there five-and-a-half months, you've never
4 noticed anything on your way out that looked like the
5 entry was foggy or ---?

6 A. No, sir.

7 ATTORNEY WILSON:

8 Are you okay to keep going or do you need
9 a break? We can take a break if you want to get some
10 water.

11 A. Yeah.

12 SHORT BREAK TAKEN

13 ATTORNEY WILSON:

14 Back on the record.

15 EXAMINATION

16 BY MR. MCGINLEY:

17 Q. I'm going to ask you some questions now. Did you
18 have any jobs before you started working at Upper Big
19 Branch?

20 A. Yes.

21 Q. Where did you work?

22 A. I worked for a company called Maxam North America.
23 It was an explosive factory.

24 Q. Uh-huh (yes).

25 A. I worked there for probably two-and-a-half months

1 and they laid me off. Then I started to work for
2 AlliedBarton, security guard. And I got that job
3 opportunity ---.

4 Q. Did you graduate from high school?

5 A. Yes.

6 Q. Which high school?

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

8 Q. So when did you graduate?

9 A. (b)(7)(C) .

10 Q. You said you had 80 hours of training. Where did
11 you have that?

12 A. MSHA's Safety. They come to the school my senior
13 year and gave it to us at the school there.

14 Q. So you had it before you even graduated (b)(7)(C) ?

15 A. Yeah.

16 Q. What kind of training did Massey give you?

17 A. They gave me my eight-hour MIT training.

18 Q. What kind of training, if any, did they give you
19 about raising concerns with management about safety
20 problems, if they gave you any? Did they say anything
21 to you what you do if you see a safety problem?

22 A. They told us, you know, if you had a safety issue
23 to let our supervisor know. That's about it, though.

24 Q. You said S1 meant?

25 A. Safety First.

1 Q. What else does it mean, do you have any idea?

2 A. I have no idea.

3 Q. Were you instructed as part of Massey training or
4 any other training you received regarding mining what
5 you should do when you get hurt at work?

6 A. Can you repeat that?

7 Q. Yeah. Did anybody tell you what to do if you got
8 hurt? Did anybody explain what you should do, go to
9 the foreman, go --- any instruction on that?

10 A. Let your foreman know.

11 Q. Did your friend who had the rash from wading
12 through the water, did he tell the foreman?

13 A. Yes. That rash was on him for a good three
14 months, I know. He let the foreman know. The only
15 person he ever said anything to was the
16 superintendent. The day before he went to the doctor,
17 he told the superintendent, and the superintendent
18 told him go get it checked out.

19 Q. The superintendent told the fellow who had the
20 rash?

21 A. Yes.

22 Q. And who was the superintendent?

23 A. Everett Hager told him to go to get it checked
24 out.

25 Q. What did the foreman tell him, if you know?

1 A. I'm really not sure.

2 Q. What part of his body did this rash cover?

3 A. It was in his arms, his legs. It was working its
4 way to his chest, upper chest area. He was covered.
5 It was on his face.

6 Q. Did it look bad to you?

7 A. Yeah, it looked bad.

8 Q. Was it oozing or anything?

9 A. No, it was just real red skin, spots of it.

10 Q. When you went in the mine on the day of the
11 explosion, you didn't see the roof fall; right, but
12 when you came out, you noticed it?

13 A. Yes.

14 Q. Do you think you would have seen it if it had been
15 there when you went in or might you have just been not
16 paying attention?

17 A. I'd have seen it on the way in for sure.

18 Q. Why do you say that? Was it that big, that long?

19 A. It was big. I paid pretty close attention ---.

20 Q. Did you --- the foreman you were working with, did
21 he say anything about the roof fall?

22 A. He wrote it down on a note --- wrote it up and he
23 was going outside to tell somebody.

24 Q. Did he go outside to tell somebody while you were
25 there or ---?

1 A. I have no idea if he let anybody know or not.

2 Q. He wouldn't have left you there, would he, and
3 gone outside to tell somebody about it?

4 A. No, sir.

5 Q. Could he have phoned it out?

6 A. Yes, he could have phoned it out. There was a
7 mantrip there at 13 Break.

8 Q. How far is that from where the --- when you saw
9 the roof fall?

10 A. Thirty (30) some breaks.

11 Q. So the first day you went to work, they said
12 you're going to operate the pumps behind the longwall;
13 right?

14 A. Yes, sir.

15 Q. And did they tell you were going to be wading
16 through deep water or was that a surprise?

17 A. A surprise.

18 Q. Did they give you any waders before you went up
19 that day?

20 A. There was waders down by the water before you
21 entered the water. You just changed into 'em there.
22 There wasn't no ---.

23 Q. When you went there the first time, were the
24 waders waiting there for you?

25 A. Yeah.

1 Q. And was that the first time that you had any idea
2 you were going to be wading through water?

3 A. Yes.

4 Q. Did you talk to the foreman about that?

5 A. I asked him what kind of pumps we was going to be
6 operating. And he asked me if I like to swim and I
7 said, not really.

8 Q. Did you ask them how long you were going to have
9 to do this?

10 A. Yeah. And he said probably until they find
11 something better for me.

12 Q. For you to do?

13 A. Until they got another black hat, maybe.

14 Q. You said you only did that for two weeks and ---?

15 A. We started traveling the tailgate side, doing the
16 same work, just you couldn't go down the headgate no
17 more, because it was roofed out.

18 Q. So it was rising when you came and it was roofed
19 out it was just ---?

20 A. And the way they talked, they had trouble with it
21 long before I showed up.

22 Q. Did you feel like, when you got into that area
23 where you were doing the pumping, that the air was
24 less than ---?

25 A. It was actually more air down there.

1 Q. More? Well, that's ---.

2 A. Yeah.

3 Q. Did anybody ever talk about the water getting in
4 the way of the air, your foreman, or did you talk to
5 anybody else, your buddies?

6 A. No, sir.

7 Q. Were you concerned at all that that water was
8 choking out the air, there might not be enough air in
9 some parts of the mine?

10 A. Yeah. I was concerned.

11 Q. Did you tell anybody that, you know, anybody at
12 home, like your mom or your granddad?

13 A. I talked to my grandpa a lot about that stuff,
14 because it's, you know, on your mind, and, you know,
15 you want to talk about it.

16 Q. Was he concerned about it?

17 (b) (7)(C) :

18 Yeah.

19 ATTORNEY WILSON:

20 Yes? You have to say something, sir.

21 (b) (7)(C) :

22 Oh, yeah. I was concerned, yeah.

23 BY MR. MCGINLEY:

24 Q. Were you ever thinking, is this job worth it?

25 A. All the time.

1 Q. Okay.

2 A. Just about having against coal mining.

3 Q. Before the explosion?

4 A. Yes.

5 Q. You said your shift starts about 6:00, 6:05?

6 A. 6:00 a.m., 6:05.

7 Q. Who was the fire boss in your ---?

8 A. Jeremy Burdoff.

9 Q. Okay. You were asked about --- you were asked
10 whether you understood whether it's important to keep
11 the water down earlier, and you said yes. Why is it
12 important?

13 A. The next --- the water was right beside the next
14 panel and they was wanting to ventilate for that, the
15 next longwall panel.

16 Q. Does keeping the water down have anything to do
17 with safety?

18 A. Yeah.

19 Q. What?

20 A. The air and ---.

21 Q. You're walking through it and ---?

22 A. Yeah, walking through it and slip and fall.

23 Q. So you had this waist or how high were the ---

24 A. Chest.

25 Q. --- waders, chest waders?

1 A. Chest waders.

2 Q. Did the water come in over the top?

3 A. At some spots, yes.

4 Q. Were you concerned about maybe falling in there
5 and not being able to ---

6 A. Yes, sir.

7 Q. --- come up and breathe? Did you tell a foreman
8 that?

9 A. I told 'em all the time.

10 Q. Did he fall? Did he ever go ---?

11 A. Oh, he fall.

12 Q. Did he ever go under?

13 A. Yes.

14 Q. Did you go ---?

15 A. I went under with my hard hat floating a couple
16 times.

17 Q. You said you worked with two or three red hats.
18 What were their names? Or maybe you gave them to us
19 already.

20 A. I gave them to him. Now, Thanksgiving week, there
21 was --- some of the sections was on idle, they brought
22 a whole crew down there with us, you know. That was
23 just that one time.

24 Q. Whole crew of?

25 A. Men.

1 Q. Okay. But that's the only time you had help?

2 A. Yes.

3 Q. Did you spend more time dealing with the
4 ventilation problems or pumping?

5 A. More time with the pumps.

6 Q. Can you give us a rough estimate, I mean half and
7 half or 60/40? If you can't, that's fine. I'm just
8 wondering.

9 A. Probably 80 on pumps, 20 on ventilation. Pumps
10 was the main concern for the boss, it seemed like. I
11 didn't care much for him.

12 Q. After the explosion happened, were you asked by
13 anybody to write down what happened and what you had
14 observed because you were just coming out of the mine?

15 A. No, sir.

16 Q. Do you know whether anybody else was asked to
17 write down what their experience was, that was on that
18 shift?

19 A. The only thing they asked us to write down was our
20 names, stating that we was out.

21 Q. They wanted to make sure they kept track ---

22 A. Yes.

23 Q. --- of who was in and who was out? When you came
24 out of the mine on April 5th and you started
25 experiencing breathing problems, what did you say

1 around 78 Break?

2 A. Yes, sir.

3 Q. How bad was that? I mean, were you really
4 concerned about it, like you would choke, or was it
5 just a little bit of discomfort?

6 A. I was almost to the point where I grabbed myself a
7 rescuer.

8 Q. Really?

9 A. For myself. They said it wasn't nothing to be
10 worried about.

11 Q. Who said that?

12 A. That man behind me. He says just take your jacket
13 over your nose. You still inhale it. Because like I
14 said, once we got up ten breaks outby or so, it
15 cleared up. Well, the breathing ---

16 Q. Right.

17 A. --- cleared up.

18 Q. What about the fog, did that --- did you close
19 your eyes because of the fog?

20 A. No, sir.

21 Q. It didn't hurt your eyes?

22 A. No.

23 Q. You mentioned putting your hand out in front of
24 your face. Did that obscure your vision? Could you
25 see your hand?

1 A. No. Once you stretched your arm all the way out,
2 you couldn't see your hand.

3 Q. And how long did that last, the whole way up
4 to ---

5 A. All the way up until Five Head ---.

6 Q. --- until where you did the recharging?

7 A. All the way up until we picked the other crew up
8 at Five Head.

9 Q. Where was that crew coming from, do you know?

10 A. It was a track crew. I don't know. They was on
11 the track that day.

12 Q. Do you know any of those guys?

13 A. Yes. Tommy Davis was one of the men there. He
14 had lost his son and his brother.

15 Q. Anybody else that you knew on that crew that you
16 picked up?

17 A. I know 'em just because I worked with 'em.

18 Q. Right.

19 A. I'm not real close friends or ---.

20 Q. You don't know their names?

21 A. Oh, Ralph --- I'm not real sure of Ralph's last
22 name but ---.

23 MR. FARLEY:

24 Plumley?

25 A. Yeah, Ralph Plumley. He was the track boss.

1 BY MR. MCGINLEY:

2 Q. When you saw that roof fall, when you're coming
3 out on April --- it was a big roof fall; right?

4 A. Yes.

5 Q. How many breaks did you ---?

6 A. It was --- I know it was two-and-a-half breaks
7 wide. And I really ain't for sure how many breaks
8 long it was, you know.

9 Q. Do you have any sense of that, how long ---?

10 A. No, sir.

11 Q. Were you surprised to see that?

12 A. Yes.

13 Q. You had never seen anything like that before in
14 the mine?

15 A. There was a few falls like that in the mine that
16 was dangered off and stuff, but ---.

17 Q. When did you see ---? When did that happen?

18 A. Two --- two months before, probably.

19 Q. What areas would those have been?

20 A. Around 65, 70 Break. I guess it would be one ---
21 it could have one or two ---.

22 Q. So that was the area where you were working?

23 A. Yes.

24 Q. And did they get cleaned up?

25 A. No.

1 Q. So they were still there the last time you were in
2 the mines?

3 A. Yes. They was dangered off.

4 Q. But in terms of their size, were they similar to
5 the one you saw when you were coming ---?

6 A. The other ones was only about a break.

7 Q. Okay. How high were they?

8 A. Oh, you couldn't see.

9 Q. When you met up with the track crew, when they got
10 on with you there when you were coming out on April
11 5th, did you talk to them or anybody mention the thick
12 fog you experienced?

13 A. Yes. My friend, Tommy Davis, mentioned something
14 about ---.

15 Q. Did anyone talk to Mr. Plumley about it or did he
16 have anything to say about it?

17 A. No, sir.

18 Q. Did that crew experience it, too?

19 A. They drove through it as well.

20 Q. They said that?

21 A. Yeah. I don't know about the breathing part. I
22 can't recall if they said anything about that, but the
23 fog, yeah.

24 Q. So were they concerned or ---?

25 A. Not really.

1 Q. Not really. Maybe they didn't experience the
2 breathing problems?

3 A. No.

4 Q. You were concerned, though?

5 A. I was, yes.

6 Q. When you got out before --- about what time did
7 you get out of the mine?

8 A. Around 3:00, 3:05, somewhere in that area.

9 Q. So you just no sooner got out and then the
10 explosion hit?

11 A. Yes.

12 Q. You didn't have time to talk to your foreman or
13 anybody about the fog or the breathing problems?

14 A. No, sir.

15 Q. After the explosion, you didn't know what had
16 happened? People are saying there was a roof fall or
17 big roof fall. Did you say or anybody say, we
18 experienced these breathing problems? Did you talk to
19 anybody about that?

20 A. No, sir. Everybody just went around ---.

21 Q. Sure. Did you have a thought that that breathing
22 problem might be connected to the explosion?

23 A. Yes.

24 Q. Did you have it that evening after you got out?

25 A. Yes. I was --- I just figured it out. It wasn't

1 no rock fall.

2 Q. Did you ever walk the escape route?

3 A. No, sir. We'd been talking about --- it took a
4 couple hours to walk.

5 Q. I'm sorry?

6 A. It took 'em a couple hours to walk but I remember
7 'em talking about it, but I never walked it.

8 Q. Did you have a perfect idea what the route was?

9 A. I wasn't real for sure. I'm looking at it here
10 and it look like for us it would have been across the
11 face of the longwall.

12 Q. But you're not sure?

13 A. I'm not real sure.

14 Q. Let me get this straight. The water over there
15 where you were working on site, what do you call that?

16 A. Headgate.

17 Q. Where the water was, was that there the entire
18 time you were working?

19 A. Yes, sir, all the way down to the Bandytown.

20 Q. So at least two entries were totally blocked with
21 water that whole time?

22 A. Yes, sir.

23 Q. Did you ever see any people from outside,
24 management, other than your foreman, down in that
25 area?

1 A. Yes, ---

2 Q. Who did you see?

3 A. --- a few times. There was inspectors down there
4 a few times.

5 Q. Inspectors were?

6 A. Yes.

7 Q. Do you know where they were from?

8 A. I'm not real sure.

9 Q. How about management, did you see bosses?

10 A. Yeah. The superintendent was down there trying to
11 --- helping us trying to get it out.

12 Q. And his name, again?

13 A. Everett Hager. They moved him back in December.
14 I'm trying to think of his name. Andy Kolson. They
15 got rid of him back in December.

16 Q. He got fired or they moved ---?

17 A. They reassigned him. I believe his job was to
18 help try to get the water out by a certain time.
19 There was no getting that water out.

20 Q. Did he ever talk to you about that?

21 A. What?

22 Q. About the water ---.

23 A. Oh, yes. Mainly just said we needed to get it
24 outby.

25 Q. Did he seem frustrated he couldn't get it out?

1 A. Yes.

2 Q. Did you think, you know, that this assignment of
3 getting the water out, never could get it down was ---
4 how did you feel about that?

5 A. I felt like I've been doing that most of the time
6 I worked there.

7 Q. You said that when you did work building
8 stoppings, that would make big changes in the air.

9 A. Yes.

10 Q. What did you mean? Can you describe that?

11 A. Sometimes the air would just up and reverse for
12 some reason. I never --- never knew why. And then
13 we'd build another stopping, and it'd go ---. We'd go
14 build a stopping where there wasn't any stopping at
15 and it would get back to normal way, but I never --- I
16 never really see that happen.

17 Q. So you were experiencing on different occasions
18 air going different directions ---

19 A. Yeah.

20 Q. --- in the same place?

21 A. Yes.

22 Q. And how often would that occur? Was that
23 frequent?

24 A. Yes.

25 Q. Every day, every week? If you know.

1 A. The air didn't reverse, you know, all the time.
2 We was always working on ventilation just about every
3 day or every other day.

4 Q. You'd go in and the air would be blowing in one
5 direction and they'd say go --- stop it?

6 A. They'd have us build stoppings or --- Kennedy
7 stoppings, whatever.

8 Q. Were their stoppings being crushed out?

9 A. Yes. With the bottoms hooving up, it would just
10 crush 'em out. We'd have to go down and redo 'em.

11 Q. Can you describe the bottom hooving up and how far
12 would it hoove up?

13 A. Like I said, over in Two and Three, it climbed to
14 the top. I never --- I never went past Two and Three,
15 you know. I'd say Four is the same way, but it would
16 have to be because it was ---.

17 Q. You also noticed big cracks. Can you describe
18 them? Were they wide? Were they long?

19 A. They were --- most of them were long. They'd go
20 all the way up the side of the rib or they would go
21 from the crosscut. They weren't really wide or
22 nothing.

23 Q. One inch, half inch?

24 A. Two or three inches wide, probably.

25 Q. Were you ever --- strike that.

1 You were asked about hearing the inspectors on the
2 mine property. And you said, yeah, you heard about
3 that, but you'd seen 'em and the boss had seen 'em?

4 A. Yes.

5 Q. Were there any other times when you were working
6 in the mine and the boss or somebody would come down
7 and say, there's an inspector on the property, he
8 might be coming this way?

9 A. A few times, yes, two, maybe three times.

10 Q. Did they --- when that happened, did the boss say,
11 well, we got to go do something, the inspector is
12 coming, we ought to take care of the stopping or ---?

13 A. Yes. Most of the times that's what it was, he was
14 working on stoppings.

15 Q. So did you see stoppings out, you know, and then
16 they wouldn't take care of 'em for a while, you know,
17 like go for a day or two days?

18 A. There was times the stopping would be out for a
19 day or two. And once the superintendent got wind of
20 it, he immediately told us to stop what we was doing
21 and he would send us down there to fix it.

22 Q. How do you think a superintendent would get wind
23 of that?

24 A. I have no idea, to be honest with you. I mean, he
25 was concerned about it, you know.

1 Q. Do you know, was there --- did anybody ever talk
2 about sort of a code for when inspectors were on the
3 property?

4 A. No. I've heard ---. Not there. I've heard it
5 like other places, heads up, or something.

6 Q. Like we've got company?

7 A. We have company or something. I ain't never
8 worked around ---. There for a long time it seemed
9 like we have inspectors there every day, where we was
10 at.

11 Q. Up in the area where that water was?

12 A. No, no, at the mine in general. There was only a
13 few times I'd ever seen 'em up that way.

14 Q. How recently before the explosion, do you recall?

15 A. Three weeks, four weeks.

16 Q. More than once, just that time, or a couple other
17 times?

18 A. That time and maybe one other time.

19 Q. Early on or do you have any sense of when the
20 other times ---?

21 A. No.

22 Q. You said there were times when the longwall was
23 running it would --- it would get dusty from time to
24 time.

25 A. Yes.

1 Q. How dusty? I mean, can you describe it?

2 A. Like, I mean, it didn't affect your vision or
3 nothing.

4 Q. You say there was a lot of dust in the air?

5 A. Yes.

6 Q. And where would that have been?

7 A. On the tailgate side all the way down to about,
8 oh, about this area (indicating), 100 Break or so.

9 Q. So from 100 Break ---?

10 A. Outby to 70 Break, normal dust.

11 Q. The smell, somebody said it was longwall oil
12 smell. Did it smell like oil? I mean, you know what
13 oil smells like?

14 A. It kind of had the hydraulic oil smell to it, but
15 if there was another --- I just couldn't place ---.

16 Q. You can't describe it.

17 A. I know what raw coal smells like and it didn't
18 smell like that either.

19 Q. Was it a strong smell?

20 A. Yeah, just about take your breath from you.

21 Q. Was there an area where the smell was greater and
22 did it get less as you went in a different direction?

23 A. Around 70 Break area, the smell was always
24 stronger there.

25 Q. Can you think of any reason why it would be

1 stronger there?

2 A. No, sir.

3 Q. Almost take your breath away?

4 A. It would make it hard breathing, just, you
5 know ---.

6 Q. You'd have to breathe deeper or ---?

7 A. No. You just didn't really want to breathe.

8 Q. You didn't want to breathe?

9 A. Yeah.

10 Q. And you'd hold your breath ---?

11 A. Yeah.

12 Q. You said you were sent for an interview for a job
13 with Performance or Massey, but they never called you
14 for a physical?

15 A. Yes.

16 Q. When did you have that interview, just roughly?

17 A. About a month before I went and talked to Jason
18 --- at Elk Run.

19 Q. At where?

20 A. At Elk Run. And he told me, just wait, we're
21 going to be calling you, he'll see me for my interview
22 and physical --- not my interview but my physical.
23 And I like just ---.

24 Q. Have you heard anything about the physical at all?

25 A. No. I mean, I showed up for work every day. They

1 have no reason not to.

2 Q. You said you were concerned if you spoke out about
3 the water, it wouldn't be a good thing to do.

4 A. Yes.

5 Q. You did, you told the foreman. What else could
6 you do? He knew it, he was there; right?

7 A. He was there.

8 Q. So Mr. Wilson asked you why you felt like if you
9 spoke out it wouldn't be a good thing to do. And you
10 said there are people ---?

11 A. The reason is, because they said that he had a
12 history of firing a lot of people not wanting to do
13 their jobs and stuff. It kind of made me nervous, you
14 know. Maybe that's what he would have thought if I'd
15 say something about working in those condition. And I
16 needed my job.

17 Q. So did you have a sense that, at least with the
18 people you talked to there, that people should keep
19 their mouth shut and just do their job and ---

20 A. Yes.

21 Q. --- if they were concerned about safety, not say
22 anything about it?

23 A. Yes.

24 Q. How is that consistent with S1?

25 A. It wasn't.

1 Q. So there's this S1 Program but what does it mean?

2 A. I really don't know, to be honest with you.

3 MR. MCGINLEY:

4 That's all the question. Thanks.

5 ATTORNEY WILSON:

6 Do you have anything?

7 MR. SHERER:

8 I have a few follow-ups.

9 RE-EXAMINATION

10 BY MR. SHERER:

11 Q. You mentioned this big fall that you noticed
12 coming back out. Did you notice that the air was fast
13 or whistling or anything around that fall?

14 A. It didn't seem like it, no.

15 Q. It didn't appreciably affect the air flow through
16 there?

17 A. No, sir.

18 Q. Thank you. All this water you kept finding, do
19 you know where the water was coming from?

20 A. No, sir.

21 Q. It just pooled up there?

22 A. It would seem like ---. You'd ask people and
23 they'd say, it's coming from the top, it's coming from
24 the rib.

25 Q. Could you see it coming from the top?

1 A. Some spots. You could see it coming from the rib,
2 but not large amounts or nothing like that.

3 Q. Did you notice that things were getting a little
4 dusty around the water or anything like that?

5 A. Yes. The whole belt structure would be rusty.

6 Q. What about like your tools, things like that?

7 A. Channel locks ---.

8 Q. You mentioned the ribs were bent back through
9 there. Were there scaling walls along there that ---?

10 A. No, sir.

11 Q. Did you ever see your foreman scale the ribs down?

12 A. Yes.

13 Q. So he took a bar in with him, I guess?

14 A. He used the roof bolter, ---

15 Q. Okay.

16 A. --- no carrying the bar.

17 Q. Okay. How about SCSRs? I know you probably wore
18 one. Were there any other SCSRs stored back through
19 there?

20 A. No, sir.

21 Q. Did you know where the closest SCSR besides the
22 one you had on your belt was?

23 A. Right here at --- I want to say it's at 13, 14
24 Break.

25 Q. Okay. How long would it take you to get to that

1 SCSR when you were down as far as you went down here?

2 A. It would take --- it would normally take us
3 anywhere from 45 minutes to an hour just to get to a
4 mantrip, so it would probably take I'm going to say an
5 hour and 15 minutes, hour and a half before we get to
6 the ---.

7 Q. Do you consider that distance and that SCSR to be
8 readily accessible?

9 A. (Indicates no.)

10 ATTORNEY WILSON:

11 Did you say no?

12 A. Yes. No.

13 BY MR. SHERER:

14 Q. You said you worked on the air pumps a lot. Any
15 particular problems those air pumps had?

16 A. They would just gob up.

17 Q. Just gob up?

18 A. Yeah, and we'd have to disassemble them take them
19 apart and stop 'em.

20 Q. They had a filter?

21 A. No, they --- they had two balls, a ball on this
22 side and a ball on this side.

23 Q. Okay. You mentioned the fire boss had a methane
24 sniffer with him. And you also mentioned later that
25 occasionally it would go off. Do you know what he did

1 when it would go off?

2 A. I don't recall.

3 MR. SHERER:

4 I appreciate your answers and your time

5 and patience with us.

6 MR. STEFFEY:

7 Just real quick.

8 EXAMINATION

9 BY MR. STEFFEY:

10 Q. Were there a lot of supplies left behind the
11 longwall?

12 A. Yes. Block, timbers, roof bolts, plates, belt, a
13 lot of structure.

14 Q. Any glue?

15 A. I never --- I don't remember seeing any glue ---.

16 Q. And you may have already told us this, but who was
17 on your crew that day the last shift you worked?

18 A. It was me, Jeremy Burdoff and David Farley.

19 Q. And you mentioned you built several stoppings.
20 Did you do any ventilation work outby the longwall
21 face?

22 A. No, sir. That was never no problem. If so,
23 usually they had somebody else to take care of it.

24 MR. STEFFEY:

25 That's all I have.

1 ATTORNEY WILSON:

2 Mr. Stanley, I think we're finished. On

3 behalf of MSHA and the State of West Virginia, I want

4 to thank you for appearing and answering questions

5 today. Your cooperation is very important as we work

6 to determine the cause of the accident. Again, I'll

7 remind you that we ask that you not discuss your

8 testimony with anyone other than your grandfather. Or

9 if you want to contact either MSHA or the state in the

10 future, you may do that at the contact information

11 that's been provided to you. After questioning other

12 witnesses, we may call you if we have any follow-up

13 questions that we feel that we need to ask you.

14 At this time before we go off the record,

15 I told you when we started that I would give you an

16 opportunity if there was any additional information

17 that you wanted to provide to us or if there is any

18 statement that you would like to make for the record,

19 you may do so at this time.

20 A. No, sir.

21 ATTORNEY WILSON:

22 Okay. Then, again, I want to thank you

23 for your time and your cooperation in this matter.

24 Off the record.

25 * * * *STATEMENT UNDER OATH CONCLUDED * * * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Danielle Ohm