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Statement Under Oath of **Wendell Willis**

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STATEMENT UNDER OATH

OF

WENDELL WILLS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, June 25, 2010, beginning at 4:00 p.m.

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I N D E X

EXHIBIT PAGE

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One	Map	62*

*exhibit not attached

P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Polly Anna Hampton. Today is June 25th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia, and I ask that they state their appearance for the record now.

MR. O'BRIEN:

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

MR. JARRELL:

Dan Jarrell, with the Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

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

ATTORNEY HAMPTON:

There are also several members of the accident investigation teams also present in the room today. Mr. Sherer will be conducting the initial

component of the questioning today.

All members of the Mine, Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep confidential all information that is gathered from each witness who voluntarily provides a statement until the witness statements are officially released. MSHA and the State of West Virginia shall keep this information confidential so that other ongoing enforcement activities are not prejudiced or jeopardized by a premature release of information. This confidentiality requirement shall not preclude investigation team members from sharing information with each other or with other law enforcement officials. Your participation in this interview constitutes your agreement to keep this information confidential.

Government investigators and specialists have been assigned to investigate the conditions, events and circumstances surrounding the fatalities that occurred at the Upper Big Branch Mine-South on April 5th, 2010. The investigation is being conducted by MSHA under Section 103(a) of the Federal Mine

Safety and Health Act and the West Virginia Office of Miners' Health, Safety and Training. We appreciate your assistance in this investigation. You may have a personal attorney present during the taking of this statement or another representative, if MSHA has permitted it.

Your statement is completely voluntary.

You may refuse to answer any question and you may terminate your interview at any time or request a break at any time. Since this is not an adversarial proceeding, formal Cross Examination will not be permitted. And just so that the record is clear, do you have a personal representative with you here today?

MR. WILLS:

No.

ATTORNEY HAMPTON:

Your identity and the content of this conversation will be made public at the conclusion of the interview process and may be included in the public report of the accident, unless you request your identity remain confidential or your information would otherwise jeopardize a potential criminal investigation. If you request us to keep your identity confidential, we will do so to the extent

permitted by law. That means that if a judge orders us to reveal your name or if another law requires us to reveal your name or if we need to reveal your name for other law enforcement purposes, we may do so. Also, there may be a need to use the information you provide to us or other information we may ask you to provide in the future in other investigations into and hearings about the explosion. Do you understand?

MR. WILLS:

Yes, ma'am.

ATTORNEY HAMPTON:

Do you have any questions?

MR. WILLS:

No.

ATTORNEY HAMPTON:

After the investigation is complete, MSHA will issue a public report detailing the nature and causes of the fatalities in the hope that greater awareness about the causes of accidents can reduce their occurrence in the future. Information obtained through witness interviews is frequently included in these reports. Since we will be interviewing other individuals, we request that you not discuss your testimony with any person, aside from a personal representative or counsel.

A court reporter will record your interview. Please speak loudly and clearly. If you do not understand a question, please ask the questioner to rephrase it. Please answer each question as fully as you can, including any information you have learned from someone else. I'd like to thank you in advance for your appearance here. We appreciate your assistance in this investigation. Your cooperation is critical in making the nation's mines safer.

After we have finished asking you questions, you will then have an opportunity to make a statement and provide us with any other information you believe is to be important. If at any time after the interview you recall any additional information that you believe might be useful, please contact Norman Page at the telephone number or e-mail address provided to you in that letter.

Any statements given by miner witnesses to MSHA are considered to be an exercise of statutory rights and protected activity under Section 105(c) of the Mine Act. If you believe any discharge, discrimination or other adverse action is taken against you as a result of your cooperation with this investigation, you are encouraged to immediately

contact MSHA and file a complaint under Section 105(c) of the Act. John?

MR. O'BRIEN:

What I'd like to do is go over this with you. Basically on behalf of the West Virginia Office of Miners' Health, Safety and Training and the West Virginia Code 22A-1-22 you are protected against discrimination from this --- anything stemming from this interview. If that would happen, here's some contact information I want to give you. If you would experience such discrimination, you have 30 days from the point of that discrimination, not today, to file a complaint. Also, I would like to give you cards, business cards from Terry Farley and Bill Tucker. They are our lead investigators in this accident investigation. And if you have any questions, feel free to contact them. Okay? Any questions?

MR. WILLS:

No.

MR. O'BRIEN:

Thank you.

ATTORNEY HAMPTON:

Would you please swear in the witness?

WENDELL WILLS, HAVING FIRST BEEN DULY SWORN, TESTIFIED

AS FOLLOWS:

EXAMINATION

BY MR. SHERER:

Q. Would you please state your full name and spell your last name?

A. Spell the last name?

Q. Yes, please.

A. Wendell Dale Wills, W-I-L-L-S.

Q. Thank you. How about your address and telephone number?

A. Mailing address is (b) (7)(C)

(b) (7)(C)

Q. And your telephone number, please?

A. (b) (7)(C)

Q. Okay. Thank you. Are you appearing here today voluntarily, Mr. Wills?

A. Yes.

Q. How many years in the mining industry do you have?

A. Thirty-three (33) years.

Q. Can you give us a rough outline of what you've done during the 33 years?

A. I did everything from general inside laborer to belt work, roof bolt, continuous miner, shuttle car, scoop, become foreman. I've worked in roof control,

ventilation, basically --- I did about everything in the mines.

Q. You sound very experienced. What companies have you worked for?

A. I worked --- I started at Beckley Coal in 1974, and I worked there 12 years, then went to Maben, worked for a while in Boone County. I worked in Logan County for Ballard Brothers, and then I came to A.T. Massey in around approximately ‘91.

Q. Okay. Are you currently employed?

A. No. (b) (7)(C) .

Q. Have you ever worked at Upper Big Branch Mine?

A. Yes.

Q. When did you work there?

A. I think I started there in ‘92 or ‘93, I believe. I came from --- I started at Castle and went to White Knight. And then from White Knight I came to Upper Big Branch.

Q. Those are mines located above Upper Big Branch, aren’t they?

A. Pardon me?

Q. Those mines are located above Upper Big Branch?

A. No. They were down --- they were on down in Boone County, ---

Q. Okay.

A. --- and I just moved up to them.
Q. Okay. When did you leave Upper Big Branch?
A. It was the latter part of 2006.
Q. What were you doing at Upper Big Branch at the time that you left there? What was your job title?
A. I was mine foreman. I had recently --- prior to late --- I think in November I was superintendent, and then they got a new superintendent. I asked them to bring a new superintendent, and I --- after 2006 I was transferred again to Shank Run. I asked to be transferred.
Q. Okay. Any particular reason you asked to be transferred?
A. At that time we had the Glory Hole, which coal came from Logan’s Fork to our mines. And I needed more people. We were having trouble with keeping our belts clean and --- we just didn’t have enough people, and I couldn’t be a mine foreman or superintendent and shoveling belt and taking care of the business. I just wanted to do one or the other, so I asked to be transferred to their beltline and at --- it’s called Shank Run. I think it’s S-H-A-N-K or something. I’m not sure.
Q. So you’re trying to do what you needed to do and you just didn’t have enough resources?

A. That's why I left.
Q. And you were superintendent for approximately how long?
A. Approximately for two years.
Q. Okay. Well, it sounds like you were very familiar with this mine. And was the longwall operating during that time period of this mine, Upper Big Branch?
A. Yes. When I was superintendent, yes. It wasn't at the time that I left. The longwall was in Logan's Fork and was coming to our mines, and we were supposedly going to drive panels for it, and we didn't. Because I was superintendent through a lot of those panels, all of those panels up there that were longwalled.
Q. Oh, geez.
A. The ones from, I think, Headgate 22 up to Headgate 11 --- down to Headgate 11.
Q. Mined a lot of them out?
A. It was good mining at that time. Good conditions ---
Q. That's good.
A. --- on a lot of them. The last three or four were not so good.
Q. What was the management structure when you were there? Who ran the entire operation?

A. Well, my boss was Eddie Lester and Homer Wallace, but the president was --- golly, I just went blank.
Q. Don’t worry about it. I go blank quite often myself.
A. James Hancock was the last one I worked for.
Q. Okay. And you reported directly to Mr. Lester?
A. Yes.
Q. And his position was?
A. General manager is what they called him.
Q. Okay. And then he reported to the president?
A. Yes.
Q. Were there any vice-presidents?
A. Not at that time. I think Eddie Lester was --- because he didn’t have a college degree, they called him mine manager/vice-president.
Q. And the president was over Performance Coal?
A. Yes.
Q. So Performance Coal is the --- did they operate other mines at the same time?
A. No. We only had Upper Big Branch.
Q. How about the preparation plant, was that under Performance Coal?
A. No. The preparation plant was Ed White. It was under someone else.
Q. Okay. What about under you? What was the

management structure like under you at that time?
A. Well, I had mine foremans and section bosses. I had the shift foremans.
Q. What about the longwall when it was operating? How was it structured? Was it operated just like another section?
A. Yes. It was --- they had the coordinator and the assistant coordinator and they took care of the longwall and I took care of the ventilation.
Q. Okay. And they reported to you?
A. No. Very seldomly. I mean, if they had troubles they reported to me, but no, they didn't report to me.
Q. So they reported directly to the general mine foreman?
A. Yes.
Q. When you were operating this mine did you have equipment doors where the track had to cross other air courses or did you use overcasts?
A. I used overcasts. And we used track doors, you know, too. That was for neutral air and not for ventilation.
Q. Sure.
A. Not for intake ventilation. We had overcasts.
Q. Okay. And do you recall methane outbursts that may have occurred in 2003 and 2004?

A. Yes.
Q. Could you tell us what you remember about those outbursts?
A. Well, they were --- I was close to the longwall, on the last one, I remember, and they called and said they had methane outbursts. And I said, was the power knocked. And the power was knocked. By the time I got up there, you could still --- it was --- it just sounded like a train in a tunnel. It was so loud coming out of the bottom. The bottom had busted and we were --- we immediately --- you could look down the fan line of the longwall and you could see --- it looked like road heat coming off the road, coming out from the jacks, and it was up high. And I think somebody was with me, we crawled down there. I wanted to see if I could get closer to the --- and my detector got down to 14 percent of CO, and then I came back out.
And MSHA arrived. And I stayed up there. We got everybody out of the mines, and I stayed there monitoring to see if it was going to quit or what was going to happen and make sure we had good ventilation. They called me outside, and we proceeded then to re-ventilate. We had a fan in behind North Mains, straight back, and you could go and knock a stopping

out up there, build two stoppings across the track outby the tail on the wall, put all the air across the wall to that fan behind the North Mains. Eventually it cleared out.

Q. Roughly, how long did you have to keep the mine evacuated?

A. I'm not sure. I think it was a couple days just to be sure, and we had to re-ventilate after --- after we got clear, it got down to where we weren't getting any readings. Once the methane had stopped, you know, the outbursts, you would get zero percent of methane. But we had to re-ventilate the mines where we built the stoppings across the track and the beltline and rebuild the stoppings we had knocked up in North Mains.

Q. Sure. Where were those cracks located in relationship to the wall; do you remember?

A. Yeah. It was --- the one I remember was at 94 jack. That's probably midface.

Q. Did the cracks parallel the face or did they go back into the gob?

A. It just went back in behind the jacks. I guess with the pressure it just busted up. It was in between and behind the jacks. You could see it coming out of the jacks.

Q. Did you see anything going on in the face area where that crack was located?
A. No.
Q. How about the top? Did you see any problems with the top in that area?
A. No. We went back to normal mining after it played itself out. It happened a couple times, but I can't remember. That's the one I remember the most.
Q. Did you have any advanced warning of that outburst?
A. No. No. I think during that time the top set, you know, where it had pressure it just busted the bottom out.
Q. Do you recall if you had to submit a ventilation plan change after that crack was found?
A. Yes, we did, I think. I believe Bill Ross and David Morrison, maybe Raymond ---
Q. Browning?
A. --- Browning was there. And together, we knew we had to do something quick, and then we got the okay. I'm not sure who was in charge of ventilation from MSHA at that time, but I think --- I believe it was Bill Ross.
Q. I think it was Billy.
A. And they were okay with that, to do that. And

they were with us all the time when we were doing this.
Q. That's good. You say you encountered it --- was it prior to that one, that outburst, or after that outburst? You said you had encountered a couple times you remember.
A. That was one of them. And one more time I think you had mentioned 2003 maybe. But I knew it happened a couple times.
Q. Okay.
A. When the longwall would come out, it would put pressure, you know, like on the panel. You may be driving beside of it, and sometimes the bottom would hoove all the way across the other panel, but you didn't necessarily get methane out of it.
Q. Sure. Where you encountered this crack and outburst, did you notice any other things going on, like excessive hooving in the gate roads or anything like that?
A. No. No. It just happened in the jack line, in behind the jack.
Q. Had anything happened with the coal seam, that it had pinched down or ---?
A. No.
Q. Okay.

A. No. The bottom just busted and methane come out and that was about it. And then I found out there was a lot more gases than methane. They came in with bottle samplers, and I couldn't tell you the different kinds of gases that were in that with the methane. I thought it was just methane.

Q. Do gases like propane and ---

A. Yes.

Q. --- and ethane and things like ethane and things like that ring a fall?

A. Yes. They had several different runs.

Q. That's very interesting and helpful. Did you do anything different as far as ventilation on subsequent panels?

A. No. No. Our ventilation was really pretty good at that time. When you got in trouble with ventilation is when the tailgate would fall in or you may get water behind you. That would cause a problem. We had that one panel --- if I'm not sure, I believe it's Headgate 11, we had water that --- we had a pump that came down to the 100 break, and it was a surface pump, and we pumped --- you know, we had to keep that running because that water would roof back there, and it would shut your ventilation off, so we had to keep it running.

Q. What would happen when the water roofed and ventilation shut off? Did you just get methane coming out of the gob?
A. You can tell because we had eight people that's evaluation points back there, and we had to go do those evaluation points every day. And if your air was getting weak and going back to the gob, you knew that the pump was needed started or wasn't running.
Q. Okay. You mentioned that you had helped drive the area that they're referring to as Eight North now. And I'm pointing to the area on the map that's north of the Glory Hole. What did you guys call this area?
A. North Mains.
Q. North Mains, okay. Do you recall why the development of the North Mains was abandoned at some point in time?
A. We abandoned and pulled the equipment off. It got low coal. There wasn't a lot of coal back there, and the top started getting bad, and we had beltlines that ran from North Mains all the way, you know, outside the beltline. The beltlines were pretty rough, but then we had some bottom heaving up in there that we had to continually work on the beltline.
Q. Okay.
A. So I just pulled out. I don't know whose call

that was, but we pulled out.
Q. Sure. And you mentioned earlier that at one time you were considering setting another fan on the north side of this mine?
A. We had talked about it. We had talked about punching out at the town of Eunice and set a fan up there just to let that fan take care of all the north. The one at Upper Big Branch would take care of all the seals and that area south.
Q. How was the ventilation up on this North Main when you guys were driving that?
A. We had good ventilation up there at that time because there was only that one section up in there, and that was fairly good.
Q. Did you recall any problems with methane up in this ---
A. No.
Q. --- portion of the mine?
A. No, never had any methane in it.
Q. Okay.
A. The only time I found methane in that mines, I was --- I've been all over, from behind the wall, all the way through it is in the gob. Occasionally you'll get --- in the gob you get two percent, 2.5. And that depended on the barometers. Half the time I had a set

of seals back over in that first headgate we did, and the seals didn't leak, but the ribs around it, I'd have to carry plaster back in there. And they were way back in behind the wall, and keep it plastered down. I could look at the barometer and go back there and tell you if it was coming out or coming in, you know.

Q. Sure.

A. When you were --- did you get involved in the planning of the longwall panels and the ---

A. No.

Q. --- pillars and stuff?

A. No.

Q. Who did that?

A. The engineers and --- I worked for --- Bill Potter was another president I didn't tell you. He was there during the time we were driving these panels, and the --- it was usually the president and the engineers who tell us where they wanted to go, and we'd go set it up.

Q. Did you have engineers at Upper Big Branch at that time?

A. Not at the mine site. They would come up and go in. No, not on the site. They were down behind the maintenance office.

Q. So it was a separate office or separate company?
A. Right.
Q. Have you seen the current longwall layout?
A. Just on that. I looked at a little map that came in one of the coal news books.
Q. Would you mind spending just a few minutes and looking at this layout? And having all of the experiences that you've got at this mine, see if this makes much sense to you. And let me tell you a couple things. One, they had tremendous problems with the headgate, floor hoove and keeping the ribs and roof up. The tailgate entries were becoming almost impassible and they had a tremendous amount of water at the end of the longwall. They put a turbine pump down by the Bandytown fan which they used to pump the water out of these entries, but it didn't drain straight back down there?
A. I've heard that when they drilled for the turbine pump they hit the halfway, but actually my headgate was on this side. I brought my intake air down, it would come across --- this was my tail and my panels and we kept the conduit back that way.
Q. So you were actually pulling your panels up ---?
A. Yeah.
Q. So you leave most of the water behind you?

A. Yes. Well, now, the one panel we had to go in, and we had a good engineer at that time, Mike Milam. And we had to go back and shoot bottom. He said, it's not going to bother you now. That's the North Mains we drove up. And he said, it won't bother you now, but it will later because when the water comes, you're going to get roof back there. So we had --- I think we had to take approximately four foot of the bottom in places we drill shot, because we were dug out of there. And he did his elevations and found out that water would roof sometimes, but we fixed that before we came out.

Q. That's good.

A. But as far as ventilation, I couldn't tell you anything because this was my headgate. I brought my intake down.

ATTORNEY HAMPTON:

I just want to interrupt you because I see you're doing some pointing and saying this and here in reference to the map. Could you --- I just want to emphasize if you could explain where on the map you were pointing to.

A. I'm pointing to Headgate One North. And the way they ventilate is not the way --- it's different than when I was superintendent. We ventilated --- what is

their tailgate was our headgate. We brang our air down to the headgate, across the face to the tail and then back to the fan. It's just reversed. I don't know. I'm not saying there's anything wrong with that. I just never had done it that way.

BY MR. SHERER:

Q. Sure. This Bandytown fan, as I understand, is a very large, centrifugal fan, so it's pulling about a half million cubic feet per minute, but it's pulling it at a high pressure also. Did you have any experience with that type fan?

A. Actually, we had a fan behind our wall. But as far as --- I can just tell you, you know, how much CFM was coming out of the fan. I couldn't tell you anything else about it.

Q. Okay. It appears that this was actually their main return for this part of the mine.

MR. MCGINLEY:

Do you want to identify where you are?

BY MR. SHERER:

Q. Yeah, the Bandytown fan was the --- was ventilating this portion of the mine and the main return was the entries from the tailgate side of the longwall down to the Bandytown fan, and much of the air ventilating the northern part of the mine went

down both the tailgate and the headgate of the current panel.

A. With the fan like --- with your intake coming down this side, I can see ---.

ATTORNEY HAMPTON:

What do you mean this side?

A. The intake is coming down the headgate side of the wall. I can see where it would want to pull back that way, and you would have to almost --- and I don't know how you would keep it from pulling out of the gob.

ATTORNEY HAMPTON:

And when you just said pull back that way you were pointing over to the ---?

A. To the Bandytown fan.

BY MR. SHERER:

Q. Okay. Thank you.

A. Where was the return for the panel that the Headgate 22 was driving at?

Q. Okay. Their return comes back down here.

A. And it comes down, too.

Q. Yeah. And they initially ---.

ATTORNEY HAMPTON:

Keep in mind you're just pointing and saying here, and that's not going to come across on the ---.

A. Well, I can see Headgate 22's return is going down to the Bandytown fan, too.
BY MR. SHERER:
Q. Yes. Basically it connects up with the headgate of the current panel. Ventilation was extremely problematic at this mine, we understand, in the, oh, approximately two or three months prior to the explosion. Have you heard anything about that?
A. I heard that they were shut down for seven days or a week or so to --- because of ventilation, to work on their ventilation.
Q. Do you know who was in charge of the ventilation at this mine prior to the explosion?
A. No, I do not.
Q. Have you talked to any of the employees in this mine about the ventilation?
A. Not in the last --- well, I've talked to people who stopped by the house and would say, you know, I'm getting methane when I'm bolting. They would complain a little bit, and see, I wasn't working, and they wanted to know if I was coming back to work. And I said, no. But they would just be --- that would be what they were saying. I really don't know, ---
Q. Sure.
A. --- but ---.

Q. We've actually had several people say that you were the last person that knew how to ventilate this coal mine.
A. Well, I wasn't that smart. I just stayed in it all the time. I knew where it was at. I knew where my air was and where it was going. If something went --- I could tell you --- at one time I could tell what every evaluation point had, and we had several, because I was in there. I was afraid --- I didn't have a lot of help when I stayed in there, and I would track my air from the fan probably once a month. I would do the whole thing, but I stayed in the airways all the time because I wanted to be sure.
Q. Sure. Is there any particular reason you felt that you needed to keep up with the ventilation that well?
A. Well, I was good at it, I thought.
Q. Okay.
A. And I just liked --- that was something I liked to do, and I made sure --- I wanted air on the wall. If nowhere else, I wanted air on the wall.
Q. Do you recall how much air you did have on the wall, how much was coming down the face?
A. Yeah. It was always around --- I think we had to have 60,000 at the headgate, and it was always --- at

times it would be up to 90,000. I can't remember the face readings. It seems like it was 300 at the head or --- no, I can't remember at the head and tail, but I had to have air readings at the headgate and the tail.

Q. Do you know if this is the same set of longwall equipment in this current panel that you operated?

A. I'm not sure, because it's a different --- well, their headgate is on the tailgate. I would say not. I'd say the jacks probably came from Logan's Fork.

Q. Yes. We understand this was at Logan's Fork for a while. I was just wondering whether they had replaced the equipment?

A. I would say the shearer and everything had to be different ---

Q. Sure.

A. --- to be able to come back --- what I call backwards.

Q. Yeah.

A. That would be ignorant to ventilate that.

Q. Sure. Do you know roughly how many million tons you'd get off of a shearer in the beltline?

A. Well, back when we were running good, we mined over a million tons a month.

Q. And how long ---?

A. For 13 or 14 months.
Q. Okay. And so you get 13 or 14 months. Would you have to overhaul the shearer at that point in time?
A. No. No, we did our maintenance on the hoot owl and we ran a lot. You know, you get maybe four hours of maintenance on it, but it ran all the time.
Q. Okay.
A. Now, when Pete Hendrick was there, we always seemed --- every time we went to a new panel, we had a new shearer waiting, and they would be setting up, and all we would have to move would be the jacks and ---.
Q. Did you have a new pan line or another pan line?
A. Yeah. They would have --- we'd be putting in --- we had some. We didn't have enough to do it all. We had to move some, but nine out of ten times we just had to move the jacks and the stage loaders.
Q. That cuts down quite a bit on the move time, doesn't it?
A. Oh, yeah. They moved several times in nine days, you know, running the wall.
Q. That's a quick move. When you were running this mine, did you ever have to report the production or downtime on a regular basis?
A. Yes.
Q. Who did you report that to?

A. To Bill Potter, our superintendent. We filled out reports and they would go down to the main office, and the main office would send them to Chapmanville, to Mr. Blankenship or wherever he was at. I think it was in Chapmanville.
Q. Sure. Was that a daily report?
A. Every day.
Q. Did you have to report anything on a shorter basis?
A. Yeah. Yeah. The section foreman had to call out at 10:00, 12:00 and 2:00, I believe. I can't remember.
Q. Okay.
A. They called out two or three times ---
Q. Sure.
A. --- to let you know what they had.
Q. What about down time? If a miner was down or the wall was down, did that have to be called out?
A. Oh, yes. Usually within 15 minutes you need to call outby like when you have an accident.
Q. Sure.
A. Yeah. If they were down there, you had to call out and then you'd have to call someone down at the main office, you know, and they would call --- they would pass it on up the line.

Q. Okay. Do you recall if this mine made a lot of water or ---?
A. Yes. We had a lot of water in the mine, but we had a lot of pumps. I left a lot of pumps behind the panel I couldn't get.
Q. Sure.
A. But they worked and served the purpose. They're just gone now.
Q. Flooded?
A. Filled up.
Q. Do you feel like you're able to control the water?
A. Yes. But it was a constant battle with water.
Q. I imagine so. Do you feel that there was an excessive amount of pressure to run coal for this mine when you were in charge of it?
A. Actually, probably was, but they didn't put a lot of pressure on me because I was --- I didn't let pressure get to me on running coal and --- but the longwall had more pressure than probably anybody to run coal, and I didn't catch a lot of that heat.
Q. Oh, okay.
A. So I'm sure there was.
Q. Have you ever heard of dust pumps being hung in intakes or any other way to keep the dust out of the samples?

A. No. Now, there's one you hang there anyway, but no.
Q. Do you feel that the mine ventilation was adequate at all times when you were in charge of this mine?
A. There's several times on the wall when maybe the tailgate would fall in, and you would be borderline. We had troubles, yes. We had ventilation troubles, too, just --- but for the most of the time we had good ventilation, or I thought we did.
Q. Sure. Do you know of ventilation changes that were made --- major changes made while miners were underground?
A. Just rumors. I've heard that, but I ---.
Q. And that's rumors of the current operation?
A. Yes, and never when I was superintendent. We did it on the hoot owl. When we had to make a ventilation change, we did it with nobody in the mines, unless it was some little ventilation, you know. But when we had a major ventilation change, we did it on the hoot owl with everybody out of the mines, except the people who were doing the change, then we fire bossed the whole mines.
Q. Can you explain to us, Mr. Wills, why you did it that way?
A. Well, I didn't want to go to jail for one thing.

And I didn't want nobody hurt. I wanted to do it right so nobody couldn't come --- I'll tell you, I had --- Bill Ross and Dave Morris I probably had the most respect for because they helped me, and I didn't want to do anything to get them on my back either.
Q. They were both ventilation people with District IV?
A. Yes.
Q. But when you say you didn't want to get anybody hurt, could you help us out for the record and explain why you thought that may be a hazard?
A. Anything can happen in a ventilation change. You can short circuit and maybe lose air on the wall, and you will get methane behind the wall.
Q. Sure. Have you ever made a ventilation change and the air didn't do what you thought it was going to do?
A. Yeah.
Q. So that's why you needed ---?
A. Yes.
Q. Have you ever heard of mining taking place in this mine without ventilation curtains in place?
A. I've heard of it, but I've never, you know, ---.
Q. Have you ever heard of methane monitors being bridged out?
A. No. Actually, I've heard about it, but I wouldn't

know anything about it because I wouldn't know how to do it if I wanted to.
Q. But you have heard about it?
A. I've heard about it, yes.
Q. Do you think that was a common practice? Was it just an isolated incident or ---?
A. The one I heard about was --- it was like it would maybe shut the shearer down because maybe the methane monitor would be malfunctioned, wouldn't let the shearer run, and they'd bridge it out until they found the problem.
Q. Okay. When you're operating the longwall, how many methane sensors were on that wall?
A. One at the head, midface and tail. I'm pretty sure.
Q. Do you recall if there was one on the shearer also?
A. Oh, yeah. Yes.
Q. Do you know --- have you heard or do you know of any retaliation against miners who complained about safety issues like if they thought there was problems with ventilation, do you think miners got in trouble for trying to get that fixed?
A. I think they were afraid of getting in trouble.
Q. Okay. Do you --- have you heard anybody talking

about that?
A. I've heard that a foreman supposedly called outside and said that he wouldn't be down for a little bit. He was working on the ventilation of methane. I know it's --- someone told him he was running coal or he would get somebody out there. That's the only one I've heard about.
Q. So the foreman was trying to fix the ventilation and basically he was told either run coal or be fired?
A. Yeah.
MR. SHERER:
That's all the questions I've got for right now.
EXAMINATION
BY MR. JARRELL:
Q. Do you recall who that was?
A. Dean Jones was the foreman.
Q. Dean Jones?
A. Was the section foreman.
Q. And he was a victim in this ---?
A. Yes, he was. He was my buddy.
Q. Oh, geez.
A. Now, what I told you about him calling out, that was hearsay. Now, they told --- I was told that that was what was said.

Q. So you never had that conversation with Dean Jones?
A. No, I didn't.
Q. And do you recall what his nickname was?
A. Dino. He got a twin brother names Geno.
Q. I didn't know that.
A. He was a fine man.
Q. That's what I've heard. I've heard a lot of good things said about him.
MR. JARRELL:
That's all the questions I've got for right now.
EXAMINATION
BY MR. O'BRIEN:
Q. Just bear with me. I may re-track some places we've been, so just bear with me, please. You said on --- the outburst that you were speaking of that you were close to and responded to. What year was that?
A. I'm not sure exactly. I'm not sure.
Q. Do you remember what panel that --- what longwall panel that was on possibly?
A. If you'll let me look at the map there just for a second on the wall.
Q. Sure.
A. I'm almost sure it was 11. I'm not sure. It was

Headgate 14 or 15. It was there in the middle. Maybe even 12. I'm not sure. We didn't have a 13.

Q. If I understood you correctly, to be able to go back to operating you had to make changes in the ventilation plan?

A. Yes.

Q. Do you remember what those ---?

A. No. We didn't have to make changes. We had to put it back the way it was. I changed it to ventilate the wall face, and we had to put it back the way it was.

Q. Put it back the way your ventilation plan --- your ---

A. Right.

Q. --- existing one calls for?

A. Yes.

Q. Okay. I just wanted to clear that up for myself. Do you know of any other outbursts that has happened ---

A. No.

Q. ---- before or after ---?

A. We had two that I know of, but there was one --- the bad one that I remember was at 94 Jack at midface. That's the one I can remember.

Q. The other one, do you know when it was?

A. No, I really don't.
Q. By chance, do you know a person by the name of George Levo.
A. Yes, I know George Levo.
Q. And who was he?
A. He was an engineer.
Q. For?
A. Upper Big Branch.
Q. Oh, okay. Why, he took care of a lot of places. He was the one that I'd call to make sure my pump was running, the one I was telling you about. He'd make sure --- he'd start --- he would check the line on weight to and from work to make sure it was running because it was over near where he lived in Boone County somewhere.
Q. It made it convenient, didn't it?
A. Yeah. Yeah. Because he was probably the only one that knew how to start it.
Q. And what about a Bill Downey?
A. Bill Downey was the longwall coordinator.
Q. At that time?
A. Yes.
Q. Do you recall any kind of an underground evaluation pertaining to the outbursts in, say, February of '04? People come in and evaluate what

happened or the situation?
A. I'm not sure. There were a lot of people there during that time. I'm not sure.
Q. Do you know of anything that may have any recommendations or results from any of the outbursts ---
A. No.
Q. --- that was passed down to you, but ---?
Q. No. The only recommendation --- or what we had to do was for dust control. Every time we'd come out on our dust we had to add more air or put more air on the face. That was the only thing we ever had to do.
Q. Did you ever experience any outbursts on the continuous miner sections?
A. No.
Q. The belt man section?
A. Nothing.
Q. Just strictly on the longwall?
A. Yes.
Q. Were they --- at any certain point in the panel, were they near the beginning, middle or end or was there any rhyme or reason to where the outbursts were located that you can remember?
A. I can't remember really. It was usually, generally, something --- it seemed to me like they

were pretty much up to the pullout, you know, within, I'd say, 2,000, 3,000 feet. I can't remember.
Q. 2,000 or 3,000 feet of being finished?
A. Yes, of that panel.
Q. Okay. Because we didn't --- the last one --- the reason I say that was because I could walk from the pullout area down to the tailgate when we were changing air, and it wasn't very far down in there.
Q. This may have been discussed, but on the outburst that you responded to, what was the highest methane reading?
A. I wouldn't wear a detector.
Q. I sort of figured that. Who was the foreman on that longwall that day ? Do you remember?
A. It might have been Jack Roles. I'm not sure.
Q. Is there anything else you can tell us about any of the outbursts that you recall that we haven't covered?
A. No. When you have an outburst like that, there's no warning. I mean, it just --- the bottom will hoove, bump, whatever. It's there. It comes out. I think you might have been there. You can hear it. You can hear it from the headgate before you ever get to the rolling out. It's scary.
Q. Did you do anything different in the adjacent

panels? The rest of the panels were just continue to ventilate the way you had been ventilating all of them or ---?

A. Yeah. We ventilated the way we always --- all the panels.

Q. Did you ever drill any degasification holes in any of the panels after that or ---

A. No.

Q. --- to help ---?

A. No.

MR. O'BRIEN:

That's all I have right now.

A. See, we didn't have methane out of the coal. You very seldom --- I mean, you might get two or three-tenths, but the methane that we got at that mines came out of the bottom or up high at the top.

BY MR. O'BRIEN:

Q. I'm glad you say that. You never saw a crack in the coal face, any methane outbursts of the coal face?

A. No.

MR. O'BRIEN:

That's all.

EXAMINATION

BY MR. MCGINLEY:

Q. Now, Mr. Wills, do you remember anything about the

2003 methane outbursts?
A. Actually, the only one I can remember is the one that I had to change the ventilation on.
Q. Well, were you the superintendent in 2003?
A. Probably the mine foreman at that time.
Q. The 2003 outburst event was reported as a Part 50 accident by Performance. Does that make sense to you that that would have been done?
A. Yes.
Q. But at least the independent team hasn't been able to find any indication that the 2004 outburst was reported as a part 50 accident, as a mine inundation. Do you have any idea why that would be?
A. No, unless I've got the two mixed up now, because MSHA came. We called MSHA and they came straight down and ---.
Q. When you were superintendent, did somebody have a responsibility for filing those Part 50 accident reports with MSHA, if you recall?
A. No. Anything that we would --- that we had accidents or ventilation changes went through engineering and the president. Engineering usually took care of everything.
Q. In terms of filing whatever reports had to be filed with MSHA?

A. Yes, and safety.
Q. And safety.
A. The safety department.
Q. And the president at that time was Bill Potter?
A. I'm pretty sure.
Q. 2003/2004?
A. Yes.
Q. And who would have been at engineering that would have been sort of in charge?
A. Michael Milam.
Q. The fellow you had mentioned earlier?
A. Yes.
Q. You think --- strike that.
You said after the 2004 outburst there were bottle samples taken?
A. Yes. MSHA had taken bottle samples.
Q. And it sounded --- because you mentioned a couple of different gases, propane, for example, that you had heard the results of that sampling?
A. I can't remember what they were.
Q. Do you remember that some report of the sampling did come back to the company?
A. Oh, yeah, it came back. They told us what we had. And they were also taking bottle samples at the fan belt in behind the wall. They were telling you how

many parts per million we had back there, and it was a lot at that time. And you could see it go down as they took their ten-day bottle sample.
Q. Now, when did that occur, after the 2004 outburst?
A. Yes.
Q. And then when would they have been taking the samples, immediately after or sometime later?
A. I'm not sure. They take them during that time, but they always --- at one time there we were on like a ten-day spot and they would take a bottle sample and check.
Q. And they were shown fairly high methane ---
A. Yes.
Q. --- behind the longwall and the gob?
A. Yes.
Q. And was that gob being ventilated or was that shield ---?
A. Yes, it was being ventilated. But when you ventilate the gob, you just don't have a lot of air. You have to move back through it to ---.
Q. Was that a matter of concern for you at that time?
A. No.
Q. Because you had enough air you felt?
A. Yes. If you could keep pressure on your wall face and the head and tail and you --- what was --- what

would alarm me, if we didn't have --- if we had air coming back. As long as you had positive pressure going into the gob, I wouldn't --- because I would go behind there and you can get it all as far as I could go. You had air movement going back through there.

Q. You were trying to recall what panel was involved in the 2004 methane outburst. You recalled something like 10 or 11; is that right?

A. I'm not sure which one it was.

Q. I have an MSHA memo here dated July 15th, 2004 that says the Upper Big Branch Mine experienced a floor methane outburst in February 2004 on the 17 longwall panel. Previously similar floor methane outbursts occurred in the longwall panel in July 2003. Does that sound right to you?

A. Probably. Probably.

Q. Did you have any other problems with that 16 and 17 longwall panels that you can recall?

A. No. Once we cleared that methane out and it bled itself out, we were back to normal.

Q. The MSHA report, it indicates that the Harris Mine --- at least there was a report that the Harris Mine adjacent to UBB had experienced similar events on the longwall panels. Had you heard that?

A. I hadn't heard that.

Q. Would that have been something you would have liked to have known back at the time?
A. You know, I --- not really.
Q. Okay.
A. I just wanted it in my area there. I knew where they were talking about. It was in behind their longwall, I believe, the area had been longwalled out.
Q. I see. Mike Milam, according to this memo, was with Performance Coal Company. Is that your recollection or was he with one of the other Massey groups?
A. Mike Milam?
Q. Milam.
A. Yes. He was their --- he was their engineer.
Q. And he was --- I think you said he was located at the office.
A. Yes.
Q. What's the proximity between that and where you were working outside there at UBB?
A. Probably ---- I don't know if it's a mile down to the main office. We was up on the hill where the mine office was.
Q. And George Levo, did he work under Mike Milam?
A. Yes.
Q. What was the relationship --- do you remember Tim

Comer?
A. Who?
Q. Tim Comer?
A. No.
Q. New River Energy Corporation?
A. No.
Q. Do you know what that company was at all, New River Energy Corp?
A. No.
Q. In this memo Tim Comer is listed as Performance Coal Company personnel back in July 2004, but that doesn't ring a bell?
A. No. During this time or sometime later we had a --- doggone, I think it was an outfit of ventilation people come in and do surveys, and they could take pressure drops and ventilation survey. Basically they said that we was probably as good as we was going to get because we were so far in there, trying to ventilate gob, too.
Q. Now, was this around 2004 or later?
A. Later.
Q. That was outside consultants or from other Massey ---?
A. Yes, it was a consultant. And Gary Herzog was the guy's name that came in and did the survey,

ventilation survey. He owned a ventilation company that just --- that's all they did.
Q. And do you know where they were located?
A. In Mabscott.
Q. In Mabscott?
A. Yeah.
Q. Do you recall the name of his company?
A. I'm thinking it's Alpha, but I can't remember.
Q. You're thinking it's what?
A. Alpha.
Q. Alpha. And so who requested that survey?
A. Bill Potter and myself.
Q. And was that because you had concerns about the ventilation the further along you got?
A. Yeah. And the future mining, if we were going to be able to keep ventilating it, you know. I knew the farther we went, the tougher it was going to get.
Q. And I'm not looking to pin you down to the exact time, but about what period would you --- would it become clear to you and Mr. Potter that the further you got along in mining, the more panels, the more ventilation problems you would have?
A. We had discussed that and that's when we come up --- or I did, if you cutting out down in Eunice, that's at the head at North Mains.

Q. That's what they call the Ellis Portal now?
A. Yes. The projections on the map that we had --- and Mike Milam was there at that time. They actually didn't turn back right handed there, it just went straight out. And we talked about putting a fan out there and driving the Five entry, putting a fan out there and not worried about putting anything behind it at that time until the wall was ready so you could ventilate your --- you could ventilate your driving sections. It was a straight shot in, straight shot out with the air.
Q. That makes sense. What happened to that plan?
A. I don't know.
Q. Did you leave before that time came to implement that?
A. Well, I left before they started even driving out there, where they're driving now.
Q. Did you think that was a good idea?
A. I think it was a good idea.
Q. Mr. Potter agreed with you?
A. Yes.
Q. Was that something that Gary Herzog was looking at with the ---?
A. I'm not sure if he did or not. He was just doing like pressure drops from point A to point B and air

loss, which we knew we was losing air.
Q. You say it was basically inevitable that the more you mined, the more panels, the less air you would get?
A. It’s going to get weaker as you go --- drive deeper. It would get weaker because the best you can build a permanent stopping, it leaks, the best you can do.
Q. Was there any thought of, you know, there would come a time when you just couldn’t go any further because of ventilation?
A. Not --- there probably would have come a time had they not put the Bandytown fan in. There would probably have come a time, yes, that it would have been hard then.
ATTORNEY HAMPTON:
We’ve been going a little over an hour, so maybe we can take a quick break.
MR. MCGINLEY:
Sure.
ATTORNEY HAMPTON:
Let’s go off the record.
SHORT BREAK TAKEN
ATTORNEY HAMPTON:
Back on the record.

BY MR. MCGINLEY:
Q. Now, Mr. Wills, you said you and Mr. Potter had talked about putting five entries in at Eunice Portal at some point?
A. We were talking about driving from North Mains to the outside just for ventilation, but it never came about.
Q. And did you also discuss the possibility of doing something like what ultimately was done, putting a fan in at Bandytown?
A. No. I hadn't talked to him about Bandytown at all. I knew they were going to. The engineers had talked about putting a fan over there. I was just more concerned about ventilation of ---.
Q. Where you were working then?
A. Yes.
Q. So the Bandytown fan was --- that was being projected?
A. We didn't have a wall there at that time. We knew it was coming, so I knew they would take care of it when it got there. I just wanted more air, and I thought that was the way to do it.
Q. After the 2004 methane outburst, do you recall that Performance engineers prepared a variety of maps looking at overburden and underburden and the

overmining that was going on there, looking at structural contour relationships, in an effort to understand what had happened with regard to these floor bursts? Do you recall that?
A. They had some overlay maps, but actually I don't think it was because of the floor burst. It was --- we were getting --- sometimes we were having trouble with the top on the shearer and the jacks at different times, and they were just going to make sure, you know, when we come out from under maybe that solid block of sandstone, that we'd prepared, you know, because we were getting the shearer covered up some.
Q. Well, the reason I ask that, there's a March 4, 2004 MSHA memo that says the mine has prepared a variety of maps to portray overburden, underburden, overmining ---
A. Yeah.
Q. --- and structural contour relationships and appear to have devoted considerable effort to understanding the controls on the floor bursts.
A. I'm not sure, but we did have an overlay map, yes.
Q. Right. But you didn't know somebody was working on trying to understand how to deal with the floor burst; is that right?
A. No.

Q. You didn't know that was going on?
A. No. We looked at it every time we were coming out from a solid block of coal and we knew we were going to get pressure on the shearer. If it was on the head side. That's what I used it for. I didn't know what was ---.
Q. And maybe there was different maps and different information; is that possible?
A. It could be that they didn't even bring it to me.
Q. That sort of information, would you expect Performance to keep those maps? I mean, you know, we'd be interested in looking at them if ---.
A. I'm sure they're --- they have overlay maps. Their engineer --- I'm sure engineers have got the maps of anything you want or they could pull it up.
Q. I'm thinking specifically about what they were doing in response to the floor outbursts, anything they developed. Do you think they'd still have them, I mean, in terms of the document retention policy?
A. I'm not sure.
Q. This March 4th, 2004 memo says that mine personnel reported that in the subsequent longwall panel degasification wells would be developed in the lower equal seam in an attempt to decrease the potential for future outbursts. Do you know anything about that?

A. No.
Q. That wasn't done, was it?
A. I don't know. I didn't know anything about it if it was done.
Q. Do you know anything about any degas wells ---
A. No.
Q. --- at UBB?
A. No.
Q. And you've --- at least in the time you were there, you would have known about that, I assume?
A. I would think, yes.
Q. This March 4th, 2004 report also indicates --- it says a floor burst occurred at approximately 41 --- I'm sorry, 40/41 Crosscut at Headgate 17 longwall panel and gas is issued from a fracture in the floor behind the seals that was reportedly up to 240 feet long. Is that consistent with your recollection?
A. Could you read that last part again?
Q. Sure. An evaluation of the controls of the floor burst that occurred on February 18th, 2004 was conducted at Performance Coal Company's Upper Big Branch Mine on February 24th, 2004. The floor burst occurred at approximately 40/41 Crosscut at the Headgate 17 longwall panel, and gases issued from a fracture in the floor behind the shields that was

reportedly up to 240 feet long.
A. Yeah.
Q. And is that consistent with your recollection?
A. Yeah.
Q. At the time you remember that the bottom heave that was part of that outburst tilted the longwall shearer weight from the face and toward the shields?
A. Yeah.
Q. What did you have to do to ---?
A. They just put it against the top and pulled it up with paneling.
Q. Also said the shearer had been down for 20 minutes preceding the methane outburst, so the face was idle. Do you recall that?
A. No, I don’t recall it, but I’m sure it was.
Q. It was probably fortunate?
A. That’s what I was going to say. I’m glad it was.
Q. And this report says the outburst occurred at 11:40 on a Wednesday morning. I believe it was February 18th, 2004. It says the longwall face was in production on Friday evening. Is that also consistent with your recollection?
A. I can’t remember. I really can’t.
Q. Now, you had said before that you thought it was down for two days or so?

A. Yeah. I knew we had to work. We were down for a couple shifts for sure maybe a couple days because we had to build stoppings and then we had to wait until the gas cleared up, and then we had to go back and redo everything. It took a while for it to clear out, even --- it seemed to me like we had 80,000 feet of air going through that hole to clear it out.

Q. You were trying to remember who the mine foreman was on the shift when that occurred. Would Donald Kelly ---

A. Yes.

Q. --- would that be the person?

A. Yeah.

Q. This March 4th, 2004 MSHA memo also says that the mine has constructed a series of contour maps that portray the overburden thickness above the Eagle seam, the underburden thickness between the Eagle and lower Eagle seams, structured contours on top of the Lower Eagle seam, and the thickness of the Eagle seam, and goes on to say the mine interprets the major controlling factors on floor bursts events as an interaction between high overburden, 1,100 feet, combined with a thin underburden between the Eagle and Lower Eagle seams, 13 feet. Do you remember anything about that?

A. No.
Q. Might that have been information that engineering had generated and that you weren't privy to that?
A. I'm sure they --- I've probably --- they've given me --- probably given me the information, but I just don't remember.
Q. Also says that the --- a similar --- this is again in the March 4th, 2004 memo, a similar but apparently higher pressure floor burst occurred in the previously mined adjacent panel in July 2003 at approximately 49 Crosscut. Mine personnel reported this outburst event was also associated with formation of a floor crack that was parallel to the face in the approximate center of the face behind the shields. Mine personnel described the July 2003 outburst as a very high pressure event, comparable to the sound of a jet engine. Mine personnel indicated that, although accompanied by a high level of noise and rapidly rising methane levels, coal outbursts or coal ejections were not associated with the events. Now, do you think --- is it possible you've gotten the 2003 and 2004 outbursts confused?
A. I could have gotten them mixed up because that's exactly what it sounded like, you know, and it did --- see, we've had the bottom to hoove from the longwall

across to the next panel, and I mean, you can just watch it rip like across the bottom, but ---.

Q. But not associated with gas outbursts?

A. Not associated with gas. It would just hoove up. A lot of the areas would go back in there. We couldn't get track out of some of them, you know, because the bottom was heaved like that, but no gas.

Q. Now, there was a report in a newspaper recently about these MSHA memos that I've been reading from. Have you read those articles? Are you aware of them?

A. No. The only --- I've been reading, but I don't remember any.

Q. Okay.

A. The only thing I remember was I told my wife, I said they hit a crack in the bottom again, they'll find out. When that came out in the paper and I said that's probably ---.

MR. MCGINLEY:

The July 15th, 2004 memo, which I'd like to mark but not necessarily enter so that Mr. Wills can see this. Do we have a ---? So this would be Wills Exhibit One.

(Wills Exhibit One marked for identification.)

ATTORNEY HAMPTON:

Yes, June 25th, 2010.

BY MR. MCGINLEY:

Q. Mr. Wills, I'm going to hand you a document that's been marked for identification as Wills Exhibit Number One, June 25th, 2010. I'm going to ask you a couple questions. I know you have not seen that document. The document discusses a meeting that was held between State and Federal and Performance Coal people back in May of 2004. And on page three it lists a number of considerations for mitigating future methane floor outbursts, and that's --- so I direct your attention to page three of that document. Do you see where there's a heading consideration?

WITNESS REVIEWS DOCUMENT

BY MR. MCGINLEY:

Q. Did you have an opportunity to read through that?

A. I read one through three.

Q. Do you want to go --- just continue on, because just ---

A. Okay.

Q. --- I want to ask you just a couple of questions. I know you weren't at the meeting between the various regulatory officials and the mine --- Performance Coal personnel, and I just want to ask you some general questions.

WITNESS REVIEWS DOCUMENT
A. I've never seen this. Okay?
BY MR. MCGINLEY:
Q. Okay. Considering you've not seen that memorandum that was marked as Wills Exhibit Number One, nevertheless, did any of the Performance Coal people who attended that meeting or anyone else from engineering or management, the attendees on page five there, did anyone else talk to you about these considerations that are listed on page three and four of that exhibit, that memorandum?
A. No, but a lot of stuff we were already doing then, except during the pullout, you know, we could --- we didn't have as much air as we needed --- as we did when we were mining during pullout. You know, you would have minimum air.
Q. When you say the pullout, when you ---?
A. We were finished longwalling and to get ready to move the jacks and the shearer and everything.
Q. You mean over to ---?
A. The next panel.
Q. Okay.
A. When we're moving the jacks from one panel to the other. So we're getting ready to start. It seemed to me like, if I can remember, we --- we were required

--- just, for example, 60,000 feet before entering the headgate, I think we could have like 30,000 during the pullout. But I didn't know this.

Q. Would you have liked to have known that information that's in that memo?

A. Probably would have been good if I would have known about it. You know, I haven't seen this. And about the jack legs and --- I didn't like to go to meetings. They might not have --- it might have been not. I'd sneak underground every time I knew they was having a meeting.

Q. You said some of these things that are listed on page three and four of Exhibit Number One were being practiced?

A. Some of it we were being practiced anywhere, such as welding or cutting. They always had rock dust available right there at the work site. I mean, I seen that before and ---.

Q. What about the use of a welding mat or blanket?

A. I've only seen that in the shop, but I don't think we ever used that.

Q. Does it look to you from reading through those considerations for mitigation that all of those, they make sense to you?

A. Yeah.

Q. In light of, you know, what was an unusual event of so much gas being emitted through the floor burst?
A. Yeah. It sure does. I don't know about sealing the fracture, though. I don't know if that's a good idea or not. I don't know if it --- you know, it could be easy enough done. You could punch stuff into it, but ---.
Q. Right. With an event like the methane floor burst, whether it was 2003 or 2004, that sort of suggested that there's a possibility it could happen again at the Upper Big Branch Mine; would you agree with that?
A. Yeah.
Q. And so what the management, including the president of Upper Big Branch at the time, Bill Potter; and whoever Tim Comer is, the president of New River Energy; Mike Milam, who is the chief engineer there at Upper Big Branch, these were basically suggestions coming from MSHA's Technical Services people that maybe you ought to be doing these things as a matter of course or considering them, would you agree with that?
A. Yeah.
Q. It's sort of like if you have a lot of water impounded and you've got a barrier, you want to make

sure you don’t go into that barrier like at Quecreek. That’s one of those things you always have on your mind, would you agree with that, about this experience with the methane floor bursts at Upper Big Branch?
A. That was the only thing that scared me was the bottom heaving and busting the methane because that’s the only thing in the mines I was ever afraid of was methane.
Q. So would you agree, you know, that the upper management should have taken both you, as the mine superintendent, subsequent mine superintendents and subsequent presidents and so forth, taken you all into their confidence and had you look at these contingency plans or suggestions?
A. I think so, yes, but I think that they probably thought we were doing most of these anyway because we were most of the time, you know. I don’t really know. I know I haven’t seen this.
Q. Well, can you identify what you were not doing, you definitely were not doing?
A. See, I’m kind of ignorant to the longwall as far as the jacks moving upwards or forward, but --- like where it says the rapidly yield and shield legs or unusual noise to indicate that a floor outburst may be initiating, monitor shield leg pressures in outburst

prone areas so the longwall crew can rapidly be removed from the face. I don't know anything about that.

Q. Well, you know, one might assume from that the idea was that the longwall crew, if they heard something that was extraordinary, as you described from ---

A. Yes.

Q. --- one of the outbursts, they ought to get the hell out of there?

A. Exactly.

Q. But if they weren't aware of that, they might be looking at each other and not making that decision to --- if, for example, the longwall was running, you know, shut it down, get out immediately?

A. Yeah.

Q. Would you agree that's sort of the intent of that, that's sort of ---?

A. Yes, because if just say the shearer was coming to the head and they were pulling the jacks in as he comes in, if you're inby those jacks, the only way you can get through there is climb overtop or get in the pan line. So yeah, it would be good to know to knock that power where you can't get in the pan line, get out because you can't get by. When the jacks are

pushed up, the pan line is pushed up, there's no walk area there.

Q. Does having reviewed these considerations of page three and four, do these seem to be --- I understand you're saying that you're doing a lot of that, what's recommended here. But in terms of impressing on the crew at the longwall that this is always a concern and we ought to --- this always ought to be done, it's not something we ought to cut corners on, wouldn't you think that would be --- that was the intent of this, that would be a wise goal?

A. Yes. Yes, it would. I'm not trying to make excuses, but a longwall man knows more about what's going on that longwall than I ever would when I would go up there, you know.

Q. Sure.

A. They know something, you know. Out of all the noise, they can tell you if something is not right, a dog bone broke or --- they could hear a dog bone break and I couldn't, you know, or whatever.

Q. Sure.

A. But I'm not --- I don't know if they --- the longwall coordinator may have went over with them. I didn't. I didn't.

Q. Well, you would agree that a longwall coordinator

should have gone over it with them ---
A. Yes.
Q. --- if he had known about this, ---
A. Yes.
Q. --- these suggestions?
A. Because they had a safety meeting every Monday morning, just the longwall crew and I'll do the miner crew. But the foreman has a meeting every day before they get on the --- before they start mining. That's something --- that could be like part of the roof control you read every morning. He could go over these things and make sure ---.
Q. Those considerations on page three and four would be a good thing to go over ---
A. Right.
Q. --- at the beginning of every longwall shift; would you agree with that?
A. Yes.
Q. Would you ever send a man in water up to his neck?
A. I have. I, myself, have been in it. Well, I take me and --- our pump was down behind the wall. A guy named Gary Calvert, we had to swim from crib to crib to get to it. The line had blew off, yeah.
Q. Would you send a red hat on his first ---
A. No.

Q. --- day in the mine ---
A. No.
Q. --- in water up to his neck?
A. No.
Q. What would you feel about that?
A. I wouldn't do it.
Q. Why not?
A. Well, the guy I was talking about, Gary Calvert and myself, we did stuff like that. I mean, that's what we've been doing since we've been in the mines. No, I would not send a red hat in water.
Q. Why? Is there some danger of doing that for at least ---?
A. Well, yeah. I mean, you know, he could trip and fall, hit his head on the cribs because --- or anything, you know. Plus, usually when you're in water like that, you're way behind the wall. You're going to be two or three hours from getting outside, the best you can do if you get cold, chilled.
Q. For those guys that are working behind the longwall, where should the first-aid materials be?
A. First-aid materials?
Q. For those guys that are working way back, doing the pumping behind in the longwall gob, how close should that be to them?

A. Actually, the closest first-aid box would be at the headgate, the old headgate. I know how they got it now, but there should be one at the head and the tail and the face. They should keep rescuers, too. But generally you're not spending a shift behind the wall. You go back and do what you got to do and get out, you know, rather than just take an air reading and gas checks and fix a pump.

Q. So has anybody told you that there was a pumping crew for a whole shift back there trying to pump water out behind the longwall in the last year or so? I mean, they weren't just going in and going out?

A. Oh, no. They've been back there working the whole shift.

Q. I'm not asking you about when you were in the mine, but you know, you've had --- you know people who worked in the mine. You know some of the people who died in the explosion. Do you have any reason to think there was pressure on the fire bosses not --- if there was inadequate ventilation maybe to report it to their superior but not to write it down in the pre-shift reports?

A. No, I don't know.

Q. Is it your understanding from talking with people that you know, worked in the mine in the last year or

so that they were having some serious ventilation problems?
A. I knew they were having ventilation problems, yes.
Q. Would you expect those problems somehow to be reflected in the pre-shift reports?
A. You would think that you would see it.
Q. And if they weren't, do you have any sense --- how would you --- what would you attribute that to?
A. If it's not --- if they had problems and it's not down, then just it wasn't reported.
Q. Do you think --- that's why I was asking. Do you think that it was --- have you heard there was significant pressure, kind of pressure for production that --- not that the foreman, the supervisor, the bosses in the mine weren't reporting it, the pressure was not to write it down? Is that a possibility?
A. It's a possibility, but I couldn't imagine somebody not reporting it and doing the right thing and fixing it.
Q. Are you familiar with the terms S1 and P2?
A. Pardon?
Q. S1 and P2, are you familiar with those terms?
A. Yes.
Q. What do they mean? What's S1?
A. Safety first. And P2 is just where people over

the years from Massey got together and figured out the best way to mine, the quickest and the fastest and safest way to mine.

Q. With regard to S1, it means safety first. Does it mean anything else to --- what else does it mean? Are those just sort of the creed or the slogan of the company that they've come up with?

A. Well, that's always been our slogan, and we live by it. I honestly believe it.

Q. Is there an S1 manual?

A. Yes. I don't have one. I've ---.

Q. Have you ever seen it?

A. Oh, yeah.

Q. Did they keep one at UBB?

A. Yes. I left mine there, and P2 and the M3 book. It's still in my locker.

Q. M3 was method?

A. Yeah. That was over my head. I'm just a coal miner. I didn't know ---.

Q. Are those manuals something you would actually look at ---

A. Yeah.

Q. --- every day?

A. No, not every day, but ---.

Q. The S1 manual, was that used in training miners at

all?
A. Yes.
Q. Were they asked to read through it or did they have copies of it?
A. Actually the safety department would send up something out of --- either out of that book or they would give you some literature they would go over in the safety meeting from the safety department.
Q. And the safety meetings would be held where?
A. In ---.
Q. Is like on every shift or are you talking periodically?
A. No. Every Monday we had a safety meeting outside in the shop or in the --- what we call waiting room, over there, at the check-in/check-out board. You'd have a safety meeting every Monday. Sometimes we'd have a special one where we'd talk to everybody, but generally Monday morning they would get their crews and, you know, we'd --- if there was something special we'd want to talk about, we'd go there. But the foreman always had the safety meeting every day once they got to the section.
Q. I'm trying to connect the safety manual with what actually miners are learning and being told, whether it's coming out of the safety manual or is the generic

things that you know are safe mining practices.
A. Well, they go over the roof control plan with --- you know, every morning. They go over the roof control plan. They read a part of the roof control plan like I was talking about when they used to do that. And then they'll tell them, you know --- yeah, just general safety.
Q. So in terms of this concept of safety first, it means what you would expect to be practiced at any good mine?
A. Yeah.
Q. It's not any different than what you'd expect at a --- you know, one of the bigger coal company competitors?
A. I don't think so. I think it's probably the stuff --- the people that wrote this have learned just like, you know, like I have from Maben Energy. You learn stuff from everywhere you work, safe practices, you know, wear your safety glasses and if you're rock dusting or if you're in dust, use your respirator, earplugs, you know, just ---.
Q. So it's nothing unique, it's ---?
A. Just the general stuff, tie your --- tape your britches legs so you don't have any loose clothing on, just ---

Q. Sure.
A. --- general stuff that you do every day.
Q. S1 is not anything unique, it's just good practices, safe practices?
A. I don't think so. I think the good thing that they did come out, I think, that I was impressed with when I first came to Massey was the reflective clothing. I think that's the best thing that they've ever done.
Q. And that's been adopted by other companies?
A. Yeah. Everybody's got it now.
Q. So of course what you're talking about here with regard to S1 is what was going on when you were still working for Massey?
A. Yes. I didn't like the reflective clothing. I couldn't tell when MSHA was showing up. That's a joke.
Q. It's taken as such.

MR. MCGINLEY:

Okay. I don't have any other questions.
Thank you, Mr. Wills.
RE-EXAMINATION
BY MR. SHERER:
Q. I've got a few follow-ups, Mr. Wills. You mentioned that you went in on the longwall right after

that outburst. Were you actually on or near the longwall when that happened?
A. I think I was up around the mouth of the section.
Q. Oh, okay. Do you recall any vibrations or sounds when that burst occurred?
A. I didn’t hear anything until they started calling from the wall, and I was by the phone at the belt head, so I went straight down. And as I got near what we call the mule train, in by there, the power went out and I could hear it.
Q. Okay. You mentioned that you crawled back in, trying to stay under the gas. Do you recall if it had a distinctive odor or if there was any burning of your eyes or anything like that?
A. No. I could --- see, you could see it coming out of the jacks, and it was up high, and I --- that was probably a bad thing for me to do, but I just wanted to see where it was coming from is what I was trying to see. I didn’t go but two or three jacks and I come back.
Q. Oh, okay. But you don’t ---?
A. No. I didn’t smell anything, just --- I can’t remember if I did.
Q. Okay. Sure.
A. I was just amazed at the pressure.

Q. Sure. Did anybody in Upper Big Branch management want to ventilate areas of the mine in ways that you didn't agree with when you were running this mine?
A. No, no, because probably we discussed it every time, but nine times --- most --- well, all of the time they let me do what I wanted to.
Q. Okay.
A. And if I needed help, you know, they would help me.
Q. Sure. You recall that there was some overlay maps. Did you try to lay out the longwall panels differently looking at those maps or ---?
A. No, I never did. Engineering and the longwall coordinators, they --- actually the president, they --- once it's been --- the engineers puts their projections up, that's where it goes.
Q. Okay. Sure. You mentioned some roof bolters that said they were getting methane during their drilling the bolt holes. Do you recall where in this mine that may have occurred, which section?
A. No. No. It was one of the driving sections.
Q. Okay.
A. I don't know whose section it was.
Q. Sure. Mr. McGinley has mentioned the little Eagle seam. Were you aware of that prior to this floor

outburst?
A. No.
Q. Do you know much about that little Eagle seam?
A. Uh-uh (no).
MR. MCGINLEY:
You have to say yes or no for the court reporter.
A. Pardon me?
MR. MCGINLEY:
You have to say yes or no so the court reporter can take it down.
A. No, I didn't know about it.
BY MR. SHERER:
Q. Thank you. And one last question. You mentioned that you're disabled now. Did you get injured at Upper Big Branch?
A. No. I got injured at --- it was Elk Run. They called it (b)(7)(C) , and we were --- we were putting a belt channel in. I was bolting a belt channel with another guy. I fell off the roof bolter.
Q. Oh, geez. Sorry about that.
MR. SHERER:
That's all the questions I've got.
MR. O'BRIEN:
I have one.

RE-EXAMINATION
BY MR. O'BRIEN:
Q. Has any Massey lawyer talked to you since the explosion?
A. No.
MR. MCGINLEY:
A couple more.
RE-EXAMINATION
BY MR. MCGINLEY:
Q. You said you knew Dean Jones pretty well.
A. Yes.
Q. If Dean Jones had reported for months prior to the explosion that there wasn't enough air when he was working, he was coming home exhausted, and he was really concerned about the air, would you find him to be credible?
A. Absolutely. When I first got hurt and was off, he used to call me at home and he'd want to know how he could get him some more air up there. And I told him where he --- see, he's the section boss, and he goes straight to the section, and it's not his job, but he would --- I told him where his regulator was, and he could do it a little bit at a time, and in two or three days he would get enough air. He would open up his regulator and --- but I also --- I said, you got

to get somebody to do that for you. I said, tell the mine foreman. He said, I can't do that. They won't help me. That's all. And that's again --- that was right after I got off. That's probably six months after I got hurt he used to call me.

Q. And when would that have been just time-wise, a couple years ago?

A. I was hurt April of 2007. Probably, yeah, 2008.

Q. Had you heard or seen from him any time in the last year?

A. No. He kept telling my son he was going to stop and he didn't. He goes by the house on the way to work.

Q. Yeah. From what we've heard he's very highly regarded?

A. Pardon?

Q. From what we've heard he's very highly regarded by everybody?

A. Oh, yeah. If he told you it was July and it was snowing out, you better put a jacket on. He was just truthful. If he had troubles, he would shut down to fix them. That was the good thing. He wouldn't try to mine without --- when I was there. He wouldn't mine without proper ventilation.

Q. If he expressed serious concerns about

ventilation, about something happening, would you find that to be credible?

A. Yes.

MR. MCGINLEY:

I don't have any other questions.

ATTORNEY HAMPTON:

Okay. On behalf of MSHA and the Office of Miners' Health, Safety and Training, I want to thank you for appearing and answering questions today. Your cooperation is very important to the investigation as we work to determine the cause of the accident. We request that you not discuss your testimony with any person aside from an attorney or a personal representative.

After questioning other witnesses, we may call you to see if you --- if we have any follow-up questions. And if at any time you have additional information regarding the accident that you'd like to provide to us, please contact us at the information that was provided to you in that letter.

So now at this point, if you wish, you can go over any answer you've given to us or you may make any statement. Is there anything else you'd like to say?

A. No. If I think of anything else, I'll let you

know.

MR. MCGINLEY:

We appreciate that.

ATTORNEY HAMPTON:

Again, we want to thank you for your cooperation.

A. You're welcome.

* * * * * * * * *

STATEMENT UNDER OATH CONCLUDED AT 6:15 P.M.

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STATE OF WEST VIRGINIA)

CERTIFICATE

I, Alison Salyards, a Notary Public in and for the State of West Virginia, do hereby certify:

That the witness whose testimony appears in the foregoing deposition, was duly sworn by me on said date and that the transcribed deposition of said witness is a true record of the testimony given by said witness;

That the proceeding is herein recorded fully and accurately;

That I am neither attorney nor counsel for, nor related to any of the parties to the action in which these depositions were taken, and further that I am not a relative of any attorney or counsel employed by the parties hereto, or financially interested in this action.

Alison Salyards