

1           **WEST VIRGINIA MINE HEALTH & SAFETY ADMINISTRATION**

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6           **IN RE:**

7                           **THE INVESTIGATION OF THE**  
8                           **APRIL 5, 2010, MINE EXPLOSION**  
9                           **AT THE UPPER BIG BRANCH MINE**

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13                   **The interview of HUGHIE ELBERT STOVER taken**  
14                   **upon oral examination, pursuant to notice and**  
15                   **pursuant to the Federal Rules of Civil Procedure,**  
16                   **before Nichelle N. Drake, Professional Reporter and**  
17                   **Notary Public in and for the State of West**  
18                   **Virginia, Tuesday, November 30, 2010, at the**  
19                   **National Mine Health & Safety Academy, 1301 Airport**  
20                   **Road, Beaver, West Virginia.**

21  
22                           **JOHNNY JACKSON & ASSOCIATES, INC.**  
23                           **606 Virginia Street, East**  
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5 Also Present:  
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1                   HUGHIE ELBERT STOVER, DEPONENT, SWORN

2                   MR. KOERBER:   Sir, would you please state  
3 your full name for the record and spell your last  
4 name.

5                   THE WITNESS:   Hughie, H-U-G-H-I-E; middle  
6 name, Elbert; last name, Stover, S-T-O-V-E-R.

7                   MR. KOERBER:   And, sir, would you please  
8 state your address and telephone number.

9                   THE WITNESS:   My address is     (b) (7)(C)   ,  
10   (b) (7)(C)                     .   My phone number is  
11   (b) (7)(C) .

12                   MR. KOERBER:   Sir, prior to the interview,  
13 I introduced myself, but I want to introduce myself  
14 for the record. My name is Barry Koerber. I'm an  
15 assistant attorney general assigned to the West  
16 Virginia Office of Miners' Health Safety & Training  
17 accident investigation team, and I would ask that  
18 the other individuals here at the interview table  
19 identify themselves.

20                   MR. O'BRIEN:   John O'Brien with the West  
21 Virginia Office of Miners' Health Safety &  
22 Training.

23                   MR. WATKINS:   I'm Tim Watkins and I'm with  
24 MSHA.

1 MR. BABINGTON: Matt Babington, I'm an  
2 attorney with the Department of Labor.

3 MR. McATEER: I'm Davitt McAteer and I'm  
4 with the Governor's Independent Review Panel.

5 MR. KOERBER: Mr. Stover, do you have an  
6 attorney with you here today?

7 THE WITNESS: Yes, sir.

8 MR. KOERBER: And, sir, would you identify  
9 yourself?

10 MR. SEARS: Chris Sears.

11 MR. KOERBER: And Mr. Stover is your  
12 client?

13 MR. SEARS: He is.

14 MR. KOERBER: And I also notice that we  
15 have another attorney sitting at the table. I  
16 would ask that he identify himself, his firm and  
17 his client.

18 MR. SILKWOOD: Eric Silkwood with Allen,  
19 Guthrie & Thomas here on behalf of Performance Coal  
20 Company.

21 MR. KOERBER: And we have one additional  
22 person in the room. I'd ask that he identify  
23 himself.

24 MR. PAGE: Norman Page, MSHA.

1 MR. KOERBER: Mr. Stover, the court  
2 reporter, the contract that we have with the court  
3 reporter's agency, the firm, is that they will make  
4 the transcripts up with a three-day turnaround so  
5 to speak. So the transcript of today's interview  
6 should be ready Friday morning. If you would like  
7 to read the transcript and on an errata sheet make  
8 any corrections that you find that was made during  
9 the course of the transcription, you are welcome to  
10 do so. To do that and you alone or you and your  
11 attorney can -- can schedule an appointment with  
12 Johnny Jackson & Associates. They're in  
13 Charleston, West Virginia. In a moment, I'm going  
14 to give you their business card; but any time  
15 Friday or after, if you would like to read your  
16 transcript, you just call and make an appointment.  
17 You can go to their office in Charleston. They  
18 will provide you with a conference room where you  
19 will have privacy, you and/or your attorney. You  
20 will have the opportunity to read that transcript,  
21 make any corrections on an errata sheet that you  
22 deem appropriate and submit that back at the end of  
23 however long it takes you to do it. You will not  
24 be allowed to take a copy with you. That would be

1 the only restriction.

2 I would also like to let you know that if  
3 for any reason whatsoever you need to take a break,  
4 just say so and we'll take a break.

5 THE WITNESS: Yes, sir.

6 MR. KOERBER: We would request that you  
7 not discuss what is said in here today with anybody  
8 other than your attorney just for purposes of  
9 trying to protect the integrity of the interview  
10 process and the investigation.

11 I'd ask Mr. Babington -- I think he wants  
12 to identify a letter that he's going to give to you  
13 to do so now.

14 MR. BABINGTON: Mr. Stover, this is a  
15 letter explaining some of the background of this  
16 interview. On that, you find contact information  
17 both from the mine academy and to reach Norman  
18 Page, who is our chief accident investigator. If  
19 you have any information you want to provide in the  
20 future, your counsel can contact us through that  
21 information.

22 MR. KOERBER: Mr. Stover, you're appearing  
23 here today as a result of receiving a subpoena; is  
24 that correct?



1 THE WITNESS: Yes, sir.

2 MR. KOERBER: This is a copy of that  
3 subpoena. Would you take a look at it and confirm  
4 that.

5 THE WITNESS: Yes, sir, that's correct.

6 MR. KOERBER: Okay. I'd like this to be  
7 marked as Exhibit 1 or A, and it would be Stover  
8 Exhibit 1 or A.

9 MR. SEARS: Can I see a copy of that --

10 MR. KOERBER: Sure.

11 MR. SEARS: -- after it's been marked.

12 (Exhibit No. 1 marked for  
13 identification.)

14 MR. KOERBER: This is a document you have  
15 not seen, but this is the affidavit of service from  
16 a process servicer showing that he on the 20th day  
17 of November personally serviced (b) (7)(C) , who  
18 is your wife, at the address here. Okay?

19 THE WITNESS: Yes, sir.

20 MR. KOERBER: I would like this to be  
21 Stover 2 or B or whatever it's supposed to be.

22 (Exhibit No. 2 marked for  
23 identification.)

24 MR. KOERBER: Sir, I also want to give you

1 a little bit of contact information as well. I'm  
2 sure your attorney will go over this with you or  
3 has probably already gone over this with you.

4 West Virginia Code 22A-1-22 protects  
5 miners from discrimination for participating in  
6 interviews such as this. Should you find or  
7 believe that you have been discriminated against  
8 because of participating in this interview, I'm  
9 going to give you a memorandum containing the  
10 address of the Board of Appeals, which is the  
11 agency statutorily charged with hearing  
12 discrimination cases. If you believe that you were  
13 discriminated against, you can contact this board  
14 and file a complaint. I would caution you, though,  
15 that the statute of limitations is 30 days from the  
16 day of the discriminatory event. So if you believe  
17 something has happened, you need to act quickly.

18 I'm also going to give you a business card  
19 for Mr. Bill Tucker. Mr. Tucker is our lead  
20 accident investigator and interviewer. Should you  
21 think of anything after you leave today that you  
22 would like to share with the West Virginia Office  
23 of Miners' Health Safety & Training, please contact  
24 Mr. Bill Tucker.

1           And also as I told you earlier, I'm going  
2 to give you a card for Johnny Jackson & Associates  
3 containing their address and telephone number where  
4 you would go; and call on Friday or after if you  
5 would like to arrange a time to go into their  
6 office and read the transcript. Okay?

7           THE WITNESS: Yes, sir.

8           MR. KOERBER: Sir, one thing we're  
9 mentioning to everybody we interview and we've  
10 interviewed quite a few people is that there may be  
11 a point where we have to re-interview certain  
12 people; and if that happens, we may re-call you.  
13 But if that happens, we'll notify you in the future  
14 probably by another subpoena; but I just want you  
15 to be aware of that.

16          THE WITNESS: Yes, sir.

17          MR. KOERBER: At this time, I'll turn the  
18 interview over to John O'Brien of the State to  
19 begin the interview. Thank you.

20                               EXAMINATION

21 BY MR. O'BRIEN:

22           Q. Mr. Stover, first of all, I would like to  
23 thank you for attending today, helping us out on  
24 this investigation. First of all, are you a  
miner? Do you have any miner certifications?

1           A.   No, sir.

2           Q.   What is your job title?

3           A.   Chief security at Performance Coal  
4 Company.

5           Q.   At Performance Coal Company.  If you  
6 would, give us a little bit of a brief history of  
7 your employment background.

8           A.   I was with Raleigh County Sheriff's  
9 Department '77 to '83.  I went to work with Elk Run  
10 Coal Company as security for about 14 or 15 years.  
11 I left Elk Run, went back into law enforcement.  I  
12 was with Mabscott PD, assistant chief, for about a  
13 year.  And then in 1999, January of '99, I was  
14 hired as chief security for Performance Coal  
15 Company.  I come back to Massey in 1999 and been  
16 with Performance since 1999.

17          Q.   And who is your employer?  Is it Massey or  
18 Performance or --

19          A.   Well, Performance is a company within  
20 Massey Energy.

21          Q.   So you work directly for Performance?

22          A.   Yes.

23          Q.   Okay.  And just a clarification, you were  
24 chief security on April 5th of this year at the

1 time of the explosion?

2 A. Yes, sir.

3 Q. If you would, explain some of your job  
4 duties as chief of security.

5 A. I make sure all posts -- I have security  
6 officers for all the posts. I make IDs for our  
7 members. If there's an accident on the property,  
8 vehicle accident, fender bender, stuff like that, I  
9 investigate that. If we have a theft on our  
10 property, I do the internal investigation for the  
11 theft and turn it over to the county or state or  
12 whoever is called to handle that investigation. I  
13 monitor speed on company property, enforce company  
14 rules and regulations and policies and stuff like  
15 that.

16 Q. Okay. And who is your supervisor? Who do  
17 you report to?

18 A. President of the company.

19 Q. Who is?

20 A. Now Jamie Ferguson. At the time of the  
21 accident, it was Chris Blanchard. I'm sorry. I  
22 forgot his name.

23 MR. McATEER: How soon we forget.

24 Q. And who all reports directly to you?

1           A. All security personnel, all in-house  
2 security personnel.

3           Q. And do you have contractors --

4           A. Yes.

5           Q. -- as personnel?

6           A. Sorry. Yes, sir.

7           Q. And do they report to you or someone else?

8           A. Contract security has ranking personnel,  
9 sergeants and a site supervisor they handle too;  
10 and I deal with the site supervisor.

11          Q. Okay. And who would that contractor be?

12          A. SGS.

13          Q. SGS?

14          A. Yes.

15          Q. And where are they based out of?

16          A. Cross Lanes, I believe.

17          Q. Cross Lanes. Okay. The security people  
18 that work for you or the contractors, what were  
19 their primary responsibilities?

20          A. They work the gates and they log everybody  
21 in and out. If there's no one in the main office  
22 at Performance, all the phones are switched over to  
23 the main gate at Performance and they handle all  
24 incoming phone calls when there's no one in the

1 office.

2 Q. Does any of the personnel patrol the  
3 property or are all of them located at the security  
4 building?

5 A. I have one rover on a regular basis. We  
6 have rovers out at the site.

7 Q. And how many security buildings or offices  
8 or where these people work out of, how many do you  
9 have, how many guard buildings?

10 A. At Performance we have two. We had one at  
11 the Performance main office that goes up to Upper  
12 Big Branch, and then we have one at what we call  
13 Big Branch -- might be called Big Branch Unice  
14 portal. It's the mine office or mine between  
15 Performance and Marfork.

16 Q. If I understand you, you say they check  
17 everyone in that goes by the security building.

18 A. All non-Massey members, yes, sir.

19 Q. All non-Massey members?

20 A. Yes, sir.

21 Q. How do they distinguish between Massey  
22 members and non-Massey members?

23 A. All Massey members have an ID. After you  
24 work the gate a while, they learn people.

1 Q. Okay. Non-Massey members, so they log  
2 those in. Is it a manual log, a computer log?

3 A. It's a -- it's manual but we put it into a  
4 computer also.

5 Q. Okay. And how long do you keep those  
6 records?

7 A. A year or two.

8 Q. Would it be possible to get a copy of  
9 those records for, say, the month of April of this  
10 year?

11 A. Yes, sir.

12 MR. SEARS: Are you asking that he produce  
13 those records or are you asking --

14 MR. O'BRIEN: Yes, we would like to have a  
15 copy of the record.

16 MR. SEARS: I don't know. Are you the  
17 records custodian for Performance as to those  
18 records or is that someone else?

19 THE WITNESS: Yes, I'm responsible.

20 MR. SEARS: We can probably get those  
21 then. What are they again? They're the records  
22 logging in non-Massey members?

23 MR. O'BRIEN: Of anyone entering the  
24 Massey property -- any logs of anyone entering the



1 Massey property for the month of April --

2 THE WITNESS: Would that be --

3 MR. O'BRIEN: -- of Performance.

4 THE WITNESS: -- would that be the  
5 visitors log you asked for before?

6 MR. O'BRIEN: Yes, and any other logs that  
7 you may have if you logged in anyone else other  
8 than visitors.

9 MR. SEARS: Is there a specific time  
10 period or just any that they have?

11 MR. O'BRIEN: April of this year, April of  
12 2010, April 1st through the end of April.

13 MR. SILKWOOD: Through the end of the  
14 month?

15 MR. O'BRIEN: Yes.

16 MR. SILKWOOD: Because we produced the  
17 5th and the 4th as part of production previously.

18 THE WITNESS: I thought I made copies, but  
19 yes, sir, I'd be glad to.

20 BY MR. O'BRIEN:

21 Q. Do you have video monitoring at these  
22 stations or anywhere else on the property?

23 A. Yes, sir.

24 Q. How long do you keep those?

1           A.    The new cameras, which is digital, depends  
2 on the activity. I think they start rolling over  
3 in three or four weeks. The older type, which is  
4 on VCR, the rotating camera, we keep that for one  
5 month at a time.

6           Q.    What did you have at the time of the  
7 explosion April 5th?

8           A.    We had the VCR type at Performance.

9           Q.    Do you have a copy of those videos for the  
10 time period around April 5th of this year?

11          A.    I don't think so.

12          Q.    Did anyone patrol --

13               MR. SILKWOOD: I just want to clarify. He  
14 probably doesn't have them because he has provided  
15 them to us and I think we already copied those and  
16 gave a copy to MSHA.

17               MR. BABINGTON: I think -- I think on the  
18 5th they were produced.

19               MR. SILKWOOD: The VCRs were produced.

20               MR. BABINGTON: Is there one that you were  
21 looking for?

22               MR. O'BRIEN: I was looking for the 3rd,  
23 4th, 5th, Easter weekend through the 5th.

24               MR. BABINGTON: I will have to check what

1 you all gave us.

2 MR. SILKWOOD: I think it was the 5th, 24  
3 hours back. I'm not sure how far back it goes.

4 MR. O'BRIEN: If we have those -- if you  
5 have those and we don't have them, I would like to  
6 have a copy of those.

7 MR. McATEER: Could we make the request a  
8 little more formal to go back and look at? We  
9 would like them from the 1st through the 5th.  
10 That's the VCRs for all the video cameras at the  
11 main entrance at the Unice portal or any other  
12 portal. Okay.

13 MR. KOERBER: Are there cameras at both  
14 the UBB mine portal and Unice portal?

15 THE WITNESS: Yes, sir.

16 BY MR. O'BRIEN:

17 Q. Did anyone patrol the mine property the  
18 weekend of Easter weekend, say, April 3rd, 4th,  
19 5th? Did you have a rover that weekend?

20 A. Yes, sir.

21 Q. Do you know of anyone who worked that  
22 weekend by chance? Would you have any knowledge of  
23 anyone working that weekend at UBB?

24 A. You mean miners working?

1 Q. Miners or any Massey members.

2 A. I don't know.

3 Q. How did you find out about the explosion  
4 on April 5th?

5 A. I was at the Clear Fork mine site, which  
6 is the old Rowland mines at Clear Creek. I was up  
7 there talking to security, and the security officer  
8 at the UBB Performance gate called the security  
9 officer working Clear Fork on the radio; and I was  
10 sitting there with him, and he was looking for Paul  
11 McCombs, which was one of our engineers. He needed  
12 to get a message to him to call -- I think it was  
13 to call Massey Coal Services, but I'm not -- to  
14 make a phone call. And we tried to raise him on  
15 the radio. We could not raise Paul McCombs, so I  
16 hollered back on the radio and asked if this was  
17 important or just somebody wanting to chitchat; and  
18 he said he thinks it's important.

19 So I started to look for him in my  
20 vehicle, driving around on the property. He  
21 hollered back on the radio and told me to disregard  
22 it, he got in touch with him. I'm assuming by  
23 telephone.

24 I drove to my house, which is not very far

1 from Clear Fork mine site. I called Dave and asked  
2 him what was going on. He said, "I don't know."  
3 He said, "They just called down here to the mines  
4 wanting us to get in touch with Paul McCombs."

5 I said, "Well, if you find out what's  
6 going on, call me." I said, "They asked for  
7 security?"

8 He said, "No, they haven't."

9 I said, "Okay." I said, "If you find out,  
10 call me back."

11 A few minutes later, Mike Bays called.  
12 Mike Bays was chief security at Marfork. He said,  
13 "What's going on at Performance?"

14 I said, "I don't know. I'm going to find  
15 out."

16 He said, "I'm going up there. I was sent  
17 up there to find out what was going on."

18 So I left the house. When I got to  
19 Performance gate, they told me there had been an  
20 accident up there. That's when I found out about  
21 it.

22 Q. And about what time did Mike Bays call  
23 you?

24 A. I do not remember.

1 Q. Do you remember what time you arrived at  
2 UBB Performance?

3 A. No, sir.

4 Q. Once you arrived, what did you do after  
5 that?

6 A. I went to the Big Branch gate. We call it  
7 Big Branch. Some people call it Big Branch Unice  
8 portal. We call it Big Branch. People started  
9 coming and going. I think the state police showed  
10 up, asked what could they do, where should they  
11 go. I said, "You probably need some guys right  
12 here."

13 And it got very hectic after that. And we  
14 started calling in extra security to put them on  
15 each gate to help with the flow. It was just real  
16 hectic that day.

17 Q. What was your role or roles during the  
18 rescue and initial rescue and then recovery  
19 operation?

20 A. I had no responsibility. That was all  
21 handled by the coal mines and you all and state  
22 police was up there.

23 Q. Is there some sort of emergency  
24 contingency plan? Was there an emergency

1 contingency plan in place at UBB on April 5th? Is  
2 there some sort of record or manual, something  
3 written down saying, okay, in case of an emergency  
4 this is what we'll do?

5 A. Yes, sir.

6 Q. Okay. How did that go -- How did the  
7 operation go? Did it go toward -- along with the  
8 manual or was it just -- Explain a little bit --  
9 Strike that.

10 Has there been any changes in this  
11 contingency plan since April 5th?

12 A. Not to my knowledge.

13 Q. The plan that I'm speaking of, does it  
14 have a name? Do you have like -- Is it called an  
15 emergency contingency plan or do you have any --  
16 Does it have any formal name --

17 A. Yes, sir.

18 Q. -- procedures or --

19 A. Yes, sir, it does have a name. I do not  
20 remember what the name of it is.

21 Q. Is it site specific for Performance or is  
22 it Massey wide security?

23 A. Site specific for Performance Coal.

24 MR. O'BRIEN: That's all I have right

1 now. Thank you.

2 EXAMINATION

3 BY MR. WATKINS:

4 Q. Good morning.

5 A. Good morning, sir.

6 Q. I've got some follow-up questions here,  
7 but I'm going to jump around a little bit. Some of  
8 these you may have answered, and I didn't get them  
9 so I apologize.

10 How many people report to you did you say?

11 A. Number wise?

12 Q. Yeah, number wise.

13 A. I have five in-house security officers  
14 which work for Performance. And contractors, it  
15 all depends. Like on the holiday weekends, I'll  
16 have more security out but probably six or seven.

17 Q. Okay.

18 A. That's just an estimate.

19 Q. And you provide coverage 24 hours a day?

20 A. 24/7 at the gates, yes sir.

21 Q. 24/7. Just at Performance or is there  
22 other -- Just at UBB or do you have other mines  
23 that you are responsible for?

24 A. I have other mines.



1 Q. What would those be?

2 A. I am responsible for Goals and Ed White  
3 and Clear Fork Coal Company up the -- where the old  
4 Rowland mine is. It's a new operation we opened up  
5 up there.

6 Q. So the number you gave me --

7 A. Is just for Performance.

8 Q. That's what I wanted to get.

9 I think John mentioned earlier -- You had  
10 a discussion here about the video cameras at UBB.  
11 Do you know where those are actually located, what  
12 areas they're actually shooting on, what areas  
13 they're looking at?

14 A. At the mines or at the gate?

15 Q. At the mines.

16 A. I have just four or five cameras inside  
17 the warehouse itself. There's one on the outside  
18 aiming towards the doors of the warehouse rebuild  
19 shop or whatever they call it.

20 Q. Do you have any pointing out towards the  
21 portals or anything like that or the openings of  
22 the mine?

23 A. Yes, sir.

24 Q. Okay. And do you have them at what we

1 call the Ellis side as well?

2 A. Yes, sir.

3 Q. And I think you mentioned also that after  
4 hours all the phone calls, outside phone calls,  
5 come to the guard shack.

6 A. Yes, sir.

7 Q. How is that phone system set up? Can you  
8 still call directly to the mines without going to  
9 the guard shack or anytime you call -- Can I get  
10 ahold of somebody who is sitting up in the mine  
11 office without going through the guard shack?

12 A. Yes, sir.

13 Q. So you wouldn't necessarily get all  
14 incoming calls. You would just get the ones  
15 that -- If someone calls the local number then --

16 A. Yes, if they dial 1761, it rings. That's  
17 the main number. Like my private number is 3506.  
18 If you dial 3506, it will come straight to my  
19 office.

20 Q. Okay. Other than the responsibilities and  
21 duties that you laid out as far as providing --  
22 monitoring people coming in the guard shack and the  
23 speed and all that stuff, do you have any other  
24 responsibilities, personal responsibilities or

1 anything like that or other assignments that you  
2 have?

3 A. Personally --

4 THE COURT REPORTER: I'm sorry. I didn't  
5 hear you.

6 THE WITNESS: I'm trying to think.

7 Personally --

8 Q. I guess as a group you're assigned to do  
9 these duties, you know; but do you personally have  
10 any duties that's outside of that?

11 A. I provide security for Mr. Blankenship on  
12 certain occasions.

13 Q. Personal security, is that what you're  
14 referring to?

15 A. Well, it's like when we have operators'  
16 meetings, board meetings, I provide security at  
17 those meetings.

18 Q. Okay. And I don't know if John asked you;  
19 but once you were notified of the accident you said  
20 you were at a different location. Where was that  
21 at again?

22 A. Clear Fork.

23 Q. How long does it usually take to get from  
24 Clear Fork to UBB?

1           A.    25 minutes.

2           Q.    Okay.  So once you got -- In those 25  
3 minutes, you traveled to UBB.  I think you reported  
4 that you reported to Mr. Blanchard.  Did Chris give  
5 you any instructions as to what he would need you  
6 to do at UBB once you got there?

7                   MR. SEARS:  First of all, for  
8 clarification, I think he indicated that he stopped  
9 at his home before he went to Performance; so I  
10 don't know --

11                   MR. WATKINS:  Okay.

12                   MR. SEARS:  -- if it would have been  
13 longer than 25 minutes.

14                   MR. WATKINS:  Okay.

15           A.    I did not report to Mr. Blanchard that  
16 day.  The question was, if I remember right, was  
17 who do I answer to.

18           Q.    Yes, it was.  Once you got to UBB, after  
19 you stopped at your home, once you got to UBB, did  
20 anyone, Mr. Blanchard or anyone, give you  
21 instructions once you got to UBB?

22           A.    No, sir.

23           Q.    Any duties or responsibilities that they  
24 wanted you to do?

1           A.   No, sir.

2           Q.   You just kind of took it upon yourself to  
3 step in and know what needed to be done and you  
4 just done it.

5           A.   Yes, sir.

6           Q.   Do you remember how long you remained on  
7 site following the accident, how long before you  
8 left to go home and get some rest or whatever?

9           A.   Two or three days.

10          Q.   You stayed there pretty much the whole  
11 time?

12          A.   Yes, sir, two or three days.

13          Q.   Your office is located where?

14          A.   In the main Performance office.

15          Q.   Okay. Hopefully, you were able to go down  
16 there and get some rest in that time frame, a  
17 little bit anyway.

18                   I think John also mentioned to you about  
19 this, for lack of a better term, emergency  
20 contingency plan or whatever it was that you  
21 followed. Did you have any input into the  
22 development of that plan?

23          A.   No, sir.

24                   MR. WATKINS: Okay. Davitt, if you want

1 to go ahead.

2 MR. McATEER: Sure.

3 EXAMINATION

4 BY MR. McATEER:

5 Q. Mr. Stover, thank you again for coming.  
6 I've been up at the mines a couple of times; so  
7 maybe I could ask some questions to clarify where  
8 these things are, the locations. The video  
9 cameras, you said -- Tell me where the video  
10 cameras are located. Once I arrive, make the turn  
11 off 3, come across the bridge, where are the  
12 cameras?

13 A. When you turn off Route 3 onto the  
14 bridge --

15 Q. Right.

16 A. -- there's one camera right there.

17 Q. Okay.

18 A. And then when you get up to the mine  
19 office --

20 Q. How about the guard shack? Turn right --

21 A. Right.

22 Q. You cross the bridge and then turn right.

23 A. That's where the monitor is, but what the  
24 security is looking at is the bridge.

1 Q. Okay. Okay. Where is that camera  
2 located, on the building?

3 A. It's just as you turn right off the bridge  
4 towards the security building.

5 Q. Right.

6 A. It's mounted on that pole right there.

7 Q. Okay. And then now it goes through the  
8 gates.

9 A. Go all the way down up to the mines.

10 Q. Is there a camera then?

11 A. No.

12 Q. Now, I come up to the mines and I'm -- The  
13 parking lot is here on the left-hand side. There's  
14 parking on the right-hand side.

15 A. Right. If you go around back where all  
16 the emergency crews were set up --

17 Q. Right.

18 A. -- and temporary ward was set up --

19 Q. Right.

20 A. -- if you look towards the main office,  
21 you have these open bays where the equipment is  
22 parked and all that.

23 Q. Yeah. Yeah. Okay.

24 A. If you go inside there, there's our

1 warehouse.

2 Q. Sure.

3 A. 90 percent of the cameras are inside the  
4 warehouse, and there is one camera on the outside.

5 Q. Where is that one on the outside, just  
6 generally?

7 A. If you look -- If you go upstairs in  
8 Mr. Clay's office and look straight out the window,  
9 there's a power pole --

10 Q. Okay.

11 A. -- and it's mounted on that power pole.

12 Q. Okay. Okay.

13 A. It shoots. It aims towards the doors of  
14 the warehouse.

15 Q. Okay. Because the warehouse is where you  
16 keep the copper?

17 A. It's where we try to keep it.

18 Q. And that's the problem.

19 A. Then we have two cameras I think on the  
20 same pole --

21 Q. Okay.

22 A. -- shooting towards both portals.

23 Q. Okay. So that would be right. North and  
24 south. All right. I've got that wrong. I think



1 this way is north and south.

2           Okay. All right. So if I go into -- If I  
3 would go up today and go through the gates and go  
4 up to the -- and park, go into the changing area, I  
5 would be picked up by one of these two cameras  
6 before I got to that; and then I would be picked up  
7 again when I went towards the portal --

8           A. If -- Your diagram. That one camera on  
9 the outside that shoots -- that aims towards the  
10 building, if you come out of the warehouse --

11           Q. Right.

12           A. -- you're on camera.

13           Q. Okay.

14           A. If you're inside the warehouse getting  
15 whatever, then you're on camera.

16           Q. Okay. And then if I go -- You know where  
17 you load up on the man trips?

18           A. Yes, sir.

19           Q. Are you on camera then?

20           A. Inside the building?

21           Q. Either inside or just outside.

22           A. Just outside, a little bit of the camera  
23 will pick you up.

24           Q. Okay. And then if I go towards the

1 portal?

2 A. Yes, sir.

3 Q. So you would see anybody coming in and out  
4 of the portal?

5 A. Yes, sir.

6 Q. And that would be on record?

7 A. Yes, sir.

8 MR. McATEER: We're requesting that from  
9 day -- the 1st of April to 5th of April to have a  
10 copy of these video cameras, the disks, the VCRs  
11 for these cameras. I just want to make sure  
12 there's no confusion because I had confusion on my  
13 part.

14 MR. SILKWOOD: He can explain it or I can  
15 explain it. Those cameras, the cameras up at the  
16 portal, at the Ellis portal and at the -- up at the  
17 mine office UBB, run on -- they're not  
18 VCR. They're --

19 THE WITNESS: Digital.

20 MR. SILKWOOD: -- digital from the  
21 security system.

22 MR. SEARS: And just a matter for  
23 clarification, you keep on saying the VCRs or  
24 something. You want the actual recordings, the

1 tapes --

2 MR. McATEER: Yeah, exactly.

3 MR. SEARS: -- or the digital files.

4 MR. McATEER: Yes. I'm sorry. You're  
5 correct to point out I'm challenged.

6 BY MR. McATEER:

7 Q. Okay. Let's go to these cameras. They're  
8 digital?

9 A. Yes, sir.

10 Q. Okay. And is there a record from those  
11 for the 1st through the 5th of April?

12 A. Be more specific. Which cameras so I  
13 won't give you a wrong answer.

14 Q. Any camera that is at this location,  
15 starting from Route 3 all the way through to the  
16 entrance at the portal.

17 A. Okay. The camera that was in place at the  
18 time of the accident --

19 Q. Right.

20 A. -- you all have copies of everything, of  
21 the original.

22 Q. Okay. As I understood your answer or your  
23 suggestion, we have the 5th. I'm asking for the  
24 1st through the 5th with these cameras.

1 MR. SILKWOOD: Okay. I think we can go  
2 back and clarify, but I think everything from the  
3 5th back to the beginning of April that we have has  
4 been produced.

5 MR. McATEER: Okay.

6 MR. SILKWOOD: The VCRs, I think we only  
7 had the 5th and then the digital security went back  
8 I think a little bit further.

9 MR. McATEER: Okay.

10 MR. SILKWOOD: And we put that on a 500  
11 gig external drive and gave one to the state and  
12 one to MSHA --

13 MR. McATEER: Okay.

14 MR. SILKWOOD: -- within a few weeks of  
15 the explosion.

16 MR. McATEER: Okay. I will tell you that  
17 it is possible that we even have that; but the  
18 volume of stuff that we have, I haven't seen it.  
19 We've been going through that as fast as we can.  
20 Thank you. I will check on that and be sure to get  
21 back to you on that.

22 BY MR. McATEER:

23 Q. Okay. Now, let's go back to Route 3. Is  
24 there any other security system that you have?

1 When I go up there, those fellows stop me and I  
2 sign and take a hazard test, hazard training. They  
3 did their job. You should be proud. I don't have  
4 a problem with that. Is there anything else that  
5 you have and had on the 1st through the 5th of  
6 April?

7 A. I don't know what you're asking for.

8 Q. Well, paper records, et cetera.

9 A. You mean check-in and check-out logs?

10 Q. Yes.

11 A. Yes, sir. We have the regular visitors  
12 log --

13 Q. Okay.

14 A. -- of anybody and everybody, and then we  
15 have logs called inspectors log.

16 Q. What are the inspectors logs?

17 A. It's a log by itself. We log in and log  
18 out all inspectors, federal, state.

19 Q. And do you keep that --

20 A. Yes, sir.

21 Q. -- record?

22 Can we get copies of that for the  
23 preceding three months from January 1st through  
24 April 5th?

1           MR. McATEER: I directed it to him; but,  
2 Eric, can you --

3           MR. SILKWOOD: (Nods head.)

4           MR. McATEER: Okay.

5           MR. BABINGTON: Sorry. Is that a yes?

6           MR. SILKWOOD: Yes. Sorry.

7 BY MR. McATEER:

8           Q. The security people, either contractors or  
9 your employees, Massey employees, Performance  
10 employees, do you instruct them when they come on,  
11 when you hire a new guy, give them training?

12          A. Yes.

13          Q. Okay.

14          A. Any new security officer, be it a  
15 contractor and/or a member, trains two shifts,  
16 which is 24 hours, at the gate with a security  
17 officer.

18          Q. Okay. With an experienced security  
19 officer?

20          A. Yes, sir.

21          Q. And are there any specific instructions?  
22 For example, you don't -- I'm not picking on you.  
23 I'm just dealing with human nature. You don't stop  
24 Chris Blanchard when he comes in. If you don't

1 know him --

2 A. If you don't know him, you stop him --

3 Q. Okay.

4 A. -- check his ID and check and make sure  
5 he's been hazard trained.

6 Q. Okay.

7 A. Yes, sir, we do that.

8 Q. And how about any specific instructions  
9 for visitors?

10 A. One thing that is hammered in our head,  
11 you do not ask inspectors where they're going and  
12 you do not call the mines. You do not notify no  
13 one when inspectors come on that property. In  
14 fact, that is in our SOP, that you do not notify no  
15 one.

16 Q. Can we get a copy of that SOP?

17 A. I'm sure we all have a copy.

18 MR. SILKWOOD: It's probably in -- That  
19 was one of the specific requests. I think that's  
20 probably in the packet of stuff that you have not  
21 gotten through yet.

22 A. I know you all don't believe this; but as  
23 long as I've been with Massey, that's always been  
24 the rule.

1 Q. I understand that. I also note human  
2 nature when I drive by a policeman and someone's  
3 coming the other way. I needn't say anymore.

4 Now, you -- you have visitors logs and  
5 inspectors logs. Is there any other logs?

6 A. I have duty logs. They will log down any  
7 significant thing that happens through the day.  
8 When outpost checks in, they log that down.

9 MR. McATEER: Okay. And, Eric, I  
10 apologize. Would that be in the packet of  
11 materials you think?

12 MR. SILKWOOD: I'm not certain on that  
13 one. I can check.

14 MR. McATEER: We'll make a request now for  
15 that.

16 BY MR. McATEER:

17 Q. And so we've got one, two, three, duty  
18 logs, inspector logs and visitor logs. Any other  
19 logs?

20 A. Key logs, anybody that checks the keys out  
21 through the office --

22 Q. Okay.

23 A. -- or something like that.

24 MR. BABINGTON: I'm sorry, Davitt. Did



1 you give a date for the duty logs?

2 MR. McATEER: Duty logs, I'm only  
3 interested in the period of January 1st through  
4 April 5th is principally what I'm interested in. I  
5 did not. Thank you. And I would make a similar  
6 request for the key log, and the key log dates I  
7 would ask for are the 1st of April through the 5th  
8 of April.

9 BY MR. McATEER:

10 Q. Mr. Stover, are there any other records  
11 that were kept?

12 A. Visitors logs, duty logs, that's about it.

13 Q. Key logs?

14 A. Key logs.

15 Q. Okay. Go back if you can to the 3rd of  
16 April, which is Easter, that Easter weekend. Did  
17 you work that weekend?

18 A. I don't remember.

19 Q. Did you have Easter dinner?

20 A. I don't remember.

21 Q. You better. Your wife will have your  
22 head. Let me try to help you with that because,  
23 you know, it's kind of important for us. It's kind  
24 of important for us to try to get to that issue.

1 April -- Let's see. I had it before. Here it is.

2 Okay. April -- The holiday, the Easter  
3 Holiday is on Sunday the 4th of April.

4 A. Yes, sir.

5 Q. And this is the first time that  
6 Performance had been closed for some period of  
7 time, right?

8 A. If you say so. I don't --

9 Q. You're security but let me put it another  
10 way. Is this the first time that they've been  
11 closed for a period of time?

12 A. I don't remember.

13 Q. Okay. Did you take any specific  
14 precautions on Friday the 2nd with regard to the  
15 people going into the mine over the closed period  
16 of time?

17 A. Going into the mine?

18 Q. Yes.

19 A. No, sir, I have nothing to do with that.

20 Q. Your people didn't spread rock dust?

21 A. No, sir, we don't do that.

22 Q. Who does that?

23 A. The coal miners.

24 Q. Right. But are you made aware of it, that

1 it's been done?

2 A. It's supposed to be done. Sometimes it  
3 is. Sometimes it's not.

4 Q. Okay. But if you're watching for copper  
5 theft, that would be good for you to know to  
6 coordinate with those people, right?

7 A. Well, that's the reason we ask that it be  
8 done. Sometimes it's done. Sometimes it's not.

9 Q. Sure. But let's go back to Sunday the  
10 5th. What time did you traditionally have Easter  
11 dinner, traditionally? And if your wife reads this  
12 testimony and you don't come up with the right  
13 answer.

14 A. I don't know.

15 Q. Okay. Did you go to the mine on the 5th  
16 or the 4th?

17 A. I don't remember.

18 Q. Did you go to the mine on the 3rd?

19 A. Is that a Friday?

20 Q. That's a Saturday.

21 A. If you're asking for a yes or no, I cannot  
22 answer that because I don't remember.

23 Q. Okay. Did you go to the mine on Friday  
24 the 2nd?

1           A.    Yes.

2           Q.    How do you remember that?

3           A.    Because I work Monday through Friday every  
4 week.

5           Q.    Okay.  What time were you at the mine on  
6 the 2nd?

7           A.    Do you mean the mine mine or the mine  
8 office?

9           Q.    The mine, security in the mine office.

10          A.    I usually get in between 5:30 and 6:00  
11 every morning.

12          Q.    Okay.  And what time do you leave roughly?

13          A.    2:30, 3:00, 3:30, all depends if anything  
14 was going on or not.

15          Q.    And you live just up the road?

16          A.    I live about 20 miles from Performance.

17          Q.    That's on Route 3?

18          A.    Secondary Route 1.

19          Q.    Where is that?  If I'm coming down Route  
20 3, I'm trying to think of where that is.

21          A.    Before you get to Whitesville, there's a  
22 One Stop Shop --

23          Q.    Oh, sure.

24          A.    -- store.  You turn right --

1 Q. Okay.

2 A. -- on that blacktop road. That's Clear  
3 Fork, Secondary Route 1.

4 Q. So you're down towards Danville in that  
5 direction?

6 A. No, sir.

7 Q. Whitesville is back out -- If you're  
8 coming out towards that way rather than going back  
9 to Beckley on 3.

10 A. Okay. When you leave Performance --

11 Q. Right.

12 A. -- you turn left like you're going to  
13 Whitesville.

14 Q. Okay.

15 A. Before you get to Whitesville, you turn  
16 right up Clear Fork Road. That runs you up to the  
17 old Rowland --

18 Q. Okay.

19 A. -- Clear Creek, Dorothy, Ameagle,  
20 Colcord --

21 Q. Oh, sure.

22 A. -- up that way.

23 Q. So from your house to the mine takes you  
24 how long?

1           A.    20, 25 minutes.

2           Q.    Okay.  Now, when -- On the day of the  
3 accident, when Mike -- What's his last name?

4           A.    Bays.

5           Q.    Mike Bays called you, what did he say?

6           A.    He -- I can't remember word for word --

7           Q.    Sure.

8           A.    -- wanted to know what was going on at  
9 Performance.  I told him I didn't know.  I was  
10 waiting to find out myself.  He said, "I'm being  
11 sent over to find out what's going on."

12          Q.    Did he say by whom?

13          A.    If he did, I don't remember.

14          Q.    Okay.

15          A.    And I said, "Okay," you know.

16          Q.    It's a little odd to have somebody else  
17 go, isn't it or no?

18          A.    Yes.  So after we got off the phone, I  
19 thought, you know, I better go over and see what's  
20 going on because I had not received a call.

21          Q.    You hadn't got a call?

22          A.    No.

23          Q.    You're head of security for UBB.  He gets  
24 a call.  He's head of security for someplace else.

1           A.   Marfork.

2           Q.   Marfork. That is a little odd. I'm  
3 trying to remember the name of an individual who  
4 was over at Marfork who went over there. It'll  
5 come to me or maybe in a break I'll ask that.

6                   Did you hear from Chris Blanchard?

7           A.   No, sir.

8           Q.   Did you hear from Jason Whitehead?

9           A.   No, sir.

10          Q.   So from the time Mike called you, you  
11 didn't hear anybody or hear from anybody?

12          A.   No, sir.

13          Q.   Did you have a cell phone?

14          A.   Yes.

15          Q.   Does it work?

16          A.   No, sir.

17          Q.   All right. And so you jump in your truck,  
18 car, get in it, go over to the mine. Where did you  
19 park, at the office?

20          A.   No. When I first went there, I went  
21 straight to the main gate.

22          Q.   Okay.

23          A.   They told me something bad at the mines  
24 happened.

1 Q. Who was there?

2 A. Tommy Wingo, one of my security officers.

3 Q. Wingo?

4 A. Wingo. Yes, sir.

5 Q. Okay. And what did he say?

6 A. He told me something bad happened at Big  
7 Branch, so I left and drove right down to the Big  
8 Branch gate.

9 Q. Okay. And who was there? Is that the  
10 gate I go through when I get off of 3?

11 A. Right there by the tunnel where the belt  
12 line goes across.

13 Q. Yes.

14 A. Right there.

15 Q. Okay. And who was at that gate?

16 A. I think it was Officer John August. I'm  
17 not 100 percent sure on that.

18 Q. Is he a contractor or is he --

19 A. A contractor, yes, sir.

20 Q. Okay. And what did John tell you?

21 A. I think -- I don't remember word for word,  
22 just said there was an accident.

23 Q. Did he say I've been called by somebody?

24 A. I don't remember. After that, it became



1 very hectic.

2 Q. Chaotic?

3 A. Chaotic, yes.

4 Q. So you drove from the gate up to the mine  
5 office?

6 A. I don't remember going up to the -- I  
7 don't remember actually going to the mine.

8 Q. So you stayed at the gate?

9 A. Yes.

10 Q. Did you see Mike Bias there?

11 A. Mike Bays.

12 Q. Bays.

13 A. Yes, he showed up.

14 Q. Did he go to the mine?

15 A. Not that I know of.

16 Q. So you guys stayed down at that --

17 A. Right, we started calling in people and  
18 trying to get everything covered as far as getting  
19 security. And, you know, we was in contact with  
20 state police. They was with us trying to figure  
21 out where the reporters was going to be, where this  
22 is going to be and --

23 Q. Okay. Had you seen Chris Adkins there?

24 A. At that time?

1 Q. Right.

2 A. No, sir.

3 Q. Had you heard of any helicopters coming  
4 in?

5 A. I do not remember.

6 Q. Would you people see helicopters if they  
7 came in? They must have to.

8 A. It depends on where they land at.

9 Q. Yeah. But if they land up at the  
10 office -- Is that where they typically land? Where  
11 do they typically land? Let me ask that question.

12 A. Marfork.

13 Q. They do?

14 A. Yes, Marfork has a landing pad.

15 Q. Okay.

16 A. Performance don't.

17 Q. Did any helicopters land at Performance  
18 that day?

19 A. I do not remember.

20 Q. Did you see any helicopters up there?

21 A. I do not remember.

22 Q. Did you see any helicopters at Marfork?

23 A. I don't think I was at Marfork that day.

24 Q. Okay. So if Adkins and Chamberlain come

1 over, they would have come to Marfork typically.

2 A. If they flew in, yes, sir, they would  
3 have.

4 Q. Can you land anything at Performance, at  
5 the Upper Big Branch? I don't know where you would  
6 put it.

7 A. Well, I'm thinking no place I can recall.

8 Q. You can't put it in the yard. Only other  
9 place would be only down by the guard shack, but  
10 there's no place down there.

11 MR. SEARS: I'm just going to object to  
12 the form of the question.

13 MR. McATEER: I'm sorry.

14 MR. SEARS: That's fine.

15 MR. McATEER: You're right.

16 That's a lawyer's -- He saying you're  
17 asking -- you're concluding, you're making  
18 conclusions and he's right.

19 BY MR. McATEER:

20 Q. But in your experience, Massey helicopters  
21 coming to the Upper Big Branch mine typically land  
22 at Marfork and the people are driven over?

23 A. Yes, sir.

24 Q. Okay. Now, you're there for a couple days

1 now. At what point do you get instructions from  
2 Massey's supervisors?

3 A. I don't.

4 Q. And then at what point does Mr. Blanchard  
5 or Mr. Blankenship arrive?

6 A. I do not remember what time. It was  
7 sometime through the night.

8 Q. How did he come in?

9 A. That, I don't know. When I seen him, he  
10 was in a company vehicle being chauffeured around,  
11 being driven around rather.

12 Q. And you were where at the time?

13 A. At the Big Branch gate, Unice portal.

14 Q. And I hate to do this. That's the one I  
15 use? That's the one that's by the belt --

16 A. Belt, yes, sir.

17 MR. SILKWOOD: Davitt, I hate to  
18 interrupt. I just want to make sure you guys are  
19 on the same page.

20 MR. WATKINS: I don't think --

21 MR. SILKWOOD: I don't think you are. I  
22 think the one you use is the main gate.

23 MR. McATEER: Which is Upper Big Branch.

24 MR. SILKWOOD: Upper Big Branch. I think

1 the one he calls Unice is the Ellis --

2 MR. WATKINS: Ellis portal.

3 MR. SILKWOOD: I don't know if you would  
4 have used that one.

5 MR. McATEER: No, I used that once; but  
6 the normal one I used is the -- up by the conveyer  
7 belt, but it's just down and it's the -- it's the  
8 Upper Big Branch entrance.

9 MR. SILKWOOD: I think the conveyer belt  
10 he's talking about is the belt that goes --

11 THE WITNESS: Goes across the road.

12 MR. SILKWOOD: -- and goes across Marfork  
13 way up above the road, the first entrance that you  
14 probably go pass; and then you make the right on  
15 the bridge and then a right into the --

16 MR. McATEER: Right.

17 MR. SILKWOOD: -- that's the main gate --

18 MR. McATEER: Okay.

19 MR. SILKWOOD: You would probably  
20 typically use --

21 MR. McATEER: The main gate.

22 MR. BABINGTON: Your diagram showed that  
23 was the main gate.

24 BY MR. McATEER:

1 Q. Okay. So if my questions are at the main  
2 gate, were you at the main gate then?

3 A. No, I was at Big Branch --

4 Q. Big Branch.

5 A. -- Ellis portal.

6 MR. WATKINS: Ellis.

7 Q. And did Mr. Blankenship come to that  
8 portal?

9 A. Yes, sir.

10 Q. Now, explain if you would what your  
11 responsibilities are and how do you provide  
12 security service to Mr. Blankenship?

13 A. We -- Are we talking about at the  
14 meetings?

15 Q. Yeah. Like he was at the Greenbrier. Did  
16 you go down to the Greenbrier last week?

17 A. Yes, sir.

18 Q. How was it?

19 A. It's not bad.

20 Q. What do you do for that security?

21 MR. SEARS: Are you talking about in  
22 general or as it relates to this accident?

23 MR. McATEER: I'm talking about in  
24 general. I want to find out what kind of security

1 relationship there is, and then I'll ask about the  
2 accident second.

3 BY MR. McATEER:

4 Q. First of all, could you describe what --  
5 how you provide security for Mr. Blankenship?

6 A. Well, usually, I'm down in the area where  
7 the meeting is going to be and where breakfast is.  
8 I go down and check it all out beforehand; and  
9 everybody, the board directors they come down and  
10 start eating. Then Mr. B comes down. And just out  
11 in the area of the hallway and the rooms while the  
12 meeting is going on --

13 Q. Is this part of your duties as an employee  
14 of Massey or is this additional or different or  
15 separate?

16 A. It's just Massey security.

17 Q. Okay. So there's not a different pay  
18 division or anything like that?

19 A. No, sir.

20 Q. Okay. Now, let's go back to the accident,  
21 the date of the accident. On the 5th, did you  
22 provide any security for Mr. Blankenship?

23 A. No, sir.

24 Q. Did you speak to him?

1           A.   No, sir.

2           Q.   Okay.  How long was Mr. Blankenship there?

3           A.   I cannot answer that.  I don't know.  What  
4 I know is he was coming off across the bridge from  
5 Unice portal going towards the main office.

6           Q.   Okay.  Was anybody else providing  
7 security?

8           A.   He was with a chief of security out of  
9 Kentucky.

10          Q.   So the chiefs of security from the various  
11 mines, do they provide -- different times provide  
12 security for Mr. Blankenship?

13          A.   I cannot answer that yes or no.

14          Q.   Okay.

15          A.   All the board meetings, operator meetings,  
16 I go and Mike Bays goes.  Every now and then, we  
17 will have extra security chiefs come up to assist  
18 us.  Not very often.

19          Q.   Okay.  Who was the security chief out of  
20 Kentucky?  Do you remember?

21          A.   I think his name is Herald May.

22          Q.   Okay.

23          A.   Nickname, we call him Bucky.  I think  
24 that's his God given name, Herald.



1 Q. If I can ask you a few more questions.  
2 I've been fine with your answers. Just a couple  
3 more questions.

4 When the call came asking about  
5 Mr. McCombs, was there any reason given why they  
6 needed Mr. McCombs?

7 A. Not to my knowledge.

8 Q. Okay. Did you take the call?

9 A. No, sir.

10 Q. Who took the call with you? You were with  
11 somebody.

12 A. Tommy Wingo, which is a security worker at  
13 the main gate, called Clear Fork security on the  
14 radio; and I was right there with him.

15 Q. Who would be Clear Fork security at that  
16 point?

17 A. I do not recall who was on duty at that  
18 time.

19 Q. Okay.

20 A. I was sitting in my vehicle. He was  
21 standing by the door, so I just answered Tommy on  
22 the radio.

23 Q. Sure. Okay. Let me go back to the  
24 emergency contingency plan. Is this a book?

1           A.    Yes.

2           Q.    What color is it?

3           A.    I don't know.  I don't remember.

4           Q.    Is it blue or white?

5           A.    You're asking me to guess.  I don't  
6 remember.

7           MR. McATEER:  Okay.  Eric, can we get a  
8 copy of that if we don't have that already?

9           MR. SILKWOOD:  Yes.

10          MR. KOERBER:  What was it?

11          MR. McATEER:  I'm asking for the emergency  
12 contingency plan at Upper Big Branch mines in  
13 effect on the April 5, 2010.

14          Q.    Is there any log kept by your security  
15 people of Massey associates, employees, officials  
16 entering the mines on non-production days?  Do they  
17 jot down --

18          A.    Probably not if you're a Massey member and  
19 have an ID or we know you to be a Massey member.

20          Q.    Okay.  Do you know if there were any logs  
21 kept of anybody entering, leaving the -- other than  
22 the two I said before, anybody entering or leaving  
23 the property at the Upper Big Branch mine in either  
24 portal, whichever, on the 1st through the 5th,

1 particularly on the 2nd, 3rd and 4th? That's  
2 Friday, Saturday, Sunday.

3 A. I don't recall.

4 Q. You do not recall or you do not know of  
5 any?

6 A. I do not know of any.

7 Q. Okay.

8 A. We would have to go back and look at the  
9 logs.

10 Q. Okay. How would those be kept?

11 A. I have them in boxes in the office.

12 MR. McATEER: Okay. We would make a  
13 request to look at those boxes, if we don't already  
14 have them, of any other notations of any Massey  
15 employees, supervisor, hourly, whatever, that  
16 entered or left the property April 1st through  
17 April 5th through that portal connected to Upper  
18 Big Branch mine where the accident occurred.

19 THE WITNESS: For this year, they are in  
20 filing cabinets in my office.

21 MR. McATEER: Okay.

22 THE WITNESS: This year, I mean.

23 MR. McATEER: Okay.

24 THE WITNESS: I don't want you to ask for

1 a box and there's no box.

2 MR. McATEER: Boxes and/or filing  
3 cabinets.

4 MR. KOERBER: April 1 to April 5th.

5 MR. McATEER: April 1 to April 5th. I'm  
6 just thinking if the security guard is sitting  
7 there and would just jot it down.

8 BY MR. McATEER:

9 Q. Does your security system have any  
10 connection to the tagging system that's in place at  
11 the Upper Big Branch mines?

12 A. No, sir.

13 Q. You said that there was a main number,  
14 telephone number, that bypassed the security guard  
15 and that's 1761 or did I miss -- I wasn't certain  
16 if I got you. 1761 is the main number --

17 A. Yes.

18 Q. -- that goes to the office?

19 A. Yes, sir.

20 Q. But if no one is at the office, it rings  
21 at the security office?

22 A. Yes, sir, that's correct.

23 Q. And then there's another direct number  
24 that goes to the main office.

1           A.    I do not know how many numbers go --

2           Q.    Directly?

3           A.    -- directly, but there's -- certain  
4 offices have a certain direct line. My direct line  
5 is 3506.

6           Q.    Right. Now, you said your office is up  
7 there -- Where is your office?

8           A.    Do you know where the main Performance  
9 office is? Just as you cross the bridge --

10          Q.    Yeah.

11          A.    -- you turn left, there's a blue building.

12          Q.    Right, the blue one.

13          A.    Yes, sir, that's where my office is.

14          Q.    Is that where Route 3 engineering is as  
15 well?

16          A.    Yes.

17          Q.    Same floor?

18          A.    There's only one floor.

19          Q.    Okay.

20          A.    Two buildings but one floor.

21          Q.    So that would be -- You know McCombs then?

22          A.    Paul?

23          Q.    Yes.

24          A.    Yes.

1 Q. No one -- You testified that no one called  
2 you from security, from Massey management, in the  
3 hours and days following the disaster. Did you  
4 call anybody? Did you call --

5 A. No, sir.

6 Q. -- and say here's what -- I mean I  
7 recognize it's absolute chaos and you're just  
8 trying to do what you can do. Did you direct --  
9 Were you in charge of -- on the Massey side making  
10 the decision of who went and who came out?

11 A. What do you mean who went?

12 Q. Who went into the mine, who came out. If  
13 I had arrived and I'm there and I said, "I'm kind  
14 of an important guy" and you say, "I don't know you  
15 from Jack, hit the road, hit the bricks."

16 A. If I did not know you from Jack, we would  
17 call up to the office and talk to the mine  
18 superintendent or whoever was up there.

19 Q. Who was up there that you may have had  
20 communications with?

21 A. I don't remember. That would have been  
22 assigned to my officers working the gate. I was  
23 not at the gate, per se, inside taking phone calls  
24 or checking people in.

1 Q. Okay. And when did you finally go home,  
2 leave the mine? This happened on Monday, 3:00.

3 A. Wednesday afternoon or Thursday.

4 Q. Did you ever see Chris Adkins at the mine?

5 A. Yes, sir.

6 Q. I'm sorry. After the explosion on the day  
7 on -- the day of or after the explosion.

8 A. After the explosion, yes.

9 Q. And when was that?

10 A. I do not remember. I cannot tell you what  
11 day it was.

12 Q. Sure. Is there any other significant  
13 thing that you think we should know about that  
14 might help us understand what went on here?

15 A. No, sir.

16 Q. Okay.

17 A. Security has nothing to do with the  
18 mines. I wish I could help you but unfortunately.

19 MR. McATEER: I have no further questions  
20 at this time.

21 MR. O'BRIEN: I have just a few follow-up  
22 questions.

23 EXAMINATION

24 BY MR. O'BRIEN:

1 Q. Did I understand you to say that you were  
2 aware of the practice of rock dusting in the portal  
3 areas during the --

4 A. I said security has requested --

5 Q. Uh-huh.

6 A. -- just like he said you can track -- you  
7 can tell somebody has been in and out of the  
8 mines. Sometimes they do it. Sometimes they  
9 don't.

10 Q. When did this practice or when was this  
11 request set forth?

12 A. Years ago.

13 Q. Years ago.

14 Okay. What's the purpose of the two  
15 logs? You've got one for visitors and one for  
16 inspectors. What's the purpose of two separate  
17 logs?

18 A. I don't know. It's always been that way.

19 Let me turn this off.

20 Q. And finally is there -- If I wanted to go  
21 to the UBB mine without being monitored or checked  
22 in, is there any back roads, routes, paths that I  
23 could take to get to the mine?

24 A. Yes, sir. There's -- You can come up the



1 railroad tracks, Birchton Curve, the railroad  
2 tracks crosses the road right before you go up to  
3 UBB, just four-wheel paths all through the  
4 mountains.

5 Q. Just foot paths or four-wheeling paths,  
6 nothing like, say, a car or a truck or an SUV could  
7 travel on?

8 A. No, without being marked because if you  
9 have to -- If you come off of Progress, you would  
10 have to go through Elk Run security to get up on  
11 Progress. Now, you can come -- go up to Progress  
12 and come down one of the old roads that way, but  
13 you still have to go through Elk Run security to  
14 get through Progress.

15 MR. O'BRIEN: That's all I have. Thank  
16 you.

17 MR. WATKINS: I have just a couple.

18 EXAMINATION

19 BY MR. WATKINS:

20 Q. You mentioned about the media and family.  
21 You had conversations with the police about where  
22 the media and families were going to be located.  
23 Where were the media and families located?

24 A. The media was -- ended up being at the

1 Marshall school, and the family members were at our  
2 safety building. I think now it's called Route 3  
3 Rescue Team, but it's our safety building on our  
4 property.

5 MR. McATEER: At Marfork?

6 THE WITNESS: Performance.

7 MR. McATEER: Which building is that?

8 THE WITNESS: If you go across the  
9 bridge --

10 MR. McATEER: Right.

11 THE WITNESS: -- turn left, go all the way  
12 up to the end -- all the way up to the end of the  
13 fence, which is where we have our mining rescue --

14 MR. McATEER: Okay.

15 THE WITNESS: -- building up there. Used  
16 to be just strictly Route 3 or -- excuse me --  
17 Performance safety building.

18 BY MR. WATKINS:

19 Q. And who made the decision to locate the  
20 entities where they did?

21 A. I don't know. I know it was messed up for  
22 a while because I was talking to state police  
23 because they wanted to know where to send these  
24 people. I do not remember which trooper it was.

1 He come down -- drove back down where I was at. He  
2 said, "This is what we're doing." I don't know who  
3 got permission to use the school or nothing like  
4 that; but he said, "All the news people will go to  
5 the school and the family people will go to the  
6 safety building." That way we keep everybody  
7 separate and keep the news crew from the families.

8 Q. It's been a while since I looked at any  
9 mining plans; but on the mine emergency response  
10 plan that the company has, I was thinking there was  
11 a designation made in that plan where these  
12 entities were to be located. Are you familiar with  
13 that at all?

14 A. It's in our -- I don't recall exactly  
15 where it's supposed to be at.

16 Q. Okay. So you don't know if they ended up  
17 being where they were supposed to be at in the  
18 emergency response plan or not?

19 A. No, sir, I do not remember.

20 Q. Okay. Okay. I think John may have asked  
21 you a question as far as -- may have been Davitt.  
22 It doesn't matter. As far as notification when  
23 inspectors arrived on the property, I think it was  
24 your response that it's Massey's policy that you

1 don't notify, you don't call ahead of time when  
2 inspectors are there.

3 A. Yes, sir.

4 Q. And you said that's in your SOP, which  
5 Davitt asked for.

6 A. Yes, sir.

7 Q. Is there any other instructions that  
8 you've been given in that regard? Is there -- Did  
9 you receive any letter or notification from anybody  
10 saying not to do this, e-mails saying --

11 A. Let me make sure I understand. Are you  
12 asking me if I have been instructed in any way,  
13 shape or form to not enforce that rule?

14 Q. No. Either way, either to or not to.

15 A. Yes, it's in our SOP.

16 Q. Other than the SOP, is there any other  
17 notification that you've been given to either  
18 enforce it or not to enforce it, either way?

19 A. The part to enforce it, yes, that come  
20 from upstairs.

21 Q. Upstairs being?

22 A. Upper management, Massey Coal Services.

23 Q. Okay. Is that a verbal notification or  
24 written notification?

1           A.   It was in writing.

2           Q.   Okay.

3           A.   If I may elaborate.  When I --

4           MR. SEARS:  Come here.

5           MR. McATEER:  I'll ask him.

6           MR. WATKINS:  I'll save that for you,

7 Davitt.  You can have that.

8           MR. McATEER:  Okay.

9           Q.   The other question I've got is when he  
10 asked you about the helicopter landing.  Is there a  
11 surface job above UBB?

12          A.   Yes.

13          Q.   And what's the name of that job?

14          A.   Progress.

15          Q.   Would it be possible for a helicopter to  
16 land at Progress and just transport somebody down  
17 to UBB from there?

18          A.   Yes, sir.

19          Q.   But you don't know if that happened the  
20 night of the accident?

21          A.   No, sir.

22          MR. WATKINS:  Go ahead, Davitt.

23                               EXAMINATION

24 BY MR. McATEER:

1 Q. Could you elaborate. Just -- I can go  
2 through the question specifically. You received  
3 information from Massey Coal Services with regard  
4 to notification issues and with regard to other  
5 instructions vis-a-vis inspectors on the property.  
6 Can you tell me what those have been.

7 A. It says when inspectors come on the  
8 property you do not call the mines. You do not  
9 notify no one.

10 Q. And that's in writing?

11 A. Yes, sir.

12 Q. Can we get a copy of that?

13 A. Yes, sir, as far as I'm concerned.

14 MR. SEARS: Is that something that you're  
15 the records custodian of, of those types of  
16 communications? Would that --

17 THE WITNESS: Yes, because it was sent.

18 MR. SEARS: No, that's something sent to  
19 you. Where it originated from, are you associated  
20 with the point of origination in Massey?

21 MR. McATEER: Chris, I'll ask Eric if  
22 Performance Coal Company would produce the  
23 documents in question.

24 MR. KOERBER: What is it called again?

1           MR. McATEER: It is a notification to  
2 security not to notify mine management when an  
3 inspector, either federal, state, is on the  
4 property.

5 BY MR. McATEER:

6           Q. Are there any other related instructions  
7 with regard to inspectors? Any other instructions  
8 with regard to inspectors?

9           A. That's it. When inspectors come on the  
10 job, we do not call the mines, do not notify.

11          Q. There's no reference as to timing or any  
12 other -- you know, jotting down the time or is that  
13 kept in the log?

14          A. Yes, sir. In the log book, it will have  
15 the inspector's name, the organization he's with,  
16 MSHA, state, whatever, time in and time out.

17          Q. And does the inspector sign this?

18          A. No, sir.

19          Q. Okay. And you're responsible for more  
20 than one mine. Is such a log book kept at the  
21 other mines you're responsible for?

22          A. Yes, sir.

23          Q. Is it kept at other Massey mines to your  
24 knowledge?

1           A.    To my knowledge, yes, sir, but I --

2           Q.    Okay.  Let me go back to the Elk Run  
3 security.  To get through Progress, you would have  
4 gone through Elk Run security.

5           A.    Yes, sir.

6           Q.    Is there any -- Does Elk Run security have  
7 video cameras, slash, digital cameras?

8           A.    I do not know.

9           Q.    Okay.  Do they keep records to your  
10 knowledge like the other -- like you did at UBB?

11          A.    If you're asking for a yes or no answer, I  
12 do not know.

13          Q.    Okay.  Don't know.  Now, let me ask you  
14 about security at the Bandytown fan.  Is there any  
15 security at the Bandytown fan, you know, the pumps  
16 up there --

17          A.    I think that's what we call -- security  
18 calls West Fork fan.  Yes, we have security at the  
19 nighttime up there.

20          Q.    West Fork fan?

21          A.    Yes, sir.

22          Q.    What kind of security do you have up  
23 there?

24          A.    At the site itself I have motion detectors



1 inside the fence, inside the building. If somebody  
2 would break in the door, it will notify Performance  
3 security by telephone and radio.

4 Q. And how is that notification  
5 accomplished? A little man in the phone? Sorry.

6 A. I'm not that smart. I couldn't tell you.  
7 The security system --

8 Q. The security system --

9 A. We put it in; and when it goes off, it  
10 automatically dials out on the phone and calls out  
11 on the radio.

12 Q. And would you have any record of any calls  
13 or any other indications of persons being at that  
14 location from the time of April 1st to April the  
15 5th --

16 A. No, sir.

17 Q. -- in your security log?

18 A. That security system has just come on line  
19 maybe this month.

20 Q. Okay. That would be November or October?

21 A. Yes, sir.

22 Q. Let me take you back to April 1st through  
23 the 5th. What security was at Bandytown or at West  
24 Fork fan?

1           A.    I do not remember.

2           Q.    Well, you replaced what was there with  
3 what's now there.  What did you take out?

4           A.    Well, the only thing I can recollect for  
5 sure is having security of the nighttime.

6           Q.    Security at nighttime.  And what would  
7 that consist of?

8           A.    A guy down at the bottom of the hill in a  
9 vehicle.

10          Q.    Okay.  And does that person keep any logs  
11 or anything or report to you?

12          A.    No, they just check in every hour with  
13 security at the Performance main gate.

14          Q.    And would that be kept in a log?

15          A.    Yes.

16          Q.    What's this log called?

17          A.    Called a duty log.

18                MR. McATEER:  Eric, from the 1st to the  
19 5th, I would like to see the duty logs, please,  
20 from --

21                MR. SILKWOOD:  I think that was one of the  
22 ones that --

23                MR. McATEER:  I just want to make sure  
24 Bandytown was in that.

1                   MR. BABINGTON: You asked for January 1st  
2 through April 5th.

3                   MR. McATEER: January 1st, I'm sorry. But  
4 includes Bandytown fan or West Fork fan.

5                   MR. BABINGTON: You just want to say all  
6 security?

7                   MR. McATEER: All security, yes, that  
8 would be involved at this mine.

9                   MR. BABINGTON: I just have a follow-up on  
10 that.

11   EXAMINATION

12 BY MR. BABINGTON:

13                Q. Are these duty logs filled out just by the  
14 in-house security or the contract security as  
15 well?

16                A. Whoever is working, both. Whoever is on  
17 duty at the time.

18                Q. You don't separate those logs; those are  
19 all in the same place?

20                A. Yes.

21   EXAMINATION

22 BY MR. McATEER:

23                Q. And they know too who signed them and --

24                A. Yes --

1 Q. -- has a place for them.

2 A. -- has the date, officer's name --

3 Q. I've got you.

4 A. -- the time they checked in.

5 MR. McATEER: Okay. That's all the  
6 questions I have right now.

7 MR. BABINGTON: I just have a quick  
8 follow-up on the notification.

9 EXAMINATION

10 BY MR. BABINGTON:

11 Q. What form -- We're talking about the  
12 notification relating to giving notice of  
13 inspectors on mine property. What form was that  
14 notification in? Was it a memorandum, a letter?

15 A. I think it was a memo.

16 Q. A memo. Was the memo addressed just to  
17 you or was it just addressed to Performance or all  
18 Massey mines?

19 A. I don't remember.

20 EXAMINATION

21 BY MR. O'BRIEN:

22 Q. Were there video cameras at the Bandytown  
23 fan on April 5th?

24 A. Bandytown fan, not to my knowledge.

1 Q. Are there any there now that you know of?

2 A. Cameras, no.

3 MR. McATEER: Can we take five because I  
4 need to consult for a second before we let him go,  
5 please.

6 MR. KOERBER: Yes.

7 (Off the record.)

8 MR. McATEER: I just have a couple of  
9 questions.

10 EXAMINATION

11 BY MR. McATEER:

12 Q. What happens to the logs, inspector logs,  
13 logs that are kept of inspectors? Who reviews  
14 those? What do you do with them?

15 A. I keep them.

16 Q. Do you provide that information to  
17 management at any point?

18 A. No.

19 Q. How do you -- Does management come down  
20 and review them at any time?

21 A. No.

22 Q. What do you keep them for?

23 Do you know Joannah Bowles?

24 A. Yes.

1 Q. Did JoanaH come over that day, the day of  
2 the disaster?

3 A. I do not remember.

4 Q. Did you speak to JoanaH?

5 A. I don't remember.

6 Q. And did Mike Bias?

7 A. Bays.

8 Q. Bays, I'm sorry. Did he say JoanaH had  
9 spoken with him?

10 A. I don't remember.

11 MR. McATEER: I have no other questions.

12 MR. KOERBER: Okay. Just one statement on  
13 the record before we go off the record. On behalf  
14 of West Virginia Office of Miners' Health Safety &  
15 Training, I would also like to formally request  
16 copies of all items that Mr. McAteer has requested  
17 throughout the interview, which includes any video  
18 or digital recording of any camera located at any  
19 location at UBB, be it the UBB coal portal or the  
20 Ellis portal or any of the security guard gates or  
21 shacks or buildings at any portal or any of the  
22 holes connected around those portals for the time  
23 period April 1, 2010, through the entire day April  
24 5, 2010; key logs from April 1, 2010, through

1 April -- through the entire day of April 5, 2010;  
2 all duty logs for any area of the mine from January  
3 1, 2010, through the entire day of April 5, 2010;  
4 all visitor and inspector logs at all portals in  
5 April -- from January 1, 2010, to April -- through  
6 the entire day of April 5, 2010; the emergency  
7 contingency plan and/or the emergency response  
8 plan, whatever the name of that is, whatever the  
9 correct name of that document that Mr. McAteer  
10 inquired about earlier that was in effect as of  
11 April 5, 2010; any notations, notes or any other  
12 form of documentation that any security personnel  
13 may have made of any Massey person, be that an  
14 employee, member, what have you, who entered or  
15 left either portal from April 1, 2010, to  
16 April 5 -- through the entire day of April 5, 2010;  
17 copy of any notification to security or other  
18 people not to notify Massey management when  
19 inspectors were on private property. I would make  
20 that a formal request.

21 MR. BABINGTON: I think there is one you  
22 left out, which is the SOP.

23 MR. KOERBER: I'm sorry. And the standard  
24 operating procedures as Mr. Stover referred to

1 during his -- his discussion here today.

2 MR. SEARS: And just as a matter of  
3 clarification, I don't believe there is any  
4 testimony by Mr. Stover that he possessed any of  
5 this information or documentation in his own right  
6 other than being an employee of Performance; and,  
7 therefore, I would like it to be clear that that  
8 would be a request that's directed to Eric here  
9 rather than me as far as production goes.

10 Okay. Also I have a clarifying question  
11 for Mr. Stover if anybody doesn't have anything  
12 else.

### 13 EXAMINATION

14 BY MR. SEARS:

15 Q. Mr. Stover, during the Board's questioning  
16 of you, there were times when the questioner made  
17 comments that were not necessarily in the form of a  
18 question to which there was no response required  
19 from you; but, nonetheless, you provided no  
20 response and provided no comment in response to  
21 that. Is it fair to assume that we're not to take  
22 your silence or non-response to such commentary as  
23 an adoption or ratification of a comment that was  
24 made?



1           A.    Correct.

2           MR. SEARS:   Okay.   Thank you.

3           MR. KOERBER:   Any other questions?   Any  
4 other items from any of the attorneys?

5           Let's go off the record.

6           For the record, today is November 30,  
7 2010; and we'll go off the record now.

8                           (Off the record.)

9           MR. KOERBER:   We're back on the record,  
10 and Mr. Babington would like to make a  
11 clarification as well.

12           MR. BABINGTON:   Just to be clear, with all  
13 of those items that Mr. Koerber listed that are  
14 being requested by the state and the governor's  
15 team, MSHA is also making that same request of  
16 Performance Coal Company.

17                           (The interview of HUGHIE ELBERT STOVER was  
18 concluded.)

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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Nichelle N. Drake, a Notary Public and  
3 Professional Reporter within and for the State  
4 aforesaid, duly commissioned and qualified, do  
5 hereby certify that the interview of HUGHIE ELBERT  
6 STOVER was duly taken by me and before me at the  
7 time and place specified in the caption hereof.

8 I do further certify that said proceedings  
9 were correctly taken by me in stenotype notes, that  
10 the same were accurately transcribed out in full  
11 and true record of the testimony given by said  
12 witness.

13 I further certify that I am neither  
14 attorney or counsel for, nor related to or employed  
15 by, any of the parties to the action in which these  
16 proceedings were had, and further I am not a  
17 relative or employee of any attorney or counsel  
18 employed by the parties hereto or financially  
19 interested in the action.

20 My commission expires the 19th day of July,  
21 2019.

21 Given under my hand and seal this 1st day of  
22 December 2010.

22 \_\_\_\_\_  
23 Nichelle N. Drake  
24 Professional Reporter  
Notary Public