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Statement Under Oath of George Nelson

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STATEMENT UNDER OATH

OF

GEORGE NELSON

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, June 2, 2010, beginning at 10:05 a.m.

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

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Okay. We're on the record. Good
5 morning. Today is June 2nd, 2010. We're here to
6 conduct an interview of George Nelson. My name is Bob
7 Wilson. I'm with the Office of the Solicitor, United
8 States Department of Labor. With me is John Godsey,
9 an accident investigator with the Mine Safety and
10 Health Administration. Also present are several
11 individuals with the State of West Virginia, and I'll
12 ask that they state their appearance for the record.

13 ATTORNEY MCATEER:

14 I'm Davitt McAteer with the Governor's
15 investigation group.

16 MR. FARLEY:

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

19 MR. O'BRIEN:

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

22 ATTORNEY WILSON:

23 There are other members of the
24 investigation teams also present in the room. All
25 members of Mine Safety and Health Administration,

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

18 Government investigators and specialists

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

1 assistance in this investigation.

2 After the investigation is complete, MSHA

3 will issue a public report detailing the nature and

4 causes of the fatalities in the hope that greater

5 awareness about the causes of accidents can reduce

6 their occurrence in the future. Information obtained

7 through witness interviews is frequently included in

8 those reports, and you should know that if you grant

9 confidentiality, confidentiality will only be granted

10 on a case-by-case basis. Your statement may also be

11 used in other enforcement proceedings.

12 You may have a personal representative

13 present during the taking of this statement and may

14 consult with that representative at any time. George,

15 do you have a representative with you?

16 MR. NELSON:

17 No.

18 ATTORNEY WILSON:

19 And you may refuse to answer any

20 question. You may request a break at any time. This

21 is not an adversarial proceeding, so formal Cross

22 Examination will not be permitted; however, follow-up

23 questions will be permitted as appropriate.

24 A court reporter will record the

25 interview. Please speak loudly and clearly. If you

1 do not understand a question asked, please ask that
2 the question be rephrased. Please answer each
3 question as fully as you can, including any
4 information that you may have learned from someone
5 else.

6 I want to thank you in advance for your
7 appearance here today. We appreciate your assistance
8 in this investigation. Your cooperation is critical
9 in making the nation's mines safer.

10 After we have finished asking questions,
11 you will have an opportunity to make a statement or
12 provide us with any additional information that you
13 believe to be relevant to the investigation. If at
14 any time after the interview is concluded you recall
15 any additional information, you're asked to contact
16 Norman Page, the lead accident investigator, here at
17 the mine academy at the contact information that was
18 provided in the letter that we provided to you this
19 morning. At this time, I'll have the court reporter
20 swear you in.

21 -----
22 GEORGE NELSON, HAVING FIRST BEEN DULY SWORN, TESTIFIED
23 AS FOLLOWS:

24 -----
25 ATTORNEY WILSON:

1 Okay. And George, I'll remind you that
2 --- wait for the questions we ask before you answer so
3 that the court reporter's able to get everybody down.
4 And John Godsey is going to start the questioning.

5 A. Okay.

6 EXAMINATION

7 BY MR. GODSEY:

8 Q. Your full name and spell your last name?

9 A. George W. --- George W. Nelson, N-E-L-S-O-N.

10 Q. Your home address and your telephone number?

11 A. It's (b)(7)(C)

12 (b)(7)(C)

13 Q. Telephone number?

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

15 Q. Are you appearing here today voluntarily?

16 A. Yes.

17 Q. How many --- approximately, how many years of
18 mining experience do you have?

19 A. Forty (40) and a half.

20 Q. Please just give us a little description of your
21 employment history, your mining history.

22 A. November the 4th, '69 I start out as a general
23 laborer at Eccles as a brattice man, ten months doing
24 that in general labor. Then in '70 --- then in '70 I
25 was put into a management training program for

1 Westmoreland Coal Company. That lasted for a couple
2 year. Then in '72 I made my papers at Eccles and I
3 started section foreman at Eccles, and then five years
4 --- three years later I was made general mine foreman.
5 Two years later I was made superintendent at Eccles
6 Five.

7 And gradually --- it's probably about seven
8 different mines I was the superintendent for
9 Westmoreland Coal Company. That relationship ended in
10 1994 when Westmoreland decided to close its operations
11 down in West Virginia. And at that time I was serving
12 as a safety director for Hampton Division.

13 Took a six months' vacation after that happened,
14 and then I worked at Maple Meadow. I worked at
15 another small operation and I was working at a small
16 operation as superintendent, Beckley Number Four, when
17 I took the job as safety director at Performance Coal.
18 Performance Coal, I was there from June of 2000 to
19 January --- I mean, December 2004 and when I took a
20 job with MSHA.

21 Q. Did you ever work in Virginia Division for
22 Westmoreland?

23 A. Where?

24 Q. In Virginia Division for --- I mean for
25 Westmoreland?

1 A. I've spent a lot of time down there back in the
2 '90s doing what they call a total quality management
3 program.

4 Q. Maybe that's where I saw you. What mining
5 certification do you have?

6 A. I have my West Virginia mines' certificate,
7 foreman certificate, mine foreman certificate.

8 Q. Okay. Do you have an EMT or ---?

9 A. It's elapsed.

10 Q. Are you presently employed?

11 A. Yes.

12 Q. And where are you employed at?

13 A. Coal mine inspector out in Mount Carbon Field
14 Office for MSHA.

15 Q. Okay. When did you start?

16 A. December of 2004.

17 Q. And your present job is a coal mine inspector?

18 A. Yes, sir.

19 Q. How much of time did you say that you spent all
20 the time with Massey, the amount of years?

21 A. That's the only time I'd worked for Massey, was
22 that period.

23 Q. Okay.

24 A. 2000-2004. That's about four and a half years.

25 Q. Was that UBB?

1 A. Basically at UBB.

2 Q. And why did you leave Massey?

3 A. I left Massey. I could not get insurance from
4 Massey at approximately ten years. That's what I'm
5 going to work. I couldn't get insurance and we tried
6 for about a month with several of the higher officials
7 to do that, so I took a job with MSHA. Basically
8 that's the reason I left.

9 Q. When did you become a authorized representative?

10 A. January 2006.

11 Q. When you was at Massey, what was your last
12 position?

13 A. Safety director at UBB, Performance Coal Company.

14 Q. And how long you say you had that?

15 A. From June 2000 to December 2004.

16 Q. Okay. Who was your supervisor or supervisors?

17 A. Frank Tosher was the overall safety director,
18 corporate.

19 Q. Uh-huh (yes). And who else did you report to?

20 A. The president of the coal company.

21 Q. Do you know who that was, who that was?

22 A. At that time, 2002, it's Bill Potter. He was the
23 second one. The first one we had was Terry --- I
24 forget his last name.

25 Q. Do you know how many --- how many mines were you

1 assigned, would you say?

2 A. Performance Coal Company at that time is Upper Big
3 Branch solely, but also the prep plant that I'm
4 responsible for.

5 Q. And did you have any safety inspectors assigned to
6 you?

7 A. For a short period of time, Jody Allen was an
8 assistant.

9 Q. What was his responsibility?

10 A. We would prepare safety topics. We'd do the
11 training. We'd do the ordering for safety material
12 and we'd do the CSE checks and basically that line of
13 thing.

14 Q. Who was responsible for the dust parameter --- I
15 mean, dust sampling up there ---?

16 A. Pardon me.

17 Q. Okay.

18 A. He was at that time until he left about --- he
19 left about a year before I did, and then I did it.

20 Q. Did you have to do the whole gamut? Did you go
21 through the placing them on, staying on the section
22 with the ---?

23 A. No, sir.

24 Q. Who did that?

25 A. At that time, no one.

1 Q. Did you or the safety inspectors, did they have
2 the authority to shut down a section of the mine or
3 prep plant whenever they found a hazardous condition
4 or a safety condition, health condition?

5 A. Yes.

6 Q. Did you ever do that or did he ever do it?

7 A. There was one time that I experienced an
8 underground operation at UBB when I was safety
9 director. I was making a routine exam, an audit, and
10 I shut a section, a miner down for low air.

11 Q. Do you know what area that was or ---?

12 A. No, sir, I do not.

13 Q. Did you get any repercussions from higher
14 management for doing that?

15 A. The mine foreman followed me right up there, right
16 behind me at that particular place. He told me I
17 cannot --- I better not shut his section down.

18 Q. So what happened?

19 A. I told him, any time I'm on a section that had low
20 air, they would be shut down.

21 Q. Did they do anything to you for that?

22 A. No.

23 Q. Did your safety inspector, did he ever have an
24 experience like that where he brought you aware of?

25 A. Not that I know of.

1 Q. What would you say the overall, during that time,
2 the overall safety attitude for management? Was it
3 safety over production or production over safety, in
4 your opinion?

5 A. I was involved at a high level with the corporate
6 safety. I mean, we had a corporate safety crew. Each
7 company had a safety director and we were sort of like
8 a group. And the S1 manual was developed primarily
9 out of that group. We had meetings once a month. In
10 those meetings, Mr. Blankenship would sit as close as
11 I am to you and Drexel and all the others at that
12 level.

13 At that period and at that level, I personally
14 thought there was a great deal of emphasis on safety,
15 because every lost-time accident that had occurred in
16 Massey was reviewed, investigated. And again, the S1
17 safety manual, those things had come and was
18 implemented in that book resulted from lost-time
19 accidents. Now, as I look back and look at that
20 level, I do believe that the level underneath that
21 particular level was not on board with the S1.

22 Q. Okay. Was that, like, from superintendent down
23 or ---?

24 A. From above the superintendent down.

25 Q. Now, who would that be? Who would that be, like

1 the president or ---?

2 A. That particular president, Bill Potter, he was on
3 board. But there's one or two. Again, I can't
4 remember his name, but I don't think they was totally
5 on board.

6 Q. What was his position?

7 A. Bill Potter was president.

8 Q. No, the one who wasn't on board? You said there's
9 one there ---?

10 A. He's general mine foreman.

11 Q. Okay. General mine foreman.

12 A. Uh-huh (yes).

13 Q. Did you all work on that or what was the outcome
14 of it later on after you all ---?

15 A. I kept doing my job, but another instance
16 happened. And again, it relates back to the same
17 gentleman. I was turning one end of our intake air
18 course or --- and he was traveling another, and we was
19 going to meet in the middle. Something happened. I
20 don't know what was said or something that one
21 inspector brought up, and then I was there and I
22 witnessed it, but he and I got into it again, a very
23 heated discussion.

24 Q. And what was the problem?

25 A. I don't remember the details of that.

1 Q. You don't remember them? Do you remember any
2 other occasions that you had a problem like that? Or
3 either --- maybe something your safety inspector
4 talked to you about?

5 A. I didn't have any. There's one more that's very
6 noticeable, as I recollect, is that we had an
7 electrician on third shift get into a power while
8 making a routine electrical check. I was told he's
9 found face-down prone, in a prone position, and they
10 brought him outside. I had to make a decision whether
11 to call MSHA and the State or not.

12 And at that time with electrical --- being in
13 contact with electrical components, lying face-down in
14 mud, prone, I thought that was a legitimate reason to
15 call someone, because you don't know what's the ---
16 well, it could be a fatality. I proceeded to the mine
17 and the supply house, the warehouse and I got a call
18 from Barry Hale. He was president of Route 3 Company,
19 the whole outfit of Route 3.

20 He told me, I don't want you shutting that section
21 down. I said, Barry, I'm going up to do my job. I'm
22 going up to do that investigation on the man that just
23 got --- I don't know, into power. All right. Hung
24 up. I got out to go on the mantrip, got another phone
25 call, went back inside the warehouse. It's Barry Hale

1 again. George, don't you shut that section down. I
2 said, I'm not shutting any section down that I know
3 of. I'm going up to do my job. I'm going to
4 investigate this accident. And I let it go and I went
5 up, investigate the accident.

6 Q. Did he say anything to you after that?

7 A. That evening in the office as I come back to the
8 office ---. We share a room. I was in one room.
9 Adjacent was his room. I was at my seat doing
10 something. He come in and he bent over my desk and he
11 said, George, I wasn't trying to interfere with your
12 job today. I apologize. I said, yes, you was. But
13 that's about the end of that.

14 Q. Did you know of any other instance where they had
15 those serious accidents, they didn't notify MSHA?

16 A. No, no, that would --- no, I don't.

17 Q. Okay. What conditions at the mine would require
18 immediate notification of people above the
19 superintendent of the mine? You know, what would ---
20 like, production down or the longwall down or miners'
21 section down, what would require to be --- to call,
22 notify upper management?

23 A. All those that you stated.

24 Q. Who would do that?

25 A. Superintendent, mine --- well, probably the

1 superintendent. Or again, the shift supervisor on the
2 other shifts.

3 Q. The only time that they'd call out for, say, low
4 air or production down or something, that they ordered
5 the sections or crews to go back to work?

6 A. No.

7 Q. Can you just kind of describe the management
8 structure at UBB, how it --- what's the rank of it or
9 what the order of it is?

10 A. Well, you said UBB, but we --- Performance had a
11 president ---

12 Q. Oh.

13 A. --- so you had the superintendent, general mine
14 foreman, assistant general mine foreman, section
15 supervisors, foreman outby. Evening shift you had a
16 shift supervisor, a section foreman, and a outby
17 foreman.

18 Q. Okay. And right above the superintendent, how was
19 it, like president or assistant or ---?

20 A. At that time we had a gentleman there between the
21 superintendent and the president. He was a vice-
22 president at that time, Eddie Lester.

23 Q. Now, you was talking --- you talked earlier about
24 an individual that got hurt. Was it important for
25 Performance Coal, whatever, to have a person to be put

1 on light duty other than --- or fill out lost-time
2 accident, place them just around the mine office?

3 A. Yes.

4 Q. How often would this happen, roughly?

5 A. I remember one time when there was getting to be
6 too many people out, and that's all. I can't ---
7 don't know the time.

8 Q. Okay. Do you know of any occasion that ---- or
9 was it a program for when someone was hurt, that they
10 would take them to the hospital, that safety --- you
11 or some other person would meet them at the hospital
12 to meet the injured?

13 A. Yes, as a normal course.

14 Q. And do you know of any occasion that someone from
15 management discussed anything with the doctor and he
16 was going to put him on --- have him lay off for a
17 while, but they put him on light duty?

18 A. No. Usually I was the only one there. I mean, I
19 don't know why ever for.

20 Q. Okay. You're talking about you had inspectors
21 there. Did you all have a plan how to notify that
22 when an MSHA inspector or State inspector arrived on
23 property, how to notify underground?

24 A. I wasn't privy to any of that. I don't know.

25 Q. Are the walk-arounds or the mine personnel,

1 management personnel who walk around with the
2 inspectors, are they trained in a procedure how to act
3 or how to conduct that with --- conduct it with the
4 inspector, like keep notes and pictures and --- I
5 mean ---.

6 A. At that time, no.

7 Q. Are you aware of anything now? Has anybody ever
8 talked to you?

9 A. Recently in the last two years I've been --- I've
10 had management from Massey travel with me, and they
11 call it --- I called it knapsack. They got cameras.
12 They got tape recorders. They got tape measures.
13 They got a lot of things in that knapsack to travel
14 with the inspector now.

15 Q. Do you know who they report that information to,
16 they give it to or they ---?

17 A. The one I'm familiar with now would be the
18 president of the company.

19 Q. And that would be --- do you know his name?

20 A. Larry Ward.

21 Q. Is it encouraged or discouraged for miners to be a
22 representative to travel with an inspector? Does the
23 company, or did the company when you were there, did
24 they, the company people, I mean, the miners travel
25 with the inspectors?

1 A. That's not a practice, no, that I know.

2 Q. You don't know of any time that the company --- I
3 mean, a miner asked to travel with an inspector?

4 A. I don't recall, no.

5 Q. What other jobs have you performed at UBB?

6 A. Well, the safety --- the safety director at UBB or
7 Performance Coal got --- it started being
8 re-evaluated. I tried to spend all the time I could
9 with inspectors. That was frowned upon, but I made a
10 point to try and do it anyway. We did audits. I mean
11 that was --- we did audits, monthly audits underground
12 or at the prep plant.

13 But eventually it got to be where --- more
14 paperwork. I was doing more paperwork than I was
15 anything else. I was chosen to put on a management
16 training class here at the Academy for all of Massey's
17 foremen. And that's 23 of them. We did do that.

18 I was called on by --- to develop a strain and
19 sprain clinic, which I did, and that took a lot of
20 time. So that took a lot of my time away from the
21 mine in the latter part of it while I was there.

22 Q. What would you say at the time was Massey's
23 attitude towards the miners? How did they treat the
24 miners?

25 A. My experience with them, average.

1 Q. Could the miners go and talk to the
2 superintendent? Was he free to go talk to him at any
3 time or ---?

4 A. Yes.

5 Q. When was the last time that you were underground
6 at UBB?

7 A. I don't recall.

8 Q. Do you know of any times that the longwall or any
9 of the sections had a floor outburst of methane or a
10 problem with methane on the floor?

11 A. Yes.

12 Q. When was this?

13 A. It occurred twice. I think the last time was in
14 2003, maybe. I'm not sure, but there was two
15 occurrences that I'm aware of when I was --- while I
16 was there.

17 Q. Do you remember where they were?

18 A. On the longwall. I don't know what panels they
19 was on.

20 Q. How long were they --- were they down for any
21 extended period of time?

22 A. Three, four days.

23 Q. Is that for each occasion?

24 A. I remember the last one being down for an extended
25 period. Maybe --- I know the last one was down three

1 or four days.

2 Q. How about floor heaving in other areas of the
3 mine, other than outburst, but floor heaving due to
4 overburden or stuff?

5 A. I never noticed that much on the UBB side, but on
6 the Hazy's --- on the other side of the Hazy Portal I
7 noticed some hooving.

8 Q. To what extent was --- I mean, how much area did
9 it encompass, you know, on the section or ---?

10 A. Just on the section.

11 Q. How high up and how much?

12 A. It was several feet over on the other portal side.

13 Q. What problems did that cause you?

14 A. Well, your equipment gets stuck and couldn't move.

15 Q. That's what I was getting at. Do you all --- did
16 you ever look at the overlays and stuff, that overlap
17 the mine?

18 A. I'm sure we did on the other side with inspectors.

19 Q. Did that ever concern you with the Powellton seam
20 right above miners giving you all problems while you
21 were driving the longwalls or sections?

22 A. Personally, yes.

23 Q. What concerns did you have?

24 A. Well, anytime --- you know, the caving of the
25 longwall produces a high cavity, and you don't exactly

1 know where it's going to end up at. But once that
2 happened, with the floor breakage at --- for the Lower
3 Eagle, that also was a concern because that's happened
4 then and it's happened since then.

5 Q. Lower Eagle, is that where the seam was below them
6 that usually gives ---

7 A. I'm told that, yes.

8 Q. --- gives them a problem? Do you know
9 approximately how far it is below them?

10 A. Recently I told you, it's 20 feet.

11 Q. Were you ever worried about water above the mine
12 in the upper seam?

13 A. No.

14 Q. Do you know of any time they had problems with
15 water?

16 A. I can't recall.

17 Q. Okay. On the map there it shows that they've got
18 --- parts, parts of the longwall were pulled and they
19 were stopped. Do you know even on the wall map ---
20 you know, down in the lower area. And then you got
21 areas that were left in the mine. Do you know why
22 that was done?

23 A. Due to --- what really comes to, the rock. That's
24 all I can remember, the rock and low recovery rates.

25 Q. Did they have to --- they mined a lot of rock on

1 the section?

2 A. Yes.

3 Q. Did you know of any time that the longwall was
4 maybe mined through a gas well, closed or otherwise?

5 A. I don't recall that, no.

6 Q. Would you ever --- do you all ---? Can you name a
7 time that when they had an encounter with an unplotted
8 gas well, one that was there but it wasn't shown on
9 the map?

10 A. I don't recall.

11 Q. All right. Were you aware of any times, any
12 conditions that required all or part of the section to
13 be evacuated, the mine to be evacuated?

14 A. Those two instances were the gas inundation.

15 Q. Do you remember how much methane, highest level,
16 methane level they got on that?

17 A. Extremely high. I couldn't tell you exact.
18 Extremely high.

19 Q. Did you have any injuries due to it?

20 A. Not that I know of.

21 Q. Do you remember that longwall face, about where it
22 was?

23 A. No, I don't remember that.

24 Q. Were they --- was the longwall panel side by side
25 that it happened to, that happened on this one and

1 then maybe the next rib on another one, on the next
2 panel?

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

4 Q. Do you remember if any time that a shift --- or a
5 shift that was cancelled due to an unsafe condition or
6 a health problem at the mine?

7 A. Outside the gas, I don't --- I don't recall.

8 Q. Back then, did you all have any problem --- do you
9 remember having problems with the ventilation system?

10 A. At that particular time with that gas inundation,
11 they had difficulty. Again, I can't tell you the
12 logistics of that, but I do remember. I was in there
13 with the superintendent. We was trying to --- and
14 several other people --- trying to reroute and get
15 that return air, open that return side up more on that
16 longwall panel, but I can't tell you exactly where
17 now.

18 Q. How many times did --- were ventilation changes,
19 unapproved ventilation changes, made at the mine, are
20 you aware of?

21 A. None that I know of.

22 Q. Do they have a method of how to know if the
23 longwall's running or not? Do they have a way of
24 measuring amperage or voltage or anything on the
25 surface to know when it's running?

1 A. It seems like they do, but I can't tell you why.

2 Q. Were you aware or do you ---? Tell me, do you
3 know any times that Massey or any of the --- you have
4 ever caught a miner methane monitor being bridged or
5 something placed over the methane monitor where it
6 would make it non-functional?

7 A. No.

8 Q. Do you know of anyone that was asked not to report
9 an accident?

10 A. Not specifically. I don't recall the name,
11 but ---.

12 Q. But could it have happened or did it --- do you
13 know?

14 A. It could have happened.

15 Q. When you were there, who was in charge of
16 ventilation at the mine?

17 A. At that time, the superintendent.

18 ATTORNEY WILSON:

19 Terry?

20 MR. FARLEY:

21 Okay.

22 EXAMINATION

23 BY MR. FARLEY:

24 Q. George, let me start with a few clarifying
25 questions, and then I'll back up on some other things

1 here. You mentioned an event where the mine foreman,
2 during your time as safety director at UBB, where he
3 said you had better not shut --- you had better not
4 shut down this section. Who was that mine foreman?

5 A. M.C. Petry.

6 Q. Okay. You also indicated that you were involved
7 in the development of what was called the S1 Program
8 in which you --- in doing so and other times met with
9 people like Mr. Blankenship, who was CEO and Drexel
10 Short, who was a high-ranking officer; is that
11 correct?

12 A. Yes.

13 Q. And then you indicated that you thought that the
14 people on that level wanted to emphasize safety in the
15 program, but you felt the level below did not have the
16 same commitment. Why?

17 A. Well, their attitude toward, again, the safety
18 audits that we would do, other conversations that
19 you'd hear being conducted with other people,
20 basically.

21 Q. Okay. Do you believe that the people at the lower
22 level didn't believe that the people on the upper
23 level were serious?

24 A. I think they was getting two different messages,
25 because the ones that they get in contact with, they

1 hear and they see, and they go to some of these
2 meetings, also, and they hear the upper level, but
3 then it comes back to everyday living. Sometimes it's
4 a little bit different.

5 Q. Okay.

6 A. So they was getting two --- you can't tell, you
7 know, tell a guy two different things and expect him
8 to ---

9 Q. Okay. Now, ---

10 A. --- get the right answer.

11 Q. --- the meetings you described included yourself
12 and other safety directors and the corporate person,
13 along with CEO and chief operating officers. Were
14 there other meetings possibly with the CEO and chief
15 operating officer and the company presidents where
16 safety personnel were not included?

17 A. They had those meetings, yes.

18 Q. Okay. You mentioned the incident where the
19 electrician on the third shift apparently received a
20 severe shock, was found face down in the mud, and an
21 episode involving Barry Hale. Do you recall the time
22 frame of that? When did that occur?

23 A. I don't recall the exact time.

24 Q. Okay. You also mentioned something that you
25 referred to as a knapsack, carried by people traveling

1 with inspectors, which would include camera, tape
2 recorder, et cetera. Was a tape recorder used at any
3 time to record conversations without the knowledge of
4 the person being taped?

5 A. I never noticed that happening. And again, a lot
6 of that would come from the president of the company
7 down to those superintendents and mine foremen saying,
8 now, this is what we want. This is what we want. But
9 ---

10 Q. Uh-huh (yes).

11 A. --- in actuality, very few of those things were
12 used.

13 Q. Okay.

14 A. They was made to do that because at --- since that
15 time, and during my inspection, if I might include,
16 they operate by fear at the one coal company that I'm
17 --- that have been inspected. Their fear to losing
18 their jobs. They're afraid to do this and they're
19 afraid to do that.

20 Q. Now, which company's that?

21 A. That's Mammoth Coal Company.

22 Q. Okay. Now, does that intimidation and fear factor
23 come from the company president and lower ranking
24 officers or does it come from the corporate level?

25 A. The president of the company.

1 Q. Okay. Who would that president be?

2 A. Larry Ward.

3 Q. Okay.

4 A. Whenever you hear --- again, while they
5 participated in the inspection, traveling it --- I'm
6 going to lose my job. I'm afraid to call him. If you
7 write this this way, I'm going to have to go down and
8 talk to him. Those things happened after my initial
9 inspection the first time at this coal company, where
10 I issued nine orders and so many violations.

11 So now the second time I'm there, you know,
12 they've got this method that they're going to show the
13 --- or intimidate the inspector. I don't know what it
14 was, ---

15 Q. Okay.

16 A. --- but they was afraid. I mean, there probably
17 wasn't a violation issued. He's going to fire me if
18 you write that. He's going to do this and going to do
19 that. And that's the way it is.

20 Q. All right. Okay. And this was at Mammoth?

21 A. Yes.

22 Q. Okay. Now, if I understand correctly, you have
23 not inspected at UBB?

24 A. No, sir.

25 Q. Okay. Now, I think you answered a question about

1 a couple of occurrences on the UBB longwall during
2 your tenure there where there was a methane outburst
3 on the floor; correct?

4 A. Uh-huh (yes). Yes.

5 Q. Now, in either or both of those two incidents,
6 instances, were these events investigated by MSHA
7 and/or the Office of Miners' Health, Safety and
8 Training?

9 A. Both agencies were there.

10 Q. Okay. But you don't recall the day?

11 A. No, not exactly.

12 Q. Okay. Do you recall if a document was produced
13 after either of those two incidents that might have
14 been submitted to the Upper Big Branch Mine people?
15 Was there a report done by either agency and shared
16 with the UBB Mine personnel?

17 A. I don't recall that, but I do recall the operator
18 with Upper Big Branch had submitted a plan on how they
19 was going to correct the situation. I don't remember
20 the other.

21 Q. Okay. Do you recall the details of the plan?

22 A. No, I don't.

23 Q. Okay. During your time as safety director at UBB,
24 which was 2000 to 2004, approximately, when you had to
25 tell management about safety problems, would you feel

1 uncomfortable in having to do so?

2 A. No, I didn't feel uncomfortable.

3 Q. Okay. Because I know you described a situation

4 here in recent times at Mammoth where folks appeared

5 to be in fear of losing their jobs if they have to

6 tell someone about a safety problem; is that ---?

7 When you were safety director at UBB, did you normally

8 send in a monthly report to the chief operating

9 officer or the CEO regarding mine conditions?

10 A. No.

11 Q. Okay. During your time there, did anyone ever ---

12 during your time at UBB, did anyone ever come to you

13 about low ventilation problems, any of the miners?

14 A. I don't recall.

15 Q. Would it have been unusual for any of the miners

16 to come to you at any time about any safety problem

17 while you were at UBB?

18 A. Again, I can't give you an exact who, ---

19 Q. Okay.

20 A. --- what, when, but they have come some. Again, I

21 don't know, but all --- there were some that felt they

22 could do that.

23 Q. Yeah, okay. Now, I know you said you were

24 involved in the development of the S1 policy. Was it

25 your duty to enforce that policy, also?

1 A. Yes.

2 Q. Okay. Did you meet with resistance from the mine
3 personnel management folks from the president on down
4 in attempting to do so?

5 A. Not with the president at that time, but the lower
6 levels, like I've stated before, I had resistance,
7 yes.

8 Q. Okay. During your time there at UBB, did Massey
9 have group meetings with mine management and safety
10 directors regarding accidents?

11 A. At times, different levels of management, the
12 operations' people, were invited to those meetings,
13 but not an every day, every month ---. No, just
14 sometimes, if that's what you're asking.

15 Q. Okay. Whenever you were planning to make ---
16 making a decision during your time as safety director
17 at UBB, did you have to seek counsel at the corporate
18 level before you made the decision?

19 A. No.

20 Q. Okay. During your time as safety director at UBB,
21 did you at times feel that your workload was so
22 overwhelming that you couldn't properly do your job?

23 A. Yes.

24 Q. Okay. Was that constant?

25 A. Every day.

1 Q. Okay. Do you feel like the people in other
2 positions with the company had the same feeling?

3 A. Yes.

4 Q. Okay. Is it possible that employees such as
5 underground supervisors might be subject to take
6 shortcuts because of that pressure that they felt?

7 A. It would be conceivable.

8 Q. Okay. Was there a safety bonus plan while you
9 were safety director at UBB?

10 A. They told me there were. I was never involved
11 with that particular --- the safety department wasn't
12 involved with that.

13 Q. All right. During your time as safety director at
14 UBB, was it your practice to use airlock doors instead
15 of building overcasts?

16 A. Both of them is used.

17 Q. Okay. Why would ---?

18 A. On the mainline. Pardon me. On the mainline
19 there was airlock doors, but ---.

20 Q. Why would they choose to use airlock doors as
21 opposed to building overcasts?

22 A. Well, the airlock was primarily in the track, and
23 that just keeps more pressure up toward the face.

24 Q. Okay. At the time, did you have any particular
25 opinion about the use of doors as opposed to

1 overcasts?

2 A. The doors I'm thinking would be --- overcasts
3 wouldn't be appropriate.

4 Q. Okay.

5 ATTORNEY WILSON:

6 Davitt?

7 ATTORNEY MCATEER:

8 Certainly.

9 EXAMINATION

10 BY ATTORNEY MCATEER:

11 Q. Thank you for coming today, just for being here
12 today. Is Mammoth Coal Company a part of the Massey
13 Company?

14 A. Massey?

15 Q. Uh-huh (yes).

16 A. Yes.

17 Q. Okay. The knapsacks, what do they look like?

18 A. Well, I call them that. It could be a backpack.
19 It looks like something my grandchildren would carry
20 to school.

21 Q. I mean, does it have a Massey logo on it or ---?

22 A. No, I don't think so. No.

23 Q. I just haven't heard of this. And it would be ---
24 describe for me. You said --- what was in it?

25 A. Well, I didn't, I didn't pry into all of it, but

1 they told me what was in it and ---.

2 Q. Can you recall what they told you was in it?

3 A. Well, the tape line and the cameras, rulers and
4 everything they might need to contest a violation.

5 Q. Any forms in it, piece of paper?

6 A. I don't ever recall that.

7 Q. And just in your experience, this one came out on
8 your second inspection?

9 A. I think the second quarter I was at this
10 particular mines. Well, the superintendent got
11 demoted during the first quarter, and I guess he was
12 afraid of his job. He got demoted. Wayne Persinger
13 was brought in then.

14 Q. Oh, Wayne Persinger came in as a superintendent?

15 A. Yeah.

16 Q. Who was demoted?

17 A. Mike Burke was the superintendent.

18 Q. Okay. So Wayne was carrying that knapsack?

19 A. Wayne didn't carry, no. He didn't usually travel
20 with them.

21 Q. Okay.

22 A. Let me tell you while we're talking about the
23 Mammoth, if it's not too far-fetched, it ain't too
24 migrating off the subject.

25 Q. All right.

1 A. January 2009 we received a complaint at the Two
2 gas. That's another Mammoth Mine. That the intake
3 primary escapeway was frozen over. I investigated
4 that, and the intake escapeway was frozen over. It
5 looked like 10 feet high, 17 feet wide. Going into
6 your emergency escape capsule, you couldn't go that
7 way and you couldn't go this way. And I issued two
8 orders and pulled the men out of the mine. That's in
9 the --- being contested now.

10 The only thing they had done at that time --- I
11 asked the superintendent, which by the records he knew
12 the ice was there. And there's other things that you
13 do. He was putting on liquid salt on this humongous
14 piece of ice. That's bad.

15 Q. Uh-huh (yes). I'm going to tell you, go back to
16 the earlier testimony to pick up a few pieces. You
17 said the safety department was not involved in the
18 safety bonus system?

19 A. No. Now, is the monetary part --- if that's what
20 you're referring to, no, I don't think we were. But
21 they had another incentive where there was awards and
22 stuff like that later on that was developed which we
23 could participate in. We'd get gifts, whatever you
24 want, you know.

25 Q. And then you individually could participate in

1 them or that the department was consulted, but your
2 job --- it was made part of your job to rank or
3 achieve or decide who got the award?

4 A. Well, that was all formulated in the SDG meetings,
5 how many --- and then, you know, it went company-wide
6 on how that ---.

7 Q. But in the monetary bonus awards section, did you
8 ever review any part of that safety system for
9 bonuses?

10 A. No.

11 Q. Now, going back to the outbursts of 2003 and 2004,
12 did you participate in the investigation of those as a
13 safety director?

14 A. Yes.

15 Q. And did you participate in any plan, the
16 development of the plan post those events?

17 A. Close to the event?

18 Q. You know, after the event happens, MSHA and the
19 state ---

20 A. During ---.

21 Q. --- came in; right. And then you've testified
22 that there was a plan developed to deal with it. Did
23 you sit in on those?

24 A. No. I knew the person that did it, but I wasn't
25 asked to participate.

1 Q. And there was a meeting on the 26th of May of 2004
2 and the ---. Mr. Comer, president of New River Energy
3 Corporation, are you familiar with him, Tim Comer,
4 C-O-M-E-R? Okay.

5 A. No.

6 Q. George Levo, senior mining engineer at Performance
7 Coal Company?

8 A. Yeah.

9 Q. Okay. Mike Millen, Performance Coal Company?

10 A. Yes.

11 Q. What did Mr. Millen do?

12 A. He was a chief engineer for the company.

13 Q. And Bill Potter, Performance Coal Company?

14 A. President.

15 Q. President.

16 ATTORNEY MCATEER:

17 I'd ask that we make part of the record,
18 this document.

19 BY ATTORNEY MCATEER:

20 Q. And then I'm going to --- Mr. Foreman, I'm going
21 to ask you to take a glance at this document to see if
22 you have any familiarity with it or anything. There
23 are two documents, one is dated July the 15th, stamped
24 July the 15th. And the second is dated or --- is
25 dated, actually, the 4th of March.

1 WITNESS REVIEWS DOCUMENTS

2 BY ATTORNEY MCATEER:

3 Q. And my question with regard to those documents,
4 did the safety department have input into the
5 modification of the plans for mining post ---
6 following these two incidents?

7 A. Not that I recall, no.

8 MR. GODSEY:

9 Okay. Should we put exhibit numbers on
10 those?

11 ATTORNEY WILSON:

12 Nelson One, Nelson Two?

13 (Nelson's Exhibits One and Two
14 marked for identification.)

15 BY ATTORNEY MCATEER:

16 Q. Was there any time during the time you were safety
17 director at Upper Big Branch that you had involvement
18 in the development of ventilation plans at that mine?

19 A. No.

20 Q. I mean, you'd been around the business a while.

21 A. Yeah.

22 Q. Unless you are using gray-in to make yourself
23 distinguished, you're like me. You look a little gray
24 in around here (indicating).

25 A. As my doctor told me, we're not spring chickens

1 anymore.

2 Q. This is true. What were the reporting mechanisms
3 that you were aware of in 2004 for production
4 reporting that you were aware at Upper Big Branch,
5 production reporting requirements up the chain?

6 A. I wasn't really involved with all that. I know
7 that they had to call out daily their production
8 reports, and then I do know that they had a
9 overwhelming job at the end of the shift. It looked
10 like --- I said, you know, I wouldn't want to do this
11 no more, but there was seven or eight forms they had
12 to fill out before they left.

13 Q. At the end of each shift?

14 A. Yes. And I just was overwhelmed.

15 Q. Sure.

16 A. Yeah.

17 Q. What were those forms?

18 A. Production forms, and they have the down time and
19 how long it take you to get this cut and how long it
20 take you to bolt this place and how long it take you
21 to install that bolt? I mean things like that. Now,
22 I just wasn't involved with a lot of that, but I
23 wasn't around. I saw that they had to do that.

24 Q. Now, what about the reporting on safety issues?

25 Did you have daily reports, weekly reports, monthly

1 reports? I know you had the audits. You testified
2 about that.

3 A. Well, the audits was pretty detailed. I study a
4 lot of things. We would publish about --- the
5 information received by other accidents that I would
6 --- locally, and I could put out to the mine site,
7 too. We did that individually, as well as company
8 that might be of service at a safety meeting ---

9 Q. Sure.

10 A. --- or something like that. But no, the only
11 reports I would have to do would probably --- if we
12 had a lost-time accident, I'd have to develop the
13 format that --- they had a format you filled out, and
14 then I'd do an investigation to determine what caused
15 that.

16 Q. Do you remember the form number name, lost-time
17 accident report, or ---?

18 A. No.

19 Q. When the lost time --- if you did have a lost-time
20 accident --- I'm sorry. Let me go back and ask an
21 earlier question. Were contract employees used at the
22 mine at this time?

23 A. Yes.

24 Q. Do you know what company they were from? David
25 Stanley.

1 A. Sir?

2 Q. David Stanley? Does that ring a bell? If it
3 doesn't, it doesn't. That's fine.

4 A. No.

5 Q. So if a contract --- if a contract employee had an
6 accident, how was that reported?

7 A. Well, we still --- we had to keep --- I mean, we
8 kept track of contract employees, too.

9 Q. Okay.

10 A. Yeah.

11 Q. You'd fill reports out?

12 A. Yes.

13 Q. Those reports ---?

14 A. I did --- I did on the --- at the safety group
15 meeting. And then they did at the mine site.

16 Q. Right. I'm talking about the mine site if we have
17 an injury to a contractor employee?

18 A. Accident.

19 Q. Okay. And on to standard employee, a Massey
20 employee. Can you tell me how those were handled?
21 Were they the same or were they different or reports
22 different?

23 A. Not that I know of, no.

24 Q. Okay. So you would have filled out the same
25 report?

1 A. Yeah.

2 Q. Okay. Did you ever have a contractor have an
3 accident during your time there?

4 A. Yes.

5 Q. You said the Lower Eagle was, you thought, 20 feet
6 --- the seam was 20 feet below?

7 A. That's what I was told recently at another mine.

8 Q. What kind of floor was at Upper Big Branch when
9 you were there, sandstone, what, solid ---?

10 A. It's laminated.

11 Q. Okay.

12 A. Mixture. Don't remember it being so much
13 sandstone.

14 Q. Okay. You said you'd took part in a training
15 program here at the Academy for Massey employees.

16 What was that training program about?

17 A. I was asked to develop with Sharon Casto and John
18 --- I forgot his name, but we put together a program,
19 an eight-hour program here at the Academy, in fact, in
20 this room right here, that we conducted. Primarily
21 taking responsibility for your job, and I really
22 zeroed in on the production foremen, and primarily the
23 section foremen, those that really had the direct ---
24 more direct interrelationship with the people, and how
25 a section foreman is viewed.

1 I mean, section foremen these days wears a lot of
2 different hats. He's got to be a lot of different
3 things to a lot of different people. And that's
4 primarily what it was.

5 Q. Did you focus on pre-shift examination?

6 A. That was another --- Massey had done another
7 program where they had their people come. That wasn't
8 this particular one I'm talking about.

9 Q. Okay. Did you participate in the pre-shift
10 examination ---?

11 A. Yes.

12 Q. Was that here, as well?

13 A. Yes.

14 Q. In this room?

15 A. No, not here.

16 Q. Okay. And can you tell me what that grew out of,
17 pre-shift training?

18 A. That was something developed without me
19 participating. I couldn't tell you exactly what ---

20 Q. Okay.

21 A. --- that was probably for. But I know the State
22 was involved with some of that, the filming and stuff,
23 I was told.

24 Q. Do you remember anything about a spat of accidents
25 that occurred, fatal accidents occurred at the Massey

1 operations in 2000? No?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Okay. Was there a time when during your time
6 there --- was there a time when the contractor
7 employees were cut back, the number of contractors was
8 cut back or ---? Do you remember any particular
9 change in the ---?

10 A. I don't recall. It seems like maybe they were,
11 but I just can't recall.

12 ATTORNEY MCATEER:

13 Okay. That's all I have right now.

14 ATTORNEY WILSON:

15 You want to take a short break? All
16 right. Let's go off the record.

17 SHORT BREAK TAKEN

18 ATTORNEY WILSON:

19 All right. Let's go back on the record.

20 John?

21 RE-EXAMINATION

22 BY MR. GODSEY:

23 Q. Okay. You said earlier about the people that
24 travel with the inspectors. They would be taking tape
25 recorders and all that stuff to try to fight the

1 citation stuff. Did they ever have a program where
2 they would take those citations and try to look at
3 them and see what caused them, how they could prevent
4 and get immunity? Would they just spend most of their
5 time fighting the citations or see the reason why they
6 got the citation?

7 A. Well, that's just recently that I'm familiar with
8 on the backpack, but while at UBB, and I try to do
9 that for everybody, I would list --- I mean, I kept a
10 record on the computer about all the citations and
11 where all the trouble spots are at and the directions
12 that we should be concentrating on to try to get those
13 citations reduced. And I did do that.

14 Q. How did that work out?

15 A. Well ---.

16 Q. Did it go --- management help you with it or back
17 you on it?

18 A. Little to none.

19 Q. Do you know of any time that you all had ignition
20 on the longwall or sections at UBB?

21 A. I don't recall.

22 Q. How about tailgate blockages?

23 A. Yes.

24 Q. Was it a recurring event or ---?

25 A. It'd be --- it was a regular thing, as I remember,

1 on the longwall.

2 Q. Did the roof hang in behind the longwall for any
3 good distance or did it fall right on top, back of the
4 --- back of the shields? Did it hang much before it
5 fell?

6 A. That's happened both times. I mean, there are
7 different incidences where it would --- that occurred.

8 Q. Okay. We talked earlier. Did you feel that the
9 ventilation at that mine was adequate at all times at
10 UBB?

11 A. With what I --- in my travels and then with what I
12 would overhear, maybe ---. It seems like the
13 ventilation at UBB was --- it's close, if you know
14 what I mean? It's close one way or the other at the
15 time when I left.

16 Q. Did they have a blowing system all --- since you
17 were there all the time?

18 A. Uh-huh (yes). Yes.

19 Q. Did you ever catch a --- or when you was in the
20 mine, did you ever see a miner without line curtain?

21 A. I can't recall that. But again, we were --- going
22 back to what I --- I had caught them with low air, so
23 --- you know. They might have had curtain, but they
24 didn't have enough air at that particular spot.

25 Q. If a miner made a safety issue, brought a safety

1 issue up to management, what --- would they have any
2 retaliated toward, or how were they treated if they
3 had a safety problem and went to a superintendent,
4 mine foreman, and how would they receive them? Or
5 would it do a thing to them?

6 A. With the management that they had at
7 superintendent level there, I think they would listen
8 to him and no repercussions.

9 Q. Were you involved in any of the decisions where
10 --- when and where to rock dust?

11 A. Not unless it would come out on one of my audits.

12 Q. Did they have a schedule for rock dusting like a
13 service shift?

14 A. Yes.

15 Q. When was that?

16 A. Primarily on third shift, if I remember correctly.

17 Q. Is that every night or during the week or ---?

18 A. Every night.

19 Q. Who was involved in making decisions where to rock
20 dust?

21 A. Superintendent, general mine foreman.

22 Q. How much rock dust would they have to apply when
23 they did it, average? Thick, thin coating?

24 A. What I visually saw was thick. It was well rock
25 dusted.

1 Q. Okay. I asked you earlier about if an inspector
2 would arrive on the property, what mechanism did you
3 all do to notify underground, how did you notify that
4 there was an inspector there that was going to be
5 going underground? Did you all have a mechanism for
6 that?

7 A. Well, I thought the question was a while ago
8 giving advance warnings ---

9 Q. Yeah.

10 A. --- if he's just getting on the property, but once
11 he's on our property, they would call and let people
12 know that, yeah. Or then they get --- you have to get
13 permission, I mean, with the inspector. If you go
14 from one point to some point, you got to have access
15 to the roadway.

16 Q. Was a security gate there when y'all --- when you
17 enter?

18 A. Yes. Yeah.

19 Q. Did the security officer ever report up to the
20 mine that the inspector was on his way up?

21 A. That might have been the practice. I wasn't
22 involved with that.

23 Q. Where were you at the time of the accident? When
24 you heard about it, where were you when you heard?

25 A. Don't recall.

1 Q. You don't. Did you have any ---? Did you come
2 down to UBB during the recovery of the --- after the
3 accident happened, did you come to work on the surface
4 or anywhere, any part of the recovery after the
5 explosion?

6 A. You're talking about the recent explosion?

7 Q. Yes. Yeah, April 5th.

8 A. Okay, okay.

9 Q. Well, was there one before that?

10 A. No, no, no. That's plenty. No, I've never been
11 back to UBB.

12 Q. Do you have anything else you'd like to bring to
13 our attention that we didn't ask you or I didn't ask
14 you?

15 A. No. I think --- I think some of the points you're
16 trying to get to ---. Again, the upper level people
17 that we referred to, I left with the impression at
18 those meetings and all the work that they required to
19 be done that they were concerned with safety.

20 But again, on the other hand, if I was up here
21 (indicating) and those guys underneath of me right
22 here, they would be concerned for safety, too. And I
23 think they lacked some of that. Again, I referred to
24 the Mammoth Coal --- the Two gas and the ice blockage.
25 I think that's representative of some of the Massey

1 management skills here that continues.

2 Q. Do you know of anyone else that we might be able
3 to talk to and we can get some information or would
4 give us some information on this accident?

5 A. Danny Jarrell.

6 Q. What ---?

7 A. I think he's a State inspector now. We had
8 another person. He's a MSHA inspector. He just
9 recently went to Massey at Upper Big Branch. I don't
10 know, he's an outby foreman.

11 Q. Who was that?

12 A. Denny Hughes. I don't know.

13 Q. Where's he work at now? I mean in what ---?

14 A. He's at Mount Carbon Field. He's an inspector
15 with us.

16 MR. GODSEY:

17 That's all I have.

18 ATTORNEY WILSON:

19 Terry?

20 RE-EXAMINATION

21 BY MR. FARLEY:

22 Q. A couple, George, please. You described the
23 incident where you had the encounter with Barry Hale.
24 After that encounter with Mr. Hale, did you share that
25 incident with the corporate safety director or the

1 chief operating officer?

2 A. I don't recall that specifically, Terry.

3 Q. Okay. All right. Now, after your encounter with
4 Mr. Hale when he demanded that you not shut that
5 section down, after that, did it make you feel
6 reluctant to shut down a section if you felt the need
7 to do so?

8 A. No, because I had a job to do, whether he fired me
9 or what. I was going to do my job.

10 Q. Okay.

11 A. And again, it was the benefit for the company
12 because they couldn't make a decision whether to call
13 MSHA or not, so I had to make that decision and I did
14 call MSHA and the State, so ---

15 Q. Uh-huh (yes).

16 A. --- I'm going to do my job.

17 MR. FARLEY:

18 Okay. Thank you.

19 ATTORNEY WILSON:

20 Davitt?

21 RE-EXAMINATION

22 BY ATTORNEY MCATEER:

23 Q. Just a couple questions. You testified about the
24 safety procedure, S1 particularly, and then you
25 testified about some of the productions out of the

1 house. Is there a good connection between those two?
2 Or what's the connection between the two? You were
3 running the safety side of UBB, and here's the
4 production side of UBB. How do they connect?

5 A. Well, a lot of the material in the S1 is applied
6 to the production.

7 Q. All right.

8 A. Again, they had a P2 book, if you're familiar with
9 it, but the S1, a lot of those things come from ---
10 again, how to build a socket on a section, how to hang
11 your cables, how to install a beltline. And a lot of
12 things like that were --- lost-time accidents had
13 resulted.

14 Q. Sure.

15 A. If it happened on a section, then those things
16 were developed and applied ---

17 Q. Okay.

18 A. --- supposedly applied company-wide to be used.

19 Q. Supposedly applied company-wide. To your
20 knowledge, were they applied?

21 A. Yes, but again, with hesitation. I can't say it's
22 a hundred percent anywhere, but at UBB when I was
23 there, I mean they complied with it.

24 Q. Okay. Did you meet with the superintendent of the
25 mine or the president of the coal company on a regular

1 basis about accident prevention?

2 A. My office was next to the president and Barry
3 Hale's, so I was in between both of them. I saw him
4 daily and maybe didn't discuss safety issues with him
5 daily, but he was pretty handy. And the
6 superintendent, I spent a lot of time at the mine ---

7 Q. Okay.

8 A. --- talking to him.

9 Q. You said that the ice accumulation and another
10 incident at Mammoth raised doubts in your mind about
11 the mine management skill levels. Can you speak to
12 that as to what you meant by that?

13 A. With everything that ---. Again, when I
14 investigate that hazard complaint, everything I could
15 gather through the books, and then the visual evidence
16 that I saw at the escape facility, that was a
17 deliberate cover-up, and they still --- I still have a
18 problem with that. People would --- I mean we're in
19 the 21st century and people are still going to let
20 something like that happen, and I personally have a
21 problem with it outside of the agency, because that's
22 just not acceptable to know it and not take a
23 corrective action. And I still --- I get upset even
24 talking about it, because it's so, it's so careless.

25 Q. Does this reflect, in your mind, the Massey

1 mentality?

2 A. I can't say --- I can say it reflects the
3 mentality from Mammoth Coal Company.

4 ATTORNEY MCATEER:

5 Thank you, sir.

6 ATTORNEY WILSON:

7 Is that all, then?

8 ATTORNEY MCATEER:

9 Uh-huh (yes).

10 ATTORNEY WILSON:

11 Okay. Do you have anything else?

12 MR. FARLEY:

13 I don't think so.

14 ATTORNEY WILSON:

15 Okay. George, I want to thank you on
16 behalf of MSHA and the Office of Miners' Health,
17 Safety and Training for appearing here and answering
18 questions today. Your cooperation is very important
19 to the investigation as we work to determine the cause
20 of the accident.

21 We will be interviewing additional
22 witnesses, so we require that you not discuss your
23 testimony with anyone. After questioning other
24 witnesses, we may call you if we have any follow-up
25 questions that we feel that we need to ask you.

1 If at any time you think of additional
2 information that you believe would be helpful to our
3 investigation, please contact Norman Page at the
4 contact information provided in your letter. At this
5 time I'll give you one last opportunity, if there's
6 anything that you would like to add to the record at
7 this time?

8 A. I think, again, throughout the whole discussion
9 here, I think I summed it up sort of. Again, I think
10 there was reception, at least put out at the higher
11 level, because there's a lot of work went in that come
12 out of that, out of those safety meetings and the
13 safety development group. Somebody had to be wanting
14 that to be done to allow it to happen, again. But
15 again, that message wasn't passed down to me as I look
16 back upon Massey. And at UBB everyone outside of that
17 group didn't --- wasn't on --- fully cooperating with
18 the whole program.

19 ATTORNEY WILSON:

20 Okay. All right. Again, I want to thank
21 you for your cooperation in this matter. And we can
22 go off the record.

23 * * * * *

24 STATEMENT UNDER OATH CONCLUDED AT 11:26 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Brett Steele