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Transcript of the Testimony of Randy Smith

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STATEMENT UNDER OATH
OF
RANDY SMITH

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-123, Beaver, West Virginia, on Wednesday, May 19, 2010, beginning at 1:40 p.m.

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A P P E A R A N C E S

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

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I N D E X

1		
2		
3	OPENING REMARKS	
4	By Attorney Babington	6 - 10
5	WITNESS: RANDY SMITH	
6	EXAMINATION	
7	By Mr. Farley	10 - 54
8	DISCUSSION AMONG PARTIES	54 - 56
9	EXAMINATION	
10	By Mr. Steffey	57 - 78
11	EXAMINATION	
12	By Mr. Beck	78 - 85
13	EXAMINATION	
14	By Attorney Babington	86 - 87
15	RE-EXAMINATION	
16	By Mr. Farley	88 - 92
17	CLOSING STATEMENT	
18	By Attorney Babington	92 - 93
19	CERTIFICATE	94
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
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20
21
22
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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

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P R O C E E D I N G S

1
2
3
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5
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10
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ATTORNEY BABINGTON:

My name is Matt Babington. I'm with the Office of the Solicitor, United States Department of Labor. With me is David Steffey, Accident Investigator with the Mine Safety and Health Administration or MSHA. Also present are officials of the State of West Virginia. I ask that they state their appearance for the record.

MR. BECK:

My name is Jim Beck. I work for Davitt McAteer on the independent team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY BABINGTON:

Okay. Today is May 19th, 2010. Mr. Farley, are you handling the questioning, the primary questioning today?

MR. FARLEY:

I hope so, yes.

1 ATTORNEY BABINGTON:

2 Okay. So Mr. Farley will go first, and
3 then the other men will follow with a few follow-up
4 questions. And also, several other members of the
5 team are present in the room.

6 All members of the Mine Safety and Health
7 Administration, Accident Investigation Team and all
8 members of the State of West Virginia Accident
9 Investigation Team participating in the investigation
10 of the Upper Big Branch Mine explosion shall keep
11 confidential all information that is gathered from
12 each witness who voluntarily provides a statement
13 until the witness statements are officially released.
14 MSHA and the State of West Virginia shall keep this
15 information confidential so that other ongoing
16 enforcement activities are not prejudiced or
17 jeopardized by a premature release of information.

18 This confidentially --- this
19 confidentiality requirement shall not preclude
20 investigation team members from sharing information
21 with each other or with other law enforcement
22 officials. Participation in this interview
23 constitutes your agreement to keep this information
24 confidential.

25 Government investigators and specialists

1 have been assigned to investigate the conditions,
2 events and circumstances surrounding the fatalities
3 that occurred at the Upper Big Branch Mine-South on
4 April 5th, 2010. The investigation is being conducted
5 by MSHA under Section 103(a) of the Federal Mine
6 Safety and Health Act and West Virginia Office of
7 Miners' Health, Safety and Training. We appreciate
8 your assistance in this investigation.

9 After the investigation is complete, MSHA
10 will issue a public report detailing the nature and
11 causes of the fatalities in the hope that greater
12 awareness about the causes of the accidents can reduce
13 their occurrence in the future. Information obtained
14 through witness interviews is frequently included in
15 these reports.

16 You should know that if you request
17 confidentiality, confidentiality will only be granted
18 on a case-by-case basis. Your statement may also be
19 used in other enforcement proceedings.

20 You may have a personal representative
21 present during the taking of the statement and may
22 consult with that representative at any time. And do
23 you have a representative with you?

24 MR. SMITH:

25 No.

1 ATTORNEY BABINGTON:

2 Thank you. You may refuse to answer any
3 question. You may request a break at any time. Since
4 this is not an adversarial proceeding, formal Cross
5 Examination will not be permitted. However, your
6 personal representative may ask clarifying questions
7 as appropriate. So you can ask clarifying
8 questions, ---

9 MR. SMITH:

10 Okay.

11 ATTORNEY BABINGTON:

12 --- since you don't have a personal
13 representative. A court reporter will record your
14 interview. Please speak loudly and clearly. If you
15 do not understand a question asked, please ask that
16 the question be rephrased. Please answer each
17 question as fully as you can, including any
18 information you've learned from someone else.

19 I would like to thank you in advance for
20 your appearance here. We appreciate your assistance
21 in this investigation. Your cooperation is critical
22 in making the nation's mines safer.

23 After we finish asking questions, you'll
24 have an opportunity to make a statement, provide us
25 with any other information that you believe to be

1 important. If at any time after the interview you
2 recall any additional information that you believe
3 might be useful, please contact Norman Page at the
4 telephone number or e-mail address provided to you.

5 -----

6 RANDY SMITH, HAVING FIRST BEEN DULY SWORN, TESTIFIED
7 AS FOLLOWS:

8 -----

9 ATTORNEY BABINGTON:

10 Okay.

11 EXAMINATION

12 BY MR. FARLEY:

13 Q. Randy, good afternoon. Would you be kind enough
14 to start by giving us your name, home address and
15 telephone number, please?

16 A. Yes, Randy Dean Smith, (b) (7)(C)
17 (b) (7)(C) Phone number's (b) (7)(C)

18 Q. Okay. What is your current position with the
19 Office of Miners' Health, Safety and Training?

20 A. I'm the assistant inspector-at-large at the Region
21 4 Office in Oak Hill.

22 Q. Okay. Now, how long have you been with the Office
23 of Miners' Health, Safety and Training?

24 A. A little more than 20 years.

25 Q. Okay. Can you give us an idea as to your overall

1 experience in the mining industry prior to joining the
2 agency?

3 A. Well, mainly just electrical, but of course I did
4 start out on the Wilcox Section, setting timbers,
5 setting jacks, very hard work, and got into the
6 electrical part. And once I got into the electrical,
7 I pretty much stayed there until I came with the
8 agency.

9 Q. Okay. About how many years did you have there
10 before you joined the agency?

11 A. About seven.

12 Q. Okay. So agency and private sector 27 years or
13 something like that; is that right?

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

15 Q. That about right? That math right?

16 A. Uh-huh (yes).

17 Q. Did you join the agency as an electrical
18 inspector?

19 A. Yes, I did.

20 Q. Okay. Now, when did you become assistant
21 inspector-at-large in Oak Hill Regional Office?

22 A. Just this past November. November 16, 2009.

23 Q. Okay. Who's your immediate supervisor?

24 A. Steve Snyder, assistant --- well, he's an
25 inspector-at-large.

1 Q. Okay. Now, do you --- again, in addition to your
2 duties as assistant inspector-at-large and formerly
3 --- former electric inspector, do you occasionally
4 work on other projects for the agency?

5 A. Yes, I do. I've helped to --- I write the
6 proposed surface electrical regulations.

7 Q. Uh-huh (yes).

8 A. And I've also been on a committee and am still on
9 a committee to write, rewrite our hoisting laws.

10 Q. Okay. Now, along that line, have you had --- in
11 addition to your electrical certification and the
12 training that you had to accomplish that, what other
13 special training have you had?

14 A. Well, I've had pretty extensive training in
15 elevators, slope hoists, ropes, things like that.

16 Q. Okay. All right. Were you assigned to inspect
17 the Upper Big Branch Mine, the Performance Coal, Upper
18 Big Branch Mine where this accident occurred when you
19 were an electrical inspector?

20 A. Yes, in 2009. That was on my list of mines to
21 inspect that year.

22 Q. Okay. Is it state law and agency policy and
23 practice to do electrical inspections of all
24 underground mines one time per year?

25 A. Yes, it is.

1 Q. Okay. Can you tell me when --- tell us when you
2 first inspected at the UBB mine last year?

3 A. Last year my first inspection day was May 27th. I
4 began my inspection that day and I continued my
5 inspection up until October 27th, 2009.

6 Q. Okay. Can ---?

7 A. And --- go ahead.

8 Q. I'm sorry. You go ahead.

9 A. I was just going to say that during that time, I'm
10 also inspecting other mines, and I was accompanied by
11 Tim Brown, who was a --- you know, a new trainee.

12 Q. Uh-huh (yes).

13 A. And I was training him throughout this time.

14 Q. Uh-huh (yes).

15 A. And just thought I'd add that.

16 Q. Okay. Does the fact that a trainee is
17 accompanying you, does that slow down your pace or
18 affect it in any way?

19 A. Oh, very much so, because not only are you
20 training the trainee to analyze circuits and
21 calculations and things like that, but you're also
22 training the trainee to write violations and to
23 understand the law and how to apply the law. And it
24 just --- it takes a lot of time, just the paperwork
25 part, because you're letting the trainee do the

1 paperwork. Whereas it may normally take you 30
2 minutes, it would take maybe two hours a day to do
3 that.

4 Q. Okay. Do newly-hired Miners' Health, Safety and
5 Training inspectors usually serve a probationary
6 period?

7 A. Yes, one year.

8 Q. Uh-huh (yes). Okay. Now, how long do they ---
9 and I know it may vary from individual, but typically
10 how long do they travel with another inspector during
11 their training in the ---?

12 A. The last three that I've trained, I've been able
13 to spend three months with them. Normally it's a
14 three-month period, give or take a few days. And if
15 more is needed --- normally three months will do it.

16 Q. Okay. I think you indicated that you began your
17 annual inspection at the UBB Mine in May 2009; is that
18 correct?

19 A. Yes.

20 Q. And it ran --- you were there through what date?

21 A. October 27.

22 Q. Okay. Approximately how many inspection days did
23 that involve?

24 A. A total of 12, actually.

25 Q. Okay. Is there a particular reason why you

1 inspected other mines at the same time, ---

2 A. Yes, well ---

3 Q. --- performed other inspections?

4 A. --- a lot of the reasons I inspected other mines
5 and quarries and river docks and prep plants to give
6 Tim Brown a good overview of what his job would be.
7 And he needed the experience.

8 And at one time I actually, like, in September, I
9 went to a mine. I wanted to do a complete inspection
10 from start to finish with Tim, and it's not possible
11 to do that at Performance because of the size of
12 Performance. And so I wanted to do that and also I
13 wanted to expose him to the circuits he would find,
14 the differences like between a river dock and a
15 quarry, ---

16 Q. Uh-huh (yes).

17 A. --- and other mines, smaller mines. And also,
18 when you're inspecting a mine the size of Performance,
19 it takes some time to do that. You're looking
20 normally at 22 to 32 inspection days, depending ---.
21 And at this point, it seemed to me from what I could
22 see that Performance had grown even larger than what
23 it normally was, you know.

24 Q. Okay. Now, would the fact that you were not there
25 32 consecutive days have any particular meaning, too?

1 A. Well, it's good to start inspection and to kind
2 of prolong it, because I think that your presence is
3 felt there even when you're not there. And I feel
4 like that a lot of work is being done just because
5 you're on inspection there. And that gives you some
6 time and gives the company some time to make things
7 safer.

8 Also, I'd like to add, at Performance I didn't see
9 anything in all --- in that inspection that would
10 merit day after day inspecting there, because you
11 know, the things that I wrote were violations, but I
12 didn't write any orders or I didn't see anything so
13 serious that I felt like I needed to be there every
14 day.

15 Q. Okay. Does the fact that you were also stretching
16 the inspection out over a longer period of time, does
17 that --- do you think that removes some of the
18 predictability in terms of when they'll expect you
19 back?

20 A. Exactly. Actually the company doesn't know when
21 I'm coming or going. All they know is that I'm on
22 inspection there, so I think that helps to keep things
23 above board, you might say, as far as keeping the
24 equipment in better shape, the circuits like they
25 should be kept.

1 Q. Okay. When you began your inspection at UBB Mine
2 last year, and during the ensuing days that you're
3 inspecting, did you review the examination books prior
4 to entering the mine?

5 A. Yes. Normally when I start inspection, I really
6 like to get to a section the first day, because it's
7 --- normally we will find the greatest dangers if
8 they're there, if they're present. And normally while
9 I'm waiting on a ride and for management to get things
10 lined out to where they can get me in, ---

11 Q. Uh-huh (yes).

12 A. --- I'll review the books. And of course a mine
13 the size of Performance, you're talking about a lot of
14 electrical books.

15 Q. Uh-huh (yes).

16 A. And overall I would say to carefully scrutinize
17 these books like you should would take a minimum of
18 three hours. So, you know, normally I'll do as many
19 books as I can until they tell me the ride's ready and
20 until I get through them. And I make notes as to what
21 books I've checked. That way I don't miss any.

22 Q. Okay. Now, do you recall which UBB portal you
23 visited first during your inspection last year?

24 A. Yes, I visited the South Portal first, and they
25 had a section. I'm thinking it's called East Mains at

1 the time. I'm pretty sure it's no longer operating.
2 And I went to that section and also inspected the belt
3 drives leading up to that section and the charging
4 stations that may have been along the way and
5 completed that site inspection.

6 Q. Okay. Now, you just told us that you had reviewed
7 the examination books prior to entering the mine.
8 Now, is it fair to say that you reviewed the
9 examination books for the specific area you visited
10 that day?

11 A. Yes, I think that would be fair to say.

12 Q. Okay. Did the conditions you found in that area
13 of the mine, particularly the conditions of the
14 equipment you were there to inspect, were they --- did
15 the books, the entries of the books accurately reflect
16 what you physically saw?

17 A. I would say for the most part, yeah. I think so.

18 Q. Did you come across anything during your
19 inspection that you would have considered a glaring
20 --- or a glaring omission?

21 A. Not on that side of the mine. When I went to the
22 other side of the mine ---.

23 Q. Uh-huh (yes).

24 A. Well, an omission; okay. I didn't understand the
25 question.

1 Q. Well, I'm sorry. I maybe --- did you encounter
2 anything during the inspection of the equipment in
3 that particular area of the mine and any kind of
4 significant problem that you think should have been
5 obvious to someone who --- responsible for the
6 equipment that should have been entered in the books?

7 A. No. I think what I found inside the mine may have
8 been like an insulating platform wasn't properly
9 maintained. But as far as something that was glaring
10 and that should've been caught or noted, the things I
11 found, from what I can remember, were things that may
12 have happened after they looked at the equipment, you
13 know or --- we look at the equipment once a week.

14 Q. Okay. Now, you indicated you entered the South
15 Portal. Like, are there more than one portals --- is
16 there more than one portal at the main UBB portal area
17 at Montcoal?

18 A. Yes, there are. There are two portals.

19 Q. Okay. Now, when you say the South Portal, do you
20 mean the portal that enters --- that enters to the
21 southeast or the one that enters to the southwest?

22 A. Okay. I would've entered to the southeast.

23 Coming out of the shop, you would have this
24 (indicating) portal on your left.

25 Q. Please, when you specify your direction of travel,

1 please be as specific, as ---

2 A. Okay.

3 Q. --- descriptive as you can when you're talking
4 about the map ---.

5 A. Okay. But that would be the portal, ---

6 Q. Okay.

7 A. --- the one that's southeast.

8 Q. Now, this East Main section that you referred to,
9 can you pinpoint that on the map?

10 A. I'm thinking it was in this area right here
11 (indicating), but ---.

12 Q. Which ---?

13 A. Is this one up-to-date now?

14 Q. As far as I know it is.

15 A. Okay. It may have been right here.

16 Q. Okay. And when you're putting to right here,
17 you're looking --- you're looking at the one inch
18 equals 500 foot scale map of the mine and you're
19 looking at the extreme southeast area of the mine. Is
20 that a fair description?

21 A. Yes.

22 Q. All right. Did the management people at UBB
23 provide you with transportation in pretty good order?

24 A. Yes.

25 Q. Okay. Now, as your inspection at UBB continued in

1 2009, can you tell us which other working --- active,
2 working sections that you might have visited?

3 A. Yes. Once I completed southeast side, inspected
4 the surface area, and also then I went into the
5 northern side of the mine.

6 Q. Now ---?

7 A. Or would that be the southwest?

8 Q. Do you mean the other portal at ---

9 A. Yes, the other portal.

10 Q. --- UBB Montcoal?

11 A. Right. Yes, the other portal.

12 Q. All right.

13 A. Okay. And at that time, I had a section called
14 Four, I think Four Right. And it wasn't very far in
15 that portal. I'm not sure where they had it at, but
16 it didn't take very long from the surface to get to
17 this section, and I completed my inspection on that
18 section and ---?

19 ATTORNEY BABINGTON:

20 Sorry. To clarify, this Four Right

21 section was down through the Southwest Portal?

22 A. Yes, through the Southwest Portal. I'm not sure
23 exactly where they had it at now. But as an
24 electrical inspector, normally I'll travel to the
25 section, they take me in and I inspect. And I would

1 have to do a little research to give you an exact
2 location where this Four --- Number Four section was
3 at.

4 BY MR. FARLEY:

5 Q. Okay. But it's fair to say it's in the southeast
6 corner of this mine map here, this one-inch to 500
7 scale map of the mine? It's fair to say that it's in
8 the extreme southeast corner of the mine or the
9 map ---

10 A. Yes.

11 Q. --- location; is that fair?

12 A. Yes. Since my inspection, it's been worked out
13 and the crew has moved up to Headgate 22 area, from
14 what I understand.

15 Q. Okay. Now, if you take me through the rest of
16 your inspections for 2009, did your inspections in
17 2009 take you to the area of the mine where we now
18 know that the explosion has occurred? Excuse me.
19 Which would include the longwall panel in existence at
20 the time of the explosion, the 22 Tailgate section, 22
21 Headgate section? Were you in that area of the mine
22 during your inspection last year?

23 A. No, no. I went --- I inspected up to the Ellis
24 Switch ---

25 Q. Uh-huh (yes).

1 A. --- and from the Ellis Switch all the way through
2 to the Ellis Portal.

3 Q. Okay.

4 A. And I inspected --- I was working my way into the
5 mine. And that's as far as I got as far as
6 inspection. Now, I did travel toward Headgate 22 one
7 Sunday doing some --- a part of the high voltage test.

8 Q. Uh-huh (yes).

9 A. And --- but I didn't get quite that far. We ran
10 out of time. It was a long, 14-hour day.

11 Q. Okay. All right. So I mean, am I understanding
12 --- understanding you correctly that during your
13 inspection there in 2009, you didn't make it to the
14 existing longwall panel?

15 A. No, no, I did not.

16 Q. Okay. Or the existing section known as 22
17 Headgate?

18 A. No, I did not.

19 Q. All right. What about an area of the mine, well,
20 currently known as Eight North, but I don't know that
21 it had been developed at that time.

22 A. No, no.

23 Q. Okay. All right. Ultimately in 2009, I think you
24 indicated that you became assistant inspector-at-
25 large.

1 A. Uh-huh (yes).

2 Q. At that point, was it necessary to sort of hand
3 off your inspection to another electrical inspector?

4 A. Yes, it was.

5 Q. Okay. Who was that electrical inspector?

6 A. Wayne Miller.

7 Q. Okay. So since you were then the supervisor, do
8 you know if Mr. Miller completed the electrical
9 inspection in 2009?

10 A. I feel that he completed a good part of it. I'm
11 not sure that he --- in fact, I felt like he didn't
12 complete all the mine.

13 Q. Uh-huh (yes).

14 A. And that's why on January 1st when we have a new
15 year, a new year starts, ---

16 Q. Uh-huh (yes).

17 A. --- Ed Blake was assigned that mine. And I
18 instructed Ed Blake to start that mine because we
19 hadn't completed the inspection for the previous
20 year, ---

21 Q. Uh-huh (yes).

22 A. --- to begin inspection there and to complete that
23 mine. And that's why Ed Blake was actually on
24 inspection from January up until the time of the
25 explosion.

1 Q. Okay. So Ed Blake is another electrical
2 inspector?

3 A. Yes, he is, out of the Region 4 Office.

4 Q. Okay. And to your knowledge, had he completed the
5 electrical inspection there in 2010?

6 A. No, I don't think he had completed it at this
7 time.

8 Q. It was ongoing ---

9 A. It was ongoing.

10 Q. --- at the time?

11 A. Yes.

12 Q. All right. During your inspection at UBB in 2009,
13 did you have any conversations with the working miners
14 at any time, conversation where they might've
15 expressed some concerns over safety issues or
16 complaints about problems at the mine?

17 A. No.

18 Q. Okay. During the course of your inspections, did
19 you detect any methane or anything?

20 A. No, and I actually --- any time I ground fault
21 circuit breakers, ---

22 Q. Uh-huh (yes).

23 A. --- right before I ground fault circuit breakers,
24 I take a methane test to see if there's any methane,
25 because during a process of performing a ground fault

1 test, you would normally create an arc ---

2 Q. Uh-huh (yes).

3 A. --- even a small arc from the monitor circuit. So
4 I always take a test. And nowhere did I get any kind
5 of a methane detection at all that I could tell.

6 Q. Okay. Do you carry a methane detector or gas
7 testing instrument in the mine?

8 A. Yes, I do.

9 Q. Okay. What type of instrument do you carry?

10 A. A CMX 2 --- let me see. ITX. It's an ITX.

11 Q. Okay.

12 A. I did have a CMX-260, but at this time I had an
13 ITX.

14 Q. Okay. And would you have --- would it have been
15 operational while you were underground?

16 A. Yes. I turn it on. I actually clear it on the
17 surface in fresh air, test it in fresh air before I go
18 in. And I leave it on all the time I'm there. I
19 normally carry it in a glove bag with some of my
20 stuff. And of course I always, without fail, pull it
21 out and make sure I'm within eight inches of the roof.
22 And I even take a methane test near the floor, just in
23 case there's something there, you know. But I always
24 do that before I ground fault.

25 Q. Okay. During your electrical inspection at UBB

1 last year, did you have the opportunity to inspect or
2 test any of the methane monitoring devices on any of
3 the mining machines?

4 A. That's normally not a part of our test. To answer
5 your question, no.

6 Q. Uh-huh (yes).

7 A. And normally that test is conducted by district
8 inspectors.

9 Q. Uh-huh (yes).

10 A. And of course we ensure that things are in place
11 like that, you know, when we go to inspect a
12 continuous miner, and we want to make sure
13 everything's, you know, secured and wired up
14 correctly.

15 Q. Uh-huh (yes).

16 A. But as far as having that tested, we don't do
17 that, as far as electrical inspectors.

18 Q. Okay. In your examination of the wiring, would
19 that alert you to any possibility or likelihood that
20 the device might be in any way overridden?

21 A. Yes, it would. And more than likely the conduit's
22 broken, things like that. We might have a problem
23 with that, you know. At that time I didn't see
24 anything like that, but had I seen something like
25 that, we would've pursued that.

1 Q. Okay. Okay. Just kind of an off-the-wall
2 question. During your inspection last year at UBB,
3 did you pay any particular attention to the makeup of
4 the section production crews? Now, what I mean by
5 that is, did it appear that there was any one person
6 who was designated as a ventilation man or ventilation
7 person?

8 A. I didn't notice that.

9 Q. Okay. Did you happen to pay any attention to the
10 mine bulletin boards on the surface area last year?

11 A. No, I don't know that I did. I mean, of course I
12 checked in and out every day, but as far as the
13 bulletin board, ---

14 Q. Uh-huh (yes).

15 A. --- I didn't notice. But of course normally when
16 I go into this mine or any mine, I'm going to a
17 maintenance room.

18 Q. Right.

19 A. And, you know, I might look on the wall and see
20 what was broke down. I will do that to see if I can
21 detect if anything is out of the ordinary, you know,
22 just by looking at what their work list is, you know,
23 they've scheduled up there.

24 Q. Okay. Well, to be more specific before I go over
25 that, did you see anything on any of the bulletin

1 boards addressed to the mine employees that
2 specifically said something to the effect, if
3 production or cost or circumstances do not improve
4 that vacation may be cancelled, postponed or something
5 to that effect?

6 A. No, I didn't.

7 Q. Okay. All right. Let's move, move to 2010.

8 A. Okay.

9 Q. Are you also a member of the Miners' Health,
10 Safety and Training and Mine rescue team?

11 A. Yes, I am.

12 Q. Okay. Which team base do you work with?

13 A. I'm one of the --- out of the Oak Hill Region 4
14 Office.

15 Q. Okay. How long have you been a member of the mine
16 rescue team?

17 A. Since the beginning of the mine rescue team in
18 1990.

19 Q. Okay. Twenty (20) years?

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

21 Q. Is that about right?

22 A. Yes. I was off the team maybe for a period of
23 three years somewhere in the early '90s, and then I
24 become a member again, and I've been a member since
25 that time.

1 Q. Okay. Let's move to April 5th, 2010. How and
2 when did you learn --- did you learn there was a
3 problem at the UBB Mine?

4 A. Well, I was at Logan Lodge in Logan County.

5 Q. Uh-huh (yes).

6 A. Would've been there on mine rescue training,
7 actually.

8 Q. Uh-huh (yes).

9 A. And I was in my room with John Scott, and we got a
10 call that we needed to go to the parking lot. There
11 was some kind of trouble. And went down there and
12 most of the people on the mine rescue team were there,
13 gathered. And that's when I found out, you know, from
14 everyone that the situation occurred. Performance
15 said they had an explosion there.

16 Q. Okay. To begin with, did you --- has it been
17 normal routine for the agency to have rescue teams
18 practice in the Logan area?

19 A. Yes.

20 Q. Why is that?

21 A. Well, they have a college down at --- the Southern
22 West Virginia College, ---

23 Q. Uh-huh (yes).

24 A. --- and they have some very good training
25 facilities and we make use of those. And also, in the

1 town of Logan, they have a mock mine ---

2 Q. Uh-huh (yes).

3 A. --- set up there that we can train in.

4 Q. Uh-huh (yes).

5 A. And it's a pretty good facility to train --- to
6 train with there.

7 Q. Okay. Now, on April 5th, approximately what time
8 did you receive the call in your room when you went to
9 the parking lot?

10 A. Approximately between, I don't know, 4:10, 4:15,
11 something like that.

12 Q. Okay. All right. What was the initial story that
13 you heard about the problem?

14 A. That there had been an explosion at Performance
15 Coal Company, Upper Big Branch Mine and that we needed
16 to get there. That's basically what I heard.

17 Q. Okay. Can you estimate approximately how long it
18 took you guys to get rolling at that point?

19 A. Almost immediately. I went to my room. We hadn't
20 even unpacked. All's we -- we got there that morning
21 and we'd been in class all day. And so I just threw
22 my --- just grabbed my bags, ran by the checkout, got
23 a car. And I actually --- well, some of the guys had
24 already left and I was able to catch up with them.

25 And we had a caravan all the way there, led by the

1 police.

2 Q. Okay. All right. Can you estimate what time you
3 arrived at the UBB property?

4 A. I have my notes on that, but I don't have 'em with
5 me.

6 Q. Okay. That's fine.

7 A. And I would say it didn't seem to take more than
8 an hour. I mean, because we moved pretty fast.

9 Q. Okay. Which portal did you travel to first?

10 A. I went to the Ellis Portal.

11 Q. Okay. And what did you encounter there? Can you
12 give us a description?

13 A. Well, of course as we got there, there was lot of
14 logged cars at the bottom of the hill. Police were
15 there. We crossed without any difficulty, drove up
16 the hill to the portal area. And because of the
17 amount of cars already there, we had to park on the
18 side of the hill and walked on up and tried to get
19 some information and where everybody was at. And they
20 brought the truck up to the top, our mine rescue
21 truck. And we began benching our apparatuses fast as
22 possible.

23 And about the time we got them benched, then we
24 were informed that we would have to travel to the main
25 portal because it would be easier to get in and out of

1 the mines from the main portal and a lot more
2 effective and faster. So we did that.

3 Q. Was the mine power off at the Ellis Portal at that
4 time?

5 A. I'm not sure. I didn't even quite make it to the
6 main office because as soon as I was walking toward
7 the main office, I met C.A. Phillips walking from the
8 main office. And I went back down to get my coveralls
9 on to get ready to go in, and by that time they
10 brought the truck up. And I feel that there was
11 electrical power for the main office. I don't know
12 about underground.

13 Q. Okay. Did you have any ---? While you were at
14 the Ellis Portal, did you have any conversations with
15 any of the Upper Big Branch Performance employees?

16 A. Not at the Ellis Portal.

17 Q. Okay. All right. So you transferred to the main
18 portal at Montcoal; is that correct?

19 A. Yes.

20 Q. Can you take us through that? What happened after
21 you arrived there?

22 A. Okay. After we got up --- we run up there. As I
23 was pulling up, they were trying to park, get a place
24 to park the mine ---

25 Q. Uh-huh (yes).

1 A. --- emergency truck. And I helped with that, you
2 know, getting things lined out. And we got that
3 vehicle parked rather quickly.

4 Q. Uh-huh (yes).

5 A. And of course there's a lot of hustle and bustle,
6 people trying to get ready to go. And I was selected
7 to be on Eugene White's team, the Danville team. They
8 had an opening there and so I was able to go with him
9 as a map man. And I think we entered the mine,
10 actually ---. Well, again, I don't have my notes. I
11 wished I did.

12 Q. That's fine.

13 A. Okay. But I think there was one, maybe two ahead
14 of us, not very far ahead of us. And we entered the
15 mine rather quickly.

16 Q. Can you estimate what time you entered the mine?

17 A. I'm thinking around 8:00.

18 Q. Okay.

19 A. Something like that, though.

20 Q. Now, when you say Eugene White, what's his
21 position with Miners' Health, Safety and Training?

22 A. Eugene White is the inspector-at-large in the
23 Danville office.

24 Q. Okay. Do you recall the other members of the team
25 that you entered the mine with?

1 A. Yes, Eugene White, Danny Acord, John Kinder, Kenny
2 Browning.

3 Q. Okay.

4 A. That was the men that was on my team.

5 Q. All right. Now, how did you enter the mine and
6 how were you ---?

7 A. We entered the mine through the --- I think we
8 call it the Southwest Portal.

9 Q. Okay.

10 A. Okay. And we traveled by track Jeep the track
11 entry along the --- I'm looking at maps here. Okay.
12 Along the number ---.

13 Q. Right here?

14 A. Okay. Right here (indicating). Okay. Okay.
15 We're traveling the track entry and ---.

16 ATTORNEY BABINGTON:

17 Would you like to look at the ---? Do
18 you have a blown-up map?

19 A. Yeah.

20 BY MR. FARLEY:

21 Q. Okay?

22 A. Okay.

23 Q. Please feel free to use a marker to mark your
24 route of travel ---

25 A. Okay.

1 Q. --- because if we ---. I mean between my
2 ineptness in asking questions, ---

3 A. Okay.

4 Q. --- it's difficult, too, for folks reading the
5 transcript to follow us.

6 A. Okay. The track entry, we followed in the track
7 entry the Number Three, Four, Five belts, up to, like,
8 Number 78 Break.

9 Q. Uh-huh (yes).

10 A. And about 78 Break we parked ---

11 Q. Okay.

12 A. --- the track vehicle. We got out and we put our
13 apparatus on.

14 Q. Why did you park there?

15 A. That's about as far as you could go. There was a
16 lot of destruction there already.

17 Q. Okay.

18 A. And, you know, that's about as far as we could go
19 right there, as far as travel by, you know, track ---

20 Q. Uh-huh (Yes).

21 A. --- by the track Jeep. From there, after we
22 donned our apparatus, of course when I say donning
23 apparatus, I mean we put it on but we didn't actually
24 put the face piece on.

25 Q. Uh-huh (yes).

1 A. Yeah.

2 Q. Okay.

3 A. Okay. We carried that and we went up the track
4 entry. And that's quite a distance. I'm trying to
5 read the spad number. I'm thinking about around spad
6 19819879.

7 Q. Uh-huh (yes).

8 A. Somewhere in that area we encountered a large,
9 deep waterhole.

10 Q. Okay.

11 A. And so at that point, somewhere in that area ---.

12 Q. Would that be somewhere in the vicinity of the
13 switch, which turns toward the longwall panel, which
14 would be ---?

15 A. It may have been actually a little bit before
16 that. I don't remember the switch.

17 Q. Please, please mark it on the map.

18 A. Okay.

19 BY MR. FARLEY:

20 Q. Please mark it and ---.

21 ATTORNEY BABINGTON:

22 And actually, before we move to this one,
23 do you mind, with the highlighter, showing ---

24 A. Okay. Yeah.

25 ATTORNEY BABINGTON:

1 --- on the first map?

2 A. Okay. Now --- okay. The doors, I noted the doors
3 had been blown down as we come up through here
4 (indicating). And there's a lot of destruction, a lot
5 of things over the track, a lot of things over the
6 track, and ---.

7 ATTORNEY BABINGTON:

8 So the doors, you're saying this is on
9 the Number Six North belt ---

10 A. Yes.

11 ATTORNEY BABINGTON:

12 --- area?

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

14 ATTORNEY BABINGTON:

15 Okay. And at the very beginning, right
16 of the Number Five North belt ---?

17 A. Right. Yes. The first set of ventilating doors.

18 ATTORNEY BABINGTON:

19 Okay.

20 A. The first pair were blown down. And I think one
21 of 'em was right across the tracks. We went up
22 through here (indicating). I found another set blown
23 down.

24 BY MR. FARLEY:

25 Q. Sorry. Please, let me interrupt you right there.

1 When you say that they were blown down, what was your
2 impression of how they were blown down? Which
3 direction would the forces, you think, have been
4 traveling to damage the door?

5 A. It looked to me like it --- from what I could see,
6 it looked like the force was traveling outby ---

7 Q. Okay.

8 A. --- toward the surface. And, well, toward the
9 Number Five belt, I'll put it that way.

10 Q. Okay.

11 A. And there was large waterlines laying across, you
12 know, the supply waterlines, laying across and things
13 like that. As we walked up through here, again, I
14 encountered this waterhole. I don't remember it being
15 near the switch so much. I will say, I don't know,
16 maybe around spad 19833. I think it was before ---
17 before that.

18 But when we walked out into this waterhole, we had
19 to back up. It was just going to be too deep. And so
20 we crossed --- we come --- we took a left and got over
21 into the intake entry.

22 Q. Would that be the Number Two entry?

23 A. The Number Two entry, yes.

24 Q. Okay.

25 A. Uh-huh (yes).

1 Q. Moving inby?

2 A. Yes. Uh-huh (yes). We traveled from there on up
3 --- let's see ---. Okay. Up to this track switch,
4 thinking that was the first fresh air base, because
5 that's what we had heard the fresh air base was.

6 Q. Uh-huh (yes).

7 A. What we didn't know was that that fresh air base
8 had been moved up, and we weren't aware of that at the
9 time.

10 ATTORNEY BABINGTON:

11 Just to clarify for a moment, you're
12 talking about the track switch that's at the Headgate
13 One North?

14 A. Headgate One North, yes.

15 ATTORNEY BABINGTON:

16 Uh-huh (yes).

17 A. Yes, that's Headgate One North. We went to that
18 track switch. We didn't see anybody and we yelled for
19 people and saw a light up here. Then it disappeared,
20 I guess, going on up ---

21 ATTORNEY BABINGTON:

22 Uh-huh (yes).

23 A. --- toward Headgate 22.

24 ATTORNEY BABINGTON:

25 Uh-huh (yes).

1 A. And of course we had ---. We was contacted from
2 outside. Captain Eugene White, ---

3 ATTORNEY BABINGTON:

4 Uh-huh (yes).

5 A. --- with our team, was contacted.

6 ATTORNEY BABINGTON:

7 Uh-huh (yes).

8 A. And we were instructed to drop back to the cut-
9 through area. Now, this cut-through area is around
10 spads 19848, ---

11 ATTORNEY BABINGTON:

12 Uh-huh (yes).

13 A. --- 19845, ---

14 ATTORNEY BABINGTON:

15 Uh-huh (yes).

16 A. --- in that area, and so a kind of irregularly-
17 shaped area.

18 ATTORNEY BABINGTON:

19 Uh-huh (yes).

20 A. And I guess that's why they termed it the cut-
21 through.

22 ATTORNEY BABINGTON:

23 Uh-huh (yes).

24 A. And they cut-through over there. And that cut-
25 through comes through in three entries. And we took

1 the northern-most entry around spad 24423. And it's
2 very hard to tell where we were at.

3 And at this time, I might add, even at the track
4 switch your eyes were burning a little bit from the
5 CO. And it's almost like being near a fire and having
6 the smoke turn on you. And as we got on into here, of
7 course we're still walking bare-faced.

8 ATTORNEY BABINGTON:

9 Uh-huh (yes).

10 A. The CO started to increase. It was, I'm thinking,
11 around 24423 in the cut-through that we measured
12 hardly anything in CO, but as we progressed up through
13 the cut-through to spad 23949, in that area, then ---.

14 BY MR. FARLEY:

15 Q. Now, this area of the mine would've been on the
16 mouth of the longwall side; right?

17 A. Yes, yes. Uh-huh (yes). And again, when we got,
18 first got into the cut-through around spad 24423, ---

19 Q. Uh-huh (yes).

20 A. --- again, it was very hard to discern where we
21 were at, because everything's, you know, charred and
22 blackened from the explosion.

23 Q. Uh-huh (yes).

24 A. And so we went over to the --- in that right entry
25 to like spad 24425 ---

1 Q. Uh-huh (yes).

2 A. --- and --- until we found that solid rib. Then
3 we knew where we were at. When we found that, we knew
4 where we was at, because we had a map, but it was ---
5 it was, you know, like a full mine map, and I think
6 like a 500 map or something like that. And the blocks
7 and entries are very small.

8 But we found that and so what we did at that
9 point, we dropped one ---. Well, actually we were
10 joined by Fred Newsome. He'd come down from another
11 team and we were able to station him right here
12 (indicating) to maintain radio contact with walkie-
13 talkies.

14 Q. When you say right here ---?

15 A. Right --- excuse me. Like at spad 19864.

16 Q. Okay.

17 A. And I'm not really sure that's the exact spad, but
18 it was in that area.

19 Q. Okay.

20 A. And we progressed up through there. We were in
21 different entries. Eugene --- I'm not sure who was
22 --- I think Danny Acord was with Eugene. I'm not real
23 sure, but ---.

24 Q. Eyes still burning?

25 A. Oh, yes, eyes still burning all the time, and it

1 got increasingly worse as we went in. I was in the
2 belt entry and there was a lot of destruction to the
3 belt. It was warped. The structure was torn apart,
4 bent. It was extremely bad going up through there and
5 made it very difficult. We were searching for
6 personnel that had been affected by the blast, and
7 taking our time looking under the belt and still
8 trying to move as fast as possible.

9 Q. Okay.

10 A. Coming up through there. And Kenny Browning --- I
11 believe John Kinder was in the adjacent entries. And
12 we traveled as a team from one breakthrough to the
13 next breakthrough.

14 Q. Uh-huh (yes).

15 A. We'd look over and discuss what we found.

16 Q. Uh-huh (yes).

17 A. And after everything was okay and Eugene would
18 call and let the command center know where we were at,
19 what we found, then we'd progress up another entry.

20 Q. Okay.

21 A. We did that all the way up through the cut-through
22 until we hit solid coal; okay? And then we turned
23 right and went up to and explored a little area. It's
24 about five entries and contained spad numbers like
25 23952, 23959, in those areas.

1 Q. Would that have been back up ---? Would that be
2 back towards the Headgate One North?

3 A. Yes, it would've been. Yeah, that would be in
4 that direction.

5 ATTORNEY BABINGTON:

6 With the pen, do you mind showing the
7 arrow going through the mouth section here
8 (indicating) ---

9 A. Okay.

10 ATTORNEY BABINGTON:

11 --- and then up to the ---

12 A. Yes.

13 ATTORNEY BABINGTON:

14 --- up to the Headgate One North?

15 A. Okay. Yes.

16 ATTORNEY BABINGTON:

17 Excellent. Thank you.

18 A. Okay. And when we had traveled all these ---.
19 Now, as we came up to this area going toward the
20 Headgate One North, again we started picking up CO.
21 It'd be three parts per million and then seven parts
22 per million. By the time we got to probably spad
23 24084, I'd say it was probably into 15 to 20 parts per
24 million.

25 BY MR. FARLEY:

1 Q. Okay.

2 A. And by the time we got up to where the coal was
3 --- ran to the solid wall at 23949, we were looking at
4 30 parts per million. It was almost unbearable,
5 actually. And --- but we knew we weren't going to be
6 there very long, so we backed out.

7 What we found here was almost every overcast was
8 blown completely out. There was hardly anything to
9 even recognize as an overcast. Stoppings were
10 obliterated. Hardly even small pieces were left of
11 stoppings. There was a belt entry. On this map I
12 can't tell which entry it was.

13 Q. Uh-huh (yes).

14 A. But it paralleled, I'd say Headgate One North and
15 Tailgate One North down through there at spads 23839
16 and, say, 23813, those entries right there. What I
17 saw there at one point, I saw a belt drive. It was
18 absolutely just picked up and thrown over to a
19 breakthrough, a distance of, I would imagine, 70 feet.

20 Q. Which direction ---

21 A. The direction ---.

22 Q. --- was the breakthrough, from its original
23 location?

24 A. From its original location?

25 Q. Or as best you can determine the original

1 location.

2 A. As best I can determine, it'd be located ---.

3 ATTORNEY BABINGTON:

4 Would you mind using a different color

5 for it?

6 A. Okay. Yeah. I'm thinking it would be located in
7 the breakthrough, I don't know, about spad 2400,
8 somewhere in that breakthrough right there, maybe,
9 toward --- it looked like to me, anyway --- going back
10 toward Six North belt. Like, if a beltline was in
11 this entry, at spad number 23813, and then it would've
12 been blown over into the breakthrough from where it
13 was at.

14 BY MR. FARLEY:

15 Q. Okay. Would that be to the east?

16 A. Yes, I think it is.

17 Q. Uh-huh (yes). Based on the map?

18 A. Based on the map. At least, the best I can
19 recollect. I'll tell you. We come down different
20 directions ---

21 Q. Uh-huh (yes).

22 A. --- and it's just really hard to pinpoint exactly
23 which belt drive that was. It may have been the head
24 off of here (indicating) dumping onto this belt. The
25 way everything was so torn up, the belt was so torn up

1 and to be able to locate all that destruction's really
2 kind of difficult to do.

3 Q. Okay.

4 A. At one point, coming down through this area, and
5 just by that I mean area around say spad 2813 to
6 23787, down through that entry, it just looked like
7 all the belt had been shoved completely for like a
8 break. There was just a space of nothing, no
9 structure, no belt, nothing.

10 Q. Could you ---? I know it was probably all black
11 and mostly all, you know ---. Did you come away with
12 any sense of from --- sense of from what direction the
13 forces came?

14 A. No, I couldn't.

15 Q. Okay.

16 A. It would be just so erratic. Like when we were
17 traveling up the belt over through here (indicating),
18 say around spad 2 --- 24178 to like 24362, up through
19 there, sometimes the belt would be okay, sometimes
20 it ---. Well, most of the time it was torn all to
21 pieces and bent, and the belt itself would be out of
22 the structure, laying down on the ground, and the
23 structure would be all mangled.

24 And it's very hard 'cause it'd be pushed this way
25 one time, another way the next time. And as far as

1 determining or ascertaining any direction, it was very
2 hard to do that, even with the stoppings blown out and
3 the ---

4 Q. Okay.

5 A. --- the overcasts destroyed. You might see an H
6 beam of an overcast, you know, 20, 30 feet down a belt
7 entry leaning against the belt. And it's even ---
8 that's hard to tell where it came from.

9 Q. Okay.

10 A. I'm sure when they do the final mapping, it'll all
11 become very clear, but it was the most destruction
12 I've ever seen. I was at Sago and there was a lot of
13 destruction there, not to be compared with this.

14 Q. Okay. Now, how did you --- you indicated how you
15 --- this how you exited, by the blue line moving north
16 there ---?

17 A. No.

18 Q. How you exited that area?

19 A. Actually, when we went north ---

20 Q. Uh-huh (yes).

21 A. --- up to say spad 22617, ---

22 Q. Uh-huh (yes).

23 A. --- we backtracked. Once we got those entries
24 completed, we backtracked and traveled all the way
25 back down south to just past spads 27 --- 23785 and

1 23787.

2 Q. That's back out towards the longwall tailgate
3 entries?

4 A. Yeah. So we were right down in this ---

5 Q. Okay.

6 A. --- area right here.

7 Q. So would you circle that area for us?

8 A. Okay. Yes, right here. That was our furthest
9 point of entry right there.

10 Q. Okay.

11 A. And we traveled this. And then we came back up to
12 about right here (indicating) and we travel back out
13 the cut-through.

14 Q. Now, when you say right here, would that be about
15 one, two ---

16 A. Three, oh, yeah.

17 Q. --- three crosscuts north ---

18 A. North.

19 Q. --- of the tailgate entries; right?

20 A. Yes. Yes.

21 Q. Is that right?

22 A. Uh-huh (yes). And that would be about around spad
23 23813.

24 Q. Uh-huh (yes).

25 A. And then we traveled back toward Six North belt in

1 the --- it's still in the cut-through area ---
2 examining each entry and looking for anybody affected
3 by the explosion. And that way we completely explored
4 that area of the cut-through.

5 Q. Okay.

6 A. And at that time when we got through exploring the
7 cut-through, we went back to the switch. And at that
8 time there was some more rescue teams that come in
9 gathered there, and just heard in bits and pieces
10 that, you know, we --- that some people had
11 encountered ---. Some of the other mine rescue teams
12 had encountered some high concentrations of methane
13 and CO to the point we must vacate the area.

14 Q. Okay. So did you exit the mine at that point?

15 A. Yes, we did. We exited and we came back down to
16 --- back to the track entry down at Break --- at Break
17 78, where we had stopped our track vehicles and track
18 Jeeps. And we gathered there and probably were there
19 for maybe, I'm thinking 30 minutes, to be
20 conservative, before we left.

21 Q. Okay.

22 A. And we finally were loaded. We got loaded in
23 there and we exited the mine.

24 Q. Okay. Can you estimate what time you got outside?

25 A. It was after 2:00. I'm thinking 2:45.

1 Q. That would be 2:00 a.m.?

2 A. Yes, 2:00 a.m. on the next day, on ---

3 Q. Okay.

4 A. --- what would be the 6th ---

5 Q. Okay. All right.

6 A. --- of April.

7 Q. All right. Did you eventually reenter the mine as
8 part of the rescue and recovery operation?

9 A. No, that was the only opportunity I had to go in.
10 When I got out, Steve Snyder, the inspector-at-
11 large ---

12 Q. Uh-huh (yes).

13 A. --- had been there for a couple days, and we
14 weren't allowed to go in for like a day. And when I
15 come back, Steve had not gone home, so it was my duty
16 to relieve Steve.

17 Q. Sure.

18 A. And it was up to us to make the decisions in the
19 command center from that point on, ---

20 Q. Sure.

21 A. --- so I really didn't have the opportunity to go
22 back in. And so I was there throughout the whole, you
23 know ---.

24 Q. Some people worked around the clock. Did you have
25 a bigger shift or were you just there around the

1 clock?

2 A. Pretty much around the clock. Actually, I spent
3 26 hours straight there one time. And we'd go home
4 and get a little sleep and come back, you know?

5 Q. Okay.

6 A. And Steve and I tried to relieve each other. That
7 was very hard to get a good schedule going on because
8 both of us were needed there sometimes.

9 Q. Sure.

10 A. We were both there. But I was normally in the
11 command center and helping control things on the
12 surface.

13 Q. Okay. Is there anything else that you'd like to
14 add pertaining to your inspections there or your role
15 in the rescue and recovery operation? Is there
16 anything else that you think would be valuable to the
17 investigation that you want to add?

18 A. As far as inspection goes, when I turned my
19 inspection over to Wayne, I gave him a detailed list
20 of what I had completed and what needed to be
21 completed so we didn't miss anything.

22 Q. Uh-huh (yes).

23 A. As far as mine rescue, I felt like we got in there
24 really fast.

25 Q. Okay.

1 A. You know, I could add some things maybe to help us
2 out in the future tense, you know, but as far as the
3 investigation team, I think that's about all I could
4 add as far as what we did that one night.

5 MR. FARLEY:

6 All right.

7 ATTORNEY BABINGTON:

8 Before we move on, if you could label
9 what these ---. If you could hand me a pen from down
10 there, please. If you could label what the blue line
11 is? And I guess that's your --- that's like the route
12 for the mine rescue team?

13 A. Okay.

14 ATTORNEY BABINGTON:

15 And then I guess the green line you said
16 was the belt drive?

17 A. Yes. And again, I'm not sure of the entries.

18 ATTORNEY BABINGTON:

19 Right.

20 A. There were two belt --- belt entries.

21 ATTORNEY BABINGTON:

22 Okay.

23 A. One and then there's a --- one went that way;

24 okay?

25 ATTORNEY BABINGTON:

1 Okay.

2 A. I may have hit it there. I'm pretty --- either
3 this one or that one. Okay? So the green would
4 symbolize the belt entries.

5 ATTORNEY BABINGTON:

6 Okay.

7 A. Okay. The blue, direction of travel.

8 ATTORNEY BABINGTON:

9 Sorry about your arm there.

10 A. Okay.

11 ATTORNEY BABINGTON:

12 And one other thing. Could you ---
13 especially on this section here, could you put arrows
14 demonstrating, since it's a circle, which way you
15 went?

16 A. Okay. Okay. I'll put single head arrows going
17 in.

18 ATTORNEY BABINGTON:

19 Okay.

20 A. And I'll put double head arrows exiting; okay?

21 ATTORNEY BABINGTON:

22 Okay.

23 A. Now, as we go up through here, it's kind of hard
24 to show it, but you know, we were covering all these
25 entries ---

1 ATTORNEY BABINGTON:

2 Right.

3 A. --- the one time.

4 ATTORNEY BABINGTON:

5 Right.

6 A. Okay. Okay. That one and ---.

7 ATTORNEY BABINGTON:

8 Okay.

9 A. And of course that was going back ---.

10 ATTORNEY BABINGTON:

11 Absolutely. Yeah, I think I just wanted

12 to see it there, so --- Okay.

13 A. Okay.

14 ATTORNEY BABINGTON:

15 Thank you.

16 A. Uh-huh (yes).

17 ATTORNEY BABINGTON:

18 Should we take a quick break before or do

19 you think you're going to be quick?

20 MR. STEFFEY:

21 Yeah, let's just take a break.

22 ATTORNEY BABINGTON:

23 Okay. Then we're going to take a five-

24 minute break. Off the record.

25 SHORT BREAK TAKEN

1 ATTORNEY BABINGTON:

2 Let's go back on the record.

3 EXAMINATION

4 BY MR. STEFFEY:

5 Q. Okay. Randy, for the record, can you spell your
6 last name?

7 A. Yes. S-M-I-T-H.

8 Q. Okay. Are you appearing here today voluntarily?

9 A. Yes.

10 Q. Okay. Let's talk about when you were inspecting
11 this mine. You said you looked at the electrical
12 books prior to going in, as many as you could. Did
13 you look at any other books when you were out in the
14 office prior to going into the mine?

15 A. No.

16 Q. No.

17 A. Normally I stick with electrical books.

18 Q. Okay. When you made your inspections, anybody
19 travel with you?

20 A. Yes. Uh-huh (yes). Yeah, the company always puts
21 somebody with us. I travel with several of the
22 maintenance chiefs. They have more than one down
23 there and --- Rick Nicolau, David Taraczkozy, excuse
24 me, Virgil Bowman, Tom Sheets, and one time Paul
25 Thompson, the maintenance superintendent.

1 Q. Okay.

2 A. But we didn't have ---.

3 Q. Did they take any notes if they took or pictures
4 while they were traveling with you?

5 A. I don't believe they took any pictures. Actually,
6 I don't remember them taking any notes. Sometimes
7 they'll pull out a pen. Well, I would say they
8 probably did. Sometimes if they find a situation
9 they'll cite. They probably did take notes, you know.

10 Q. Okay.

11 A. I guess I'm just so used to that, you know.

12 Q. Yeah, I understand. Did you take notes?

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

14 Q. Okay. Did you issue 'em any citations?

15 A. Yes, I issued ten citations.

16 Q. Ten citations, okay.

17 A. Actually, they were all electrical in nature.

18 Q. Okay. How'd they react when you issued a
19 citation?

20 A. About normal, you know. You have a little banter
21 every now and then. You know, do you have to do that,
22 this? But overall, not much resistance, you know?
23 They didn't take it personal and they know it's ---
24 you know, it's part of my inspection. That's what I
25 do as an inspector. And also, I've traveled with

1 these --- most of these gentlemen throughout the
2 years. I've inspected this mine once --- two or three
3 times since 1996 when I moved into this office up
4 here.

5 Q. Did the guys that you traveled with from the
6 company, did they ever --- did they ever express any
7 concerns to you about the mine, conditions in the mine
8 or that they were worried about anything?

9 A. The only remark I can remember --- and I'm not
10 sure who said it, but it was about the longwall crew.
11 At the time I was there, the longwall wasn't in
12 operation ---

13 Q. Uh-huh (yes).

14 A. --- while I was inspecting. And I think it may
15 have just got into operation on my last day there or
16 near that, but there was a fail at Newtown Energy, and
17 so I had to completely leave the inspection to go.
18 And it was a hoisting failed, and I was needed there.
19 But the comment was made that the longwall crew kept
20 tearing up the doors. They would just try to push
21 through them with their equipment.

22 Of course usually there's some contention between
23 the longwall crews and your regular crews in the mine,
24 and it's just how life is. But that's the only
25 negative comment I heard.

1 Q. Okay. Now, these doors that you talked about, did
2 you travel through any doors on your regular
3 inspection? Did you notice traveling through any on
4 your way in any of these sections? I guess let's back
5 up ---.

6 A. Where I was at, I think --- to this Number Four
7 section, I believe I did travel through a set of
8 doors. They seemed to be in good shape at the time.

9 Q. Okay. Did they have to open them by hand or were
10 they ---?

11 A. Yes. Yes, they had to be opened by hand. Now, I
12 believe at the very beginning of the portal, if I'm
13 not mistaken, I believe they had electric doors there.

14 Q. Okay.

15 A. And I know throughout the years they've had 'em
16 and then they haven't had 'em. They, you know, have
17 maybe been torn up. But I think this time they did,
18 from what I can remember.

19 Q. Were you ever on the Headgate 22 section or the
20 Tailgate 22 section or the longwall?

21 A. No.

22 Q. During your travels in the mine, did you ever
23 notice, outside of what you noted here, and there in
24 the mine rescue operations, as just a part of your
25 regular inspections, did you ever notice any

1 accumulations of water before in the mine?

2 A. Not excessively, because normally I, you know,
3 I've got to travel the pumps and things like that. I
4 didn't notice anything out of the ordinary as far as
5 water goes.

6 Q. Okay. And you may have already said this, but,
7 well, how was the rock dusting in the areas that you
8 did make?

9 A. Actually, the rock dust was good. You know, the
10 mine, as far as rock dust --- and I do look at that.
11 In the areas I was in, the rock dust seemed to be
12 plentiful.

13 Q. Okay. Did you happen to notice some of their vent
14 controls outside of the doors that we talked about,
15 you know, stoppings? Did you happen to notice how
16 good of a job they did maintaining that?

17 A. Well, the sections I was on, and of course the
18 stoppings to and from the sections, as well, seemed to
19 be always up. And actually the Number Four section
20 was just about immaculate. I mean, I was able to go
21 completely through the whole section in one day, which
22 is rare for me, and did all the ground fault tests,
23 tested all the equipment. The section looked really
24 good --- clean. And they were very proud of that
25 section, that Number Four section. They were

1 real ---.

2 Q. Didn't mean to interrupt you there.

3 A. That's okay.

4 Q. Did you talk to any of the miners on the section?

5 A. Probably. Normally I try to get the section
6 electrician, make sure he's got everything he needs to
7 work with and --- as far as tape and splices, things
8 like that. I'm thinking James Woods was on that
9 section. They call him Woodsie and he was one of the
10 people affected in the blast. And I probably had some
11 discussion with him. He and I, you know, usually made
12 a point to talk to each other, because I've been in
13 different mines that he's worked at through the years
14 and, you know, we just ran into each other and know
15 each other.

16 But other than that, the section boss, you know,
17 normally they'd come up. And in this case he did and
18 introduced himself and we talked a while. And I
19 commented on how good his section looked.

20 Q. Anybody ever seem apprehensive about talking to
21 you?

22 A. No, no. Especially on the Number Four section,
23 they seemed to be in good spirits.

24 Q. You mentioned that you issued ten citations during
25 your inspection.

1 A. Uh-huh (yes).

2 Q. Can you discuss some of those citations, what you
3 cited 'em for?

4 A. Yes, actually I can. The first citation I cited
5 was on how a dry insulating platform was not provided,
6 actually, for a distribution box in use at the East
7 Mains trapdoors, which I actually answered a question
8 about the trapdoors, so it was located near there.

9 And also that there was an insulating platform
10 provided --- actually, it was provided. It was
11 covered with water. And probably this water was from
12 drips and stuff like that, you know, and maybe traffic
13 and travel. And when they get like that, they're of
14 no value. They are no longer insulating platforms,
15 really. And so I cited that. That was probably the
16 first violation I cited.

17 I cited a violation for overload protection wasn't
18 provided for the primary or secondary site of a small
19 control transformer. And that was located in the rock
20 dust bench starting box on the surface area of the
21 mine.

22 I also cited a grounding circle wasn't provided
23 for a metal fan. There's a freestanding fan they were
24 using in the longwall shield shop. They had a
25 makeshift shop there not too far from the substation

1 where they're putting together all the longwall
2 shields and things like that. This fan is pretty
3 tough, really. The power chord, you know, a splice
4 had a problem in it.

5 Another violation, they hadn't actually been
6 recording the monthly high voltage ground monitor test
7 in the books and I cited that. And, in fact --- okay.
8 I cited a ground monitor circuit provided for the
9 Number Three section line splitter box. I failed to
10 deenergize when this --- failed to deenergize the line
11 splitter box when the emergency stop switch was
12 actuated.

13 Also wrote a violation on insulated platform
14 provided for the zigzag transformer power box in use
15 near the mine ventilating fan. This is a fan located
16 near the Montcoal Portal facility and shop there.
17 It's a large mine fan. And beside it they had a
18 little zigzag transformer power box there, and the
19 ground had eroded to the point that you couldn't get
20 there. I mean, you couldn't even stand there, so the
21 company did a very good job of putting all that back
22 together and putting a platform area there and putting
23 an insulated platform on that.

24 Also I wrote another insulated platform. It
25 seemed like that was in the area of the inspection

1 that, you know, could use some extra effort in it.
2 And a multiple relay on Four North belt, Number One
3 motor, the display, it blanked out to where you
4 couldn't even read it, so you had no way of knowing
5 what kind of protection you had there.

6 Probably one of the worse things I found in my
7 inspection wasn't electrical. It was in the end of
8 the track going toward the Ellis Portal, and they
9 decided to build a stopping right across the track
10 there. And that's what they did. They built the
11 stopping and they didn't put a dead block or an end of
12 track sign. When I arrived there, it was just a
13 stopping wall there and they just had finished that.
14 And, you know, you could just easily run through it.
15 And of course I wrote that.

16 And when I came back --- during this time of my
17 inspection, I might also add that I had to investigate
18 some complaints and things at other mines, so I was
19 drawn away from my inspection for things like that,
20 also mine rescue contests and annual leave and so
21 forth. But I got back. They really hadn't abated it.
22 Well, I think they had abated it, but by the time I
23 got back, it wasn't abated anymore and they had some
24 more problems in that area, and I wrote another
25 violation. And again, it was about the same thing,

1 and I made a note that, you know, an end of track sign
2 and a positive stop block were not provided for the
3 end of the track at the Ellis punch-out. That's what
4 they called it at the time. And I made a note. This
5 same violation law at the same location was cited on
6 August 5th, 2009.

7 Another violation I wrote is on the grounding
8 circle wasn't provided for a 120 volt GFCI receptacle
9 in use at the EnerSys forklift battery charger. For
10 some reason when EnerSys builds a battery charger,
11 they don't actually put a grounding circuit in 120
12 volt outlets. And it's something I look for quite
13 often, and it escapes the eye of the company sometimes
14 because they don't test it like they should. And of
15 course I picked up on that and we got that fixed.

16 And that basically pretty much covers it. That's
17 the violations I wrote there. I said they were all
18 electrical in nature, but actually two of 'em were
19 about the track, you know.

20 Q. Did they ever say why they were putting ---
21 building a stopping across the track?

22 A. No. At that time they were doing some ventilating
23 --- ventilation changes, evidently. And the way they
24 built that stopping, you know, it was ---. I'm not
25 sure if that was for a ventilation change. I think it

1 was and --- but on my second trip there, I went ahead
2 and went on through to the surface area because I was
3 told that there wasn't any --- anything energized
4 outside, but I needed to make sure for myself.

5 So I traveled outside and I looked ahead at that
6 portal at that time. It was just a small office
7 building, perhaps maybe 30 feet by 10 feet wide,
8 something like that, and it had no power. It was just
9 like they said it was, there was no power there.

10 Q. As a part of your inspection, part of your
11 electrical inspections, did you ever do a
12 permissibility check, as far as taking a feeler gauge
13 and checking the gap distance around a panel board?

14 A. No, I didn't. Normally electrical inspectors in
15 our agency don't. We just don't have time.

16 Q. Okay.

17 A. Now, that is done by the district inspectors when
18 they're there, and they're there four times a year,
19 and they, without fail, do that.

20 Q. Uh-huh (yes).

21 A. But we just don't have time in our inspection
22 because of extra things we have to do.

23 Q. Did you ever hear of 'em finding anything on a
24 permissibility check?

25 A. Nothing that stands out.

1 Q. Nothing that stands out? In your conversations
2 with the mine management people that were traveling
3 with you, did they ever mention any methane coming up
4 through the floor anywhere around the longwall?
5 Anybody ever talk about that?

6 A. Not to me, no.

7 Q. What about water coming out of the roof or
8 anywhere like that? Did they ever talk about that?

9 A. Well, not during my inspection. Now, as my new
10 job as assistant inspector-at-large, they did have
11 some severe water problems up near the boring hole.

12 Q. Okay.

13 A. And they asked for, you know, permission to
14 actually shoot some of the mine floor to create like a
15 ditch to be able to ditch some of that water.

16 Q. Now, when you're talking about the Glory Hole, are
17 you talking about here (indicating) or are you talking
18 about ---?

19 A. Well, I'd have to have the permit in my hand.
20 Somewhere in this area, they --- I know, I remember
21 that in a request, it noted somewhere in the Glory
22 Hole. I'd have to go back and get --- actually pull
23 that. But they had --- I don't know if they had pump
24 failures or it was a management problem or something,
25 but anyway the water had gotten quite high, and they

1 were pretty much in dire straits from I could see on
2 the water.

3 ATTORNEY BABINGTON:

4 To clarify, the Glory Hole area you're
5 talking about is off of the Headgate 22 Section?

6 A. Yes, I am ---.

7 ATTORNEY BABINGTON:

8 Okay.

9 A. That's correct.

10 BY MR. STEFFEY:

11 Q. All right. Do you know of any complaints with
12 this mine? You ever hear of any complaints about the
13 --- about unsafe conditions?

14 A. The only complaint that I heard was not really
15 from the men or the company, but two MSHA inspectors,
16 and I can't even remember their names, but they were
17 there one day when I was there.

18 Q. Uh-huh (yes).

19 A. And it was on the day that I wrote the violation
20 about the zigzag at the portal fan there. And as I
21 walked by, one of them said, you know, that they were
22 there because I don't know if it was them or somebody
23 in the mine had found a situation where it was
24 supposedly over six percent methane.

25 Q. Do you remember about what time that was?

1 A. They were there in the afternoon. It was in the
2 afternoon on the day that I heard that. I'm thinking
3 --- I don't know if I have that in my notes or not.
4 I'm thinking that was maybe around August. It was
5 later on into the inspection.

6 Q. Okay.

7 A. And either late July or mid-July to August 5th.
8 And from what I understood, a section was shut down.
9 And I'm thinking that Miners' Health, Safety and
10 Training probably were there the next day in full
11 force to do some checking on that.

12 Q. Okay. Have you heard of any --- besides that
13 time, have you heard of any other times where crew had
14 to be pulled out of the mine due to excessive methane
15 or other unsafe conditions?

16 A. No.

17 Q. Or what about an oncoming shift cancelled? Did
18 you hear anybody talk about that?

19 A. No, I haven't.

20 Q. Okay. Let me see here. Let's talk about the day
21 of the accident. When you responded as part of the
22 mine emergency operations and you went into the mine,
23 you highlighted here on this map how far you made it.
24 You mentioned that there were a couple people, one or
25 two ahead of you.

1 A. Uh-huh (yes).

2 Q. You wouldn't happen to know who that was, would
3 you?

4 A. Well, actually I might have said people but it was
5 like teams.

6 Q. Okay.

7 A. One or two teams had went in. Because I was
8 hoping to be amongst the first to go in, and I'm
9 thinking one or two teams went in like on the trip
10 ahead of us. And I think they were the ones that went
11 up toward Headgate 22, that area.

12 Q. Did you hear of any company people going in prior
13 to the teams?

14 A. Yes. Well, when we got in there, actually, I
15 think it was at the switch up here on Six North belt
16 where we thought was the fresh air base.

17 Q. Uh-huh (yes).

18 A. There were two or three company people. The only
19 one I can remember or recognize was Chris Blanchard
20 and they --- from what I understand, they had been in
21 there searching and doing the best they could to find
22 people.

23 Q. Did you happen to speak to Mr. Blanchard?

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

25 Q. And what did he have to say?

1 A. Well, actually, I should have mentioned this
2 before, going through all this cut-through thing. He
3 traveled with our team ---

4 Q. Uh-huh (yes).

5 A. --- and we were open-faced. And I felt that would
6 be safe as long as he fit behind the captain.
7 So he and I traveled the same entry. They had
8 previously, according to the conversation I heard
9 there, they had come over this way earlier right after
10 the explosion, and were searching for people, and ---
11 but were in a very big hurry. That's how we were
12 directed back to the cut-through area. And he, of
13 course, went up through there again this time, going
14 through every entry, thoroughly searching the area.

15 Q. Did he mention how far they made it when they were
16 in there earlier searching?

17 A. I know that they had made it all the way through
18 the cut-through area, but that's about the only thing
19 that I know.

20 Q. Didn't mention that they --- he never mentioned
21 going to the longwall or to the headgates or tailgate
22 or anything like that?

23 A. Not to me. He did mention that, I think they were
24 the ones that the other trip down here outby Break 78
25 that was affected by the blast and he did mention

1 that.

2 Q. Okay. Did he mention whether or not he had to
3 open an SCSR at any point?

4 A. Yes. Yes.

5 Q. So he did open an SCSR?

6 A. He said he did, yes.

7 Q. Okay. So he said he did. All right. Did he say
8 about where he was at?

9 A. No. I think that --- from what I understand, I
10 believe that's what he said, that he did do that.

11 Q. Okay. No, that's fine. You said that you all ---
12 you and your team originally thought that the fresh
13 air base was right in here (indicating).

14 A. Yeah.

15 Q. That being at about, ---.

16 A. Oh, about spad 19881 at that track switch, 19887.

17 Q. Who was your team in communication with outside?

18 A. The command center.

19 Q. Command center.

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

21 Q. Do you know who was in the command center?

22 A. No. At the time I'm not really sure. I feel
23 Steve Snyder may have been in there because ---
24 representing the State. Chris Adkins, I believe, was
25 there but this is hearsay, ---

1 Q. Okay.

2 A. --- you know.

3 Q. And you said your eyes were burning from ---. I
4 believe you said it was you felt from CO at the track
5 switch but it was like walking into smoke?

6 A. Yes, but there was no smoke.

7 Q. But there was no smoke. Did you ever see anything
8 burning or on fire, or anything smoldering?

9 A. No. I found out later one of the other team
10 members found a fire not far from the switch. We just
11 discussed the Six North belt.

12 Q. Okay.

13 A. A smoldering that hadn't really hadn't broke into
14 a blaze, but, you know, it could have at any time.

15 Q. I understand. Did you ever have to don --- go
16 under oxygen on your apparatus?

17 A. No, we bare-faced it.

18 Q. Bare-faced it. Okay. Were you in the area on any
19 subsequent dates?

20 A. No, I wasn't.

21 Q. You mentioned that you saw Mr. Blanchard
22 underground and you said there was --- how many other
23 company people did you say?

24 A. They were kind of just, you know, bent down, you
25 know how you squat down in ---. There was two or

1 three people I didn't recognize. And I --- actually I
2 didn't recognize Chris Blanchard because, you know, he
3 had been through a lot and his face was quite
4 blackened.

5 Q. Yeah.

6 A. And I had to kind of stare intently because I
7 heard somebody mention Chris, and I thought it must be
8 Chris Blanchard, and it was.

9 Q. Okay. Subsequent to that first day, what other
10 activities did you do during the rescue and recovery
11 operations?

12 A. Helped to man the command center, coordinate
13 personnel was part of the job, modify an order.
14 Virgil Brown, from MSHA, and myself and the
15 superintendent, one night we formed a recovery plan
16 and got that lined out to where we could get that
17 approved by all agencies and management as well.

18 Q. Okay. And when you were in the command center,
19 what were you doing?

20 A. Representing the State and taking notes and
21 listening to what was going on underground. And if
22 any decisions had to be made, then we would make that
23 decision, represent the State as part of that
24 decision. Also modify the control order we had in
25 place, every time we made a decision and anything

1 changed.

2 Q. Okay. And you said you took notes. Do you
3 remember what day that was on?

4 A. That was several days after.

5 Q. Several days?

6 A. Yeah, throughout the whole week. That was a long
7 seven days and I'm not sure what days that was on.

8 Q. Okay. All right.

9 A. I really didn't take notes on where I was at each
10 day because each day was pretty much a flurry of
11 activity.

12 Q. I understand, naturally. Do you have anything
13 you'd like to add to what we've discussed that would
14 be relevant to this?

15 A. Well, the first night when we got there at UBB and
16 C Portal, Montcoal, the main portal, to the track, I
17 was talking with, Dave Taraczkozy, nicknamed Doughnut,
18 and he told me that the fan --- this is a big 4160 fan
19 right there beside the building, that he seemed to
20 think it reversed. And basically he said it was a
21 horrendous noise at the time of the explosion. A
22 horrendous noise that it stalled the fan and reversed
23 the fan.

24 And also discussed it with Chris Blanchard and he
25 said that the water gauge had went from what, 4.5 to

1 above 10 and then back down to 5 at the time of the
2 explosion. And of course my concern was if this
3 really did happen, then why didn't the explosion doors
4 open, you know. And so I went and checked the
5 explosion doors and they were held together by bolts.
6 But supposedly these bolts are soft metal and
7 supposedly shear. But from what I understand, it's
8 not a designed shear point like you would find in some
9 applications. And I know that there can be --- you
10 can find fasteners that would shear at a certain
11 specific point, you know, certain amount of foot
12 pounds, which probably needs to be looked into.

13 Q. So they just basically drew up his order, put a
14 stop bolt in and a secondary ---?

15 A. Yes. And from my understanding --- of course I'm
16 an electrical inspector and don't normally look at
17 this kind of thing, but when I was told this is pretty
18 much the norm. I don't know if it is the norm in the
19 industry, I would imagine we probably should look at
20 that closer throughout the mining industry because
21 that's what these doors are for because if that takes
22 that fan out, and fortunately it didn't, but if it
23 had, that would have been a problem.

24 Q. Absolutely. Did you --- and I guess going back
25 and I just thought about this and I apologize, but in

1 the course of your inspections when you were
2 underground, did you happen to ever see anybody from
3 engineering?

4 A. You know, it's not rare to see. People come in
5 and set spads ---.

6 Q. I'm not talking about, you know, the surveyors,
7 I'm talking about the actual mining --- the ones
8 that ---.

9 A. No.

10 Q. Okay. Did you ever see them outside, ever talk to
11 'em or ---?

12 A. No.

13 Q. No. What about on the day of the accident?

14 A. No. I did see probably their engineer the day of
15 the accident, but I didn't have any kind of
16 discussion, now that you mention it.

17 MR. STEFFEY:

18 I understand. That's all I have.

19 EXAMINATION

20 BY MR. BECK:

21 Q. Randy, on behalf of the independent team, I'd like
22 to commend you and thank you for working the rescue
23 effort. And you said you became assistant inspector-
24 at-large in November 2009; is that correct?

25 A. Yes.

1 Q. Who was in the job prior to you?

2 A. Bill Tucker.

3 Q. Okay. It was stated that electrical inspection is
4 required once per year; is that correct?

5 A. Yes, it is.

6 Q. Could you explain what comprises an electrical
7 inspection, just the highlights of it, you know?

8 A. Okay. Basically, the electrical inspection, when
9 you go to a mine, of course you want to look at all
10 the books. And there's a lot of different areas. You
11 want to make sure that they have a monitor waiver for
12 the State and any other, you know, permit like for
13 pumps, pumps used in return.

14 Q. Uh-huh (yes).

15 A. Throughout the inspection, you want to visit
16 anything that has a cable going to it because you're
17 only there once a year, so you want to go to every
18 circuit breaker, ground fault every circuit breaker.
19 Go to every piece of equipment, check the cables,
20 check the equipment, check emergency stop switches on
21 the equipment. PCT relays on the miners. You want to
22 do continuity test. By that on sections on equipment
23 at the sections of --- you'll get two shuttle cars and
24 park 'em within arm's reach of each other and you'll
25 take a reading on voltage to make sure you've got

1 hardly any voltage there, probably two or three volts.
2 Normally you might find a volt, volt-and-a-half
3 normally. And then you also do a continuity test just
4 putting a probe on each piece of equipment to make
5 sure that is a low-resistance ground path going back
6 to the power center, four ohms or less. And you
7 complete every section in that mine doing that. You
8 ground fault every breaker in that mine and ---
9 because that's really important to do that because if
10 everything else goes bad, that breaker should open.
11 If that breaker ground faults, like it should, then
12 you know, that's a great safety device and you want to
13 test that. That's tested by the company once a month
14 and we always test 'em. And of course we'll test any
15 circuit; low voltage, medium voltage, high voltage.
16 And every belt drive. We'll go to every belt
17 drive. Every pump in the mines. Pumps are very
18 important, to go to the pumps, make sure they're
19 correctly installed. If they're in return, make sure
20 they have the return pump permit, and that it is a
21 permissible pump, actually go look at the pump itself
22 and see the permissible tag there. And do every belt
23 drive, every charging station, anything that has power
24 going to it.
25 And on the surface, even extension cords, we look

1 at those. I bring the ends of 'em together. We'll
2 check each one in the hole, make sure every wire's in
3 place. We'll do the high-voltage circuits
4 underground. And on the surface of the substation,
5 we'll do the high-voltage test. We'll test every
6 circuit. And the mines like Performance, you have
7 many high-voltage circuits.

8 So that's quite an extensive day. It took 14
9 hours to do the high-voltage test on the surface and
10 underground, going to each power center, hitting the
11 emergency stop and deenergizing that power center and
12 making sure that monitor circuit works.

13 And also as an electrical inspector, you know, I
14 look at track switches, anything, rock dust, roof
15 conditions. If anything is glaring there or needs
16 attention at all, you know, I've cited --- I've cited
17 that before. I'm trying to think. Basically, you
18 want to size every circuit breaker, every line
19 starter, even cable couplers. And you want to make
20 sure your short-circuit protection, your overload
21 protection's right, the end path of the cable is
22 sufficient for the equipment it's supplying power to.
23 Any safety feature that's electrical at all, you
24 want to test that out of the starting boxes, even
25 feeder starting boxes on the section. And also I'm

1 looking for coal, if we have too much dust, I don't
2 have a lot of violations on that. The conditions, as
3 we noted before, of insulating platforms, that's your
4 first line of defense and it needs to be right. I
5 require all surface spads to be installed on pallets
6 and kept as dry as possible.

7 Switch boxes. I open up every switch box on the
8 surface or in the mine and check every arc chute and
9 switch boxes, the wiring, all of the streams, anything
10 that would pertain to electrical safety, we want to go
11 across that or through that.

12 Q. It's very extensive both underground and surface?

13 A. Yeah, it's very extensive.

14 Q. Virtually all-encompassing, including anything
15 else you would see to be a violation of the state
16 law ---

17 A. Yes.

18 Q. --- even if it wasn't electrical?

19 A. Exactly.

20 Q. Now, you did an electrical inspection, started one
21 or did it from May 27th, 2009 to October 27th, 2009.
22 And I think you said you had 12 inspection days and
23 ten citations that you reviewed.

24 A. Yes.

25 Q. And you got promoted and handed off to Wayne

1 Miller, ---

2 A. Yes.

3 Q. --- and then in your new role as assistant
4 inspector-at-large, in January 2010, you assigned it
5 to Ed Blake ---

6 A. Uh-huh (yeah).

7 Q. --- to get this done, get this electrical done.
8 Of course he wasn't able to get it done because of the
9 accident.

10 A. Right.

11 Q. Can you tell me when the last completed electrical
12 inspection at Upper Big Branch was done?

13 A. 2008.

14 Q. 2008.

15 A. Yes, sir. Actually, they've gone through a
16 shortage of electrical personnel and this past year
17 I've spent three months training a man and he was only
18 able to work maybe six weeks and he had a --- he'd had
19 a hip replacement, he was an older gentleman. And he
20 wasn't able to do the job physically and that didn't
21 come out until I trained him. Tim Brown was hired
22 shortly thereafter and I trained him for another three
23 months. And of course Tim's with us right now
24 inspecting mines.

25 Q. Did Upper Big Branch have a tracking system in

1 place?

2 A. At the time I was there, I think they were in the
3 process of doing that. And I don't think that it was
4 completely completed, I'll put it that way.

5 Q. One last question. You said that you were
6 assigned to Eugene White's team, the Danville team, as
7 a map man?

8 A. Yes, sir.

9 Q. What's the responsibilities of a map man?

10 A. Well, basically a map man will map everything,
11 like from the first set of doors that I found, I
12 started trying to map that night. Actually we were on
13 a rescue mission and by the time I got in the cut-
14 through, it was getting pretty difficult to map. So I
15 told Eugene, I said you know, we need to find these
16 people. So we probably didn't map nearly as
17 accurately as you normally would. Now, like with
18 Sago, I was a map man there on the final recovery.

19 Q. Right.

20 A. When we went back to Sago after Aracoma occurred
21 and had the time and you actually mapped every item,
22 you know, that's been affected by an explosion, every
23 stopping's been blown out, which direction was blown
24 out. And you do a very definitive mapping at the
25 time. Then the night we went in, we mapped, we was

1 going at a very fast pace, walking fast. And to hold
2 a clipboard and try to map, you know, after a while
3 you have to just choose one or the other. And so the
4 mapping, we mapped but --- I mean, I mapped, but it
5 wasn't as definitive as it could have been had I had a
6 lot of time, two or three days, you know.

7 Q. Where would that map be at now?

8 A. That map was turned in to Eugene. And when I got
9 outside, I'm not sure what happened to it at that
10 point. I think it was taken to the command center and
11 it may be ---. We may have that map, I don't know.
12 I'm not sure. But I turned it in to Eugene.

13 Q. Was anybody on the surface mapping your guys'
14 travels, your team's travel?

15 A. I would imagine, I wasn't there, you know, at the
16 time, but ---.

17 Q. Just keeping track of where you were at?

18 A. Yeah, they just keep track, actually, and that way
19 they know exactly where you're at and what you're
20 exposed to. And the teams call out to the command
21 center, you know, we're here, and we need to have
22 permission to go here, here, and here.

23 MR. BECK:

24 That's all.

25 EXAMINATION

1 BY ATTORNEY BABINGTON:

2 Q. I actually had a couple follow-ups. Did you find
3 any water accumulations during the rescue and recovery
4 operation?

5 A. Yes. In this area right here that we previously
6 discussed, it was very deep. One --- spad 19850,
7 somewhere in that area.

8 Q. Okay. And that's on the Number Six North belt?

9 A. Yes. However, this wasn't deep enough or
10 extensive enough to block ventilation. I mean, you
11 know, still that's a pretty high mine. You know, this
12 is probably up over our boots, and I'd say very deep,
13 but to travel through it, you'd e soaking wet, your
14 boots full of water. And it was just very easy to go
15 to another entry and avoid that.

16 Q. Did you see any determinable reason for why the
17 water was accumulating there?

18 A. It may have been the fact that there wasn't any
19 power in the area maybe a pump that normally would
20 have pumped that out, had been allowed to accumulate
21 since the accident occurred.

22 Q. You mentioned --- I understand one of the State
23 inspectors mentioned water problems at the Glory Hole?

24 A. Well, actually it was, I think Jonah Bowles ---

25 Q. Okay.

1 A. --- that had called. And Jonah is like a safety
2 director for Performance or for Massey, I'll put it
3 that way. And he had called and asked to get an
4 approval to do the blasting on the mine floor to
5 irrigate the water.

6 Q. Okay. And around what time was that, month, year?

7 A. Oh, this would be back, I'm thinking it could have
8 been December or January.

9 Q. Okay.

10 A. I can find the document.

11 Q. December 2009 or January 2010?

12 A. Yes.

13 Q. And my last one was on --- and I think you already
14 answered this but I just want to clarify. You said
15 you heard individuals talking about six percent
16 methane that had been detected sometime in August
17 2009.

18 A. Two inspectors.

19 Q. Two inspectors. Two State inspectors or Federal
20 inspectors?

21 A. Federal.

22 ATTORNEY BABINGTON:

23 Okay.

24 RE-EXAMINATION

25 BY MR. FARLEY:

1 Q. This six percent methane, where was that?

2 A. It was on the northeast side of the mines, the
3 same side of the mines that this explosion occurred in
4 on the 5th of April, but I'm not sure what section,
5 you know, or if it was even on a section.

6 Q. How did you learn of this? What's your source of
7 information?

8 A. Well, as I was passing by the inspectors, they
9 were sitting in their vehicles doing paperwork and one
10 of them said, hey, did you hear what we found in
11 there? You know, as you're passing by, sometimes
12 inspectors, we talk amongst themselves. And he let me
13 know that either he or a boss or someone in there had
14 found six percent methane. I'm not sure what section.
15 It's kind of blurred now but I do remember that, it
16 happened and the six percent stands out distinctly.

17 Q. Okay. Now, this is, you said mid-July to August
18 of last year?

19 A. Yes, I would say mid-July, August, that's when
20 that happened.

21 Q. Okay. Who was he that you were talking to?

22 A. I'm not sure. I can find out. I remember the
23 face, I don't remember the name.

24 Q. You say this was an MSHA inspector?

25 A. Yes, it was. It was two MSHA inspectors out of

1 the Mount Hope office.

2 Q. Okay. And you indicated north ---?

3 A. Somewhere on that side of the mine through that
4 portal. I'm not sure where at in that mine.

5 Q. Are you talking about the Ellis Portal or ---?

6 A. No, I'm talking about the portal from --- the main
7 portal at UBB and C, Montcoal.

8 Q. Okay.

9 A. And I guess it would be the Northwest Portal.

10 Q. Would that be the one to the extreme southeast
11 there on the one-inch equals 500 foot map here?

12 A. It would be the portal going toward Headgate 22.

13 Q. Okay.

14 A. The portal on the part of the mine that had the
15 explosion.

16 Q. Okay.

17 ATTORNEY BABINGTON:

18 That would be the Ellis Portal.

19 A. Well, not the Ellis Portal.

20 BY MR. FARLEY:

21 Q. This is the Ellis Portal (indicating)?

22 A. Yeah. No, the other portal.

23 MR. STEFFEY:

24 At about Break 107. The portal right

25 here ---.

1 ATTORNEY BABINGTON:

2 That's the UBB main portal.

3 A. The main portal, yes. I guess you call that
4 Southwest Portal, but actually it's the northern part
5 of the mine.

6 BY MR. FARLEY:

7 Q. Okay. Is that the same portal used during the
8 rescue and recovery efforts?

9 A. Correct. Yes, it was. Yeah. I'm thinking on the
10 section but I'm not really sure about that.

11 MR. STEFFEY:

12 The inspector that you spoke to, did he
13 happen to mention imminent danger?

14 A. Yes. They had shut a section down or they shut an
15 area down. Yes, it was an imminent danger --- I'm
16 sure there will be a record of that with MSHA.

17 MR. STEFFEY:

18 Okay.

19 A. I have no doubt about that. And also I'm sure the
20 next day someone was there from MSHA to follow up on
21 that.

22 MR. STEFFEY:

23 Did they get bottle samples, did they
24 say?

25 A. No, they didn't mention anything about that. I

1 think it was more of a handheld detector, methane
2 detector.

3 BY MR. FARLEY:

4 Q. Would you have any notes anywhere that would
5 reflect the nature of that conversation with these
6 people?

7 A. No, it was just in passing. Sometimes in passing,
8 you might discuss what you found through the day.

9 Q. Okay.

10 A. Actually, I was kind of surprised, because you
11 know, in any of my tests in there, I hadn't found
12 anything, you know, where I was at. But normally when
13 I take my test, I'm not near the face, I'm back at the
14 power center, perform ground fault ---. So that may
15 be why.

16 Q. If you should happen to remember who you had the
17 conversation with, would you please let us know?

18 A. I will. I can find out. I see this gentleman
19 from time to time, but not often enough to know their
20 names.

21 Q. Okay. If you can identify the particular
22 inspector, we'd appreciate it.

23 A. Okay.

24 Q. During your statements, you indicated that you
25 reviewed all of the books in the beginning inspection.

1 Does that mean all of the electrical books or all of
2 the books?

3 A. Okay. All of the electrical books. Yes.
4 Normally I don't review the pre-shift books or on-
5 shift books, those kind of things.

6 Q. Okay.

7 ATTORNEY BABINGTON:

8 Let's take a quick break. Off the
9 record.

10 SHORT BREAK TAKEN

11 ATTORNEY BABINGTON:

12 There's no other follow-ups here, so on
13 behalf of MSHA and the Office of Miners' Health,
14 Safety and Training, I want to thank you for appearing
15 and answering questions today. Your cooperation is
16 very important in the investigation to work to
17 determine the cause of the accident. We require that
18 you not discuss your testimony with any person aside
19 from your personal representative or counsel. After
20 questioning other witnesses, we may call you if we
21 have any follow-up questions that we feel that we need
22 to ask you. If at any time you have additional
23 information regarding the accident that you would like
24 to provide to us, please contact us at the contact
25 information that was previously provided to you.

1 If you wish, you may now go back over an
2 answer you've given during this interview and you may
3 also make any statements that you would like to make
4 at this time.

5 A. I don't have anything else to say.

6 ATTORNEY BABINGTON:

7 Okay. Again, I want to thank you for
8 your cooperation in this matter.

9 A. You're welcome.

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STATEMENT UNDER OATH CONCLUDED AT 3:36 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5

I, Brett Steele, a Notary Public in and for

6

the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



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Brett Steele

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