

1 WEST VIRGINIA MINE SAFETY HEALTH ADMINISTRATION

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5 IN THE MATTER OF:

6 THE INVESTIGATION OF THE
7 APRIL 5, 2010 MINE EXPLOSION
8 AT UPPER BIG BRANCH MINE.

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15 The interview of MARK BOLEN, taken upon oral
16 examination, before Lisa Marie Short, Certified
17 Court Reporter and Notary Public in and for the
18 State of West Virginia, Thursday, January 6, 2011,
19 at 10:05 a.m., at the Mine Academy, 1301 Airport
20 Road, Beaver, West Virginia.

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1 MR. KOERBER: Let's go on the
2 record.

3 My name is Barry Koerber. I'm an
4 Assistant Attorney General. I have been
5 assigned to be a member of the West
6 Virginia Office of Miners' Health Safety
7 and Training Accident Investigation Team
8 for purposes of the UBB investigation.

9 Today is January 6th, 2011. It's
10 about five minutes after 10:00.

11 I would ask that the people who
12 are part of the interview teams identify
13 themselves now.

14 MR. TUCKER: Bill Tucker with the
15 Office of Miners' Health Safety and
16 Training.

17 MR. O'BRIEN: John O'Brien with
18 the West Virginia Office of Miners' Health
19 Safety and Training.

20 [REDACTED] MR. WATKINS: Tim Watkins with
21 [REDACTED]

22 MR. BABINGTON: Matt Babington.
23 I'm an attorney with the Department of
24 Labor.

1 MR. MCGINLEY: Patrick McGinley.
2 I'm with the Governor's Independent
3 Investigation team.

4 MR. KOERBER: We have two people
5 in the back. I'd ask that they identify
6 themselves and who they're with, and we'll
7 begin at the left and move to the right.

8 MR. GODSEY: John Godsey, MSHA.

9 MS. WEISE: Suzanne Weise,
10 Governor's Independent Investigation team.

11 MR. KOERBER: Mr. Bolen, the
12 court reporter here today will be
13 transcribing everything that's said.

14 For purposes of making things
15 easier for her, I would ask that first you
16 allow whoever is asking the question to
17 finish the question before you begin to
18 answer, and I'm going to ask the interview
19 people to wait until you finish your
20 [REDACTED]r before they begin asking the
21 [REDACTED]ion so we don't have people talking
22 over each other.

23 Also, for her purposes, I'm going
24 to ask that instead of saying uh-huh or

1 huh-uh, you need to say yes or no. And
2 instead of shaking your head yes or no,
3 you say yes or no.

4 There may be times that we speak
5 about the map, and that's fine, and things
6 get a little bit informal here and you
7 might just start saying, "I was here and
8 then I went there," and just pointing.
9 And that don't work on the transcript
10 either. So if you could try your very
11 best to identify where you're at or mark
12 it on the map, we would greatly appreciate
13 it, sir.

14 The court reporters are operating
15 under a three-day turnaround on the
16 transcripts. So today is Thursday. And
17 it's three business days. Friday, Monday,
18 and Tuesday is the three days. Come [REDACTED]
19 Wednesday of next week, this transcript
20 [REDACTED]d be available. And if you would
21 [REDACTED]to read this transcript and make sure
22 that everything was transcribed correctly,
23 you are entitled to do so.

24 Now to do so, I mean, you can do

1 it by yourself or you can do it with your
2 attorney. It doesn't matter. You will
3 need to contact Johnny Jackson's court
4 reporter firm in Charleston, West
5 Virginia. I'm going to give you a card
6 with that address on it and the telephone
7 number. But you need to contact them and
8 schedule an appointment with them where
9 you go in and then they'll put you in a
10 conference room where you'll have peace
11 and quiet and privacy and you can read
12 through the transcript and make any
13 corrections that you believe is necessary
14 on an errata sheet.

15 Now you will not be allowed to
16 take one home with you, but you can do
17 that at Johnny Jackson's office.

18 Also, I'd like to just let you [REDACTED]
19 know that at any time during this
20 [REDACTED] view that you'd like to take a break,
21 [REDACTED] say so. Anytime for any reason.
22 Okay?

23 We request that you do not talk
24 about what's said in this interview

1 outside of this interview with anybody
2 other than your attorney. And we request
3 that to try to protect the integrity of
4 the interview process and the
5 investigation.

6 Matt, do you have anything that
7 you would like to?

8 MR. BABINGTON: Mr. Bolen, I just
9 want to thank you for coming and appearing
10 today to answer questions about the UBB
11 accidents.

12 I provide you a letter before the
13 interview that has contact information for
14 our chief accident investigator, Norman
15 Page.

16 If after the interview you have
17 any additional information you'd like to
18 provide, you can reach Norman Page at that [REDACTED]
19 information.

20 [REDACTED] MR. KOERBER: Mr. Bolen, if you
21 [REDACTED] like to say a little prayer now, you
22 can do so. Would you like the members at
23 the table to stand or remain seated?

24 THE WITNESS: No, you're fine.

1 Father, I just thank you. I
2 thank you for this day, you've made this
3 day.

4 I ask you, Lord, that you would
5 help us all here today for the focus of 29
6 fallen, God, for their families, that we
7 can bring blessing, healing.

8 God, I ask you to guard my mouth
9 that I should speak only the truth, that
10 I should speak encouragement, that I can
11 be a help.

12 God, I ask for every mind here, I
13 ask for these gentlemen, these men that
14 you've placed here, that you would help
15 us, God, to keep us focused, to give us
16 clarity, that we might be all that you've
17 purposed for us to be in this situation.

18 I thank you for redemption. I
19 thank you for that beautiful name, Jesus.

20 Lord, and I know that you work
21 things for your glory, so I ask you
22 that you help us, help us reveal what
23 you've purposed for this situation, for
24 this terrible tragedy, that it might

1 become somehow help.

2 And, God, we ask these things in
3 the name of Jesus. We know that you're a
4 faithful God, you're a good God, and we
5 give you praise. Amen.

6 MR. KOERBER: Would you please
7 swear in the witness now?

8 MARK BOLEN, WITNESS, SWORN

9 MR. KOERBER: Sir, would you
10 please state your full name for the
11 record.

12 THE WITNESS: Mark Edward Bolen.

13 MR. KOERBER: And would you spell
14 your last name?

15 THE WITNESS: B-o-l-e-n.

16 MR. KOERBER: And would you also
17 please state your address and your
18 telephone number?

19 THE WITNESS: My address is [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 MR. KOERBER: And, Mr. Bolen, are
23 you appearing here today as the result of
24 a subpoena?

1 THE WITNESS: Yes.

2 MR. KOERBER: This is a copy of
3 that subpoena. Feel free to look at that,
4 if you wish, but I would like that to be
5 marked as Bolen Exhibit 1.

6 (Bolen Exhibit No. 1 marked for
7 identification.)

8 MR. KOERBER: And this is a copy
9 of the Acceptance of Service that shows a
10 member of your attorney's firm, Mr. John
11 McCuskey, accepted service on your
12 behalf.

13 I'd like that to be marked as
14 Bolen Exhibit No. 2.

15 (Bolen Exhibit No. 2 marked for
16 identification.)

17 MR. KOERBER: Mr. Bolen, do you
18 have an attorney with you here today? [REDACTED]

19 THE WITNESS: Yes.

20 [REDACTED] MR. KOERBER: And who is that?

21 [REDACTED] THE WITNESS: Mr. Chris Sears.

22 MR. KOERBER: Mr. Sears, would
23 you please state your full name for the
24 record and the name of your firm, please.

1 MR. SEARS: My full name is
2 Christopher James Sears. It's Shuman
3 McCuskey & Slicer.

4 MR. KOERBER: Mr. Sears, is
5 Mr. Bolen your client?

6 MR. SEARS: Yes.

7 MR. KOERBER: I also notice that
8 we have another attorney at the table, and
9 I would ask that he identify himself, his
10 firm and who he represents.

11 MR. SILKWOOD: Eric Silkwood with
12 Allen Guthrie & Thomas here on behalf of
13 Performance Coal Company.

14 MR. KOERBER: Mr. Bolen, I want
15 to give you three things.

16 First, I want to give you the
17 business card of Johnny Jackson &
18 Associates, which is the court reporter
19 agency, with the address and the phone
20 [REDACTED]r of where you can call and go next
21 [REDACTED]sday if you want to read your
22 transcript.

23 Also, under West Virginia Code
24 22A-1-22, coal miners are protected from

1 discrimination occurring against them for
2 participating in interviews such as this.
3 On this memorandum, I have the board of
4 appeals address, which is the
5 administrative tribunal that hears these
6 discrimination matters. And this would be
7 where you file your complaint if the need
8 would arise.

9 I would caution you, however,
10 that under the code you only have 30 days
11 from when the discriminatory event occurs
12 to file your complaint.

13 I'm also going to give you a
14 business card of Mr. Bill Tucker.
15 Mr. Bill Tucker is the lead accident
16 investigator for the West Virginia Office
17 of Miners' Health Safety and Training.
18 And should something come up after this [REDACTED]
19 interview that you believe would be
20 [REDACTED]ul to the investigation that you
21 [REDACTED] like to contact and try to give
22 somebody that information, Mr. Bill Tucker
23 would be the person that you would call.

24 THE WITNESS: Thank you.

1 MR. KOERBER: Thank you.

2 Also, we're telling every
3 individual that we interview, and we've
4 interviewed over 250 people, that
5 potentially there may be a need at some
6 later date to recall certain people.
7 Whether you'll be one of those people or
8 not, I have no idea. But I just want you
9 to be aware that that could potentially
10 occur.

11 And with that, I would like to
12 turn the rest of the interview over to
13 Mr. O'Brien to start asking some
14 questions.

15 And thank you, Mr. Bolen.

16 THE WITNESS: Thank you.

17 EXAMINATION

18 BY MR. O'BRIEN:

19 Q. First of all, Mr. Bolen, I appreciate you
20 coming in [REDACTED] helping us out. It's a big help.

21 [REDACTED] any years of mining experience do you
22 have?

23 A. Seven.

24 Q. Seven. What mining certifications do you

1 possess?

2 A. I am a certified mine foreman,
3 electrician, EMT, mine rescue, certified foreman,
4 recertification instructor. I don't even know what
5 that card is called yet.

6 I'm trying to think. I believe that's --
7 I mean, I got a gas testing card, but I think
8 that's run out now. It's the end of the year.
9 It's a new year.

10 I believe that's it.

11 Q. Thank you.

12 Please give us a brief history of your
13 mining experience.

14 A. Started in the coal mines just normally as
15 a red hat.

16 I've been an electrician since 1986 with
17 the, or '85 with the state fire marshal, you know,
18 with the fire marshal.

19 When I went into the coal mines, kind of
20 steered m[REDACTED] the same direction. I went through
21 electrical [REDACTED] mining under David Terry.

22 Experience, my first year of experience
23 was at UBB, 2004 I started there, and received my
24 electrical training and functioned as an

1 electrician.

2 Went to Marsh Fork Eagle, which was just a
3 small coal mine approximately three miles towards
4 Beckley on Route 3 from Performance Coal. Was
5 there for about a year.

6 Went back to Performance Coal on the
7 longwall as an electrician on the hoot owl. Worked
8 on the maintenance of that longwall we went to
9 Logans Fork.

10 And at Logans Fork, I think it was in the
11 latter part of 2007 -- yeah, latter part of 2007, I
12 got on the mine rescue team.

13 Continued working on the longwall at
14 Logans Fork as electrician up until the mine rescue
15 position became a full-time position sometime
16 around May or June of 2008.

17 And since 2008, I have been full time mine
18 rescue, working out of the Performance shop. [REDACTED]

19 Q. And where do you work now? What do you
20 do? [REDACTED]

21 A. [REDACTED] my job title listed on the payroll
22 sheet is a mine rescue electrical. I participate
23 in our evaluations, we call them S1 audits, in our
24 evaluations of our coal mines.

1 Q. Where did you work on April 5th?

2 A. Specific location that day, that I went
3 to? I reported to the shop, which is at, it's the
4 safety training building for Performance Coal that
5 morning.

6 We went to, me and two other gentlemen
7 went to Parker Peerless that day to help out. We
8 ended up working on some, I think that was the day
9 that we worked on some overcast airs, actually,
10 construction. That was the day, yes.

11 Q. And how and when did you find out about
12 the explosion on April 5th of this year?

13 A. We were pulling back into the shop parking
14 lot.

15 Again, this time is approximate. All
16 these times of this day are just still a blur in my
17 mind.

18 But around 3:30, 3:45 at the shop, I was
19 informed by my boss, Rob Asbury, that there had
20 been an e█████ at UBB, and to get the trailer ready
21 and the v█████d take it to UBB.

22 And I asked him what portal. And he
23 didn't know, so I called up there.

24 I don't even know who I talked to, but I

1 asked them which portal would be the best access
2 for what was going on, you know, because, you know,
3 it is an extensive area. I didn't know where they
4 thought whatever might have happened. But they
5 said there was men would be closer to get to them
6 from the Ellis Portal, so that's where we took the
7 trailer and the mine rescue van.

8 Q. And if you would, just kind of give us a
9 brief overview of what you did from that point on
10 through the rescue and recovery?

11 A. I am a benchman. Part of my job is taking
12 care of the apparatus. So when we arrived on-site,
13 I immediately flung open the trailer doors. And we
14 have a table, set up the table. I started RZing
15 (phonetic), checking our apparatuses. I got Rob
16 Asbury's apparatus ready first, mine second, Jimmy
17 Aurednik's next, and then I just started
18 systematically going through them.

19 I was the only benchman there at the time, ██████████
20 so Rob was ██████████paring to go underground. He is the
21 captain. ██████████as preparing, trying to get things
22 ready to go underground.

23 That's when the mantrip came out of the
24 drift mouth with the seven fallen men that was

1 first found. Well, I guess there was eight. There
2 was one survivor on that mantrip.

3 And they were doing CPR. I didn't see any
4 of that whatsoever, because I was around the
5 corner. I knew what was going on, but I didn't see
6 it. I was going through the apparatuses, getting
7 them ready for underground use.

8 And another benchman showed up, Jeremy
9 McClung, and he took over my part of the testing,
10 preparing all the apparatuses.

11 I got my apparatus and went with Jimmy and
12 Rob and we started underground. They were walking
13 in front of the mantrip, I was operating the
14 mantrip.

15 Again, I have no idea what the time is
16 now.

17 But we began systematically going
18 underground. They were staying two breaks ahead,
19 walking, taking gas tests, and I was advancing up,
20 you know, ██████████ and them with the mantrip.

21 ██████████t to somewhere around 66 Break on the
22 longwall. It's outby here just a little bit. Up
23 through the longwall mains, I guess. And we had
24 been stopping at all the phones communicating where

1 we was, our location.

2 We knew that there was two gentlemen for
3 sure that was walking in there under their own
4 power. And we were -- our hope was, of course, we
5 were looking for, we were looking for our friends.
6 We were looking for these miners. And we knew that
7 these two gentlemen under the influence of
8 adrenaline and trying to help might not realize the
9 danger they were putting their self in without
10 apparatus, so we were looking for them.

11 And as we advanced up we maintained our
12 phone communication. We advanced up to around 78
13 Break here on -- I know I can't point -- but around
14 78 Break longwall. That's about a focal point.
15 I'm sure that's been mentioned a lot.

16 But that's where I was. I think Rob had
17 maybe was two breaks ahead of me inby whenever he
18 met -- I don't know which one he met first. I
19 couldn't see them. But the two gentlemen were
20 located t██████████ And we come back to the phone, and
21 that's wh██████████e waited at that point for
22 representation from MSHA and the state.

23 And as that procedure started, I was on
24 the group that went towards the longwall and we

1 kept advancing up with radio, maintaining radio
2 communication. We had no telephones from that
3 point inby. We started advancing with radios and
4 we just kept leap frogging up. You know, we would
5 scatter out as far as we could and we would
6 communicate back and then somebody would drop off
7 at that point, somebody would go inby.

8 My farthest inby position that night was
9 two, probably two and a half breaks outby the
10 longwall face. That's where I was with my radio,
11 that was my location.

12 The only person I know -- well, there's
13 two people I know that was inby me, and that was on
14 the mine rescue team, that was Rob Asbury, and by
15 this time we'd been joined by other guys.

16 But Shane McPherson, I remember radioing
17 out that he had found different guys down the
18 longwall face.

19 But at around 100 Break, somewhere around
20 100 Break, ██████ hink, or 100 Shield, I'm sorry, was
21 the locat ██████ here he run into some methane. We
22 radioed, I think it was either two or three
23 percent. I'm not sure. I can't recall.

24 But I do know that at that point they told

1 us to start making our way outby.

2 One point I left out on our way in was the
3 gentleman, [REDACTED], was found somewhere around
4 the mother drive area here on our way in. We found
5 him on our way in. He was, there was a lot of crib
6 blocks and materials and stuff around him. He was
7 cold to the touch. We knew he had been -- there
8 was no attempt made to, you know, resuscitate or
9 anything. You know he was, he was a body.

10 And we advanced up the beltline, so I did
11 not see these other gentlemen that was over in the
12 track entry.

13 On our way out, because the beltline was
14 so, it was so hard to get up through there, we went
15 over to the track entry and made our way out and we
16 passed by the other victims at that time, the other
17 four gentlemen that were -- I didn't see anybody on
18 the longwall face. I didn't make it that far, but
19 we passed by the other gentlemen that were outby in
20 the track entry. I think there was four of them.
21 And we made our way outside from that point on.

22 Q. Okay.

23 A. I don't know if that was the same day or
24 if that was the next day. I mean, I don't know how

1 long we were in there that night.

2 Q. Just a few clarifying questions for me.
3 When you said you went in and there were two
4 gentlemen inby, who were they?

5 A. Chris Blanchard and Jason Whitehead.

6 Q. And you said that one of the guys in
7 advance of you ran into these two gentlemen. Now
8 did they retreat back to 78 with you?

9 A. Yes.

10 Q. And that's where -- did they stay there?

11 A. They stayed there until -- I don't know at
12 what point. Whenever we left to go on up the
13 longwall, towards the longwall, they were there.
14 When I, when we came back, they were already
15 outside. So I don't know what transpired during
16 any of that time.

17 Q. At some point you say you advanced, you
18 with a group of people advanced towards the [REDACTED]
19 longwall. Who was in that group?

20 A. [REDACTED], the only, the people for sure that
21 I know wa [REDACTED] Asbury, Shane McPherson, Jimmy
22 Aurednik.

23 I can't even remember the state
24 gentlemen.

1 Charles Collin, he's another one over
2 there. He's a Kentucky mine rescue guy.

3 That was my little, of my little group. I
4 mean, as far as advancing up toward the longwall, I
5 can't remember anybody else.

6 Q. Let me rephrase the question. I didn't
7 ask it right. My fault.

8 At that time had the state and federal
9 agency and other mine rescue team members from
10 other teams arrived?

11 A. Yes.

12 Q. On the scene, or at 78?

13 A. Yes. There was state and MSHA people inby
14 me and outby me.

15 Q. Who is Shane McPherson, for my benefit?

16 A. He's one of our mine rescue gentlemen.

17 Q. Do you know who gave the order to retreat
18 or --

19 A. I do not. That, I mean, where my location
20 was with [REDACTED] dio at that time, it was a chore to
21 maintain [REDACTED] ind of continuity of what was going
22 on other than when we -- the critical event that
23 happened was whenever methane was detected, you
24 know, that information made it to outside and then

1 came back to us that we needed to get outside.

2 Q. And you did go outside after that?

3 A. Yes.

4 Q. Did you ever re-enter the mine again?

5 A. Yes.

6 Q. Could you give us a little bit of scenario
7 of that?

8 A. Okay. Again, I don't know. I don't know
9 how, if I went home -- because there was a couple
10 of times that I went home for an hour or two, but I
11 don't know exactly.

12 But I do know that I was on the next trip
13 in whenever we, we made it to our fresh air base
14 that was one break in by the longwall face, which
15 I'm trying to look for a spaad, if I can still read
16 spaad numbers.

17 So I'm thinking it would have been
18 approximately 22772 was probably that spaad, or
19 possibly it's either 22772 or 22771. And we had a
20 fresh air [REDACTED] located at that point and we were
21 attempting, [REDACTED] you know, to head this way through this
22 cross through.

23 Again, we were pulled out because of --
24 the first time we were pulled out, I don't know if

1 it was because of a haze and the methane reading
2 from the fan or if they actually had a borehole in
3 it this time. I can't remember exactly.

4 But we were pulled out because of
5 dangerous levels of gases. And possibly the
6 presence of smoke.

7 We came back outside.

8 I mean, we took phone line and everything
9 with us this time. We carried stretchers, we had
10 extra care vents, we had extra apparatuses, we had
11 reels.

12 Each time that we went -- the next time we
13 went, we made it to the same spot, the same
14 scenario, we carried a lot of stuff in, we were all
15 told to come out again. I don't know what day this
16 was. And we retreated again.

17 The next time we came in, which I guess
18 this would have been the fourth time, actually, two
19 times made it here. The fourth time I went in, we
20 at this p[REDACTED] we got to go over, and I'm not sure
21 where tha[REDACTED]lter is that we located, but that's
22 what we were going for. And we retreated again
23 because of dangerous levels. I'm sure this was
24 because of a reading of one of the boreholes by

1 this time.

2 The next time we went in, we actually,
3 that was, that was whenever we finally got to
4 account for all the members, for all the fallen
5 men.

6 I was with the group, the lead group, you
7 know, we -- actually, some guys had went through
8 here and explored some, we relieved them, we came
9 back through the cross through and went up to
10 Headgate 22 face where we found the rest of the
11 fallen men.

12 I was with the front group there. I was
13 with Jimmy Aurednik. We had partnered up, and
14 Jimmy Aurednik was the partner I was with. And we
15 made it up to the last victim that was found.

16 I'm not -- again, most of the maps that I
17 have seen recently have this stuff marked on it and
18 I can't recall exactly where it's at. But anyway,
19 it was several breaks outby the face in this area.

20 ██████e located everyone. There was still
21 one unacc██████d for in the longwall face.

22 We retreated back to this fresh air base.

23 Shane McPherson was among this group, too,
24 because I remember he's the one that located the

1 last unaccounted for, [REDACTED] I believe was
2 the gentleman that was there.

3 And then we retreated. We were done as
4 far as finding everyone.

5 The next time that I went in was on -- I'm
6 trying -- I'm just recalling if I went in one more
7 time in between.

8 The next time that I went in would have
9 been Monday a week later, whenever we was in the
10 group effort, which I can't do this interview
11 without saying that was nothing short of a miracle
12 to have 140 men underground working together with
13 no motivation but love, and it was a beautiful
14 thing.

15 These men all worked together that night.
16 They had assignments of carrying, they were six-man
17 teams, they had assignments of carrying their,
18 retrieving these men, six breaks or eight breaks,
19 whatever it was.

20 My assignment was the very last eight
21 breaks. Our team, we placed them on the mantrip
22 and we brought them outside.

23 But that was, for all the bad things that
24 happened and everything that was going on, I can

1 remember looking up and seeing the men had finished
2 their obligation up, and it was one light after
3 another of men that were tired, but they all
4 expressed that they appreciated the opportunity to
5 be there and help.

6 So it was a good, that was a good night.
7 Even though hope for life was gone, we had
8 accomplished a job for the families in bringing
9 their loved ones out to them.

10 That's all I have got to say about that.

11 Q. And I and we all appreciate the work that
12 you and everyone else did during that trying time.

13 Just for clarification for the record, you
14 mentioned on several occasions you went to a cross
15 through. That was a cross through between what,
16 Headgate, Tailgate 22 and Headgate 21, or 22 --

17 A. That's correct. From the fresh air base
18 located at the longwall face through past Tailgate
19 22 to Headgate 22.

20 Q. [REDACTED] good. Thank you.

21 [REDACTED]t to jump back a little bit. Okay?

22 A. Okay.

23 Q. Pre April 5th.

24 A. All right.

1 Q. Getting back to your duties as a full-time
2 mine rescue team member and safety audit member.

3 Is that what --

4 A. Yes. That was part of our, as full-time
5 mine rescue, I guess that was part of our job
6 description.

7 Q. First of all, let me ask you this: When
8 prior to April 5th, when was the last time you were
9 in UBB?

10 A. I don't know. I mean, there was
11 different, different times we had been there, but I
12 don't know.

13 Q. When you went in, whenever the time or
14 times you went in to UBB prior to April 5th as a
15 safety audit member, what kind of jobs did you do?
16 What kind of auditing did you do?

17 A. Where my background lies in electrical,
18 usually, not all the time, but usually my job was
19 to examine electrical permissibility issues, so
20 that's wh ██████ would have been looking at when we
21 went in. ██████

22 Everything from if, you know, because
23 these checks were, there's no way that you would
24 take one day and check a mine this size, so it was

1 just, it was a -- if we would have went to one of
2 the sections, I would have went up, looked at the
3 power center, and made sure leaven (phonetic), so
4 on, just those kind of things were done correctly.
5 You know, possibly walked a cable or two.

6 But those are the kind of things that are
7 in the electrical job description of looking at
8 these issues.

9 We didn't -- okay. That's what we would
10 do.

11 Q. Do you recall which sections you may have
12 visited?

13 A. At different times over those, over the
14 past two years I'm sure I have been to all the
15 different sections. But the last time that we went
16 in, I do not -- there is an outstanding S1 audit
17 somewhere. I'm sure that -- I mean, it has that.
18 I'm sure it's on the paper. I can't remember.

19 And I can't even remember, you know, if I
20 was on the ██████st group for sure. We've talked
21 about the ██████, you know, and there's -- we cover a lot
22 of coal mines.

23 Q. Well, along those lines, what other mines
24 do you participate in safety audits?

1 A. Just everything that we have along Route
2 3.

3 Even to the extent of, not as often, but I
4 have traveled to Nicholas Energy.

5 I have traveled to Revolution, which is --
6 I know I'm spitting out these names.

7 Nicholas Energy would have been up towards
8 Summersville. Revolution is over towards
9 Independence Coal and Van, that area.

10 But most of the time, my assignments were
11 in the localized area of Performance Coal, Marfork
12 Coal, and Elk Run Coal.

13 Q. Going back to your safety audits at UBB,
14 do you recall any of the deficiencies the team may
15 have found? Does anything jump out at you or any
16 number of things jump out at you in particular?

17 A. No specifics. If I went to -- I mean, it
18 would be pure speculation. I would need to lay a [REDACTED]
19 past S1 report in front of me to clarify.

20 Q. [REDACTED] safety audit member or mine rescue
21 team memb[REDACTED] just a member of Massey, did anyone
22 ever come to you with any safety complaints? And
23 if so, what were they? Can you recall any of them?

24 A. I would always question them, you know, a

1 lot of these guys, Hey, what's going on, are they
2 giving you what you need, getting the tools you
3 need to work with?

4 Because I'm an electrician. I'm partial
5 to having shiny new tools.

6 And I can't remember anybody saying
7 something other than, you know, well, I need a new
8 set of channel locks or something like that. I
9 mean, no -- and I don't know if that falls under
10 safety or not. That was the kind of questions that
11 I usually asked.

12 Q. Are you aware of any ventilation problems
13 at UBB prior to April 5th?

14 A. Other than the -- whenever we would go
15 sometimes we would look at, you know, their
16 violations, say, hey, what are you having trouble
17 with. So I can't specifically remember any of
18 those, but I do remember, you know, talking about
19 that we was, we had problems sometimes with
20 ventilati[REDACTED] No specifics.

21 [REDACTED] could be -- and I want to go on
22 record of saying that could be at any coal mine I
23 have ever talked to anybody about.

24 Q. What about methane, any methane problems

1 that you're aware of at UBB prior to April 5th?

2 A. When I worked there, I started there in
3 2004, and I was there -- I wasn't there on the
4 shift, but I was there on hoot owl as maintenance.
5 I can't remember what section. I wasn't on the
6 longwall at that time. But they did have a
7 methane --

8 The way the guys described it to me was it
9 sounded like a jet engine. That's what I had
10 heard. And we actually remember two or three days
11 that we did not work because of that.

12 From anytime that I was ever, from before
13 that and after that, anytime that I had been to the
14 longwall face or to the section faces, I had never
15 picked up any methane on my personal detector that
16 I carry. No.

17 Q. Now did I understand you that you did work
18 on the longwall for some period of time?

19 A. I did. That would have been in 2006 I was
20 on the longwall at UBB.

21 [REDACTED] were waiting to go to Logans Fork.
22 They were trying to get those panels ready. And we
23 were actually working on, if you go back on -- if
24 this map was bigger -- down this way, there's some

1 other, there was some ends of some of these panels
2 that we ended up going back in and working on while
3 they were -- and that's when I was on the wall.

4 I can't remember which numbers it was, but
5 I could if I had a bigger map.

6 Q. Did the ventilation seem to be adequate
7 then at that time?

8 A. We froze to death at that time, I can
9 remember. It was cold.

10 Q. Going back, reverting back to the duties
11 as safety audit --

12 Let me ask you to go back to the -- you
13 mentioned the methane sounded like a jet engine.
14 Were you on the section?

15 A. I was, I mean, that's strictly -- I was on
16 the section as a hoot owl maintenance guy. I
17 wasn't on the longwall where this happened. This
18 was just -- this was bathhouse talk. That's all
19 that was.

20 Q. [REDACTED] as it on the longwall or do you know?

21 A. [REDACTED] it was on the long, the longwall guys
22 were.

23 Q. And you weren't working on the longwall at
24 that time?

1 A. Huh-uh.

2 Q. Were you there 2003? I'm sorry.

3 A. No.

4 Q. Okay.

5 A. I started February the 2nd, 2004.

6 Q. '4. Just clarifying.

7 A. Okay.

8 Q. Going back as a safety team member, were
9 you ever involved with reviewing accidents at the
10 mine?

11 A. No.

12 Q. Who did you report to as --

13 A. My immediate supervisor is Rob Asbury.

14 Q. Rob Asbury.

15 A. And anything that we -- on a daily basis,
16 that's who we talked to.

17 Q. But do you know who he reported to?

18 A. Elizabeth Chamberlin. ██████████

19 Q. Chamberlin. Okay. Thank you.

20 ██████████ you involved in making, developing of
21 any plans, ██████████ tilation, roof control?

22 A. No.

23 Q. Methane, dust?

24 Did you participate in any equipment

1 moves, either as a safety team audit member or back
2 as an electrician?

3 A. As an electrician I did, yes, before I
4 became a safety --

5 Actually, the equipment moves I was on --

6 Now when you say "equipment moves," a
7 longwall move is what I'm talking about, which I
8 mean, it's a lot of equipment, but I participated
9 in several longwall moves from one panel to the
10 other. I also participated in the longwall move to
11 Logans Fork.

12 When I was on the section at Marsh Fork
13 Eagle, it was a straight shot in, so we never
14 moved -- I mean, it was just a straight shot in and
15 we pillared back. There was this little section in
16 between two other coal mines, so I don't guess I
17 have been on any section equipment moves, just
18 longwall moves.

19 Q. As a safety audit team member, did you
20 ever provide any training to employees, either
21 underground in annual refreshers?

22 A. Yes, we helped with annual refresher and
23 smoke training, SCSR donning and transfer, we did
24 some fire fighting training underground.

1 Let me think of what other kind of
2 training we did.

3 You know the escapeway drill training, we
4 participated in several of those at different
5 operations.

6 Q. How familiar were you with the ventilation
7 at UBB prior to April 5th?

8 A. Not particularly. I mean, I knew they had
9 a fan at Bandytown that they had worked -- not
10 Bandytown. Is it Bandytown? Yes, okay. That they
11 was working towards getting to, but as far as the
12 particulars of any ventilation, no.

13 Q. And I know you refer to this and I'm going
14 to probably ask the question again or in a
15 different way for my clarification.

16 Do you know when the last time you were on
17 Headgate 22? Prior to April 5th.

18 A. I could not give you a date. I believe
19 that I was there on one of the trips we went in on
20 Headgate, [REDACTED] said 22.

21 Q. [REDACTED]ersection of Headgate 22.

22 A. You know, I don't, I don't know that I
23 have been to that face. I know that I have been to
24 this Glory Hole location, but I really don't know

1 that I have been to Headgate 22 face prior to this
2 happening.

3 On our S1 audits, you know, hindsight is
4 20/20, we never put people in what parts of the
5 team or who was there, so we don't, I can't
6 remember.

7 Q. Along those lines, again, you may not know
8 because of what you just told me, are you familiar
9 with the airlock doors that were at the mouth of
10 Headgate 22 when you come off of the section?

11 You said air locks were here, shown on the
12 map, Headgate 22.

13 A. Only to the extent that, you know, if -- I
14 really --

15 No, I'm not familiar with those. I'm
16 familiar with these doors, because I had, you know,
17 I had discussed these doors before.

18 Q. Okay.

19 MR. KOERBER: Could you identify
20 [REDACTED] doors, I mean, John and Mr. Bolen,
21 [REDACTED]e?

22 A. The doors that I'm not familiar with are
23 the doors leading to the Headgate 22 section. They
24 are --

1 Let me see the magnifying glass.

2 They are located around Spaad No. 024357.

3 I'm not familiar with those doors.

4 The doors I am familiar with are to the
5 longwall Headgate 21.

6 The other spaad I'm looking at has got a
7 number, got something over top of it.

8 Are inby Spaad No. 225 -- I'm sorry. Inby
9 Spaad No. 2601 is the closest spaad I can read to
10 those doors.

11 Q. And the doors that you just identified at
12 the mouth of the longwall, you're saying something
13 about you were familiar with them?

14 A. I remember discussing them, because as
15 part of our company policy or guidelines, all our
16 doors on our track are to be automatic, and those
17 doors were manual doors, and we had discussed
18 getting that corrected. I do remember that on one
19 of our --

20 ██████████hen that, you know, I'm sure that
21 inside th██████████audit that's on paper, I'm sure it's
22 on there somewhere.

23 Q. Going back, talking about the S1 audit,
24 where would those reports be kept? Would have been

1 kept or are kept?

2 A. We keep -- there should be a hard copy of
3 those at the Performance shop.

4 Q. The office in which you report to?

5 A. Yes. Or they were.

6 MR. O'BRIEN: That's all I have
7 right now. Thank you.

8 THE WITNESS: Thank you.

9 EXAMINATION

10 BY MR. WATKINS:

11 Q. Hello, Mark. Again, I want to thank you
12 for coming in and talking with us today, trying to
13 figure out what happened here.

14 And also, I want to thank you, I think the
15 work that not only yourself but all your --

16 A. Yes.

17 Q. -- members of the mine rescue team
18 performed is to be commended. We do appreciate
19 that.

20 A. [REDACTED] you.

21 Q. [REDACTED] asked you quite a few questions on
22 different subjects, and so I'm going to ask you
23 clarifying questions on these, so I may jump around
24 a little bit. And if I do -- and you may have

1 answered them. If you did, I apologize. I'm going
2 to jump in here a little bit.

3 You mentioned, John asked you a couple of
4 questions about the 2004 inundation when you said
5 it sounded like a jet engine.

6 A. That's what other people told me. I did
7 not hear it.

8 Q. Right, right. The bathhouse talk I guess
9 you referred to it as.

10 During those bathhouse conversations, if
11 you will, was there any talk about the one event
12 maybe in 2003 that was the same happening?

13 A. Anybody that's been a coal miner -- I came
14 into the coal mines in 2004 -- and something that
15 happened a year ago is a long time for coal miners
16 to be talking about. So, no, I never did hear
17 about that until after this. You know, I had heard
18 some people mention that it had happened in 2003.
19 I had no knowledge of that.

20 Q. [REDACTED] jumping, I guess, again jumping to the
21 April 5th [REDACTED] dent at UBB. I think you said you
22 were informed by Mr. Asbury around 3:30, 3:45, then
23 you went and proceeded to the mine; is that
24 correct?

1 A. Yes.

2 Q. Who did you meet with when you got to the
3 mine?

4 A. I'm trying to think of the first person I
5 seen.

6 The first person I believe I saw when I
7 pulled up on the mine site was David Tereskova
8 (phonetic), which I think he's a chief
9 electrician.

10 You know, what we try, immediately what we
11 tried to do was, you know, we tried to get our
12 trailers in a location out of the way. And I'm
13 trying to think who else might have --

14 It was really just us miners. I mean,
15 there was a lot of the employees, I guess, from UBB
16 out there, but personally, I didn't meet with any
17 of them. I had a job to do. I knew I had to get
18 the apparatuses ready and I was heads down in
19 the --

20 Q. nyone have a briefing with you before
21 you guys under, before the rescue team went
22 under?

23 A. Other than me and Rob and Jimmy talking,
24 no, we did not.

1 Q. Do you know if Rob had met with anybody?

2 A. I do not know that.

3 Q. Now you mentioned that when you, when you
4 and Rob and I think it was Jim proceeded
5 underground, that you knew that there was two guys
6 underground. How did you know that?

7 A. I knew that because Rob told me that those
8 two guys were underground. I don't know where he
9 got that information from.

10 Whenever I mentioned earlier that I had
11 made the phone call to know which portal to go to,
12 I remember that the gentleman on the phone there
13 just said we have men underground, so I didn't know
14 how many men were underground. I didn't have a
15 number.

16 Q. But Mr. Blanchard and Mr. Whitehead was
17 the only two that you knew for sure was
18 underground. Do you know of anybody else that [REDACTED]
19 might have been underground?

20 A. [REDACTED] I mean, I knew there was many more
21 men that [REDACTED] unaccounted for that were
22 underground, yes.

23 Q. Was you aware of anybody else that may
24 have went in after the event other than

1 Mr. Blanchard and Mr. Whitehead?

2 A. No. Whenever, as they were administering
3 CPR on the gentlemen in the mantrip that they had
4 brought out, I do remember seeing -- and I can't
5 think of his name. This is awful. Just give me a
6 second.

7 Berman. What's Berman's last name?

8 MR. MCGINLEY: Cornett.

9 A. Berman Cornett. I can remember him,
10 because he said, hey, we need help over here. And
11 I was coming around the corner, and Rob said, You
12 got to get the apparatuses ready, we'll take care
13 of this. So that's the only -- again, I was
14 focused trying to get those ready.

15 Q. Okay. All right. I appreciate that.

16 Now when you and Rob and Jim proceeded
17 underground and you said you met Mr. Blanchard and
18 Mr. Whitehead, do you remember where you met them
19 at, what location?

20 A. [REDACTED]ld have been right here around 78

21 Break. [REDACTED]

22 Q. Okay.

23 A. Rob was -- there's a dip right here, but
24 I'm thinking he was a couple of breaks inby me. He

1 was around 80 Break or so whenever he located -- or
2 I don't know if they call it located, but they met.

3 Q. Okay.

4 A. From what I understand, Chris and Jason
5 Whitehead were on their way outby and Rob was, we
6 didn't travel more than two breaks away from each
7 other at any time whenever we was coming in.

8 Q. Do you recall any conversation that you
9 might have had with Mr. Blanchard or Mr. Whitehead
10 concerning about where they had been to and what
11 they had seen?

12 A. I remember looking at Whitehead and,
13 because his eyes were blood red and he had snot
14 running out of his nose, and I could just remember
15 saying, you know, Guys, are you okay? And they
16 said, Yeah, I'm fine. I mean, just a matter of
17 fact. But that was the extent.

18 The rest of the conversation was between
19 them and Rob.

20 [REDACTED], we were trying to -- we were
21 establish [REDACTED] that fresh air base there at that
22 time, waiting for permission to go on in towards
23 the longwall.

24 Q. So after you met with them, you proceeded,

1 which direction did you guys proceed to travel?

2 A. Okay. We traveled from 78 Break -- it's
3 called Number 6 North Belt here on this map. So we
4 traveled up Number 6 North Belt to the mother drive
5 of the longwall, which is the longwall belt head,
6 and then we proceeded up that beltline towards the
7 longwall.

8 Q. Do you know any chance if the
9 conversations with Mr. Whitehead or Mr. Blanchard
10 led you guys to proceed in that direction versus
11 coming down the tailgate?

12 A. No conversation that I had with them, I
13 mean, was perceived that way. That's a normal
14 route of travel. Speaking from a mine rescue point
15 thinking of how guys might be trying to escape,
16 that would be the location where you would expect
17 to try to find someone.

18 Q. I think you mentioned that you guys were
19 establishing communication. Do you remember who
20 was on the other end of the phone?

21 A. Best I can remember when we got to
22 here at 78 Break, inby here, I do not remember who
23 they were talking to, but I do remember having,
24 saying, because they were calling in wanting to

1 know what was going on right at, to make sure --

2 Once we had found or once we had met with
3 Chris and Whitehead, I was wanting to make sure
4 they were okay, and I remember that I had a
5 conversation there just saying that they were okay,
6 and that was with Chris Adkins.

7 Q. Had the command center been established at
8 that point?

9 A. I know that we were waiting on federal and
10 state people, so my assumption is yes, but I don't
11 know that. I wasn't told --

12 Q. Okay.

13 A. I do know that we were waiting on orders
14 from that point on and every decision was being
15 made with everybody's input.

16 Q. So at that point at 78 when you first
17 contacted Mr. Adkins and then the subsequent calls
18 you had outside, were they all to Mr. Adkins as
19 well? ████████

20 A. ████████ hat was the only conversation I had
21 with Mr. ████████s. Every time else, I don't
22 remember --

23 Up to this point, we were just, whoever
24 had been coming in after the events, they were

1 stationed in outby locations.

2 The guys that were, I guess, more, I don't
3 know how to say it. We were more connected. We
4 knew people in there. We tried to stay towards the
5 front. We wanted to go in farther. I mean, I
6 wanted to try. I knew these guys here. I had
7 worked side by side with these men of honor right
8 here. And so I was trying to work my way as far
9 towards the front as I could.

10 So at this radio location two breaks outby
11 the longwall face, I was talking outby directly to
12 Charles Collin. Inby was Jim Aurednik. So that's
13 the only two, the only two people that I was
14 talking to, because they relayed the message on
15 their direction.

16 Q. Now when Mr. O'Brien was asking you
17 questions, I think you made a reference to the map,
18 that the last map that you seen had everything, [REDACTED]
19 had highlights of maybe --

20 A. [REDACTED]

21 Q. [REDACTED]ople located.

22 Where did you see that map at?

23 A. That map has been in the, I guess in our
24 briefing areas. I'm trying to think. I guess it

1 would have probably been one of the mine rescue
2 maps, maybe even one of the ones that we brought
3 out. You know what I'm saying?

4 MR. WATKINS: I don't know if,
5 Pat, rather than jump around these other
6 areas, do you got questions on the 5th
7 that you'd like to go ahead and follow up
8 on?

9 MR. MCGINLEY: Just on the 5th?

10 MR. WATKINS: Yeah. I mean, it
11 might be easier than jumping, me asking a
12 bunch of questions and going back and
13 forth.

14 MR. MCGINLEY: Sure, I can ask.

15 EXAMINATION

16 BY MR. MCGINLEY:

17 Q. You understand that as part of the
18 investigation of the mine disaster, one of the [REDACTED]
19 things that an investigator's responsibility is to
20 look at how [REDACTED] the mine rescue is carried out and
21 square that [REDACTED] with mine rescue protocols, try to
22 determine can something be done better, should
23 protocols be changed and so forth. So I want you
24 to understand that as I ask you a couple of

1 questions about that.

2 At what point -- you said there came a
3 point after you were waiting for federal and state
4 people to arrive for orders. At what point did you
5 start cooperating, did you know that there are
6 federal and state people and that they were in
7 charge of the rescue? And I'm looking for, you
8 know, a minute or, you know, just roughly, do you
9 have any sense?

10 A. I have no sense of time.

11 Q. Okay.

12 A. As far as where I was, I was right here at
13 78 Break.

14 Q. Did that happen while you were underground
15 on April 5th, April 6th?

16 A. Yes, yes.

17 Q. You had a sense that --

18 A. I knew we were getting orders from [REDACTED]
19 outside.

20 Q. [REDACTED] you didn't know whether that was
21 coming from [REDACTED] Adkins or the state or MSHA? Is
22 that fair? Or you tell me.

23 A. Okay. I can say that I didn't know
24 because no one personally told me, but the fact

1 that we had representation from federal and state
2 people, naturally there was a chain of command.

3 Q. So you assume that there, because there
4 are federal and state people underground that the
5 chain of command had been established?

6 A. Yes.

7 Q. And when you arrived, you got a call --
8 No, you arrived at the -- question about
9 that -- at the UBB shop?

10 A. Uh-huh.

11 Q. That's what you said. Where is that
12 located?

13 A. That is the safety training, that is our
14 mine rescue station. That's where I report to
15 every morning. And if I go out somewhere, I come
16 back to there in the evening either to do a report
17 or put my equipment on charge or whatever.

18 Q. Okay. But where is that physically [REDACTED]
19 located?

20 A. [REDACTED]s located on -- okay. If you turn in
21 to the UE[REDACTED]e site, you make a left and go all
22 the way down at the end of that job, the end of
23 that road there are signs, and it's probably half a
24 mile, maybe, from where you turn at.

1 Q. So it's close to the portals.

2 A. It's close.

3 Q. And you got a call about 3:30 from Rob
4 Asbury saying something happened?

5 A. Not a call. He was there at the shop.

6 Q. Oh, okay.

7 A. Okay. Whenever we pulled in, he told us
8 to get the trailer ready and --

9 Q. And you pegged that time at about 3:30; is
10 that right?

11 A. Yes. And the only reason I peg that time
12 is because we had got outside at the coal mine, up
13 the road at Parker Peerless about the time that the
14 crews were changing.

15 Q. Okay.

16 A. So it's about 15 minutes. So somewhere in
17 that area is what time we arrived back at the shop.

18 Q. And you got the truck ready. How long did
19 it take you to get going?

20 A. [REDACTED] trailer --

21 Q. [REDACTED] er?

22 A. -- is kept in ready format. Our
23 apparatuses are ready and everything is on charge.

24 We shut the doors, back the truck up to it

1 and put it on the hip. So I'm estimating 15
2 minutes we were pulling out of the shop.

3 Q. So what time do you think you arrived at
4 the portal?

5 A. I really, I mean, going by those steps and
6 that timeline.

7 Q. Right.

8 A. I'm saying somewhere between 4:00 and
9 4:30.

10 Q. Well, that's good. I mean, just trying to
11 get a sense of that.

12 And when you arrived, there were rescue
13 teams present?

14 A. No. When I arrived, I mean, we were the
15 first rescue team to arrive.

16 Q. And who were the rescue teams that arrived
17 subsequently that you're aware of? I know you were
18 involved in benching the equipment.

19 A. I know the people that I seen next were
20 our east ████████cky rescue team members. Now whether
21 they arri██████efore Knox Creek, Virginia team, I
22 don't know, because they were there also. I don't
23 know who arrived next, but I seen some of the east
24 Kentucky guys there.

1 Q. Was that fairly soon after you arrived or
2 do you have any sense of that?

3 A. That was after, that was after I was at 78
4 Break waiting for enough people to arrive so that
5 we could scatter out and keep radio communication.

6 Q. So you didn't know when the other teams
7 had arrived until you saw some of the folks that
8 you knew inby, at 78 Break?

9 A. I was told -- before we left 78 Break, I
10 was, you know, we were all talking there, mine
11 rescue guys were talking there, and we were told
12 that we had backup teams outside and backup teams
13 in transit on the way there.

14 Q. Did they identify what teams they were --

15 A. No.

16 Q. Did they identify how many teams there
17 were?

18 A. They said we had two teams outside. And I
19 was, again, an assumption was that it was probably
20 east Kent [REDACTED] and Knox Creek, because that is our
21 teams, but [REDACTED] didn't have to be.

22 Q. Sure. When was the first time you
23 understood that a particular person was in charge
24 of the rescue?

1 A. My best comparison is that, you know, I
2 have never been in the military, so this is just
3 for me, but Rob is my captain. You know, we've
4 trained and that -- he was, not only was he my
5 boss, but he was my captain in this mine rescue
6 event, and he was in control of me.

7 Q. No, I understand that.

8 A. But as far as where he was getting his
9 orders from, I guess there comes a point in a
10 situation like this to where that information, to
11 me, for me to ask that is just an unnecessary
12 hindrance to what you're trying to accomplish. I
13 had complete trust in him that whatever was going
14 on was protocol.

15 Q. But you know there's a protocol, remember
16 I said, you know, we're just trying to figure out
17 do the protocols work, should we change them?

18 A. I do understand that. ██████████

19 Q. So is there a protocol to your
20 understand ██████████ that relates to someone being in
21 charge of ██████████ entire rescue that gives, is in
22 charge of giving orders?

23 A. I guess my focus is on my job at hand.

24 Q. Well, that's, you know --

1 A. That's all I can tell you.

2 Q. Well, you had training.

3 A. Yes.

4 Q. And I'm just, you know, as a mine rescuer,
5 and I'm just trying to figure out, are you trained
6 in, and is there an understanding that someone is
7 in charge, supposed to be in charge of the rescue?

8 A. Absolutely, there's a command center.

9 Q. That's what I'm asking.

10 A. Okay.

11 Q. So at what point, remember my initial
12 question was at what point did you understand that
13 some person was in charge of the rescue?

14 A. My point is that the one person in charge
15 of my operation was my captain. And for me to try
16 to seek any information in such a critical moment
17 is going to be a conflict against what we're trying
18 to accomplish.

19 So of course there is somebody in control,
20 but you've ██████ to understand that there is a
21 delegatio ██████ I was under that delegation
22 operating to the best of my ability.

23 So when did I know that was going on?
24 From my point of view, I was operating under the

1 command order from the time I pulled into the shop
2 at the end of what I thought was going to be my
3 shift and my captain said we have a job to do, so
4 we went and done it.

5 Q. Well, I understand all that. You made
6 that very clear to me the first answer.

7 A. Okay.

8 Q. But, you know, at some point did you
9 realize -- and I wasn't just asking you about when
10 you were underground on April 5th --

11 A. Right.

12 Q. -- April 6th. At some point did you learn
13 that someone that was in charge of the entire
14 rescue?

15 A. Well, I mean, of course I realized that
16 there are, there's people outside giving orders,
17 because we're not acting, we're not acting on our
18 own. We are -- if we were acting on our own, there
19 would have been no need for communication or
20 anything [REDACTED] So someone outside was giving us
21 orders. [REDACTED]hat was, you know, that was outside
22 to be determined; right? That's where --

23 Q. But this isn't a complex question. I'm
24 just saying maybe when you got outside did you

1 learn that someone was in charge?

2 A. I knew someone was in charge all along.

3 MR. SEARS: Professor, can I help
4 out maybe?

5 MR. MCGINLEY: No, that's all
6 right.

7 MR. SEARS: Okay. That's fine.

8 Q. In talking about when you were underground
9 on April 5th, 6th and when you were pulled out of
10 the mine, you mentioned that when methane was
11 detected.

12 A. Correct.

13 Q. And I assume you meant in explosive levels
14 or near explosive?

15 A. Huh-uh.

16 Q. No?

17 A. No.

18 Q. What did you mean by that?

19 A. Whenever I radioed out, they said two, it
20 was either [REDACTED] or three percent somewhere down the
21 longwall [REDACTED] And the last time that I could
22 understand the communication coming through, they
23 were around 100 Shield on the longwall face, and
24 they picked up two to three percent, because you

1 know, you have different detectors and that's when
2 they told us to come out. So I mean, explosive
3 range is five percent, so we were, again, you have
4 different trace gases that change things, so that
5 was the call that was made, and that was made from
6 outside for us to retreat.

7 Q. When you say you had different trace
8 gases, what do you mean by that?

9 A. Whenever we're studying for mine rescue
10 training or whatever, I mean, you have certain
11 hydrocarbons that are explosive at four percent
12 hydrogen. Then we know that in these events you
13 have different gases that are, I guess, liberated
14 from the burning plastics, methanes, and so on at
15 low temperatures, so we knew that we had -- we
16 couldn't just go on saying we're safe until we hit
17 five percent.

18 Q. Sure. I understand that. Actually, I was
19 just going to ask you when you realized there was a
20 methane c[REDACTED] problem because it was detected
21 somewhere [REDACTED]

22 A. Yes.

23 Q. And you clarified where it was detected.

24 A. Okay.

1 Q. You said that it was a chore to maintain
2 any continuity after methane was found. What did
3 you mean by that?

4 A. No. It was a chore to maintain the
5 continuity on the radios, because we're all on the
6 same frequency. And so we would try to spread out
7 to where this radio was barely communicating with
8 the next radio in line. And then the --

9 But sometimes, for whatever reason, the
10 radio waves bouncing off of different things or
11 whatever, you know, this conversation would bounce
12 back and forth before it was clarified enough to be
13 communicated on out.

14 So once that methane was found, because we
15 wanted to make sure it got outside in the range
16 that it was -- not that, you know, it went from two
17 percent to 10 percent by the time it got outside --
18 it took a while it seemed like to get that
19 information outside and then for the information to
20 get back , it was time to go.

21 Q. an see why I asked --

22 A. Yes.

23 Q. -- you to clarify that. And I appreciate
24 that clarification.

1 When you went in the mine on April 5th,
2 was there anybody to take down your name or how
3 did, was there anybody documenting who was
4 underground?

5 A. There was someone outside with a
6 clipboard, and I'm trying to remember who that
7 was. And if it was one of our guys or if it was
8 one of UBB's guys.

9 Q. Well, that's okay.

10 A. There was someone taking names, but I
11 can't remember who it was.

12 Q. Do you recall what information they asked?

13 A. Whoever it was knew me, so they just said,
14 you know, they just wrote down my name. And I
15 don't know if they wrote anything else. They
16 didn't ask me any specific questions, so I don't
17 know if they wrote a time or anything like that.

18 Q. The reason I'm asking is someone else came
19 in an interview, said that the Social Security
20 number wa[redacted]ed. Do you recall that?

21 A. [redacted] don't recall that.

22 Q. That's why I ask.

23 A. Okay. Oftentimes, we do have the last
24 four digits of our Social Security number on our

1 tag, but I mean, I don't remember anybody asking us
2 for that.

3 Q. When you went underground, did you know
4 how many men who were working at the time of the
5 explosion were unaccounted for?

6 A. I did not know the specific number. I
7 knew that they said there was a crew on the
8 longwall and a crew at Headgate 22, so, you know,
9 from being around the coal mine or whatever, I knew
10 there could be 20 or more between those two crews.

11 Q. You worked at UBB. What was the process
12 for keeping track of who was underground? You
13 know, for purposes of this kind of situation would
14 be helpful, I assume.

15 A. They kept a -- of course, you had your
16 tag-in, tag-out board, and then they had a --

17 Now at this time they would have had --
18 you say when I worked there. When I worked there
19 was before we had any of the electronic tagging.
20 And they ██████████agnets over in the, you know, what
21 crew was ██████████, you know. They didn't have
22 individuals' names, but they had like A crew or B
23 crew or whatever it was, then they had on a list
24 beside of that down on the desk who was on that

1 crew.

2 Q. Okay.

3 A. Fire bosses, they kept track of them in
4 the same way, they had a magnet on a white board
5 down there.

6 Q. But when you, at some point when you went
7 back to UBB doing the safety audits, what was the
8 system for logging in to so whoever was underground
9 could be identified? I know they had some sort of
10 electronic tracking system.

11 A. Yes.

12 Q. I'm wondering, did they continue the old
13 magnet system or tags or do you know?

14 A. We checked the tag readers. I don't know
15 if they kept a supplemental board or not. But they
16 had the, I think it's the pie moon system and we
17 have the small tag readers and everybody has a, you
18 know, a unique number.

19 On the mine rescue team we do, so we don't
20 overlap e[REDACTED]ody else's.

21 [REDACTED]e always check to make sure our
22 numbers are in the computer system. And that's how
23 they kept track.

24 They have placed throughout the coal mine,

1 they call them tag readers, and whenever you got in
2 the proximity of those tag readers, your tag reader
3 would verify your location.

4 Q. You think it would be a good idea to have
5 both the electronic tagging as well as the physical
6 tagging?

7 A. Absolutely. Absolutely.

8 Q. So do you recall when, when you learned an
9 exact and accurate number of the people who were
10 underground at the time of the explosion?

11 A. When we came back out after that first
12 entry, I don't know, again, I'm thinking that was
13 the wee hours, April 6th, of the morning. I don't
14 have a time at all. But that's whenever we were
15 told, you know, there was a total of 29 men that
16 were still, or minus the men that we had accounted
17 for, the total was 29.

18 During that night, you know, I didn't have
19 any idea.

20 [REDACTED] MR. MCGINLEY: That's all I

21 [REDACTED] Thanks.

22 MR. BABINGTON: I just have two
23 quick ones.

24 EXAMINATION

1 BY MR. BABINGTON:

2 Q. When you spoke to Rob Asbury, I guess, the
3 first time after, you know, after around like 3:30,
4 3:45 on April 5th, did he say -- what exactly did
5 he say happened?

6 A. I can remember asking him, you know,
7 because he said, Something is going on at UBB. And
8 I said, What's going on at UBB? And he said, Well,
9 they said that there was dust or smoke that come
10 out of the fan house.

11 And, you know, that's, again, as much as I
12 wanted to ask all these questions, because I am a
13 curious kind of guy, I mean, I knew that that was
14 just slowing down what I needed to do.

15 And I made the phone call and they said to
16 come to Ellis Portal.

17 Q. Did anyone tell you at some point that
18 they believed it had been an explosion or did you
19 arrive at that conclusion on your own?

20 A. I arrived at that conclusion on my own by
21 the time I got to 78 Break.

22 Q. And what caused you to think that there
23 had been an explosion?

24 A. The first thing was pieces of paper,

1 bagging, or so on, they have a wire mesh on the
2 top, and you just started to see things that had
3 been moved around, little pieces of stuff, you
4 know.

5 I don't know where that was outby, but
6 that was my first indication it was somewhere outby
7 66 Break on the 5 North Belt here is when I knew
8 that there had been something out of the normal had
9 moved a lot of air quickly.

10 Then the discoloration started and then
11 debris and so on.

12 Q. Thank you. Just one more. You said, you
13 stated that before you went underground you were
14 aware that there were two men already underground
15 who we later said were Blanchard and Whitehead.

16 A. That's correct.

17 Q. Who informed you that Blanchard and
18 Whitehead were underground?

19 A. Rob told me. I don't know where he got
20 that info [REDACTED] on.

21 Q. [REDACTED] you recall, did he tell you before you
22 went underground or after you had already gone
23 underground?

24 A. I knew that information before I went

1 underground. I think we knew that information --
2 or actually, as I was walking underground with him.

3 MR. BABINGTON: Okay. Thank you.

4 MR. MCGINLEY: I have got a
5 couple -- I'm sorry.

6 MR. WATKINS: I have just got one
7 or two, but --

8 MR. MCGINLEY: Go ahead.

9 MR. WATKINS: It don't matter.

10 EXAMINATION

11 BY MR. WATKINS:

12 Q. When you first, your group first
13 encountered Mr. White and Mr. Blanchard, did they
14 have a rescuer on or were they carrying one?

15 A. They were carrying, but they did not have
16 one on. I'm trying to think if they had more than
17 one in their hands.

18 Q. Okay.

19 A. They were carrying them. They did not
20 have them [REDACTED]

21 Q. [REDACTED]nk I asked you this already, but did
22 they give any indication of where they had traveled
23 to?

24 A. Not to me personally, but they were

1 talking to -- I'm trying to remember who all was
2 there, because it seemed like to me at that point
3 it wasn't long after that point where we had some
4 federal men and state men there, but I can't
5 remember who all was in that conversation.

6 Q. I know you had some conversation about
7 conversations with the command center. When you
8 got to 78, did the command center tell you to
9 advance in this direction or did like the team say
10 we're going to proceed in this direction?

11 A. I'm not sure how they came to that. I
12 wish I was.

13 I always assumed it come from the command
14 center, but as we advanced at different times, it
15 was a group -- like, Okay, guys -- I can remember
16 the question.

17 Whenever we advanced and we knew we had to
18 start dropping people off by radios, before we ever
19 done that, it was a group decision, hey, is
20 everybody ██████████ing to be located as far as the radio
21 will reach ██████████ then someone else go inby and we'll
22 drop them off, and everybody agreed to that.

23 Q. The rescuers that Blanchard and Whitehead
24 were carrying, were they opened or unopened?

1 A. The ones they were carrying were unopened.

2 MR. WATKINS: That's all I got
3 about on the 5th.

4 MR. O'BRIEN: I have got a couple
5 follow up on the 5th, if I may.

6 EXAMINATION

7 BY MR. O'BRIEN:

8 Q. At the beginning of the shift you said you
9 reported to the shop?

10 A. Correct.

11 Q. And then you went to?

12 A. Parker Peerless.

13 Q. Parker Peerless.

14 When did you know you were going to Parker
15 Peerless?

16 A. Okay. That morning when we got there, me,
17 Scott Kinder and Jason Castle were, we didn't have
18 a, there was just three of us, and I don't know all
19 the details why, but it happened from time to time
20 that we would have, if you want to call it free
21 time, to where we could go to one of the mine sites
22 and help out to do whatever.

23 ██████████ wife was nine months
24 pregnant, so UBB was kind of my, you know, that's

1 where I knew more people from there than anywhere,
2 I guess, any of our operations. And normally I
3 would go there, but [REDACTED] wife, with being
4 nine months pregnant and this is such a vast mines,
5 Parker Peerless is a small mines, we went up there,
6 I knew I could get him out if his wife called and
7 went into labor. So that's why we went to Parker
8 Peerless. That morning that decision was made. So
9 little [REDACTED] is my lifesaver.

10 Q. Just one other on the dealing with the
11 5th. Were you guys wearing apparatus when you went
12 in initially?

13 A. Yes. We weren't under air. We had them
14 ready. They were on our backs.

15 Q. They were on the back, but not under air?

16 A. Right.

17 Q. Thank you.

18 EXAMINATION

19 BY MR. MCGINLEY:

20 Q. Just a couple of questions.

21 Did you know that Consolidation Coal's
22 mine rescue team had come to UBB?

23 A. No.

24 Q. Do you know whether there was any

1 discussion when you were underground on the 5th and
2 6th about not having adequate backup before
3 proceeding further inby?

4 A. No, I did not know that.

5 Q. With regard to Mr. Blanchard and
6 Whitehead, you said that the rescuers they had on
7 them that you observed had not been opened?

8 A. I don't think they were on. If I remember
9 right. They was carrying it in their hand.

10 Q. Do you know whether they had used any
11 rescuers prior to that time, had opened them and
12 used them?

13 A. I didn't know that, but I assumed that,
14 because their pouches on their side were empty, but
15 they were carrying different ones.

16 Q. You said I think in answer to
17 Mr. O'Brien's question that you realized that
18 Mr. Blanchard and Whitehead had put themselves at
19 risk; is that correct?

20 A. [REDACTED] where I had been and seen, yes, they
21 had put t[REDACTED]self at risk.

22 Q. And you and others have said, well, that's
23 understandable under the circumstances. And you've
24 used the word "adrenaline," I think.

1 A. Uh-huh.

2 Q. Do you think that mine safety protocols
3 ought to be changed to recognize certain
4 circumstances that would permit people to go
5 underground in this, in the context of UBB
6 explosion without apparatus and, you know, before
7 the rescue's organized?

8 MR. SEARS: If you have an
9 opinion on that.

10 A. I mean, yeah. I really don't -- I would
11 have to study more about what the protocol is for
12 something like that happening. I mean, what is the
13 protocol? I don't know.

14 I know that we, in my mine rescue training
15 and because I have had extensive training and I
16 trust my apparatus so much, you know, that I was
17 worried about them for the machine they were
18 using.

19 But I don't know of any, you know, what I
20 could say ██████t that.

21 Q. █████ you know what the protocol is with
22 regard to people other than mine rescue member,
23 team members being underground in a rescue?

24 A. I do know that I have just trained people

1 that you use a rescuer for escape.

2 Q. Is that all you know about?

3 A. I mean, that's how we trained. And I know
4 that, you know, you don't use, I guess --

5 Yeah, I would need to study it, I guess.

6 MR. MCGINLEY: Thank you.

7 MR. BABINGTON: Barry, I suggest
8 we take a break before we launch into the
9 follow-ups on the safety auditing.

10 MR. KOERBER: Let's go off the
11 record, please.

12 (Break.)

13 BY MR. MCGINLEY:

14 Q. I have one quick question about mine
15 rescue. Have you been involved in any other mine
16 rescue efforts other than UBB?

17 A. No, I have not.

18 Q. Thank you. ██████████

19 EXAMINATION

20 BY MR. WA ██████████:

21 Q. ██████████ we got the April 5th event out of
22 the way. The next topic I have would be talking
23 about the audits that you guys performed as part of
24 your mine rescue duties.

1 What exactly do these audits consist of?

2 A. We generally split up, you know, into
3 groups, but there's a continually revision, I mean,
4 we're always trying to get better at what we do, so
5 I guess I need to ask the specific question is what
6 we do now or what we did before? And what I mean
7 by that is it's continual progression, but since
8 then, there has been a lot of refocusing on, since
9 the event, there has been a lot of refocusing.
10 We've added members and so on to continue to try to
11 do more.

12 Q. At the time of the event, let's start with
13 that, then we'll get into what you've changed.

14 A. What we do would usually be two or three
15 of us go to a, as the S1, when we do our mine visit
16 as a mine rescue team, was just to get familiar.
17 It wasn't really an audit.

18 But whenever we would go two or three in a
19 group, we would usually pick a section or, that we
20 would go ██████d talk to the men, go through the
21 equipment, ██████ would check the, you know --

22 My personal part was checking the
23 electrical. There would be other guys that would
24 go check the chambers, you know, check their life

1 line, check their escapeway phones, make sure their
2 escapeway maps were on where they were supposed to
3 be, and then we would walk the section belt back to
4 a belt head. Sometimes we would take and do a
5 specific of a beltline, like UBB and several miles
6 outside there, and we would walk that entire
7 beltline making observations. So that's how --

8 So I would say it would have been, instead
9 of a whole mine audit, we would try to do these
10 once a quarter. It would just be a section of a
11 coal mine. We would not do whole mine audits.

12 Q. You mentioned two or three people. Is it
13 always the same two or three people?

14 A. No, no. The only time that we tried to,
15 or the only time that we kept the same people is,
16 like I say, we would have a contract team or
17 composite team, depending on how the group was as
18 far as mine rescue, and that's when it had to be
19 specific people together underground at the same
20 time. [REDACTED]

21 [REDACTED]uring these visits, it could be any
22 combination of the people that was on mine rescue.

23 Q. And who decided which mine you went to,
24 and not only which mine, but which area of the mine

1 you went to?

2 A. Rob Asbury would tell me where to go to.
3 He's my immediate supervisor, Rob.

4 Q. And Rob would also pick which area of the
5 mine you would go to?

6 A. Now oftentimes that would be determined by
7 what all was going on with the coal mine when we
8 got there, how many inspectors might be in a
9 certain section when we got there. You know,
10 anything like that. Or if they were having a
11 specific problem in an area that needed help, you
12 know, so ...

13 As we were grouping and progressing in
14 these, I mean, that's just, there wasn't any
15 determination usually, but there was times when I
16 was told to go to UBB and go to one section or go
17 to Parker Peerless. You know what I mean? There
18 was no set pattern or anything.

19 Q. I think on the 5th you were really [REDACTED]
20 scheduled [REDACTED] go to UBB; is that correct?

21 A. [REDACTED]n't scheduled. That was a, there was
22 three of us there that day that didn't have any
23 specific place to go to.

24 Q. Okay.

1 A. Okay. It wasn't on a scheduled.

2 I'm not sure why that happened. I mean, I
3 enjoy those kind of days when that happened, but
4 Rob just left it up to me to go wherever I wanted
5 to, to call around, see if anybody specifically
6 needed help.

7 And he just said, Where are you going?
8 UBB. I mean, it was close and it's a big coal
9 mine, so they can always use help.

10 But we went to Parker Peerless, again,
11 because of ...

12 Q. Did you have any place in mind at UBB that
13 you were going to go to had you went to UBB that
14 day?

15 A. No, no.

16 I have a lot of electrician friends
17 there. I would have probably tried to find one of
18 them and see if they were doing something. ██████████

19 And when we do that, we don't always stay
20 together. ██████████ know what I'm saying? Like I'm an
21 electrician. ██████████ Say one of the other guys was a
22 utility man or scoop operator, whatever, so we
23 might split up. I might go with one of the outby
24 electricians, he might go up to gather some belt

1 structure or something, you know, operating the
2 scoop with some of the miners, so ...

3 Q. When you split up at the end of the day,
4 do you get back together and talk about what you'd
5 seen?

6 A. Yeah.

7 Q. Or encountered?

8 A. Yes.

9 Q. And then at that point, do you meet with
10 anybody at that point at the end of the day?

11 A. Whenever we would, in gathering
12 information for an S1 audit?

13 Q. Uh-huh.

14 A. We didn't always do the report the same
15 day, no. Sometimes it was the next day that we
16 would --

17 There was a report we filed and we would
18 give that to Rob.

19 Q. Did you ever meet with the superintendent
20 or people [REDACTED] line foreman at the mine and discuss
21 anything [REDACTED] you found during these audits?

22 A. Yes. I should have mentioned that.

23 Whenever we, anything that we saw that
24 needed immediate attention, we would get, we would

1 bring it to the fire boss or mine foreman or
2 superintendent, whoever, whoever we can get ahold
3 of us the quickest in the area.

4 Q. Can you give me an example of something
5 that you might --

6 A. A roller spinning in -- say there was a,
7 they had something going on with the scraper or
8 something and one of the bottom rollers was now
9 touching, you know, spinning in accumulations, you
10 know, that would be something that we would address
11 immediately.

12 Q. Prior to you going underground at a mine,
13 did you meet the superintendent or anyone at the
14 mine to tell them you were coming and where you
15 were going and --

16 A. We usually try to call, you know, to let
17 them know we were coming that morning, yes.

18 And then when we got there, we would tell
19 them, you know, we tried to make it as productive
20 as we could, yes.

21 Q. [REDACTED] you seen any positive results out of
22 these audits?

23 A. Absolutely. Absolutely.

24 Q. Like what?

1 A. I can -- there's just the mine foremen
2 expressing how the extra sets of eyes always helps
3 and that just that they can get these things fixed,
4 revealing the deficiencies they had so they can get
5 them fixed.

6 Q. Mr. O'Brien had asked you when the last
7 time that you'd been at UBB as an audit, and you
8 can't recall the last time. Do you recall anytime
9 that you'd been to UBB on an audit where you went
10 to?

11 A. I mean, I was thinking earlier. The only
12 -- I don't have any specifics. I mean, I remember
13 things about UBB, the times I have been in there,
14 but as far as telling you a specific date or
15 whatever, I mean.

16 Q. Not necessarily the specific date, just
17 which area you might have visited during these
18 audits, not necessarily the date.

19 A. I can remember, I mean, really, I would
20 rather say [REDACTED] I'd rather look at the audit and to
21 bring it [REDACTED] because there's so many. I mean,
22 there's so many, I don't know, twenty-some coal
23 mines in that group right there, so ...

24 Q. Is there anything about the conditions at

1 UBB stand out in your mind as far as roof
2 conditions, rock dusting, anything along those
3 lines ever stand out to you? Either positive or
4 negative.

5 A. Right, I understand. Other than the
6 before mentioned one about these doors down here
7 not being -- I can't remember any specifics other
8 than because of that, nothing is coming to my mind
9 immediately. I'm saying everything was, you know,
10 average, I guess is the best way to say it. Always
11 improvements can be made.

12 MR. BABINGTON: I'm sorry. Just
13 to clarify, the doors you were referring
14 to, those are at the mouth of the
15 longwall.

16 THE WITNESS: The mouth of the
17 longwall, yes. We talked about those
18 earlier, correct.

19 Q. I think you mentioned earlier that these
20 audit tea[REDACTED]ybe two or three people and maybe
21 different[REDACTED]le, maybe the same people, but is
22 there like a pool that they come out of? Is it
23 like members of a certain team or anything that --

24 A. Yes. We have at the time this took place,

1 we had a Mt. Hope station, a group of guys that
2 worked out of the Mt. Hope shop, or if you want to
3 call it that, and a group that worked out of the
4 Performance shop. We also had these Kentucky guys,
5 but which didn't pull from those. The two groups
6 that pulled together was Mt. Hope and Performance.

7 Q. Who makes up the Mt. Hope group?

8 A. Now or then?

9 Q. Then.

10 A. Okay, okay. Let's clarify. Then would
11 have been Jimmy Aurednik, Mike Alexander.

12 Some of these guys --

13 James Thomas, Larry Ferguson.

14 That might have been all that was up there
15 at the time, at the Mt. Hope station.

16 Q. What about the other group?

17 A. That would have been myself, Rob Asbury,
18 Scott Kinder, Jason Castle, Clinton Craddock.

19 We had several new members come right at
20 this time, [REDACTED]. I'm trying to think if they were
21 present, [REDACTED] fore.

22 That's all I can remember.

23 Q. And I think you mentioned there's several
24 mines that you guys, that you conducted these

1 audits at?

2 A. That's correct.

3 Q. Do you recall any common thread, if you
4 will, that, or any reoccurring problem that might
5 see taking place during these audits that you
6 encountered?

7 A. There's things that I looked at on the
8 electrical side.

9 Q. Okay.

10 A. Okay. Labeling, cathead labeling, it
11 seems to be a, you know, an issue that we need to
12 work on. What I mean by that is, I mean, your
13 breaker being labeled, your receptacle being
14 labeled, and your cathead being labeled identical,
15 which doesn't seem like a hard process, but it
16 seems like sometimes it is.

17 But that's as far as being a chronic pet
18 peeve of mine, that's one of them.

19 Q. Was there any reoccurring theme with [REDACTED]
20 methane m[REDACTED]rs?

21 A. [REDACTED] I have encountered at sections to
22 where, you know, because what we do is if they're
23 reading minus one or whatever, we stop and
24 calibrate.

1 Now whether that's a chronic problem with
2 the machine itself or whatever, but I have seen
3 that, you know, in my time underground.

4 And what I mean by that is anytime it
5 reads more than one tenth plus or minus what the
6 actual reading is, you know, especially in the
7 negative, if you go up and you see a minus one on a
8 methane monitor, well, you stop it and you
9 calibrate it.

10 Q. Mark, have you ever known of any problem
11 or encountered any problem with monitor being
12 bridged out?

13 A. No, I have not.

14 MR. WATKINS: Pat?

15 EXAMINATION

16 BY MR. MCGINLEY:

17 Q. Were there written rules for the S1 audit
18 teams to follow? ████████

19 A. There are checklists.

20 Q. ████████s involved in the checklist?

21 A. ████████ld need to have one in front of us,
22 because it is, I mean, again, it's extensive.

23 Q. Is it one page?

24 A. The checklist for each -- okay. If you

1 divide it into groups, the checklist for an
2 electrician, I believe, is two pages.

3 Q. Okay. There are various checklists?

4 A. Yes.

5 Q. For different people on a team that goes
6 underground?

7 A. Well, for different areas that you're
8 going to be looking at underground. Not
9 necessarily different people, but you try to, try
10 to group the two, you know, with experience and
11 checklist.

12 Q. So how many checklists are there. There's
13 an electrical?

14 A. I mean, I can give you a few. I don't
15 know if I can name them all. There's an
16 electrical, there's the sections, equipment.
17 There's a ventilation checklist.

18 That's all I can think of.

19 There's more than that, but I would have
20 to actual[REDACTED]ok at it.

21 Q. [REDACTED]n, do you think there are a lot more
22 or are there just one or two more that you can't
23 remember?

24 A. I can't -- I don't know.

1 Q. Is the only one you've ever filled out the
2 electric checklist?

3 A. No, I have also filled out the beltlines.
4 There's a checklist for the beltlines.

5 Q. So that's four?

6 A. Yeah.

7 Q. Any others?

8 A. That I have personally -- beltline and
9 electrical is the only two that I have filled out.

10 Q. And the checklist is different than your
11 report? On each individual mine visit, there's a
12 report; is that correct?

13 A. That's correct, yes. It's just a, I guess
14 like a Word document that you put where, when, what
15 on.

16 Q. So the report, I think you said you
17 prepare the report the same day or the next day and
18 give to Rob Asbury; is that correct?

19 A. Generally. I mean, that's what we try
20 to... [REDACTED]

21 Q. [REDACTED] hat's prepared as a Word document?

22 A. I think it's either Microsoft Word or it
23 could be a PDF document. I'm almost positive it's
24 a Word document.

1 Q. Who has the responsibility of preparing
2 that document?

3 A. It's a group effort. Each person that
4 had, whatever their checklist was, they prepare
5 that part of the report.

6 Q. So each person types up part of the report
7 and somebody looks at it.

8 Does somebody have an overall
9 responsibility of making sure that it's complete
10 before you give it to Rob Asbury?

11 A. Rob is usually the one that would go over
12 that.

13 Q. When you go to a mine to do a partial
14 audit.

15 A. Okay.

16 Q. Not the whole mine audit. Do you meet
17 with the superintendent or the mine foreman?

18 A. Yes.

19 Q. Do you typically meet them in the office
20 or does it vary?

21 A. It would vary.

22 Q. Do they know beforehand that you're going
23 to be there?

24 A. Sometimes. Sometimes they don't. I mean,

1 sometimes we call and we schedule it, sometimes we
2 just go and say we're going to this section now.

3 Q. And how long do these meetings with the
4 foreman or superintendent take?

5 A. The one before we go in is just a short
6 meeting. The one when we come out would depend on
7 what situations and the seriousness of what we felt
8 needed to be. So those meetings could vary. Just
9 depends on what we found.

10 Q. You said that on April 5th that Rob Asbury
11 called around to see if anyone specifically needs
12 help.

13 A. He didn't call around.

14 Q. Or some --

15 A. I mean, he told me to, which I done in the
16 past, he said just to go somewhere and help out
17 today, and I call around and find out where we
18 wanted to go.

19 Q. Now was that an audit? ██████████

20 A. ██████████o.

21 Q. ██████████was a mine rescue?

22 A. No. This was actually, like I say, this
23 was an in-between time. These are, you know, one
24 of those days where there was nothing really

1 pressing and we just went out to call around and
2 see who had something that they needed done, you
3 know, and we did. And they had some overcast that
4 had just been installed, they needed stairs put up,
5 so we went up.

6 Q. You put up the stairs?

7 A. We worked on the stairs at Parker
8 Peerless.

9 Q. Do the records there in your office
10 reflect how much time you've spent doing that kind
11 of work, work other than audits and mine rescue
12 work?

13 A. Only in the way that they would be dated
14 on the days that we did them and you could, you
15 could compare it with how many days was in the
16 month. I mean, we didn't keep a record of other
17 than of what we did, we might -- unless Rob kept a
18 record of it. When I went to there that specific
19 day, I would have not filed a report or anything on
20 helping o ██████ Parker Peerless.

21 Q. ██████ just wondering, because we've
22 learned that there's a lot of written reports that
23 Massey requires.

24 A. Yes, there is.

1 But I'm sure Rob somewhere down the line
2 probably had to justify the man-hours, if that's
3 what you're asking, what we were doing.

4 Q. So what over a period of a month or a
5 year, whatever you want to, however you want to
6 respond, how much time do you spend on non-safety
7 audits and work that doesn't involve mine rescue?

8 A. Was that, to specify, before April 5th or
9 since?

10 Q. Before.

11 A. Okay. Before April 5th, and I'm going to
12 do this by quarter, because that's where all our
13 things -- and I'm trying to think, because we
14 actually had that down one day.

15 I think we had -- the best we ever had was
16 like seven days in one quarter to where we was
17 available to go help out. And during the mine
18 rescue season, there's no time. All we can do is
19 get our team visits in and mine rescue training and
20 competi[REDACTED]

21 Q. [REDACTED]s the mine rescue season? Can you
22 define it?

23 A. It begins in, usually for us it begins in
24 May and goes through September.

1 Q. So the other months you might spend from
2 zero to seven days doing work other than safety
3 audits and mine rescue?

4 A. That's correct.

5 Q. Before --

6 A. Before.

7 Q. -- April 5th, 2010?

8 A. That's correct.

9 I might, if I can add this to that. The
10 work that we generally went out to do, we would
11 always, and the mine foreman is doing this too, the
12 work that we wanted to participate in was about
13 making the coal mine safer, it wasn't about
14 production, just like the stairs over the overcast
15 and so on. It was about that type of thing. We
16 didn't go run coal or anything anywhere.

17 Q. Sure.

18 A. Okay. ██████████

19 Q. So did you have a schedule --

20 A. ██████████

21 Q. ██████████e finish the question.

22 A. Sorry.

23 Q. Did you have a schedule that reflected the
24 mines you were going to visit for the S1 audits

1 that showed what, where you would be in advance for
2 a month or for a quarter?

3 A. Possibly a month in advance.

4 Okay. We would have a tentative schedule
5 for the quarter, but oftentimes, things would get
6 rearranged. We didn't always keep to that
7 schedule.

8 Q. It was a written schedule?

9 A. Yes.

10 Q. Was it something available on the computer
11 everybody could look at?

12 A. I'm trying to -- I mean, it should have --
13 usually it was posted on, you know, we have a
14 cork board or whatever, you know, and it was posted
15 on that.

16 MR. SEARS: And who do you mean
17 by everyone can look at it? Do you mean
18 on the mine rescue or company wide? Or do
19 you want to clarify what that means?

20 A. [REDACTED]s just down in our shop.

21 Q. [REDACTED] on the bulletin board. So anybody
22 that was there could see it?

23 A. Yes.

24 Q. Thanks.

1 A. I mean, but we're the only ones there, if
2 that makes a difference.

3 Q. I assumed that.

4 What were you looking for when you went
5 and did these audits? I mean, you did the
6 electrical work and apparently some work relating
7 to the belts.

8 But generally, what were you looking for
9 that you would call a deficiency? Was it just MSHA
10 or state violations or were you looking at those?
11 I just --

12 A. We would, yes, we would take all of the
13 above that you just mentioned. We would take the
14 violations to see if there, you know, to see what
15 problems they were having, if they were
16 reoccurring. We would go to those locations and
17 try to see if we had any suggestions on what might
18 be done, but we, or to see if they were taking care
19 of it I guess would be a better way to word that.

20 [REDACTED]rically, I would look at -- if I was
21 going into [REDACTED] coal mine and I was -- if I wasn't
22 thick in the section, I would start on the track
23 and I would start looking through electrical
24 insulations, making sure the high line was guarded

1 at the man doors, making sure that, you know, your
2 fire extinguishers and your signs for high voltage
3 and the bolts in the lids. Just your normal things
4 that you want to look at, safety precautions.

5 On the beltlines, again, just the
6 checklist items. And I can't -- without that in
7 front of me, I can't really be specific.

8 Q. I'm not really asking you to be specific.

9 A. Okay. Okay.

10 Q. Just for your recollection about what you
11 ordinarily did?

12 A. Okay.

13 Q. Did Massey's S1 manual come into play in
14 your audits?

15 A. The checklist was derived from the check,
16 or from the S1 manual, and state and federal
17 regulations.

18 Q. That's helpful. ██████████

19 A. Okay.

20 Q. ██████████s actually what I was asking you.

21 A. ██████████

22 Q. You said something in your testimony about
23 doors near the longwall.

24 A. Yes.

1 Q. And that they, there was some Massey
2 requirement with regard to automated doors.

3 A. Uh-huh.

4 Q. What is that requirement?

5 A. That our track doors are to be maintained
6 as automatic track doors to where you could, you
7 didn't have to, members didn't have to get in and
8 out of their mantrips to open up doors.

9 Q. Would that include airlock doors? Double
10 airlock --

11 A. On the track, on the track, you know.

12 Q. Right.

13 A. Yes, yes.

14 Q. That's solely a Massey requirement?

15 A. They don't have to be automatic on the
16 track, I don't think, by any federal regulations.

17 Q. I'm sorry. I misunderstood. Where do
18 they have to be automatic?

19 A. According to mass -- on the track. So
20 your mantrips, people aren't getting out of
21 mantrips when moving by them. You know, it's a
22 safety issue that we try to keep, because that's
23 just more opportunities for people to get injured.

24 Q. So you found the one particular set of

1 doors that were not automatic; is that correct?

2 A. That's correct.

3 Q. And was that fixed?

4 A. I don't know. I mean, between the time
5 that I mentioned it and -- I mean, no, no, I don't
6 know.

7 Q. When did you mention it?

8 A. I mean, whenever I seen this and the
9 events, what I'm talking about.

10 Q. I understand.

11 A. I don't know the date. But, again, we
12 should be able to find that. It should be in the
13 report.

14 Q. Do you think the last time you were at UBB
15 was in 2010 or was it before?

16 A. No, it was in 2010.

17 Q. Oh, okay. Well, that's helpful. I think
18 Mr. Watkins was saying we don't want a specific
19 date.

20 A. [REDACTED]ieve, yes, it was in 2010.

21 Q. [REDACTED] your report that was written after
22 you visited UBB, whenever that date was, you told
23 the management, you wrote in the report that the
24 automatic doors in this particular location near

1 the longwall were not operating?

2 A. They were not automated doors. I mean,
3 they were not set up to be automated. They were
4 manual doors that you had to get out and open.
5 They did not have the jacks and there was no
6 electrical provision, you know, there to make them
7 automatic. So they would have had to have changed
8 them out.

9 Q. So did they explain why they weren't
10 automatic?

11 A. The explanation I got that the doors had
12 been ordered. The appropriate doors had been
13 ordered.

14 Q. Did you ask how long they had been --

15 A. I did not.

16 Q. -- non-automated?

17 MR. SEARS: Wait for his question
18 first.

19 A. I'm sorry, I'm sorry. ██████████

20 ██████████ not ask that question.

21 Q. ██████████ you know from your own experience at
22 UBB whether they had not been automated?

23 A. The only experience I have at UBB was, you
24 know, I mean, as far as on the longwall, we always

1 kept the doors automatic. I mean, that was a
2 surprise to me that those were not.

3 Q. Do you think that this report that you
4 wrote about the doors, was that done in 2010 or
5 before?

6 A. I believe it was done in 2010.

7 Q. Now the composite team would have followed
8 up on that?

9 A. There was follow-up. Now did we go back
10 to these specific locations, I can't be assured of
11 that.

12 At each time whenever we would go back to
13 revisit, we would go with the mine foreman, which
14 he was to have a corrected, where he had corrected,
15 who had corrected, and the day it was corrected.

16 Q. So there's a form?

17 A. Well, not necessarily a form. It was just
18 of the items that -- we would give the report to
19 Rob. I don't know if it went to Elizabeth then to
20 the mine [REDACTED] or if it went from Rob to the mine
21 site. [REDACTED]

22 But they would correct what they had found
23 and, or what we had found, and then we would go and
24 look at that. Sometimes we would go back in and

1 look at specific locations. Sometimes it was done
2 in the office checking off and making sure that
3 their list was correct.

4 Q. So was there documentation of whether a
5 particular violation of Massey S1 or federal, state
6 regulations had been corrected?

7 A. That is the procedure, yes.

8 Q. Do you know whether it was done with
9 regard to the doors?

10 A. I do not know.

11 Q. Did you have any discussion after the
12 explosion with anybody in Massey or the attorneys
13 about those doors?

14 A. No, I haven't.

15 Q. You said the fact that the doors weren't
16 automated was a safety issue.

17 A. Yes.

18 Q. Can you explain that?

19 A. We've had people injured getting out and
20 opening up [REDACTED] doors, because there's a lot of
21 pressure [REDACTED] e doors, you know, and it gets away
22 from you or Knox you down or, you know, that kind
23 of thing. We've had accidents, spraining and
24 straining kind of injuries from that.

1 Q. Do the doors have anything to do with
2 safety in terms of ventilation?

3 A. Oh, absolutely.

4 Q. Can you explain that?

5 A. Well, I mean, if it's an air locked door,
6 you know, you never open both sets of doors at the
7 same time, because it's going to short circuit your
8 air.

9 Depending on, you know, again, it depends
10 on the location how critical they are, but yes.

11 Q. Who did you talk to about those doors when
12 you found them? Is it the superintendent or?

13 A. I mean, it would have been a mine foreman
14 or superintendent, but I don't recall a specific
15 person.

16 Q. Were there any other doors at UBB that
17 should have been automated that weren't, according
18 to Massey's own policy?

19 A. I mean, I don't, I can't remember these
20 doors over [REDACTED] e, so I don't know if I have ever
21 traveled [REDACTED] gh those doors, but the ones that
22 were outby this location, they were automatic.

23 MR. BABINGTON: When you say

24 "outby this location," you're pointing to

1 outby the mother drive?

2 A. Outby the mother drive going towards the
3 Ellis Portal.

4 Q. Well, there's no doubt that the
5 superintendent and mine foreman knew that it was
6 Massey's S1 safety policy to have automated doors on
7 the track?

8 A. Yes.

9 Q. Did you ever serve in the composite team?

10 A. I'm going to say yes, because we have
11 switched those back and forth several times, but
12 yes. It's on file, too. I mean, we have a list of
13 who was on what.

14 Q. Serving on the composite team, did you
15 serve on the team when it was doing S1 audit
16 follow-up at UBB?

17 A. I don't know.

18 Q. You have 32 mines that you audit? ████████

19 A. There's a potential for 32. That's
20 counting ████████nes up north. I don't go -- we go
21 there as ████████of a, of our compliance being
22 familiar with the mines.

23 Q. Okay.

24 A. Okay. The ones on Route 3, I don't know

1 the total number there that I have done S1 audits
2 on, but it would be Performance Coal, Elk Run Coal,
3 Marfork Coal Company.

4 Q. Independence?

5 A. I have went to Independence. I have went
6 to Revolution on a --

7 Q. But generally, those three and sometimes
8 Revolution.

9 A. There's a lot more mines than that. I'm
10 saying Elk Run, Elk Run has several coal mines, and
11 Marfork has several coal mines.

12 Q. Just double-check here.

13 MR. BABINGTON: I think we have
14 some follow-ups.

15 MR. MCGINLEY: Go ahead. Yeah,
16 sure.

17 EXAMINATION

18 BY MR. O'BRIEN:

19 Q. What changes, if any, took place after the
20 accident [REDACTED] as auditing procedures?

21 A. [REDACTED]ve, the first change I guess is we've
22 hired more members. I think there was 11 or 12
23 before and there's 21 of us now. I mean, working
24 at the same two locations. There's more than that

1 company wide.

2 And we have made specific, whenever we go
3 now to do an S1 audit, it's comprised of a seven-
4 man team, and we attempt to travel all airways, all
5 beltlines, all sections. It's a whole mine
6 evaluation.

7 You know, I'm not saying we can travel
8 every crosscut. If you're going up through here
9 and there's two intake entries, you're going to
10 travel one intake entry. You're going to travel
11 the primary. You don't go into every crosscut, but
12 that's what we try to do.

13 On the beltlines, we try to have people
14 that, to walk both sides of the beltlines, you
15 know, in their entireties, so it's become much
16 more, more information.

17 Our checklists are, you know, we've
18 grouped them up different, too, to instead of the
19 checklist that I was talking about earlier, we
20 regrouped [REDACTED] to these individuals where their
21 locations [REDACTED] going to be.

22 Q. Has there been any changes in the follow-
23 up procedures as far as corrections of any
24 deficiencies that you find?

1 referring to at the mouth of 1 North, would you
2 consider those to be in a critical location?

3 A. Yes.

4 Q. And could you explain why?

5 A. Because your intake, your primary intake
6 goes through that area.

7 Q. Okay.

8 A. Using the doors to isolate that.

9 Q. And if the doors have been open, what
10 would be a result of that?

11 A. You would lose your primary intake to
12 everything inby.

13 MR. WATKINS: Okay. That's all.

14 MR. BABINGTON: I just have a
15 couple.

16 EXAMINATION

17 BY MR. BABINGTON:

18 Q. We've previously heard that one of the
19 auditing teams did a fire drill during 2010 at

20 UBB. Were [REDACTED] involved in that?

21 A. [REDACTED] not.

22 Q. You were not involved in that?

23 A. I was not involved in this one at UBB.

24 Q. You've been saying "we" quite a bit in

1 terms of "we go out and we check" and then "we go
2 back and we follow up." You're not referring to
3 you and the same couple of people; is that correct?

4 A. "We" as part of the mine rescue team. It
5 could be me and any, any number of people from the
6 mine rescue team.

7 Q. We've previously heard distinctions
8 between contract teams and composite teams.

9 A. Yes.

10 Q. Is it true that the contract team would go
11 out and do the initial safety audit?

12 A. I don't think that there was, there wasn't
13 a definite, the contract team going to do the
14 safety audit and the composite team check.
15 Sometimes that role was reversed.

16 Q. But the contract team were the same, could
17 the same people be on the contract team and the
18 composite team?

19 A. No, no.

20 Q. [REDACTED] you ever been -- do these contract or
21 composite [REDACTED]s have leaders to them?

22 A. Yes.

23 Q. Have you ever been a leader of a contract
24 or a composite team?

1 A. Yes.

2 Q. Were you ever a leader of one of those
3 teams at UBB?

4 A. I was -- I would have to say yes, in 2009
5 I would have to say yes, that there was a time that
6 I was a crew leader, because we were -- yes.

7 Q. What duties would you have as a crew
8 leader as opposed to a crew member?

9 A. Scheduling, you know, for where we're
10 going in the coal mine maybe that specific day.
11 Just from the aspect of I would get together with
12 Rob and say, okay, we're going to UBB, we're going
13 to go to the longwall and walk the belts to 78
14 Break, you know. Then when we got back and we were
15 doing the report, I would usually, you know, I
16 would type up my part of it and then somebody --
17 but I would look over it and then hand it to Rob.

18 Q. Okay. Thank you.

19 In terms of a rough percentage, how often
20 do you act as a crew leader?

21 A. I mean, now it's different. Now we
22 have --

23 Q. Right, this is before April 5th.

24 A. 50 percent of the time before the event.

1 MR. BABINGTON: Pat?

2 EXAMINATION

3 BY MR. MCGINLEY:

4 Q. I'm curious, Mr. Bolen. Why would there
5 be no member of the contract team that was on the
6 composite team that went to check to see if the
7 previous deficiencies had been corrected?

8 A. When we separate composite and contract,
9 it's part of meeting the mine rescue guidelines, or
10 mine rescue laws as far as team visits. And
11 contract team would have been required to visit the
12 coal mine once every quarter. The composite team
13 has to visit the coal mine, I guess, once every
14 half a year, twice a year. And you had to keep
15 those separate in order for us to meet statutes of
16 the law as far as the members on those teams.

17 Now we did have instances where a
18 composite team for the Mt. Hope composite team also
19 served as a backup contract team for a couple of
20 our opera down towards Logan, that area. So
21 they would down there once a quarter and make
22 their visits.

23 But the contract team and composite team,
24 they can't be the same people on both teams, and

1 that's because of -- well, I wish I had that in
2 front of me.

3 Q. Well, the safety audits are not done
4 because of the law; isn't that correct?

5 A. No, no.

6 Q. They are done because Massey entered into
7 a court agreement in a shareholder's derivative
8 suit that required such audits. Did you know that?

9 A. Before the event?

10 Q. Yes.

11 A. No, I didn't know that. I know that S1
12 and S1 audits have been around with Massey for 20
13 years.

14 Q. Okay.

15 A. Okay. I know that how we were doing with
16 the mine rescue team was new, it just had started
17 in 2008.

18 But the contract and composite team, the
19 reason we called them such was because, or that's
20 how they written down in the law as far as mine
21 rescue regulations and what's required. There's
22 different requirements of each team.

23 Q. With regard to those teams, now when you
24 do the follow up, are there people on the follow-up

1 team that go into a mine that were on the team that
2 identified the deficiencies?

3 A. Yes.

4 Q. And why was that?

5 A. I mean, why is that now?

6 Q. Yeah, why was that change made, given what
7 you said about the requirements for mine safety?

8 A. The whole, the whole, the whole approach
9 that we have now as far as composite and contract
10 teams, and I don't know the division, but we're all
11 part of composite teams now, but it's the same --
12 it might not be the exact same group of people, but
13 there would be the same people that was there on
14 the first visit as it goes back on the second
15 visit.

16 Q. Why did, if you know, why did Massey
17 increase the number of members of the audit team
18 and do whole, whole mine audits rather than the
19 sort of partial audits you did? Was that
20 discussed [REDACTED]

21 A. [REDACTED]sn't discussed. That's why, I mean,
22 I don't know. I can only have an opinion.

23 Q. So you were just told at some point this
24 is what we're going to do?

1 A. Uh-huh.

2 Q. And who told you that?

3 A. I was what now?

4 Q. Who told you that? Was it Elizabeth?

5 A. Rob Asbury.

6 Q. Did Elizabeth Chamberlin talk to you about
7 this new approach to S1 audits?

8 A. She has talked to us, not in anything
9 formal, just we were going to be adding new members
10 and expanding our role in safety.

11 Q. Was there anything in writing that you've
12 seen about the new approach to the S1 audits?

13 A. Well, I mean, we have a new -- we have a
14 new checklist and we have a new -- I guess each
15 section of the checklist has a person attached to
16 it now, like mine's electrical and someone else's
17 will be beltline, but there is a paper that gives
18 you an overview of your responsibility.

19 Q. Someone has testified about a requirement, [REDACTED]
20 a Massey [REDACTED] requirement that there be 20,000 CFM at
21 the last [REDACTED] break on miner sections. Are you
22 familiar with that?

23 A. Yes.

24 Q. What's that requirement?

1 A. That the last open break will have
2 20,000.

3 Q. And if it doesn't, what is the section
4 foreman supposed to do?

5 A. He is supposed to shut down mining in
6 that, if it's in number three, then we should shut
7 down mining, and get his air to the last open break
8 before he continues.

9 Q. Is that done?

10 A. Yes, I mean, I can only say when, from
11 when we are on, if we're on the section, yes, it's
12 done.

13 Q. You think it's not done when you're not on
14 the section?

15 A. I don't know.

16 Q. Did you ever look at fire boss books as
17 part of your S1 audits?

18 A. I did not. I looked at the permissibility
19 electrical books. [REDACTED]

20 Q. [REDACTED] looked at the fire boss books on, when
21 you went [REDACTED] B or typically who would do that?

22 A. People who generally check those would
23 have been -- it could have been different people,
24 but these are people I have seen doing it, would be

1 Shane McPherson. And then up north, like Jimmy is
2 up north, but he's the captain of that team.

3 Q. On the ones that would go to UBB.

4 A. The ones that go to UBB. I mean, I
5 really, you know, I have seen Shane McPherson look
6 at them. No question there. That's the only name
7 that I can honestly say I have seen.

8 Q. One other question. Whose responsibility
9 was it to check things like whether water sprays on
10 the longwall shearer and the shields were operating
11 properly during the S1 audits?

12 A. During the S1 audit? That would be, I
13 mean, that would fall under -- that would fall
14 under two categories. Possibly that would fall
15 under the section person, which this was a
16 longwall, and would fall under the electrical just
17 for permissibility, the number of sprays, you know,
18 operated.

19 Q. What do you do when you would check an S1
20 audit where there's adequate water pressure and
21 whether the sprays are operating or functioning
22 properly?

23 A. That would be strictly the parameters. I
24 mean, whatever the plan called for, how many sprays

1 and your pressure.

2 Q. What do you do to check to see?

3 A. You would ask them to -- you would ask the
4 section boss that you wanted to do that, and he
5 would generally get his electrician to hook up his
6 spray, or hook up his pressure gauge and run the
7 sprays. And you would make sure that they were not
8 stopped up and there was a correct amount and that
9 the pressure was right.

10 Q. And would that be documented in your
11 reports?

12 A. Usually only deficiencies are documented.
13 I mean, if we seen something extremely outstanding
14 like something we wanted to become a new, you know,
15 like the way they built a fire hose stand or
16 something like that, if somebody had a really good
17 idea and we liked how it was set up -- we didn't
18 make mentions of -- if something was right, it was
19 right. It was supposed to be right.

20 Q. [REDACTED] six or eight water sprays on a
21 longwall [REDACTED]er were plugged or missing, would
22 that be a concern?

23 A. I mean, it would be a perimeter issue.
24 You know what I mean? If the appropriate number of

1 sprays -- there could be that many, I guess,
2 plugged. There's a lot of sprays on the drum, but
3 as long as the number of sprays were mentioned, was
4 correct and the pressure is correct.

5 Q. Do you know how often pressure gauge tests
6 are required to be done?

7 A. They're supposed to be done every shift
8 before they start.

9 Q. Is that required to be documented or is
10 that just part of the procedure?

11 A. That's law. I'm sure, isn't it? I mean,
12 you know I'm saying that, but my experience in the
13 coal mine has been with Massey, and that's just
14 something that I assumed that was law is on a miner
15 or a shearer.

16 Q. Okay.

17 A. Okay.

18 Q. Thank you. ██████████

19 EXAMINATION

20 BY MR. WA██████████:

21 Q. ██████████ quick one. And I hate to keep going
22 back to the doors, but we talked about leaving
23 doors open and what could happen if they were left
24 open. Okay?

1 Do you ever recall any problem or anybody
2 mentioning the problem with people leaving those
3 doors open?

4 A. No.

5 Q. Okay.

6 A. No, I can't, no.

7 EXAMINATION

8 BY MR. MCGINLEY:

9 Q. Would you have liked to have known if
10 there were problems of that nature?

11 A. Well, I mean, that's -- I just can't
12 believe that someone would do that, knowing how
13 critical that area there is.

14 EXAMINATION

15 BY MR. WATKINS:

16 Q. Just a couple of questions about your
17 longwall, your days on the longwall, if you will.

18 A. Okay.

19 Q. I think you mentioned you started in 2006
20 working on [REDACTED] longwall; is that correct?

21 A. [REDACTED]

22 Q. At UBB?

23 A. At UBB.

24 Q. How long did you work on the wall?

1 A. Again, I wish I had that map.

2 Q. Yeah.

3 A. I just know it was at the end of 2006. I
4 don't think it went into -- we were at Logans Fork
5 sometime in 2006, but I can't remember the date.
6 We finished up a small section of one of these
7 panels that they had left.

8 Q. What was your job title at that time? Do
9 you remember?

10 A. I was an electrician on the hoot owl.

11 Q. Electrician on the hoot owl.

12 And what were your responsibilities as
13 electrician?

14 A. We serviced all the equipment. We did
15 permissibility on all the face equipment. We took
16 care of the longwall face equipment and everything,
17 everything, you know, entailed in that. Everything
18 from checking the chain tension every night to
19 making sure the shields were operating properly and
20 so on.

21 Q. you remember any of the parameters that
22 might have been in place at that time as far as
23 ventilation? I know it's been a long time ago.

24 A. No, I don't remember. No, I don't.

1 Q. In 2006 do you remember having any problem
2 with ventilation on the longwall?

3 A. No. Again, I remember it was extremely
4 cold, because we did have some problem with some
5 rock and quartz, so we had to run cone sprays,
6 which made it a constant rain, a windy rain the
7 whole time on the wall when it was running.

8 Q. Did you have any problem with accumulation
9 of methane or anything like that on the --

10 A. No.

11 EXAMINATION

12 BY MR. MCGINLEY:

13 Q. Just a couple more.

14 A. Go ahead.

15 Q. You said you didn't know that there had
16 been a methane inundation at UBB in 2003, the year
17 before the inundation that happened in 2004?

18 A. No, I did not.

19 Q. Did you know there was a methane ignition
20 in 1997 at a [REDACTED] longwall face that included igniting
21 somebody's [REDACTED] r?

22 A. No.

23 Q. Would you have liked to have known that?

24 A. Well, sure.

1 MR. MCGINLEY: No further
2 questions.

3 EXAMINATION

4 BY MR. BABINGTON:

5 Q. I just have two quick ones. With your
6 time, in your time when you would go and do these
7 safety audits, would you coordinate with the safety
8 director at the individual mine?

9 At least we're familiar that at least
10 Performance had several safety directors.

11 A. Yes, we were. We did coordinate with the
12 safety director. And sometimes they would even
13 call and ask when we were coming or if we could
14 come and go with them or help them. So, yes.

15 Q. Finally, for the 2004 methane outburst, do
16 you know, do you know whether the company did
17 anything in response to that outburst?

18 A. I don't know.

19 Q. You didn't hear anything that, no rumors
20 about any [REDACTED] like that?

21 A. [REDACTED] I was new in the coal mine industry.
22 And now when I look back, I guess I was pretty
23 naive, but no.

24 MR. BABINGTON: Barry?

1 MR. KOERBER: Mr. Bolen, on
2 behalf of all the teams, I would like to
3 thank you very much for coming here today
4 and participating in the interview.

5 At this point in time, if there's
6 anything you'd like to add, clarify, any
7 statement you'd like to make, the floor is
8 yours.

9 THE WITNESS: No, no, I'm talked
10 out.

11 MR. KOERBER: Okay. Again, thank
12 you.

13 And we'll go off the record.

14 (The interview of MARK BOLEN
15 concluded at 12:40 p.m.)
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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Lisa Marie Short, a Notary Public and
3 Certified Court Reporter within and for the State
4 aforesaid, duly commissioned and qualified, do
5 hereby certify that the interview of MARK BOLEN
6 was duly taken by me and before me at the time and
7 place specified in the caption hereof.

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

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

20 My commission expires the 8th day of
September 2018.

21 Given under my hand and seal this 11th day
of January 2011.

22 -----
23 Lisa Marie Short
24 CCR
Notary Public