

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 JONAH BOWLES, 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, Wednesday, October 20,
2010, at 8:11 a.m., at the Mine Academy, 1301
Airport Road, Beaver, West Virginia.

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1 MR. KOERBER: My name is Barry
2 Koerber. I'm an Assistant Attorney
3 General assigned to represent the West
4 Virginia Office of Miners' Health Safety &
5 Training.

6 Today is October 20th, 2010.
7 We're here for an interview regarding the
8 accident investigation pertaining to the
9 April 5th, 2010 mine explosion at the
10 Upper Big Branch mine.

11 The interviewers for the State of
12 West Virginia, I'm going to ask that they
13 identify themselves at this time.

14 MR. FARLEY: I'm Terry Farley
15 with Miners' Health Safety & Training.

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

19 MR. KOERBER: There are also two
20 other groups participating in these
21 interviews, and I would ask that we go
22 down the table and those individuals
23 identify the group they're with and
24 themselves.

1 MR. SHERER: I'm Eric Sherer with
2 MSHA.

3 MR. WILSON: Good morning,
4 Mr. Bowles. I'm Bob Wilson. I'm with the
5 Office of the Solicitor, United States
6 Department of Labor representing MSHA.

7 MR. MCATEER: I'm Davitt
8 McAteer.

9 MR. KOERBER: Mr. Bowles and
10 Mr. Sears, I'd like to state that we have
11 a court reporter present who will be
12 transcribing the testimony here today.

13 The court reporter has a three-
14 day turnaround, that is the contract that
15 we have with Johnny Jackson & Associates,
16 and she is with Johnny Jackson &
17 Associates. They have an office in
18 Charleston, West Virginia.

19 Anytime Monday, on this coming
20 Monday, October 26th on, you can contact
21 Johnny Jackson & Associates, you can
22 schedule a time that is convenient to all
23 where either Mr. Bowles or Mr. Bowles and
24 your attorney can go to Johnny Jackson's

1 office, and they'll provide a conference
2 room where you can look the transcript
3 over, make any changes that you feel are
4 necessary on an errata sheet, and that
5 will be attached to the transcript. You
6 will not be permitted to take a copy with
7 you.

8 Is there any questions on that?

9 THE WITNESS: No.

10 MR. SEARS: No questions. Well,
11 how long do we have to do that?

12 MR. KOERBER: I'm not going to
13 hold you to any time frame, but just keep
14 in mind we're rapidly approaching the end
15 of the interviews, so I would not be
16 extremely late. I mean, a week or ten
17 days certainly.

18 MR. SEARS: Just for the record,
19 can we identify all the people in the room
20 as well?

21 MR. KOERBER: Yes. Would the
22 people in the back please identify
23 themselves starting with Mr. McGinley.

24 MR. MCGINLEY: Patrick McGinley.

1 MR. KOERBER: You're with the?

2 MR. MCGINLEY: The Governor's
3 Independent Investigation Panel.

4 MR. WATKINS: Tim Watkins with
5 MSHA.

6 MR. GOSSY: John Gossy with MSHA.

7 MR. KOERBER: Mr. Bowles, if at
8 any time during this interview for
9 whatever reason you desire to take a
10 break, just let us know and we'll take a
11 break. Okay? There is water in the
12 refrigerator, there's water and pop up the
13 hall, and there's a bathroom up the
14 stairs.

15 We request that you not discuss
16 what's said in here today with anybody
17 outside of your attorney after this
18 interview is over just to preserve the
19 integrity of the entire interview
20 process.

21 I would ask that the court
22 reporter swear the witness in at this
23 time.

24 JONAH BOWLES, WITNESS, SWORN

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

4 THE WITNESS: My name is Jonah F.
5 Bowles, B-o-w-l-e-s.

6 MR. KOERBER: What is your
7 address and telephone number?

8 THE WITNESS: My address is [REDACTED]

9

10 [REDACTED] My home phone number is

11

12 MR. KOERBER: Are you appearing
13 here today as a result of being served
14 with a subpoena?

15 THE WITNESS: Yes.

16 MR. KOERBER: This is a copy of
17 that subpoena. Would you agree with that?

18 THE WITNESS: Yes.

19 MR. KOERBER: Okay. I note on
20 the subpoena that the subpoena states that
21 you're to appear on October 19th at
22 8 a.m. After discussions I had with the
23 firm that your attorney is with, we
24 mutually agreed to continue that hearing

1 from yesterday at eight to today at
2 eight. Is that your understanding as
3 well?

4 THE WITNESS: That's my
5 understanding.

6 MR. KOERBER: Would you please
7 mark that as Exhibit A.

8 (Deposition Exhibit A marked for
9 identification.)

10 MR. KOERBER: Put that in the
11 record.

12 Mr. Bowles, do you have an
13 attorney to represent you here today?

14 THE WITNESS: Yes, Mr. Chris
15 Sears.

16 MR. KOERBER: Mr. Sears, would
17 you please identify yourself and the firm
18 you're with.

19 MR. SEARS: Christopher Sears
20 with the law firm of Shuman, McCuskey &
21 Slicer.

22 MR. KOERBER: Is Mr. Bowles your
23 client?

24 MR. SEARS: He is.

1 MR. KOERBER: We have another
2 individual at the table that I would ask
3 that he identify himself, his firm and the
4 client he represents.

5 MR. SILKWOOD: Eric Silkwood with
6 Allen, Guthrie & Thomas. I'm here on
7 behalf of Performance Coal Company.

8 MR. KOERBER: I'll pass it off to
9 Bob Wilson if he has any remarks he'd like
10 to make before Mr. Farley begins the
11 interview process.

12 MR. WILSON: Thanks, Barry.

13 Just real quickly, Mr. Bowles, on
14 behalf of MSHA, I want to thank you for
15 coming in here today and answering our
16 questions and providing any information
17 that you believe might be helpful to the
18 investigation.

19 If following the interview you
20 think of any additional information that
21 you would like to provide to us, I'm going
22 to hand you a letter right now that has
23 the contact information where you can
24 reach us. Norman Page is MSHA's lead

1 accident investigator, and you can contact
2 him at the contact information that's
3 provided here.

4 Also, the letter contains
5 information concerning your rights under
6 the MINER Act as a miner. Thank you.

7 THE WITNESS: Thank you.

8 MR. KOERBER: Mr. Bowles, one
9 other thing I'd like to add. West
10 Virginia Code 22A-1-22 also protects
11 miners from discrimination for
12 participating in interviews such as this.
13 I'd like to hand you a memorandum that
14 contains the address of the board of
15 appeals, which is the administrative
16 tribunal that starts with hearing such
17 matters. I would caution you that in the
18 event that some type of discrimination
19 would occur towards you that you only have
20 30 days from the date the discrimination
21 occurs to file your claim with the board
22 of appeals.

23 I also have Mr. Terry Farley's
24 business card. He's our lead interview

1 investigator, and I also have a business
2 card for Mr. Bill Tucker, who is our lead
3 underground interviewer. In the event you
4 think of anything after this interview
5 ends that you would like to add, please
6 feel free to contact any of those
7 gentlemen.

8 THE WITNESS: Thank you.

9 MR. KOERBER: Thank you.

10 I would now ask Terry Farley to
11 begin the interview process.

12 EXAMINATION

13 BY MR. FARLEY:

14 Q. Good morning, Mr. Bowles. Thank you for
15 coming.

16 Are you currently employed anywhere?

17 A. No.

18 Q. What's your status? Are you retired or
19 what?

20 A. I'm retired.

21 Q. When did you retire?

22 A. On July the 2nd of this year.

23 Q. July 2nd. Now, a little background
24 information. How long did you work in the coal

1 mining industry?

2 A. Forty years.

3 Q. Forty years. Now, how long did you work
4 for Massey?

5 A. I started for Massey in December of 1991.

6 Q. What Massey companies did you work for
7 during your career?

8 A. I worked for -- started out as at
9 Independence Coal Company. And at that time, if
10 I'm not mistaken, 2003, I was sent to Marfork and
11 went to Marfork Coal Company.

12 Q. Now, was Marfork your last place of
13 employment when you retired?

14 A. Yes, it was.

15 Q. What was your position with Marfork?

16 A. At the time of retirement, I was the
17 safety director.

18 Q. When did you become safety director for
19 Marfork?

20 A. 2001.

21 Q. Who did you report to at Marfork?

22 A. At the time of my retirement, I reported
23 to Jamie Ferguson.

24 Q. What was Mr. Ferguson's position at the

1 time of your retirement?

2 A. President of Marfork.

3 Q. Now, as of April 5th of 2010, who did you
4 report to with Marfork?

5 A. Chris Blanchard. Chris was the president
6 of Marfork at that time.

7 Q. How long was Mr. Blanchard your immediate
8 supervisor?

9 A. I'm going to guess three to four years.

10 Q. Now, your responsibilities at Marfork, did
11 your area of responsibility include the Upper Big
12 Branch mine?

13 A. Only for paperwork.

14 Q. Can you elaborate on that, what type of
15 paperwork?

16 A. I did some of the permits, like ERP plan,
17 escape and evacuation. I had the duties of logging
18 what violations came in. If an accident was
19 reported to me, I reported the accident, things
20 like that.

21 Q. Were you the person responsible for
22 determining if an accident should be reported to
23 one of the agencies?

24 A. Not really, because I really didn't know,

1 because, you know, if they called me and told me we
2 had an accident and the person didn't come back or
3 it was an accident that was reportable, then I
4 would report it.

5 Q. Now, how many people, if any, reported
6 directly to you?

7 A. At the time of my retirement, I had two
8 persons that reported to me.

9 Q. Would you identify those two people,
10 please?

11 A. I had Jackie Stover as an instructor and
12 Marcia Louis as a safety tech.

13 Q. Marcia? I'm sorry.

14 A. Louis.

15 Q. Louis?

16 A. Uh-huh.

17 Q. Where was your office located with
18 Marfork?

19 A. At the Marfork company office.

20 Q. Now, that would be --

21 A. Marfork.

22 Q. -- approximately how far from the Montcoal
23 entrance to the Performance Coal property?

24 A. Two and a half to three miles.

1 Q. Now, at what point in time did you come to
2 your decision to retire? At what point did you
3 begin making plans to retire, if you recall?

4 A. I was planning on retiring -- actually, I
5 started to retire at 62. I decided not to, and
6 probably two years before that, I decided I was
7 going to retire at 65.

8 Q. So help me out with the math. How old are
9 you now, if you don't mind me asking?

10 A. Sixty-five. I became 65 on July the 1st.

11 Q. So you began thinking about it within the
12 last three to five years; is that fair?

13 A. Yes.

14 Q. While you were with Marfork, you indicated
15 you had some responsibility for paperwork at the
16 Upper Big Branch mine. Did you ever have a
17 responsibility for anything else at the UBB mine,
18 or were you ever directly employed at the Upper Big
19 Branch mine?

20 A. No.

21 Q. Did you ever travel underground at the UBB
22 mine?

23 A. To the best of my recollection, I was
24 there one time four to five years before the

1 accident.

2 Q. Now, with your overall area of
3 responsibility at Marfork, how many mines or
4 facilities were included in your area of
5 responsibility?

6 A. Had eight deep mines, a preparation plant,
7 environmental crew and a trucking crew.

8 Q. Now, obviously I would assume the
9 environmental crew worked on environmental matters?

10 A. Yes.

11 Q. Now, the trucking crew, what was their --

12 A. They hauled equipment, hauled coal. At
13 one time, they hauled from two deep mines. At the
14 time of my retirement, they hauled coal from the
15 strip mines.

16 Q. Now, did the trucking crew report directly
17 to you?

18 A. No.

19 Q. You were just responsible for them as far
20 as safety for functions; is that fair?

21 A. Yes.

22 Q. Now, did you or your individuals who
23 reported directly to you conduct in-house safety
24 audits?

1 A. For Marfork, yes.

2 Q. Did you do any for the Upper Big Branch
3 mine at the time?

4 A. No.

5 Q. Do you know who did conduct in-house
6 safety audits at UBB?

7 A. At the time, Jim Walker and Berman Cornett
8 conducted them at Upper Big Branch.

9 Q. Now, if I understood you correctly,
10 Cornett and Walker did not report to you?

11 A. No, they didn't.

12 Q. Would they have reported to
13 Mr. Blanchard?

14 A. Yes.

15 Q. Do you know if an in-house safety audit
16 might have been planned for the Upper Big Branch
17 mine on or around April 5th of 2010?

18 A. Not to my knowledge.

19 Q. Would there have been people other than
20 Mr. Walker and Mr. Cornett who might have done
21 in-house safety audits at Marfork or Performance
22 Mines?

23 A. I can't speak for Performance, but I did
24 take a person, an individual auditor around Marfork

1 to I think three different mines. Joe Pavlovich
2 was his name.

3 Q. Who's that individual work for?

4 A. I think he had his own company. He was
5 just hired to come in and do individual audits.

6 Q. Was he like a consultant?

7 A. Yes, I think. He was a consultant.

8 Q. Was he a former state or federal agency
9 employee, individual?

10 A. At one time he was district manager for
11 MSHA.

12 Q. Do you recall the last time this gentleman
13 would have made a safety audit at Marfork or
14 Performance?

15 A. I can't speak for Performance, but I'm
16 thinking -- I'm going to say June at Marfork. I
17 may be wrong on that.

18 Q. June of 2010?

19 A. Yes.

20 Q. Now, I think we've established that you
21 started as safety director at Marfork around 2003.

22 Now, during this investigation, we've come
23 across documented evidence to confirm that an
24 inundation or outburst of methane or natural gas

1 occurred on the UBB longwall headgate 16 longwall
2 panel in July of 2003. Now, it was determined or
3 in the opinion of those who investigated that the
4 gas came from the mine floor. Do you have any
5 knowledge of that event? Do you recall the time
6 when it occurred? Did you learn of it in 2003?

7 A. Only that I know that they had gas
8 problems there at one time. I don't know when. I
9 don't recall the year or anything like that, but I
10 know at one time they were shut down over gas
11 problems.

12 Q. Did you participate in any investigation
13 regarding that event?

14 A. No, I did not.

15 Q. Did you participate in any meetings to
16 discuss that event after the investigation?

17 A. No.

18 Q. Now, there's also documented evidence to
19 confirm that a similar event occurred on February
20 18, 2004 on the headgate, on the UBB headgate 17
21 longwall panel. Again, it was the opinion of the
22 investigators that the gas came from the mine
23 floor. Do you have any knowledge of that event?

24 A. Probably heard of it, but, you know, to my

1 recollection, no. I don't remember any specifics
2 about it.

3 Q. Now, who was your immediate supervisor in
4 July of 2003 and February of 2004?

5 A. I'm thinking it probably was Johnny Jones
6 at that time.

7 Q. Johnny Jones. What would Mr. Jones'
8 position have been?

9 A. He would have been president.

10 Q. Do you recall hearing Mr. Jones speak of
11 the event?

12 A. No, I do not.

13 Q. Would Mr. Jones' area of responsibility
14 have included Marfork and Performance, UBB mine?

15 A. I don't think so at that time.

16 Q. What individual would have been president
17 or chief operating officer for Performance at that
18 time, if you recall? When I say Performance,
19 including the UBB mine.

20 A. I don't remember who the president was.

21 Q. At any time after these two events that I
22 referred to, did you become aware of any type of
23 changes in the longwall ventilation plan as a
24 result of those events? Do you recall if anything

1 might have changed?

2 A. No.

3 Q. Now, in your duties at Marfork and to a
4 lesser extent at Performance with UBB, were you
5 ever involved in any of the mine planning?

6 A. No.

7 Q. Did you sit in on any meetings to discuss
8 ventilation plans, roof control plans or any
9 planning meetings regarding the return of a
10 longwall to the UBB mine?

11 A. No form of meeting that I know of.

12 Q. Were there any informal meetings?

13 A. Probably talk, you know, about air changes
14 going on, about the longwall being put in Upper Big
15 Branch, just general talk about it.

16 Q. Would it have been normal routine for all
17 Massey safety directors to meet periodically to
18 discuss safety issues throughout the Massey Energy
19 system? Did that occur from time to time?

20 A. That was a monthly meeting, what we call
21 the SDG meeting. Usually it took place on the last
22 Thursday of the month.

23 Q. What person or persons would have chaired
24 or conducted this meeting?

1 A. Elizabeth Chamberlin.

2 Q. What was Ms. Chamberlin's position?

3 A. Vice president of safety.

4 Q. Then would that have been with Massey
5 Energy?

6 A. Yes. That was that, you know, the last
7 two or three years.

8 Q. All right. Thank you.

9 Now, back to the longwall at UBB. Do you
10 know approximately when the planning started to
11 return the longwall to Upper Big Branch?

12 A. No.

13 Q. Do you know when a decision might have
14 been made to return the longwall to Upper Big
15 Branch?

16 A. No.

17 Q. Do you know that the longwall returned to
18 UBB in 2009?

19 A. I can't say for sure, but I think so.

20 Q. We understand that the longwall, after
21 its return to UBB in 2009, started production in
22 early September of 2009. Does that sound correct
23 to you?

24 A. Sounds about right.

1 Q. Do you know what persons with Performance
2 Coal or Massey Energy or Marfork Coal, for that
3 matter, might have been involved in planning the
4 return of the longwall to the UBB mine?

5 A. The only one I can think of would be Chris
6 Blanchard.

7 Q. Would Mr. Blanchard have taken the lead in
8 these discussions in your opinion?

9 A. In my opinion, I would say probably so.

10 Q. It's our understanding that the
11 engineering support for the Upper Big Branch mine
12 was provided by a group known as Route 3
13 Engineering; is that correct?

14 A. Yes.

15 Q. As of April 5th of this year, who was the
16 supervisor or lead engineer with the Route 3
17 Engineering organization?

18 A. Paul Mccombs.

19 Q. Paul Mccombs. Now, about a year prior,
20 let's go back a year from April 5th of this year,
21 would Mr. Mccombs have been the lead engineer or
22 supervisor for Route 3 Engineering at that time?

23 A. Yes, yes.

24 Q. Do you know how long Mr. Mccombs held that

1 position, approximately?

2 A. Paul McCombs was pretty much there, I
3 would say, the last 12 to 13 years.

4 Q. Is he still employed with --

5 A. No. My understanding is he retired just
6 before I did.

7 Q. You retired in July; is that correct?

8 A. Yes.

9 Q. Do you know if he may have taken another
10 job elsewhere?

11 A. I don't know.

12 Q. Do you know which engineer or engineers
13 might have been specifically assigned to the Upper
14 Big Branch mine as of April 5th of 2010?

15 A. Not at the time that that happened, no.

16 Q. Now, prior to that, let's say within the
17 year preceding the explosion on April 5th, do you
18 know which engineer might have been assigned to the
19 Upper Big Branch mine?

20 A. I know they had an engineer up there, but
21 I cannot recall his name.

22 Q. Now, a couple of more questions about the
23 longwall planning. I know you've indicated your
24 knowledge of it was limited, but do you know if an

1 analysis of retreat mining pillar stability,
2 commonly referred to as ARMPS, was done to
3 determine proper headgate and tailgate pillar sizes
4 during the Upper Big Branch longwall planning
5 stages?

6 A. I don't know of it being done.

7 Q. Who might know that, if anyone? Who could
8 we look to for that information?

9 A. I'd say it would probably have to be
10 either Paul Mccombs or Chris Blanchard.

11 Q. Do you recall any conversations or
12 discussions or did you pick up on any information
13 concerning the pillar size in the Upper Big Branch
14 longwall headgate and tailgate entrance?

15 A. No.

16 Q. Now, in 2009, did you take part or become
17 aware of any discussions during November or
18 December regarding the deterioration of the Upper
19 Big Branch longwall headgate due to ground control
20 and water problems?

21 A. I was aware of the water problems that
22 they had.

23 Q. When you say you were aware of the water
24 problems in the UBB headgate, what were you aware

1 of? What did you know about that? What can you
2 tell us?

3 A. I know that they had a water problem, and
4 at one time during this time that they had a water
5 problem, I received a call from Everett Hager, who
6 was the superintendent up there, and he asked me to
7 contact the state, miners health safety and
8 training, and get him a blasting permit to shoot a
9 ditch between two water holes and to allow the
10 water to drain from one hole to the other.

11 Q. Do you recall when you received that
12 request from Mr. Hager?

13 A. No, I do not.

14 Q. Would that obviously have been sometime in
15 2009?

16 A. Probably, yes. Maybe 2009 or early 2010.

17 Q. Were you successful in obtaining --

18 A. Yes, I was.

19 Q. -- the blasting permit from the state?

20 A. Yes.

21 Q. Do you recall who you dealt with in
22 obtaining that permit?

23 A. Randy, Steve Snyder's assistant.

24 Q. Would that be Randy Smith?

1 A. Yes.

2 Q. The water in question in the longwall
3 headgate that you were aware of in 2009, do you
4 know how the water came to be in that area?

5 A. No, I do not.

6 Q. Above or below or elsewhere, do you have
7 any ideas?

8 A. I have no idea.

9 Q. Do you know if any supplemental support
10 was installed in the UBB longwall headgate entries
11 in advance of mining?

12 A. No, I do not.

13 Q. Again, you've indicated that your
14 responsibility for the Upper Big Branch mine was
15 somewhat limited, but did you become aware of
16 ventilation problems on what was known as the
17 headgate 22 section at any time?

18 A. The only thing I was aware of, that they
19 was making several ventilation changes over there.

20 Q. Do you recall why they were making the
21 ventilation changes?

22 A. Well, I know that I was aware of one time
23 that I think that MSHA and the state would not
24 approve the ventilation of the beltline towards the

1 face.

2 Q. Do you know if the water problems in the
3 UBB longwall headgate entries along with some
4 deterioration due to ground control problems, could
5 that have contributed to some ventilation problems
6 at UBB?

7 A. I can't say. I don't know.

8 Q. Now, our understanding is that the
9 deterioration of the UBB longwall headgate entries,
10 which were projected as a tailgate for the next
11 longwall panel, created a situation where the UBB
12 longwall would have no place to go once the panel
13 being mined was mined out. Is that a fair
14 assessment of what you understood?

15 A. The only thing I understood is I know they
16 were driving another headgate and a tailgate, and I
17 understand -- plus I think they was getting another
18 area ready, the short area ready for the longwall,
19 but my understanding was, you know, until they got
20 something ready that the longwall wouldn't have no
21 place to go.

22 Q. Now, the driving of an additional tailgate
23 section and the preparation for an additional
24 longwall panel near the Ellis portal, would that

1 have been a direct result of the deterioration of
2 the UBB longwall headgate?

3 A. I don't know.

4 Q. Around that time, do you know if any of
5 those events prompted a change in management
6 philosophy at the Upper Big Branch mine?

7 MR. SEARS: I'm sorry. What
8 events?

9 MR. FARLEY: The events I have
10 been discussing concerning the
11 deterioration of the UBB longwall headgate
12 entry.

13 MR. SEARS: Okay.

14 MR. FARLEY: And subsequent
15 ventilation changes.

16 MR. SEARS: Okay.

17 THE WITNESS: Could you rephrase
18 that question, please?

19 BY MR. FARLEY:

20 Q. Sure. The events I just described to
21 Mr. Sears there, when it became necessary as a
22 result of the longwall headgate deterioration, when
23 it became necessary to drive a new tailgate section
24 and it became necessary to plan for another

1 longwall panel near the Ellis portal, did those
2 events cause any noticeable change in the
3 management philosophy at the Upper Big Branch mine?

4 A. Not to my knowledge.

5 Q. Do you know if it created some sense of
6 urgency?

7 A. I'm sure it did if they had to drive a new
8 panel and stuff, but nothing I was made aware of.

9 Q. Well, typically, would the fact that the
10 longwall might not have a place to go to
11 immediately create a sense of urgency among
12 managers?

13 MR. SEARS: Are you asking him to
14 speculate or whether or not he actually
15 knows?

16 MR. FARLEY: I'm just asking a
17 question.

18 MR. SEARS: Testify if you know.

19 A. I don't know. I don't know that it would.

20 Q. Do you know if there was a shift in
21 priorities among managers at UBB as a result of
22 those same events?

23 A. I can't say that. I don't know.

24 Q. Prior to your retirement and prior to the

1 explosion on April 5th of 2010, did you have any
2 knowledge whatsoever of pumps located near the
3 Bandytown fan?

4 A. I knowed there was pumps back there, but I
5 didn't know where or how many or anything like
6 that.

7 Q. At any time did you come to hear that
8 those pumps might have been inoperative or down for
9 maintenance during the weekend preceding the April
10 5th explosion at the Upper Big Branch?

11 A. I heard things that, you know, that the
12 pumps had went down, but I don't recall exactly
13 when or anything like that.

14 Q. So you heard that the pumps might have
15 been down?

16 A. I don't know when. I'm thinking when they
17 had the water problems before.

18 Q. Do you know who routinely managed the
19 operations relating to the pumps near Bandytown?

20 A. Not directly, no.

21 Q. Did you happen to work on Sunday, April
22 4th, 2010?

23 A. I don't think so. I worked very little
24 Sundays.

1 MR. WILSON: That was Easter
2 Sunday.

3 Q. Yes, it would have been Easter Sunday.

4 A. No.

5 Q. Are you aware of any work ongoing at the
6 Upper Big Branch mine on Easter Sunday?

7 A. No.

8 Q. Do you know if your superior,
9 Mr. Blanchard, might have worked on April the 4th?

10 A. I can't say. I don't know.

11 Q. Now, on April 5th, when the explosion
12 occurred, what was your location when you learned
13 that there was a problem at Upper Big Branch?

14 A. I was in my office at Marfork.

15 Q. How did you learn of the problem?

16 A. I received a call from Chris Blanchard,
17 and he asked me to call in that they had a problem
18 at Upper Big Branch.

19 Q. Do you recall as precisely as possible
20 what Mr. Blanchard said to you in your phone call?

21 A. Mr. Blanchard told me that -- he asked me
22 to report that they had a problem of the air
23 reversal on the belts and the CO monitor showing 50
24 to 100 parts per million of carbon monoxide.

1 Q. Anything else?

2 A. He did tell me at that time that it's all
3 he knowed at that time.

4 Q. As best you can recall, what time did you
5 receive the call from Mr. Blanchard?

6 A. The best I can recall, what sticks in my
7 mind is 3:27.

8 Q. 3:27.

9 A. Uh-huh.

10 Q. Of course, that's 3:27 p.m.

11 Do you know where Mr. Blanchard was
12 calling from?

13 MR. SEARS: And that is correct,
14 3:27 p.m., right?

15 A. Uh-huh.

16 I can't say exactly where he was calling
17 from, but I assumed that he was calling from the
18 Upper Big Branch.

19 Q. Do you know which portal he might have
20 been calling from?

21 A. No, I do not.

22 Q. Were there any other directions from
23 Mr. Blanchard as to what you should do other than
24 to call?

1 A. No.

2 Q. Now, after you received the call from
3 Mr. Blanchard, what did you do?

4 A. Naturally, you know, I had the immediate
5 notification numbers posted right on the wall. I
6 called it both in to the federal, to MSHA and to
7 the state and that's it.

8 Q. Now, after you called it in to the two
9 agencies -- first of all, the description given to
10 you by Mr. Blanchard, would that have been the same
11 description you provided to the emergency call
12 numbers for the two agencies?

13 A. Exactly.

14 Q. Do you recall which agency you called
15 first?

16 A. I'm thinking I called MSHA first.

17 Q. Now, after you called the two agencies,
18 what did you do at that point?

19 A. Continued with my work.

20 Q. Did you go to the UBB mine at any point?

21 A. Sometime after I made the call, and I
22 can't give you the exact time or anything like
23 that, for some reason I went out into the front
24 office of Marfork where the reception was at, and

1 there was a call come in from Chris Adkins, who is
2 the vice president of Massey Energy, and he wanted
3 to talk to me. He asked me what was going on, and
4 I told him the exact same thing that Chris
5 Blanchard told me. He said, you know, I wonder why
6 Chris Blanchard hasn't talked to me. I said, I
7 don't know, Chris. Chris told me to go to Upper
8 Big Branch and find out what the problem was.

9 Q. Mr. Adkins told you to go to Upper Big
10 Branch to find out what the problem was, correct?

11 A. Yes.

12 Q. At that point he had not been notified by
13 Mr. Blanchard, is that what you just said?

14 A. My assumption was, when he said, wonder
15 why Mr. Blanchard hadn't called me, that Chris
16 Blanchard had not called him.

17 Q. All right. That speaks for itself. I'm
18 sorry.

19 MR. SEARS: That's all right.

20 Q. Now, if I understood you correctly,
21 Mr. Adkins talked to you after you had notified the
22 agencies, correct?

23 A. Yes. He asked me had I done that. I
24 said, yes, I just completed it.

1 Q. All right. After your conversation with
2 Mr. Adkins, did you then go to the Upper Big Branch
3 mine?

4 A. Yes, I did.

5 Q. Which portal did you go to?

6 A. I went to the Ellis portal.

7 Q. Can you give me a general description of
8 what you observed when you arrived at the Ellis
9 portal?

10 A. When I arrived at the portal, there was a
11 lot of people milling around and everything, and I
12 asked what was going on and everything, and the
13 people milling around told me, you know, there was
14 a strong current of air come out the drift mouse
15 and dusty. People was underground. I found out
16 there was no power at that side of the portal.
17 There was no communications, no telephones
18 available and stuff.

19 Chris Adkins had told me to report back to
20 him. So I figured at that time there had been some
21 kind of an explosion or something. So I
22 immediately left the Ellis portal and went to the
23 main office of Performance Coal Company and called
24 Massey Coal Services to talk to Chris Adkins.

1 Q. Now, when you say the main Performance
2 offices, that's located at Montcoal; is that
3 correct?

4 A. Yes.

5 Q. Do you recall specifically what you told
6 Mr. Adkins when you called?

7 A. I didn't get to talk to Mr. Adkins because
8 he'd already left the office, and I talked to a
9 lady. I'm assuming it was his secretary. I told
10 her I believed there had been the explosion, there
11 was a problem at Upper Big Branch, and she told me
12 she'd notify Chris there was a problem.

13 Q. So you believe that he was en route at
14 that point; is that accurate?

15 A. Yes.

16 Q. Do you recall approximately what time you
17 made that call?

18 A. No, I do not.

19 Q. But if I'm following you correctly, I
20 think, you had concluded by this point that there
21 had been some type of an explosion?

22 A. To the best of my knowledge.

23 Q. Would that have been your opinion at the
24 time?

1 A. It would have been my opinion from what
2 people told me there.

3 Q. After learning of the event at Upper Big
4 Branch on April 5th, after Mr. Blanchard called
5 you, told you to call, did you make any written or
6 recorded notes throughout the evening of April 5th
7 and during the day of April 6th?

8 A. The only thing, you know, naturally, I
9 know that when I was making these calls, I was
10 writing the times down of when I called and
11 everything, notes which I left in the office. I
12 don't know that they're still there or not.

13 Q. Did you by chance keep copies of the
14 notes?

15 A. No, I did not.

16 Q. Now, when you say you left them in the
17 office, when was the last time you would have
18 actually laid eyes on those notes?

19 A. I can't answer that. I don't know.
20 Basically, the only thing I wrote down is when I
21 called MSHA, you know, the immediate notification
22 numbers.

23 Q. Now, after your initial calls to MSHA and
24 the Office of Miners Health Safety and Training,

1 did you have any additional calls or any additional
2 phone conversations, that is, with MSHA or Office
3 of Miners Health Safety and Training personnel?

4 A. Not that I can remember.

5 Q. Follow-up question here. Concerning the
6 water problems at UBB that you were aware of in the
7 longwall headgate entries, did you ever have to
8 report any water inundation to either or both of
9 these two agencies?

10 A. I can't remember if I did, but I don't
11 think I did.

12 Q. Now, I know you've indicated that you've
13 retired --

14 A. Wait a minute now.

15 Q. I'm sorry. Go ahead.

16 A. When you ask me about did I ever report
17 any water --

18 Q. Inundation.

19 A. -- inundations, are you talking for
20 Performance?

21 Q. Performance, specifically Upper Big Branch
22 mine.

23 A. No, I did not.

24 Q. Thank you.

1 Now, I know you indicated that you retired
2 in July of 2010. Prior to your departure or since,
3 okay, do you know if there was an in-house review
4 or investigation of the April 5th, 2010 Upper Big
5 Branch explosion conducted by Massey Energy,
6 Performance Coal or any other entity?

7 A. Not to my knowledge that I can think of.

8 Q. Would that also mean that you have no
9 knowledge of any written report or document
10 detailing such findings about the event? The event
11 meaning the April 5th explosion.

12 A. Not that I can remember.

13 Q. Were you interviewed by any investigators
14 or representatives of Massey Energy following the
15 UBB explosion?

16 A. I can't remember being interviewed.

17 Q. Do you know if other folks were
18 interviewed?

19 A. I believe they was. After I come to think
20 about it, I did have one lady come into the office
21 at one time and asked me some questions, but I
22 can't remember what she did. I know that they did
23 come and get my computer.

24 Q. When you say they came to get your

1 computer, who was they?

2 A. I don't know who it was. Some law firm.

3 Q. When was your computer taken into custody,
4 removed?

5 A. I'm going to say probably in June of this
6 year.

7 Q. Would other computers have been removed at
8 the same time?

9 A. More than likely, yes.

10 Q. At any time on April 5th, 2010 or at any
11 time since, have you learned of any call on the
12 mine phone that might have been made from
13 underground to the surface at the UBB mine on April
14 5th expressing any concerns regarding ventilation,
15 methane or any other imminent problem?

16 A. No.

17 Q. One other thing here. During your
18 employment with Marfork and during your
19 relationship with the UBB mine, were you ever
20 involved in training or advising mine management or
21 hourly workers as to how major mining equipment
22 moves should be made in accordance with West
23 Virginia regulations?

24 A. I know that they was -- like I told you

1 before that I handled violations, I had to report
2 and everything, I know that there was several
3 violations wrote on equipment moves by the state up
4 there. I probably talked to management about
5 making equipment moves and not being right on it
6 and stuff. I can't recall exactly what I said to
7 them or anything like that.

8 Q. Would your understanding of the movement
9 of equipment regulations at the time have been that
10 basically you couldn't move major pieces of mining
11 equipment with miners located inby in the same
12 split of air?

13 A. Yes.

14 Q. You indicated that when your computer was
15 removed, did you know in advance that the law firm
16 was coming for the computer?

17 A. No.

18 MR. SEARS: I'm sorry. I didn't
19 hear a response.

20 THE WITNESS: I said no.

21 MR. KOERBER: Would you like to
22 take a quick break?

23 THE WITNESS: I'm okay.

24 EXAMINATION

1 BY MR. SHERER:

2 Q. I have got several follow-up questions if
3 you don't mind, Mr. Bowles.

4 You mentioned that you worked on the
5 paperwork for violations or you handled the
6 violations. Specifically, what did that entail?
7 What did you do with the violations?

8 A. They was required to send me -- all the
9 mines was required to -- any violations they
10 received during the course of the day was supposed
11 to have them in, faxed to me by the next morning.
12 We had a violation data log, Massey Energy did. We
13 had to enter them into that violation database.

14 Q. Now, did you report anything about those
15 violations back to the people at UBB?

16 A. Lots of times I would get -- like I said,
17 they would go in on the violation database. Lots
18 of times I would get a violation faxed back to me
19 with notes wrote on it that I would have to send
20 back to UBB for the people at UBB to answer what
21 caused these violations.

22 Q. Where would those questions come from?

23 A. They'd come from Massey Coal Services.

24 Q. Anybody in particular at Massey Coal

1 Services?

2 A. Usually Gary Frampton.

3 Q. Now, had you noticed prior to the
4 explosion the number and severity of the violations
5 at UBB?

6 A. Well, I can't tell you specific number or
7 anything, but I know that there was several
8 violations wrote on ventilation. I don't recall
9 exactly what, you know. I know there were several
10 ventilation violations wrote.

11 Q. Did you have any conversations or any sort
12 of reports or anything concerning the number and
13 the severity of the violations with the management
14 at UBB or Performance Coal?

15 A. Well, usually when we would have to put
16 them in the database, I'm talking about Marcia
17 Louis who worked for me, she did most of the
18 putting in the database, you would have to put
19 whether there was an order or whether there was an
20 S and S, things like that.

21 Q. Now, you say that you put all that
22 information in the database. What use was made of
23 that information, if you know? Were there reports
24 of the statistics?

1 A. Yeah, there was reports come out that
2 showed the number of violations that was being
3 received at the mines. The only time that I got
4 these reports would be on the days that, like I
5 said, monthly meetings that we had with -- safety
6 development group meetings we had. Other than
7 that, I didn't get a daily report sent back to me
8 on the violations.

9 Q. Now, did you discuss the situation at
10 Upper Big Branch prior to the explosion of the
11 SDGBs, the nature and the number and severity of
12 the violations? Did that ever come up?

13 A. I'm sure discussion about the violations
14 took place at the SDG meetings, but, you know, to
15 say extent, what violation and stuff like that, you
16 know, usually we had a discussion on how many
17 violations was received and stuff like that, but
18 not picking out exactly what violation it was or
19 anything like that.

20 Q. Sure. Now, in your opinion, do you think
21 that the feedback mechanism on violations, and I'm
22 talking about all throughout the Massey
23 organization, even down to the miners themselves,
24 do you think that that was working at UBB? Do you

1 think that the miners who may be impacted by the
2 hazardous conditions that were cited, do you think
3 they were aware of those conditions? Was there
4 some mechanism there?

5 A. I don't know that.

6 Q. Thank you.

7 Now, you mentioned that Joe Pavlovich did
8 some safety audits in June of 2010. Do you know if
9 he was doing those audits prior to the explosion?

10 A. I can't speak for Upper Big Branch, but I
11 know that was the second time I took him around at
12 Marfork.

13 Q. Did he discuss Upper Big Branch?

14 A. I know the first time that he come there,
15 he asked me where it was at and who to speak to and
16 stuff like that, but as far as what he found in the
17 audits and stuff like that, he didn't discuss that
18 with me.

19 Q. Now, when he asked you who to talk to, was
20 that before the explosion or after the explosion?

21 A. Before. I'm not even sure on the last
22 visit he made that he even went to Performance.

23 Q. Was there any particular reason that Joe
24 was hired as a consultant, safety consultant, that

1 you're aware of?

2 A. No particular reason to my knowledge.

3 Q. Do you know if the presence of the
4 inspectors was called underground at Upper Big
5 Branch?

6 A. No, I have no way of knowing that.

7 Q. Are you aware of that practice at any
8 other mines?

9 A. No.

10 Q. Do you know if the presence of your safety
11 audit people were called underground in advance of
12 them going underground?

13 A. I usually tried not to let my people know,
14 you know, when I was doing a safety audit or
15 something. I'd just show up at the mines and tell
16 the superintendent I wanted to go underground, what
17 section I wanted to go to.

18 Q. When you got on the section, was there any
19 new curtain put up? A lot of new curtain, a little
20 new curtain?

21 A. I can't say, you know. A lots of times
22 I'd find older curtains on the section that I felt
23 that needed replaced.

24 Q. Thank you.

1 MR. SEARS: Where are we talking
2 about, exactly?

3 A. Just Marfork mines.

4 Q. Thank you.

5 Who's in charge of ventilation at Upper
6 Big Branch?

7 A. I would have to say probably the
8 superintendent or the general manager at Upper Big
9 Branch.

10 Q. We understand there were two
11 superintendents at Upper Big Branch. Did you have
12 any discussions with either of those
13 superintendents or the general manager concerning
14 the ventilation violations that you had been
15 logging?

16 A. Not that I can recall. I wasn't familiar
17 with the ventilation at Upper Big Branch.

18 Q. What was your association with training at
19 Upper Big Branch? Did you have any?

20 A. I helped with annual retraining.

21 Q. Are you aware of any specific training for
22 a foreman or examiners at Upper Big Branch?

23 A. No, not to my knowledge.

24 Q. Now, you mentioned that Mr. Adkins called

1 you sometime after you had reported the event to
2 the federal and state safety agencies. Do you know
3 how Mr. Adkins knew of that? Had you called him?
4 Had anybody?

5 A. No, I hadn't called him. I can't answer
6 that. I don't know how he knew.

7 Q. Did you call anyone else in the Massey
8 organization, either prior to you calling the
9 safety agencies or after the safety agencies?

10 A. No.

11 Q. Now, you mentioned when you went to the
12 mine after you spoke to Mr. Adkins that you went to
13 the Ellis portal. Is there any specific reason why
14 you went to that portal?

15 A. I can't recall being told that it was
16 Ellis portal or anything like that, but I just
17 assumed that -- I assumed that I got the call by a
18 cell phone, because it wasn't very plain when
19 Mr. Blanchard was talking to me, and if I can
20 remember right, I asked him to repeat what he was
21 telling me and stuff, so I just assumed that it was
22 where he was at.

23 Q. So is it possible that you could get cell
24 phone reception at Ellis portal and not at the

1 Montcoal portal?

2 A. Well, we all had cell phones with boosters
3 in our vehicles, my safety vehicle, the president's
4 vehicle. I know I couldn't get reception at my
5 truck at the Ellis portal, but I don't know what
6 type of booster that Chris Blanchard had in his
7 truck or something. It may have been a more
8 powerful booster or something.

9 MR. SHERER: That's all the
10 questions I have got for right now.

11 MR. KOERBER: Davitt?

12 EXAMINATION

13 BY MR. MCATEER:

14 Q. Mr. Bowles, thank you for coming in and
15 trying to help out here.

16 You spoke of the in-house safety audits at
17 Marfork. Did you participate in those?

18 A. Yeah. I guided Joe Pavlovich. Is that
19 what you're talking about?

20 Q. No, I'm trying to distinguish
21 Mr. Pavlovich and you talked about safety audits
22 that you did.

23 A. Yes, I participated in the safety audits
24 that was done there.

1 Q. Could you tell me what the arrangement is
2 between Marfork and Upper Big Branch, corporate
3 arrangement? Are they similar kind of --
4 Mr. Blanchard was over both of those?

5 A. He was over both companies.

6 Q. Was one higher than the other, or are they
7 both equal companies?

8 A. I would say they was both equal, you know.

9 Q. Was there anybody else from Upper Big
10 Branch who had a supervisory role at Marfork?

11 A. I know at one time Jamie Ferguson was at
12 both Upper Big Branch and Marfork.

13 Q. Sure. But did you, in exchange -- I mean,
14 did you visit back and forth, or did people go back
15 and forth from those two companies?

16 A. I know that sometimes they would transfer
17 hourly people from Performance to Marfork and
18 Marfork to Performance.

19 Q. Now, when you guided Mr. Pavlovich, did he
20 describe what safety audit he was doing?

21 A. It was just a general safety audit, you
22 know, audit. He would go look at the roof
23 control. He would look at the ventilation. He
24 would look at the rock dusting.

1 Q. When he would look at the rock dusting,
2 what would he look for?

3 A. To see, you know, how heavily they had
4 rock dusted, to see if they had rock dusted the
5 roof, to see if they had machine dusted or whether
6 they just throwed a little bit on by hand, things
7 like that.

8 Q. Tell me how you identify whether the rock
9 dusting is adequate.

10 A. There's no way to identify that, you know,
11 that you would get a good rock dust sample. You
12 know, you could look at it and say, well, is it
13 white? Is it gray? Is it black?

14 Q. So the method of identification would be
15 eyeballing it?

16 A. Just a, you know, general eyeball of it.

17 Q. Sure. Did you ever take samples?

18 A. Personally, myself, I never took them. I
19 have been with MSHA a lot when they took samples.

20 Q. But the company didn't, as a practice,
21 take samples?

22 A. Before I left, they started doing rock
23 dust sampling, Massey did.

24 Q. Is that more recently?

1 A. Yes.

2 Q. After the explosion?

3 A. No, I'd say they was doing a lot of talk
4 about it before the explosion.

5 Q. Now, you said that you reported -- I'm
6 sorry. You talked about the Massey violation
7 database, is that what it's called, or is there a
8 special name for it?

9 A. That's what I always called it, Massey
10 violation database.

11 Q. What happened to that database? You
12 testified that you talked about it in your
13 meetings, the monthly meetings.

14 A. You know, it went on the Massey internet
15 system, and people that had access to it, I know
16 that they calculated that how many violations they
17 had, what companies had the violations and
18 everything. Like I said, you know, I would get a
19 report of it at each monthly meeting.

20 Q. Right.

21 A. But my understanding was that, you know,
22 the presidents and people like that got it daily.
23 I know that every day that we got violations, I
24 also had to fax or e-mail a copy of them to the

1 presidents and stuff like that.

2 Q. So it would be to Blanchard?

3 A. Yes.

4 Q. Who else?

5 A. E-mailed it to Blanchard, probably Jamie
6 Ferguson, James Hancock, he was management. I'm
7 trying to think. There's a couple other people in
8 Massey that we e-mailed it to. I can't think of
9 what their names was right now.

10 Q. Anybody in Julian?

11 A. Yes, it went to Julian. I believe Gary
12 Frampton was on the list. Right now, that's all I
13 can think of.

14 Q. Did you calculate the dollar amounts that
15 this would cost the company? Was there any --

16 A. We had to do an estimate on what we
17 estimated the cost of the violation at.

18 Q. Sure.

19 A. I made up a chart that automatically --
20 you know, you'd go over the seriousness of it, S
21 and S and stuff, and it would automatically add
22 your points up. I'd go to the book violation
23 table, and I'd estimate what the cost of the
24 violation would be.

1 Q. Well, what would a typical cost of
2 violation be for a mine for a month?

3 A. I don't --

4 Q. A million dollars?

5 A. Not per mines, no.

6 Q. Per company?

7 A. To the best of my recollection, last
8 year's for Massey, total was about 10,000,000 or
9 something like that.

10 Q. Ten.

11 A. I might be wrong on that.

12 Q. Sure. I'm just trying to get a sense of
13 what...

14 So your meeting with Ms. Chamberlin and
15 the other safety directors, you got this pile of
16 violations, and what was the plan? What do you do?

17 A. On each violation, I'd have to write the
18 number of points that violation would cost and the
19 estimated cost, and I'd have to write that on the
20 face of the violation.

21 Q. Then what happens?

22 A. I can't say other than, you know, I sent
23 it to the president, and it was scanned and put on
24 the e-mail.

1 Q. Right. I'm trying to understand, at the
2 meetings did Ms. Chamberlin say, we did well, we
3 didn't do well, we need to improve? What would you
4 do with all this information?

5 A. You was always told that you need to
6 improve.

7 Q. Right.

8 A. It was a big thing, you know, the cost of
9 violations.

10 Q. Sure, sure.

11 A. We was always told there has to be an
12 improvement.

13 Q. How would you go about making an
14 improvement happen at Marfork or Upper Big Branch,
15 if you know?

16 A. Making the superintendents aware of what
17 it was costing them. Lots of times, you know, if I
18 got a serious violation, I'd call the
19 superintendent and tell him what it cost him that
20 day for his particular violations that he got.

21 Q. Did you have a similar database for
22 accidents or injuries?

23 A. Yes.

24 Q. What was that called?

1 A. Accident database.

2 Q. How was that dealt with?

3 A. If an accident happened, any kind of a
4 reportable accident, I had to do a -- well, any
5 kind of a lost time injury, I had to do an accident
6 alert on it and e-mail them to the safety
7 department and all the executives of Massey Energy.

8 Q. Well, you'd do that based upon the number
9 of accidents or a number of accidents. How
10 frequently would you send a database like that,
11 send an alert that you said?

12 A. Anytime a reportable accident happened.

13 Q. Did you report accidents to the state and
14 federal agency?

15 A. Yes, I did.

16 Q. For Upper Big Branch?

17 A. Yes. When I was called and told that they
18 had one and the guy didn't return to work or they
19 had a cut that required stitches or something like
20 that, either I would report it or Marcia Louis
21 would report it.

22 Q. Who worked for you?

23 A. Yes.

24 Q. Was anybody at Upper Big Branch reporting

1 these?

2 A. Not to my knowledge.

3 Q. So it would come through you?

4 A. Yes. That is probably the last seven or
5 eight months, for the last seven or eight months.

6 Q. Did you ever have any occasion to report
7 contractors' accidents?

8 A. I would say if a contractor had a lost
9 time accident or a reportable accident and I was
10 notified about it, I would have reported it.

11 Q. Who would notify you?

12 A. Either Berman Cornett, Wayne Persinger,
13 Everett Hager, somebody in that category.

14 Q. Let me go back for a minute, the rock
15 dusting, to determine how it was accurate. Do you
16 remember ever getting any training on sort of
17 determining rock dusting levels or anything like
18 that?

19 A. I know, you know, there at probably maybe
20 January of 2010, you know, there was several talked
21 about rock dust sampling and things like that.

22 Q. Oh, yeah?

23 A. There was talk about how a sample is
24 taken, you know, one inch deep up the ribs, across

1 the top. Other than that, I'd have to say that's
2 basically the extent.

3 Q. Sure. Do you remember who that talk was
4 about or who?

5 A. I know it was talked about at the SDG
6 meeting. Elizabeth Chamberlin, Gary Frampton.

7 Q. So you think in the January meeting or
8 somewhere around that, there was discussion of
9 the...

10 A. Somewhere around early, you know. I can't
11 remember when, you know, we learned that the
12 percentage of rock dust was going to go up to 80
13 percent. I don't know when that come about, but we
14 knowed that it was going to go to 80 percent.

15 Q. Did you ever have any occasion to
16 understand what the rock dust levels were at
17 Marfork or the Upper Big Branch?

18 A. Yes. Lots of times I'd see violations,
19 what the rock dust levels was and stuff.

20 Q. So you would get that through the
21 violation system?

22 A. Uh-huh.

23 Q. Were there any from UBB, if you recall?

24 A. I can remember violations, but I can't

1 remember whether they was at UBB or what.

2 Q. I understand. Going back now to the
3 accident, I'm trying to get after the meetings,
4 what was the gist of the meeting? What would you
5 be trying to do with the violations? Bring the
6 numbers down? Was there a discussion of accidents?

7 A. We discussed the violations, discussed
8 getting the number of violations down, the
9 seriousness of the violations. We discussed any
10 lost time accident that was reported, as far as
11 Massey company wide SDG meeting.

12 Q. When you said you sent the memo or an
13 e-mail to Massey executives about a lost time
14 accident, what was the immediate feedback or what
15 happened next?

16 A. You know, everybody was alarmed if you get
17 somebody hurt.

18 Q. Sure, sure.

19 A. You don't want to get nobody hurt. You
20 know, everybody, we didn't want to -- including the
21 president, vice presidents, all didn't want to see
22 nobody get hurt and stuff like that. You know,
23 we'd always try to figure out what caused that
24 accident, try to prevent it from happening again to

1 somebody.

2 Q. But what I'm trying to think is
3 mechanically, what happened? Let's say we were
4 trying to present an accident of Mr. Wilson here.
5 He had an accident. We're now trying to prevent it
6 to happening to somebody else.

7 A. Well, lots of times there would be a
8 safety advisory come out on, you know, a change of
9 the policy on how we handled that particular thing.

10 Q. Right. Did you train any UBB people on
11 any safety, safety things?

12 A. You know, usually I would hold one class
13 during annual retraining. Most of the time I went
14 over dust control, chemical hazards, noise, things,
15 you know, things that could affect people and
16 stuff.

17 Q. Sure.

18 A. My classes mainly pertained to that.

19 Q. What was the dust control? Was that float
20 dust or --

21 A. Float dust, you know, keeping your water
22 sprays on your equipment clean, keeping your
23 ventilation up. The consequences of breathing
24 dust, you know, black lung.

1 Q. Now, did you refer to the S1 program in
2 that?

3 A. Yes. S1, plus I used literature from
4 MSHA, you know. I know this particular year, I
5 used the information that we received down at the
6 Charleston Civic Center on the number of black lung
7 cases.

8 Q. Sure.

9 A. [REDACTED]

10 [REDACTED]

11 Q. Do you?

12 A. Yeah.

13 Q. I'm sorry to hear that.

14 Who had the lead responsibility for the
15 ventilation at UBB?

16 A. I don't know that.

17 Q. Just a few questions on the 5th. When
18 Mr. Blanchard called you on the 5th, you said you
19 thought it was on a cell phone?

20 A. Yeah.

21 Q. Because poor --

22 A. Poor, being able to --

23 Q. Hear him?

24 A. -- not hear as good.

1 Q. We all know that.

2 A. And then particularly, too, when I got up
3 there, I seen that there was no power and no
4 telephone service. So that's what even furthered
5 my belief it was by cell phone.

6 Q. What was his manner of speaking? Matter
7 of fact? Was he agitated?

8 A. No. He just told me, you know, he said, I
9 want you to report reversal air on the belts and 50
10 to 100 parts per million CO on the CO monitors, and
11 that's all I know at this time. There was a short
12 conversation.

13 Q. Sure, sure. You said you had a set of
14 notes that memorialized, that you kept a record?

15 A. I could remember just writing the times
16 down that I called MSHA, the time that I called the
17 state.

18 Q. Would that have been on a --

19 A. It would have been on a legal pad like
20 that.

21 Q. Did you have your name on it or anything?
22 Do you remember?

23 A. No.

24 Q. Now, when Chris Blanchard gave you a call,

1 was his on a cell phone? Where was he, do you
2 know?

3 A. I assumed that he was at Upper Big
4 Branch. I couldn't say.

5 Q. I'm sorry. I misspoke. When Chris Adkins
6 called you.

7 A. I figured he was at the Massey Coal
8 Services office on Corridor G.

9 Q. In Julian?

10 A. Yes.

11 Q. Had you worked with him in the past?

12 A. Yes. He was at one time, probably 1994,
13 he was the vice president at Marfork.

14 Q. Were you there at that time?

15 A. Yeah. He made me superintendent over a
16 mine at that time.

17 Q. When you went to the mine and you then
18 called Adkins back, do you remember who you spoke
19 to there?

20 A. I assumed it was his secretary, because
21 when I called, I asked for Chris Blanchard and
22 Chris Adkins and they transferred me.

23 Q. Did she say anything about where he was or
24 anything?

1 A. I'm thinking she said he's on his way to
2 Upper Big Branch.

3 Q. Did you stay at Upper Big Branch at that
4 point?

5 A. I went from Ellis portal up to the main
6 office, Upper Big Branch, and after I called that,
7 I went back to the Ellis portal.

8 Q. Did you learn when Mr. Adkins arrived?

9 A. I probably seen him come in.

10 Q. How did he come in?

11 A. I don't remember. I don't remember
12 whether he flew in by helicopter or what it was.

13 Q. Was anybody with him? Was Ms. Chamberlin
14 with him?

15 A. I don't remember.

16 Q. Where did they land the helicopter there
17 at the mine?

18 A. There was probably enough room there at
19 the mines where they could land it down in the
20 bottom. Like I said, I don't remember how he come
21 in.

22 Q. You may have testified earlier, maybe
23 other persons mentioned, you did some calibration
24 of equipment, the gas detection equipment for Upper

1 Big Branch employees?

2 A. I calibrated the ATX 620s, if I'm not --
3 yeah, eye bird, the eye bird spotters.

4 Q. Describe if you could the eye bird
5 spotters for me. What do they detect?

6 A. Oxygen, methane, carbon monoxide. I'm
7 thinking CO, but I might be wrong on that.

8 Q. What's the standard for oxygen, for the
9 oxygen?

10 A. 19.5. You mean in the mines?

11 Q. Yeah.

12 A. 19.5.

13 Q. How do you calibrate that, the device?

14 A. It actually calibrates itself. You just
15 got to set it in the calibration mode, and it will
16 tell you what gas to apply to it and it calibrates
17 itself.

18 Q. So is there a device you put it in?

19 A. No. I did it by hand. Yeah.

20 Q. Is that the same as the Solaris?

21 A. I know of Solaris. I never used a
22 Solaris, and I don't know how to calibrate the
23 Solaris. Most of the time they had a calibrating
24 machine to calibrate the Solaris.

1 Q. When you take samples for oxygen
2 underground, what's the typical reading that you
3 get?

4 A. Usually 20, 20.5.

5 Q. Does it vary?

6 A. A few degrees.

7 Q. A few degrees.

8 A. You know, a few percentages, not that
9 much.

10 Q. Would the eye bird show you that variance?

11 A. I didn't know how to do it, but I
12 understand you go back in the eye birds and get a
13 record of what concentration you'd been in and
14 stuff.

15 Q. Oh, is that right?

16 A. Uh-huh.

17 Q. Just one other question on the manual.

18 The S1, how was that manual used by you or by the
19 safety department?

20 A. Well, I can't speak for others, but when I
21 was superintendent, I studied the manual a lot. I
22 studied a lot. I probably knowed as much about S1
23 as anybody did. As a superintendent, I'd read
24 certain parts of it to my people that worked for me

1 on the safety meetings and stuff. When I did my
2 audits, I used it as doing my audits and things.

3 Q. But did the individual miner have a copy
4 of one?

5 A. No. There was a copy at each mines.

6 Q. A copy at each mine?

7 A. Uh-huh.

8 Q. Where was that one kept at UBB?

9 A. Usually in the office.

10 Q. In the office.

11 A. Most of the offices made available -- you
12 know, anything you wanted to look at at the office,
13 you could pick it up and read it.

14 MR. MCATEER: Sure, sure. Okay.
15 Let me just check real quick. I have no
16 further questions at this time.

17 MR. KOERBER: Mr. Bowles, we're
18 going to take a five-minute break just so
19 the interviewers can look over their notes
20 and see if there's any follow-up
21 questions, and then we'll be right back
22 and we'll close this out ASAP.

23 (Break.)

24 MR. KOERBER: Let's go back on

1 the record. Terry, is there any follow-up
2 questions that you have?

3 MR. FARLEY: No.

4 MR. KOERBER: Mr. Sherer?

5 MR. SHERER: I have a few.

6 RE-EXAMINATION

7 BY MR. SHERER:

8 Q. Mr. Bowles, you mentioned that you helped
9 with the annual retraining at UBB. Was that just
10 one class, or did you do that --

11 A. No, I think I did three.

12 Q. Three. Was that for each shift, or how
13 did that work?

14 A. I can't say exactly what crews and stuff.
15 Certain crews, they pick certain crews on certain
16 days to come to the annual retraining.

17 Q. Would you just train one of the mines like
18 UBB or one of the other mines, or would several
19 mines attend a class together, people from several
20 mines attend a class together?

21 A. At the UBB training, just UBB people
22 attended it.

23 Q. You mentioned that Mr. Pavlovich was doing
24 some safety audits. Did he report anything that

1 you're aware of prior to your retirement?

2 A. I know that he made a list and reported
3 what his findings to Elizabeth Chamberlin.

4 Q. Did you actually see that list?

5 A. Didn't actually see the list, but I know
6 some of the comments that he made.

7 Q. Did any of those comments concern UBB, if
8 you recall?

9 A. Not that I know of. I don't even know
10 that he went to UBB this last time.

11 Q. Now, you said that you went to the Ellis
12 portal after you spoke with Mr. Adkins. Do you
13 recall who was there when you got there?

14 A. There was a lot of the evening shift
15 people there. I believe Everett Hager was there.
16 I believe the longwall coordinator was outside. I
17 can't think of what his name is right now.

18 Q. Mr. Roles?

19 A. Who?

20 Q. Jack Roles?

21 A. Yeah. I'm not sure whether Berman Cornett
22 was there outside at that time or not. I don't
23 remember. There was several people there.

24 Q. Do you know if anybody was underground

1 trying to look for the victims at that point in
2 time?

3 A. Yes.

4 Q. Had they brought any of the victims out
5 when you got there?

6 A. Not when I first got there. When I went
7 back is when the trip with the first seven come
8 out.

9 Q. Now, you mentioned that you had gone from
10 Ellis portal to the Montcoal office, and I think
11 you mentioned you went back to the Ellis portal.
12 Did you stay there most of that night?

13 A. I stayed there all night.

14 Q. Just in general, what did you do that
15 night?

16 A. Basically tried to assist anybody, you
17 know. For instance, I know of one guy that was
18 there, I believe he worked the evening shift, but
19 his son was still in the mines.

20 Q. Sure.

21 A. As a matter of fact, he lives right below
22 me, Davis guys, and I think his son was one of the
23 fatalities at the mines. Basically talking to
24 these people. There wasn't really nothing, a lot

1 you could do, because they decided to move the
2 teams and everything up to the other part of the
3 other portal at the mines, at the main office, next
4 to the main office there.

5 Q. Now, who, in your understanding, was in
6 charge of the rescue and recovery operation?

7 A. I guess you'd really have to say that as
8 far as being in charge of the mine rescue teams
9 would have been Elizabeth Chamberlin, but, you
10 know, I know Mr. Hardman pretty much took over once
11 he got there.

12 Q. Now, you mentioned that your computer was
13 taken, and I think you mentioned that some lawyer
14 or law firm or something like that took it.

15 A. Uh-huh.

16 Q. Did the people that took your computer
17 mention why they took it?

18 A. No. I know there was other things going
19 on, you know, due to the safety at Massey. I can't
20 even say that they took it due to Upper Big Branch
21 or due to where -- Massey had something about in a
22 lawsuit Massey had to report their safety
23 initiatives to this company. It could have been
24 for that.

1 Q. You think it was somebody or some
2 organization with Massey that took the computer,
3 and it wasn't one of the regulatory or enforcement
4 agencies?

5 A. No, it wasn't none of the enforcement
6 agencies.

7 Q. Are you aware of a presentation that
8 Mr. Blanchard made, we think sometime in the fall
9 of 2009, that was talking about conditions at Upper
10 Big Branch? May have been entitled something like
11 "Shooting Yourself in the Foot."

12 A. That sounds familiar, but, you know, I
13 know I wasn't included into it and things like
14 that. I know that Berman Cornett and Jim Walker
15 was assigned to go underground, and that's a lot of
16 reason why I had to do a lot of the paperwork and
17 stuff like that, but...

18 Q. Now, Mr. Cornett and Mr. Walker going
19 underground, was that related to the perceptions of
20 safety problems or --

21 A. Violations.

22 Q. Mainly violations.

23 A. My understanding is to cut down on the
24 violations and things.

1 Q. Now, just in your opinion, do you think
2 the number and nature of the violations reflected a
3 safety problem, or was that mainly a problem with
4 the enforcement?

5 A. Well, I can't really say, but, you know,
6 like I said, I looked at the violations, all the
7 violations and everything and, you know, I felt
8 some of them didn't deserve to be D orders and
9 things like that, you know. I felt that the
10 seriousness of some of them wrote wasn't -- I
11 didn't think it was serious enough to be an order
12 or something like that, because it seemed to me
13 there at one time pretty much everything, if you
14 got -- if it was a ventilation violation, it was
15 wrote as an order.

16 Q. Did the light bulb ever come on and
17 somebody say, look, we've got a safety issue or
18 we've got a ventilation issue? Are you aware of
19 anything like that?

20 A. I know they was all the time making
21 ventilation changes at Upper Big Branch. I know
22 that, you know, like I said before, you know, I
23 know that the belt air wouldn't get approved going
24 to the face and stuff like that. I just knowed

1 that they was making ventilation changes. What
2 kind of changes they was making, I didn't know, but
3 I knowed they was making ventilation changes.

4 MR. SHERER: That's all the
5 questions I have got for right now.

6 RE-EXAMINATION

7 BY MR. MCATEER:

8 Q. Mr. Bowles, just a couple of questions.

9 Was there ever a time when the mine was
10 shut down for violations or for exceeding dust
11 levels or not having enough air? Just UBB now.
12 I'm sorry.

13 A. I'm sure I have seen violations for not
14 having enough air in the face. Like I said, you
15 know, I know it seems like there at one time, every
16 ventilation violation was a D order, and I'm sure,
17 you know, once they wrote a D order, I'm sure the
18 section was shut down or whatever.

19 Q. Was there ever any time that it was shut
20 down by Massey, independent of an inspector?

21 A. I can't remember.

22 Q. Did Massey have the same requirements as
23 the state and federal with regard to air?

24 A. No, Massey has a stronger requirement.

1 Q. Right. But you don't remember anytime
2 it's ever shut down by Massey for violating that?

3 MR. SEARS: Violating what?

4 MR. MCATEER: Violating a Massey
5 standard.

6 A. I probably wouldn't have knowed about it,
7 you know. If a section foreman didn't have enough
8 air on his section and he shut it down, I probably
9 wouldn't have knowed about it.

10 Q. Wouldn't you think it might have come up
11 at the safety meeting or at the monthly meeting
12 that they had to shut it down?

13 A. I know for sure at the safety meetings we
14 discussed the air, and I know back in August, Chris
15 Adkins made the decision on how much air we would
16 carry in our last open breaks.

17 Q. Back in August?

18 A. In August.

19 Q. Do you remember how much that was?

20 A. What date?

21 Q. No, no, the level of air that Adkins --

22 A. 20,000.

23 Q. Was there a memoranda to that effect or a
24 letter or e-mail?

1 A. I can't say that I seen one. I know
2 everybody was made aware of it. I know, because I
3 went to the meeting, and all superintendents and
4 all mine foremen attended that meeting.

5 Q. Did Mr. Adkins present? Did he make a
6 presentation?

7 A. Yes.

8 Q. What was the nature of the presentation?

9 A. Violations, basically, and the
10 ventilation. Pretty much Elizabeth, Gary Frampton,
11 Chris, they all pretty much give a talk.

12 Q. Right. Is this the "Shooting Yourself in
13 the Foot" speech?

14 A. I don't remember hearing that.

15 Q. Where was that meeting, just out of
16 curiosity?

17 A. I think at Scott High School over next to
18 Madison.

19 Q. Do you have an idea of the date?

20 A. I want to say August 19th, but I'm not for
21 sure. Seemed to me like it was in August. I'm
22 thinking August 19th. I may be wrong on that
23 particular day.

24 Q. That was this year?

1 A. It would have been in 2009.

2 Q. Nine. I'm sorry.

3 Was there any material presented, any
4 handouts?

5 A. I can't remember any handouts.

6 Q. Any PowerPoints or any of that stuff?

7 A. There probably was, because usually there
8 are PowerPoints.

9 Q. 20,000 is a pretty good amount.

10 A. Uh-huh.

11 Q. What's the rule under the federal law?

12 A. Nine.

13 Q. So Chris Adkins, I'm saying, you've raised
14 it to 20,000?

15 A. Chris Adkins' word was at that time, if you
16 didn't have 20,000 in the last open crosscut, you
17 didn't produce. You shut the section down until
18 you got to 20,000.

19 Q. Did you hear of anybody doing that, shut
20 the section down?

21 A. Oh, yeah. I have heard of people doing
22 it.

23 Q. Did you know of any violations that
24 occurred in December of 2009 at the Performance

1 Coal Company, citations from the State of West
2 Virginia?

3 A. I'm sure there was, you know. I can't
4 recall the particular violation.

5 Q. Did you see any dropoff of the number of
6 citations, number of violations?

7 A. I seen a dropoff after Berman Cornett and
8 Jim Walker went in. I seen a slight dropoff in the
9 number of violations there.

10 Q. When did that occur? Right after this
11 meeting?

12 A. Like I told them awhile ago, I'm thinking
13 sometime around September, October of 2009. I may
14 be wrong, because that's about the time that I
15 started doing some of the paperwork.

16 Q. Some of the paperwork.

17 A. Yeah. I'm not for sure on that, but I'm
18 thinking sometime around that time.

19 Q. Did you ever check or did anybody check
20 the preshift examinations to see if they're
21 recording?

22 A. Do what now?

23 Q. Did you ever check preshift examinations
24 or any of the books, on-shift examinations?

1 A. I did at Marfork when I went to the mines.

2 Q. Did you see 20,000 air?

3 A. Yeah. A lot of times I did in the
4 crosscuts, last open breaks.

5 Q. Anytime at the Upper Big Branch?

6 A. I never did look at their preshift books.
7 I never had no occasion to go to their mines.

8 Q. Just one other area, two other questions.
9 Did you prepare the emergency response plan for
10 Upper Big Branch?

11 A. Yes, I did.

12 Q. How did you come about to do that?

13 A. Well, like I said, I knowed that Berman
14 was underground most of the time. I know that he's
15 a well experienced miner as far as mining, but as
16 far as records, I think he was lacking on records.
17 I was asked to help out with the paperwork, and the
18 emergency response plan was in a template form from
19 Mt. Hope, so...

20 Q. So you took the template form from Mt.
21 Hope?

22 A. Yeah.

23 Q. And filled that in for your mine, for
24 Upper Big Branch?

1 A. Yeah.

2 Q. Did you have any input from anybody or --

3 A. I probably asked, you know, certain
4 things, you know. I don't remember any particular
5 thing what right now, but, you know, I know I did
6 prepare it, because, like I said, it was template
7 form.

8 Q. Sure, sure. Did you talk to any section
9 foremen or anything like that?

10 A. Not to my knowledge.

11 Q. One other question. What do you think
12 caused this?

13 A. Pardon?

14 Q. What do you think caused this explosion?

15 A. I have no idea.

16 Q. Mr. Bowles, you've been around as long as
17 I have on this business. You're more experienced
18 than anybody in the room. What do you think? You
19 don't owe any debt to anybody. You don't owe any
20 debt to Massey or to us or anybody. Just what do
21 you think?

22 A. The only thing I can say is there had to
23 be an ignition source. I mean, I can't say what
24 caused the explosion because I don't know.

1 Q. None of us do. If we had that answer, we
2 wouldn't have to be here.

3 A. I hope we find out what caused it. Maybe
4 we may not never do it, but I hope we do.

5 MR. MCATEER: Okay. Thank you,
6 sir. No other questions.

7 MR. KOERBER: Gary, any other
8 questions?

9 MR. FARLEY: No.

10 MR. SHERER: No.

11 MR. KOERBER: Sir, I'd like just
12 to state that there is the potential that
13 after the first round of interviews are
14 completed that there may be a need to
15 recall certain witnesses, and one of those
16 people may be you. If so, we'll get in
17 contact with your attorney and try to set
18 up a convenient time for you to come back
19 in here.

20 I'd also like to ask you, is
21 there any information that you believe you
22 possess that pertains to the April 5th,
23 2010 explosion at Upper Big Branch that
24 was not asked of you that you would like

1 to share with the panel?

2 THE WITNESS: Not to my
3 knowledge.

4 MR. KOERBER: Is there any
5 statement you would like to make or
6 anything you would like to clarify or
7 anything you would like to say to the
8 panel before you leave?

9 THE WITNESS: Not at this time.

10 MR. KOERBER: On behalf of the
11 State of West Virginia, I would like to
12 thank you for coming here and speaking
13 with us today. Thank you. We'll go off
14 the record.

15 MR. SEARS: For the record, I
16 would like to maintain confidentiality as
17 permitted under the law and also have an
18 opportunity to --

19 MR. KOERBER: Let me explain for
20 the record confidentiality issues.
21 Through the close of all the interviews,
22 we will not disclose or make public any
23 transcript of anybody's interview. At the
24 close of the interviews, and definitely at

1 the close of the investigation, our FOIA
2 statutes kick in, and everything that the
3 state has done in the course of its
4 investigation becomes public information,
5 and it will be disclosed at that time.

6 Anything else you'd like to add,
7 Mr. Sears?

8 MR. SEARS: No.

9 MR. KOERBER: I also, again,
10 would like to thank you on behalf of the
11 State of West Virginia, MSHA, and the
12 governor's independent. Thank you for
13 coming in.

14 (The interview of JONAH BOWLES
15 concluded at 10:05 a.m.)
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24

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 JONAH BOWLES
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 25th day
of October 2010.

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