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**Transcript of the Testimony of Perry Brown**

**Date:** May 14, 2010

**Case:**

**Printed On:** May 19, 2010

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STATEMENT UNDER OATH

OF

PERRY BROWN

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, May 14, 2010, beginning at 8:11 a.m.

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1                   A P P E A R A N C E S

2

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ATTORNEY WILSON:

We're here with Perry Brown. Good morning, Mr. Brown.

MR. BROWN:

Good morning.

ATTORNEY WILSON:

My name is Bob Wilson. I'm with the Office of the Solicitor, United States Department of Labor. With me is Dave Steffey, with the --- he's an accident investigator with the Mine Safety and Health Administration. Also present are several individuals with the State of West Virginia. At this time, I'll ask that they state their appearance for the record.

MR. BECK:

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

MR. FARLEY:

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

MR. TUCKER:

Bill Tucker, with the West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY WILSON:

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

20 Mr. Brown, government investigators and  
21 specialists have been assigned to investigate the  
22 conditions, events and circumstances surrounding the  
23 fatalities that occurred at the Upper Big Branch  
24 Mine-South on April 5th, 2010. The investigation is  
25 being conducted by MSHA pursuant to Section 103(a) of



1 the Federal Mine Safety and Health Act and the West  
2 Virginia Office of Miners' Health, Safety and  
3 Training. We appreciate your assistance in this  
4 investigation.

5 After the investigation is complete, MSHA  
6 will issue a public report detailing the nature and  
7 the causes of the fatalities in the hope that greater  
8 awareness of the causes of accidents can reduce their  
9 occurrence in the future. Information obtained  
10 through witness interviews is frequently included in  
11 these reports. You should know that if you request  
12 confidentiality, confidentiality will only be granted  
13 on a case-by-case basis. Your statement may also be  
14 used in other enforcement proceedings.

15 You may have a personal representative  
16 present during the taking of this interview, and you  
17 may consult with your representative at any time. Do  
18 you have a representative present with you today?

19 MR. BROWN:

20 Yes.

21 ATTORNEY WILSON:

22 All right. I would ask that the  
23 representative state her appearance for the record.

24 MS. CRAWFORD:

25 Reba Crawford.

1 ATTORNEY WILSON:

2 Thank you. Mr. Brown, you may refuse to

3 answer any question and you may request a break at any

4 time. This is not an adversarial proceeding. Formal

5 Cross Examination will not be permitted. However,

6 your representative may ask clarifying questions as

7 appropriate. A court reporter will record the

8 interview. Please speak loudly and clearly. If you

9 do not understand a question asked, please ask that

10 the question be rephrased. Please answer each

11 question as fully as you can, including any

12 information that you may have learned from someone

13 else.

14 I would like to thank you in advance for

15 your appearance here today. We appreciate your

16 assistance in this investigation. Your cooperation is

17 essential in making the nation's mines safer. After

18 we have finished asking questions, you will have an

19 opportunity to make a statement and provide us with

20 any other information that you believe may be

21 important. If after the interview at any time you

22 believe that you have additional information that

23 would be useful, please contact Norman Page, the lead

24 accident investigator at the contact information

25 provided in the letter. At this time, I will ask that

1 the court reporter swear in the witness.

2 -----

3 PERRY BROWN, HAVING FIRST BEEN DULY SWORN, TESTIFIED

4 AS FOLLOWS:

5 -----

6 ATTORNEY WILSON:

7 At this time, Dave Steffey will commence  
8 with the questioning.

9 EXAMINATION

10 BY MR. STEFFEY:

11 Q. Please state your full name and spell your last  
12 name.

13 A. Perry Dale Brown, B-R-O-W-N.

14 Q. Can you please state your address and telephone  
15 number?

16 A. [REDACTED]

17 [REDACTED]

18 Q. Are you appearing here today voluntarily?

19 A. Yes.

20 Q. How long have you worked for MSHA?

21 A. My two-year anniversary is May the 11th of this  
22 year.

23 Q. What's your current duty station?

24 A. Mount Hope.

25 Q. And how long have you worked at this location?

1 A. The entire time, two years.

2 Q. What's your present position?

3 A. CMI, coal mine inspector.

4 Q. How long have you been in that position?

5 A. Are you referring to as an AR, an authorized  
6 representative?

7 Q. Yes.

8 A. One year.

9 Q. Who's your current supervisor?

10 A. Thomas D. Moore.

11 Q. Okay. Mr. Brown, can you tell me a little bit  
12 about your mining history and your experience?

13 A. Yes, sir. I have, actually, 32 years mining  
14 experience underground. And I've done a gamut of  
15 things. You know, started out as a belt mover. I've  
16 shot coal. I've fire bossed mines. Electrician last  
17 ten years. Thirty (30) years, I've done a lot of  
18 things in the coal mines, and it was underground.

19 Q. Do you have any specialized training or  
20 certifications?

21 A. With the State, I'm a Certified Mine Foreman. I'm  
22 a Certified Electrician. I'm a dust sampler,  
23 respiratory dust sampler. I wasn't expecting that  
24 question, but that's the basics. I've done  
25 several ---.

1 Q. Currently, what is your area of responsibility?

2 A. Are you talking about what mines do I have this  
3 quarter or District 4?

4 Q. Yeah. Just basically, you know, you're just ---  
5 you're a regular inspector; right?

6 A. Yes, I am.

7 Q. Are you the authorized representative assigned to  
8 the Upper Big Branch Mine this quarter?

9 A. The quarter of the accident?

10 Q. No. Well, this current quarter.

11 A. No.

12 Q. Which would be the quarter of the accident,  
13 wouldn't it?

14 A. No.

15 Q. When was the last time you inspected at Upper Big  
16 Branch?

17 A. I was with Keith Stone on the closeout.

18 Q. Okay. What day was that on?

19 A. I'd have to look at my notes, but it was the last  
20 of March, probably the 30th, but I'd have to look at  
21 my notes to be exact.

22 ATTORNEY WILSON:

23 Let's just clarify something. When did  
24 the last quarter end?

25 A. March the 30th.

1 ATTORNEY WILSON:

2 And when would the new quarter have  
3 started?

4 A. April the 1st.

5 ATTORNEY WILSON:

6 So the accident occurred on April 5th, so  
7 the accident ---

8 A. Oh, okay.

9 ATTORNEY WILSON:

10 --- did occur this quarter; correct?

11 A. Thank you. But I was not.

12 BY MR. STEFFEY:

13 Q. You was not. Okay. What about the last quarter,  
14 were you the ---?

15 A. I was not the lead AR.

16 Q. Okay. That clarifies it.

17 A. Thank you, sir.

18 Q. I apologize.

19 A. No. That was my bad. It seems like it's been a  
20 while.

21 Q. Okay. What type of an inspection were you guys  
22 conducting, you know, as far as your closeout? Was it  
23 just a closeout of E01?

24 A. Yes. We did have to go to a section to terminate  
25 some citations.

1 Q. Okay. So you did go underground that day?

2 A. On March the --- yeah, let's --- let me see my  
3 notes, if I could.

4 Q. I don't know if I have anything from the 31st.  
5 That's the last day.

6 A. Well, that would be it then. Closeout.

7 Q. Closeout?

8 A. Yes. Yes, we did. Okay. What was the last  
9 question?

10 Q. Okay. Did you go underground that day?

11 A. Well, March the 30th, yes.

12 Q. All right. Anybody accompany you during this  
13 inspection?

14 A. Yes. Gary May, superintendent, and Keith Stone,  
15 the CMI.

16 Q. Okay. Did they take any notes or photographs?

17 A. Are you talking about either one or ---?

18 Q. Either one.

19 A. Keith Stone I'm sure took notes, and there were no  
20 photographs taken. I don't recall Gary May taking any  
21 notes.

22 Q. Okay. Just walk us through that day. What time  
23 did you arrive at the mine and ---?

24 A. Arrived at the mines at 0900, spoke with Gary May,  
25 the mine superintendent. We were planning on going to

1 the barrier section to check the roof bolter, and they  
2 were planning to close out today.

3 Q. Okay. So you went to the barrier section that  
4 day. How long were you in that area?

5 A. This is an estimate. It's not in my notes. I  
6 would say actually on the section, probably one hour.

7 Q. Okay.

8 A. That's an estimate.

9 Q. I understand. And what route did you travel to  
10 get to the section?

11 A. We rode the track. Rode Number Two mantrip to the  
12 Number Four section. That would be from the North  
13 Portal side, the Number Four section.

14 Q. And the North Portal being the Upper Big Branch  
15 portal?

16 A. Yes, that's correct.

17 Q. Okay. Did you go across the faces when you got up  
18 there?

19 A. Actually, I made the imminent danger run, yes.

20 Q. Were your findings consistent that day on your air  
21 readings with what you saw in the pre-shift book?

22 A. It's not in my notes, but yes. If it wasn't, it  
23 would be noted.

24 Q. What was your observation of those conditions in  
25 the mine that day, rock dusting, ventilation,



1 ventilation controls?

2 A. Date, time and initials okay. I found no  
3 citations when I went across.

4 Q. How was the rock dusting?

5 A. I'm sure it was within 40 feet of the face, but I  
6 can't actually recall that day.

7 Q. What about along the travel route going to the  
8 section?

9 A. It was well rock dusted.

10 Q. Well rock dusted. Okay. Ventilation controls ---

11 A. Yes.

12 Q. --- good up there? Were they running coal when  
13 you got on the section that day?

14 A. Yes. Mining cycle ongoing.

15 Q. Okay. The vent controls that were on the section  
16 that day, what kind of shape were they in, you know,  
17 the curtains?

18 A. Yes. The backup curtains were up. There was air  
19 at the face.

20 Q. Were the curtains new, though, or were they old?  
21 How did they look? What type of shape were they in?

22 A. I honestly don't --- I know what your question is  
23 leading to, and I honestly don't recall.

24 Q. Don't recall. The roof, rib and floor conditions,  
25 how would you describe them?

1 A. Typical in that they were not exactly smooth, but  
2 they were very travelable.

3 Q. Okay.

4 A. But they were not just highway smooth. They was  
5 just a little bit rough.

6 Q. I understand. What about the floor, was it damp?  
7 Can you tell me a little bit about the floor of the  
8 mine? Was it busting up?

9 A. In barrier sections, I don't recall anything out  
10 of the ordinary.

11 Q. Okay. No accumulations of water or anything like  
12 that? Would you describe it as damp?

13 A. Damp, yes.

14 Q. Damp. What about water? Did they have any water  
15 up there, any water holes on the way to the section  
16 that you noticed or anything?

17 A. I just can't recall, to be honest with you.

18 Q. I understand.

19 A. Cannot recall.

20 Q. Okay. The vent controls, stoppings, everything  
21 going to the section, looked like it was in pretty  
22 good shape?

23 A. Yes, sir.

24 Q. Okay. Did you see any accumulations of  
25 combustible material? Any trash along the beltline,

1 any, you know, spillage at the beltheads or anything?

2 A. No.

3 Q. No? Did you issue any citations that day?

4 A. No.

5 Q. What violations were you terminating that day?

6 A. Actually, I was assisting Keith Stone, and he was  
7 terminating a citation he had on a roof bolter. And I  
8 was going to make the imminent danger run for him, and  
9 I did do that.

10 Q. Do you know what was wrong with the bolter?

11 A. Yes. I know one thing I can remember. I helped  
12 him check respirable dust in behind the --- what we  
13 call the clean area behind the filter.

14 Q. The equipment on the section, how would you  
15 describe the maintenance of that equipment? Did they  
16 --- you know, just day-to-day inspection ---

17 A. Fair.

18 Q. --- over the course of the quarter? I  
19 mean, ---.

20 A. Fair.

21 Q. Fair. Did you take any photographs while you was  
22 in the mine that day?

23 A. No.

24 Q. Anybody from the company make any statements about  
25 the citation that Mr. Stone was there to terminate?

1 A. No.

2 Q. Okay. Did you talk to any of the mine workers or  
3 any of the mine management concerning, you know, the  
4 conditions they were in that day?

5 A. Well, we had closeout that day. But as far as on  
6 this section, I met Brandon Davis, the section  
7 foreman, which I had not met him before, and I don't  
8 recall any conversations.

9 Q. Okay. Let's talk about previous inspections, and  
10 we'll go back to the previous quarter. Now, you  
11 started --- your previous inspection began on, I  
12 think, January 7th.

13 A. That sounds right.

14 Q. And in your notes you had a statement that one of  
15 the members of mine management had made. I believe it  
16 was Mr. May, I think --- if I recall, made the  
17 statement about he felt the mine was heading in the  
18 right direction and that MSHA was there to write  
19 citations. And you informed him that you'd be just  
20 --- you know, and they wouldn't give him the benefit  
21 of the doubt. And you informed him that you would  
22 just be writing what you see. Can you elaborate on  
23 that conversation?

24 A. I think so, yes. The --- you know, I was  
25 attempting to have a pre-inspection conference. And

1 one of the things --- at that time, if I'm not  
2 mistaken, Jim Humphrey was my acting supervisor. We  
3 had a lot of citations from last quarter that was  
4 outstanding, and we were told to give them adequate  
5 time to abate these, but don't let them just keep, you  
6 know, running on. So I mentioned that to him, and you  
7 know, Gary May, I guess, felt like I was trying to ---  
8 I don't know. Gary May and I had never met before, so  
9 we didn't --- our personalities --- we hadn't got to  
10 know each other at all, so I guess he thought I was  
11 trying to threaten or something. I don't know what he  
12 thought, but he said --- you know, his statements  
13 about, you know, we're trying to fix this mine and go  
14 in the right direction. And you know, you're already  
15 starting to --- writing orders, and you haven't even  
16 been underground. That's when I said, I will be  
17 writing what I see.

18 Q. Okay.

19 A. And that's the gist of that. It wasn't  
20 confrontational. It was just two people discussing,  
21 you know, our sides of the ledger.

22 Q. I understand. I'm going to go through some  
23 preliminary questions here about the previous quarter  
24 that I guess I should have talked about before we  
25 discussed that. But we'll go ahead and take care of

1 it. Have you ever been the authorized representative  
2 assigned to the Big Branch Mine? And I know you said  
3 you weren't the lead AR.

4 A. That is where I'm getting confused with this. You  
5 know, my supervisor said I want you to do this section  
6 of the coal mines.

7 Q. Yeah.

8 A. Keith Stone will be the lead AR. So if that means  
9 I was assigned, I was assigned.

10 Q. Okay. So you were assigned to a portion of the  
11 mine?

12 A. Yes.

13 Q. Okay. And you assisted Keith Stone, who was the  
14 lead AR?

15 A. That is correct.

16 Q. Okay. And what type of inspection was this? Was  
17 this a regular EO1?

18 A. This was an EO1.

19 Q. Did you help conduct any other types of  
20 inspections during the last quarter?

21 A. I did do a spot inspection.

22 Q. Okay.

23 A. And I do not remember the date. It was in March.

24 Q. And when you say a spot inspection, you mean a

25 103 ---?

1 A. For the methane.

2 Q. Okay.

3 A. 103(i), ---

4 Q. 103(i).

5 A. --- for methane.

6 Q. Do you know about how --- I didn't mean to  
7 interrupt you there. Do you know about how much  
8 methane this mine makes a day?

9 A. A day?

10 Q. Yeah.

11 A. It's over a million cubic feet per --- yes, per  
12 24-hour period at this time.

13 Q. During this previous quarter, when you were  
14 conducting your inspection, did you always have  
15 somebody with you when you went inside the mine,  
16 company or MSHA?

17 A. Yes. Yes.

18 Q. Generally, who was that?

19 A. It was generally Gary May and Rick Foster, Harley  
20 Taylor are the three people that --- I don't --- and  
21 Charlie Ziminski, are the only people that I recall  
22 traveling with.

23 Q. Okay. You wouldn't happen to recall their titles,  
24 would you?

25 A. Gary May, mine superintendent. Harley Taylor,

1 fire boss. Rick Foster, mine foreman. Charlie

2 Ziminski, fire boss.

3 Q. Did they take any photographs while they were with  
4 you?

5 A. No, sir.

6 Q. What about notes? Did they ever take any notes?

7 A. I would see --- occasionally, pull out a notepad  
8 and write some notes, not on a consistent basis.

9 Q. The area of the mine that you were responsible for  
10 inspecting, what area was that?

11 A. Well, I call it --- the south side is what I call  
12 it, but I don't know what would be the proper name.

13 Q. Could it be like the barrier section and --- can  
14 you point to it on the board up here for us?

15 A. Yes, sir. When I was assigned this mine  
16 originally. I'm looking for the mine office. I think  
17 --- is this it right here?

18 Q. Yeah, that's it right there.

19 A. This is the UBB office?

20 Q. Uh-huh (yes).

21 A. I'm pointing out on this map, the area that I was  
22 going to take care of was --- gosh, this map has  
23 changed so much. I guess this is it. I'm drawing  
24 here basically what I was going to cover originally.  
25 And this --- I'm starting at the Upper Big Branch



1 office ---

2 Q. Yep.

3 A. --- and I'm going in the North Portal. And I came  
4 up here. This section was nearing completion at the  
5 --- it was the old Number Four section. The day I  
6 started I think they had one day. And I had this  
7 area, all the way around here, back down through here  
8 and down this seal line and out to here. And then if  
9 you want to draw a line, it would be at --- where the  
10 silo is, it would look like Number One, Two, Three,  
11 Four entry probably, up through here toward --- I'm  
12 willing to say Number One section. It was active in  
13 this area at this time. They were up here. That's  
14 the top end, and then back out, of course, to the  
15 South Portal.

16 Q. Okay.

17 A. That was the original plan when we started. Okay.  
18 The plans changed when we changed supervisors, so I  
19 also did this airway, which I would have to look at my  
20 notes to see what it was called. I think it's called  
21 --- I'm not going to guess at what it was called.  
22 I'll just draw on this map. But I walked this airway,  
23 came through here. I wish it was named --- I'm going  
24 to say it was called --- before I call it, I'll look  
25 at my notes and see what it was called.

1 Q. That's that area right there around that ---?

2 A. Yeah, EP-7 and 4 on this map, EP-1. And I came  
3 out at Ellis Portal. And then I went right back and  
4 did the same airway, except another entry, of course,  
5 and took care of all this area here that day and came  
6 back out here.

7 Q. Okay. Back at the North Portal?

8 A. Yes, and on by. One other day I just ran these  
9 seals, 15 through --- I believe I went clear to Five  
10 that day, Number Five seal. This was a different ---  
11 this was in March. I took care of that. And then I  
12 did a spot --- well, that was my assignment to the  
13 E01.

14 Q. Okay.

15 A. And I believe I covered everything on this map  
16 with my finger where I went.

17 Q. Okay.

18 ATTORNEY WILSON:

19 All right. Let's go off the record for a  
20 second.

21 OFF RECORD DISCUSSION

22 (Brown Exhibit One marked for  
23 identification.)

24 ATTORNEY WILSON:

25 We've marked as Brown Exhibit One a one

1       inch equals 200 foot scale map, and it shows the areas  
2       where Mr. Brown indicated he traveled. So what we're  
3       going to have him do is use a blue highlighter and  
4       just trace the general path that he took during his  
5       EO1 inspection, with the understanding that this  
6       doesn't necessarily reflect the exact paths that he  
7       took but just the general areas that he covered during  
8       his inspection.

9       A. Okay. Once again, this is just a general area  
10      that I traveled. And I would arrive at UBB every day  
11      on my travel up what I call the North Portal. You all  
12      consider that UBB and Ellis is two --- is that the way  
13      you're identifying the portals?

14      BY MR. STEFFEY:

15      Q. We can identify it either way.

16      A. Well, ---.

17      ATTORNEY WILSON:

18      You can write down here North Portal.

19      A. Okay. That's --- I always called it --- actually,  
20      I called it the south side. The North Portal is  
21      actually --- is where I entered most of the time. Is  
22      the track in yellow here?

23      BY MR. STEFFEY:

24      Q. That's the secondary escapeway.

25      A. Okay.

1 ATTORNEY WILSON:

2 And as you're doing that, why don't you  
3 explain what areas you're highlighting?

4 A. Okay. Originally, once again, this is the area I  
5 was originally assigned. And I'm not going to mark it  
6 the way I traveled. I'm just going to mark the area I  
7 was originally assigned. This is where --- I started  
8 in at the track entry at the North Portal, up to  
9 Plumley Mains, and I went up to what used to be old  
10 Four section, and I had this area where they had  
11 worked out. I'm drawing a line around it. And also I  
12 had the seal airway, which, for the benefit of just  
13 describing which area, takes you all the way outside  
14 at the silo. The map runs out right here, but it  
15 continues right on to what we'll call the silo. It  
16 would be Number One entry up there. Everybody's got  
17 different terminology.

18 And also I would come in at what would be probably  
19 One, Two, Three, Four, Five, Number Five entry, at the  
20 silo, and go up to where --- at this time there was an  
21 active section. I'm wanting to call it Number One  
22 section, but also there's some EPs to be checked up  
23 through here, but I had this area all the way ---  
24 which I didn't --- they wasn't that far when I was  
25 there. I'd have to check and see exactly, all the way

1 down to and back out the return airway at the South  
2 Portal. And of course, that includes --- the area I'm  
3 circling here, there was a couple outstanding  
4 citations I had to go take care of. And I can't  
5 remember exactly what we called this, but it's marked  
6 on the map now and it is in my notes. There was some  
7 citations in there that I had to go take care of. And  
8 also, of course, I had to --- we covered the mines in  
9 its entirety, and I had to make these airways, which I  
10 did. Okay. As time went on, we realized the need to  
11 make this airway.

12 ATTORNEY WILSON:

13 And when you say this airway, it's marked  
14 on the map as north veast Mains?

15 MR. STEFFEY:

16 Northeast mains.

17 ATTORNEY WILSON:

18 Oh, northeast. I'm sorry. I was ---.

19 A. Well, actually, what I made was the parallel North  
20 Mains. I see it marked here now. I made this --- I  
21 rode in, and I can't remember my exact way of travel,  
22 but I started at --- oh, man. I'm going to have to  
23 have my notes to get that name right. It's either  
24 called --- they call this the Upper Big Branch or  
25 Lower Big Branch. But anyway, I started down the

1 intake air of the parallel North Mains.

2 ATTORNEY WILSON:

3 If you want to look at any of your  
4 notes ---.

5 A. I need to. It may take a minute, but I've got to  
6 find that because they had a special name for this,  
7 and that's the name I used.

8 ATTORNEY WILSON:

9 Okay. Let's go off the record.

10 WITNESS REVIEWS NOTES

11 SHORT BREAK TAKEN

12 ATTORNEY WILSON:

13 Okay. Let's go back on the record.

14 A. All right. I have my notes now, and they call  
15 this LBB, which I guess would be --- we'll just call  
16 it LBB, that's what they called it, at Break 67. I  
17 got into the intake at LBB. I'm drawing that on the  
18 map now.

19 ATTORNEY WILSON:

20 Why don't you write it over here, LBB,  
21 just so that we know --- put it over here with an  
22 arrow.

23 WITNESS COMPLIES

24 ATTORNEY WILSON:

25 Okay.

1 A. And this is by memory and notes. I'd have to  
2 check my other map. The best I recall, I walked up  
3 the --- marking this map parallel North Mains in the  
4 intake and then I crossed over overcast and a  
5 regulator and got into the return in LBB. Walked out  
6 it, done EP-7, 4 and 1. Continued walking this return  
7 airway. I'm marking this on the map. I'm headed for  
8 Ellis Portal. And I walked outside of Ellis Portal.

9 ATTORNEY WILSON:

10 And just so that we know on this map, I  
11 don't think it's marked, put ---

12 A. Ellis Portal.

13 ATTORNEY WILSON:

14 --- Ellis Portal.

15 WITNESS COMPLIES

16 A. This was all on February the 1st, it looks like.  
17 Okay. I forget which entry I took back then. Walked  
18 out the track at Ellis Portal, so anyway --- if that's  
19 marked in the wrong place, I walked the track out.  
20 Then I went back up the left intake, which would  
21 probably be this, green arrows. Okay. I more or less  
22 backtracked myself from the other side of the entry on  
23 the way out --- I mean, on the other side of the  
24 panel. I came down what would be, I'm guessing,  
25 Number Seven going back in Number One, backtracking

1 the same way I went. Got over in this area  
2 called ---.

3 ATTORNEY WILSON:

4 This area, back to where you wrote LBB?

5 A. Yes. Let's see. They got a name on it. Let me  
6 see what they called it.

7 BY MR. STEFFEY:

8 Q. That would be the panels of EP-54, 58, 52 and 53.

9 A. Okay. It's 54 --- EPs 54, 52, 53 and 58.

10 Traveled the perimeters of this area. Actually, you  
11 backtrack, come back up here and you come down this  
12 way, and I forget, I think it was this --- you go back  
13 up this entry, and you come to the outside. Okay.

14 That was another portion that I traveled. And also I  
15 traveled --- let's see. I need that other map

16 probably. Another day I traveled seals 15 through 5.

17 Let's see. Reba, you got my notes there?

18 MS. CRAWFORD:

19 Yes. Yes.

20 A. The one in March, the day I traveled the seal  
21 entries.

22 MS. CRAWFORD:

23 They're at the back. There's March 11.

24 A. It should be Harley Taylor.

25 MS. CRAWFORD:



1 Wait a minute.

2 A. Anyway, I mark this off as we're doing this.

3 Okay. Started at the North Portal, right inside by  
4 the track, up to --- did you say the breaks are marked  
5 on these? I'm thinking 75.

6 BY MR. STEFFEY:

7 Q. Yeah.

8 A. Okay. Came in here at Break 75, checking the seal  
9 airway.

10 MS. CRAWFORD:

11 Who do you want?

12 A. Harley Taylor, ---

13 MS. CRAWFORD:

14 Here.

15 A. --- seal airways. I was just wanting to see ---.

16 MS. CRAWFORD:

17 There's no coversheet, but it says here  
18 traveled with Harley Taylor.

19 A. I know. I don't understand where the coversheet  
20 is.

21 MS. CRAWFORD:

22 They must not have ran a copy of it.

23 A. Okay. Let me just --- I don't remember whether I  
24 went to Five or ---.

25 MS. CRAWFORD:

1 On 3/11 you had ---? Oh, you don't have  
2 a copy.

3 A. I traveled this here airways, 15 through 5. I'm  
4 marking that. I'll have to change maps because this  
5 says 12. But while we're here, I'd also like to state  
6 that I traveled the air that ventilates these seals,  
7 which is furnished, okay, right there.

8 ATTORNEY WILSON:

9 Let me identify this for the record.

10 We'll mark it as Exhibit Brown Two. It's a map scaled  
11 one inch equals 200 feet, and it shows the seals set  
12 15, 14, 13. And in blue Mr. Brown has marked the  
13 areas that he traveled.

14 (Brown Exhibit Two marked for  
15 identification.)

16 A. And we'll go to the other map and finish marking  
17 from 12 to 5 also. So this map --- I am finished with  
18 this map. Now I'm lost. Just a second. It's Five  
19 where I start. I'm marking the seal airway from 13  
20 down to number 5. And like I say, this is the ---  
21 should be an overcast right here. Oh, well, this is  
22 the area. That pretty much is my --- the area that I  
23 traveled when I was at this mines, the perimeter.

24 ATTORNEY WILSON:

25 Now, we went back to Exhibit Brown One

1 and Mr. Brown marked in blue additional areas that he  
2 traveled along the seals 12, 11, 10, 9, 8, 6 and 5.

3 A. Seven, Six, Five. It's just 13 through 5.

4 BY MR. STEFFEY:

5 Q. Okay.

6 A. That's the areas I traveled while I was at  
7 this ---.

8 Q. So that was the areas you were assigned to make.

9 That was your areas. All right. Mr. Brown, I'm going  
10 to ask you a question. From the time that you were in  
11 this mine, were you ever on the longwall or the  
12 headgate or tailgate, 22 Headgate or Tailgate  
13 sections?

14 A. No, sir.

15 Q. Okay. The areas that you did travel, this south  
16 end here and the areas along these seals, what were  
17 the conditions that you observed as far as rock  
18 dusting? How good of a job did they do on their  
19 dusting?

20 A. I was in the old works a lot, and it was very  
21 damp. The places --- I felt that rock dust was  
22 adequate.

23 Q. Okay. Ventilation, what --- how was their  
24 ventilation?

25 A. Ventilation was poor along the seals, 15 and 14.

1 It was very weak.

2 Q. Okay.

3 A. The EPs in the old --- I think they called this  
4 the Old North Mains. They had an issue or two at the  
5 MP points that was taken care of. But as far as their  
6 section ventilation, I only went to this Number Three  
7 section, it was good.

8 Q. Okay.

9 ATTORNEY WILSON:

10 Could you just elaborate a little bit? I  
11 mean, what about the ventilation was poor?

12 A. At seals 15 and 14?

13 ATTORNEY WILSON:

14 Yes.

15 A. The day I did those, the air was moving in the  
16 wrong direction. And I cited them for not following  
17 their vent plan, I believe is what it was.

18 MR. STEFFEY:

19 Can we get that other map there?

20 BY MR. STEFFEY:

21 Q. Let's talk about that.

22 OFF RECORD DISCUSSION

23 BY MR. STEFFEY:

24 Q. Okay. Perry, we've got the Exhibit Number Two map  
25 here that you marked up. It shows the seals 15, 14

1 and 13.

2 A. Well, 13 is on this side.

3 Q. Now, you said that the ventilation was poor here  
4 from seal sets 15 and 14; is that correct?

5 A. That is correct.

6 Q. You said that on the date you made this, air was  
7 going in the wrong direction. Now, this map shows  
8 that air traveling in an outby direction, so was this  
9 air traveling inby on that day?

10 A. On 3/11?

11 Q. Uh-huh (yes).

12 A. Yes. On 3/11 the air was traveling the wrong  
13 direction at one break outby set 15.

14 Q. Okay. So it was coming back this way?

15 A. Yes.

16 Q. What was it going to?

17 A. It was circulating and coming the wrong direction,  
18 where this shows the intake coming into a far area,  
19 where this should be set over right here, is where it  
20 actually stopped and started swirling. And it was  
21 fairly stale until we got down to ---.

22 Q. So there wasn't much movement here from seal set  
23 14 basically on down to ---?

24 A. The first place I took an air reading --- Six,  
25 Seven was the first place I took an air reading.

1 Q. Okay.

2 A. On the other map.

3 Q. So it would be on the other map?

4 A. Yes.

5 Q. Okay. So let's come back up here to where it  
6 reversed. Now, I see a regulator on this map here  
7 just inby seal set 17, at Break 76. Was that  
8 regulator there that day?

9 A. Yes, sir.

10 Q. So that air was going through that regulator and  
11 into this intake that should have been feeding that  
12 return going to the seals; correct?

13 A. Yes, sir, that is correct.

14 Q. Okay. And that intake comes back to here, to this  
15 regulator at --- what's this called? It looks like  
16 it's at about Break 59 on the ---.

17 A. I think this is North Mains.

18 Q. On the North Mains.

19 A. Yeah.

20 ATTORNEY WILSON:

21 I think the 65 refers to ---.

22 MR. STEFFEY:

23 Or 65.

24 ATTORNEY WILSON:

25 We got 125 and then 130.

1 A. So around 130.

2 BY MR. STEFFEY:

3 Q. Okay. Around 130. All right. So it comes back  
4 to this regulator. Had it reversed all the way back  
5 down to here or did you remember? Did you check that?

6 A. I --- yes. I definitely --- that was my immediate  
7 thought then. The air was not ---. I could not get  
8 an anemometer reading.

9 Q. Okay.

10 A. But the air was ---.

11 Q. This air was stale?

12 A. I want to say stale, yes.

13 Q. Did you smoke it or anything?

14 A. I had my smoke tube out, but I don't remember  
15 whether I smoked it at that area or not.

16 Q. Okay.

17 ATTORNEY WILSON:

18 When we're referring to here and this  
19 area, let's try and be specific.

20 A. At break 130 specifically I do not remember  
21 smoking it. We walked it there. Here it is. At  
22 Break 42, air moving correctly in the intake entry,  
23 Break 42.

24 BY MR. STEFFEY:

25 Q. So back down this way?

1 A. Yes.

2 Q. So this air right here was coming this way, but  
3 this air was reversed here.

4 ATTORNEY WILSON:

5 This air?

6 BY MR. STEFFEY:

7 Q. The air on the --- the intake air on the North  
8 Mains; correct?

9 A. This is where I --- Break 42 is apparently one of  
10 their numbers. But I checked it right here, and I  
11 remember, and it was moving good.

12 Q. And when you say right here, you mean?

13 A. At break ---.

14 ATTORNEY WILSON:

15 Wouldn't 42 be up here?

16 A. Yes, sir, you are correct.

17 ATTORNEY WILSON:

18 There's Break 40.

19 A. Yes.

20 BY MR. STEFFEY:

21 Q. Okay. So that's Break 40 on the Number Five north  
22 beltline in the intake; correct?

23 A. Yes. Okay. There we go. It's coming back now.

24 At Break 42 the air was moving correctly. I took an  
25 air reading.



1 ATTORNEY WILSON:

2 Why don't you put air reading? We'll  
3 write air reading on the map.

4 WITNESS COMPLIES

5 BY MR. STEFFEY:

6 Q. Now, did you take this in the intake or the belt  
7 air course?

8 A. I took this in the intake.

9 Q. Okay. So this air was going in the proper  
10 direction at Break 42?

11 A. And it still made it at that fall area where  
12 they --- yes, where they went around this fall.

13 Q. Okay. And that would be at what, about Break 48,  
14 47?

15 A. Yes, sir. It looks like 47.

16 Q. Okay. And then up here at 15 seal, the intake air  
17 had reversed and gone ---?

18 A. That is correct. It appeared that this put  
19 pressure on their air. You see how it's kind of ---.

20 Q. Uh-huh (yes). Did you ever figure out where that  
21 air was going to?

22 A. It was actually --- appeared to be leaking through  
23 stoppings.

24 Q. Okay. So they didn't do a good job plastering  
25 their stoppings or --- how were the vent controls?

1 A. The vent controls, some of them had been squashed  
2 out and rebuilt. Everything was in place. I want to  
3 make that clear. But some of them --- the old ones,  
4 like some of them had crushed out and they had  
5 rebuilt, but --- and also --- I need to speak to Reba  
6 one second.

7 ATTORNEY WILSON:

8 Okay. Let's go off the record.

9 WITNESS CONFERS WITH REPRESENTATIVE

10 ATTORNEY WILSON:

11 Back on.

12 A. What was your last question? Where did I think  
13 the air was going?

14 BY MR. STEFFEY:

15 Q. Yeah.

16 A. Okay. We felt like that this was putting too much  
17 pressure, trying to push this air. And it was going  
18 out the stoppings.

19 Q. Yeah.

20 A. They got Bandytown fans sitting up here, pulling  
21 like crazy. We thought that was part of the problem.  
22 Wayne Persinger --- I'm not sure of his title. I  
23 believe it was vice-president at the time, but I'm not  
24 sure. When I talked to him about this problem, he  
25 said he thought where the barrier section is they had

1 split air, and he was trying to put too much return  
2 overtop of that overcast. This was after we got  
3 outside and had this discussion. He said he felt like  
4 he could go to sweep air or he could change something  
5 down there. In essence, they did go to sweep air,  
6 which would open up that overcast. And he felt like  
7 that was one of the troubles. And when they started  
8 that Bandytown fan, it caused some leakage in their  
9 stoppings. But all the stoppings were in place.

10 Q. So all the pressure was going to try to take it to  
11 the Bandytown fan?

12 A. Yes, sir. And that's --- I think --- I hope that  
13 answered your question.

14 Q. Yeah, it did. I see doors up through here. Did  
15 you ever find any leakage around these man doors?

16 A. Yes, there was some leakage. Yes.

17 Q. When they abated this citation, when they  
18 corrected the condition, about how long did it take  
19 them to correct it?

20 MS. CRAWFORD:

21 Are you saying the reversed air?

22 MR. STEFFEY:

23 Yes, the reversed air.

24 A. I can't give you an exact date. I terminated that  
25 citation myself.

1 BY MR. STEFFEY:

2 Q. Okay.

3 A. Do we have a calendar to tell me what day the  
4 11th ---? Well, anyway, 3/11 was the day they were  
5 cited.

6 Q. But it took them longer than a day to abate ---?

7 A. Well, I'm sure it did whenever they went from  
8 split air to sweep air. And plus, they did some work  
9 on some stoppings down through here.

10 Q. Okay. So they did some work on their stoppings,  
11 and that corrected the condition?

12 A. Well, they also opened up that one overcast so  
13 more air could flow over it and ---.

14 Q. And they had restriction down that way on their  
15 overcast?

16 A. That was Mr. Persinger's opinion the day I talked  
17 to him.

18 Q. All right.

19 A. But I went back, and they had air movement.

20 Q. All right. Now, on the 9th there was --- and you  
21 didn't issue this, but on the 9th there was a citation  
22 issued for air reversed up here on the tailgate, on  
23 the longwall. Did you hear anything about that?

24 Anybody at the mine talk about that?

25 A. You're talking about mine officials; right?

1 Q. Yes. Or the men that worked at the mine or  
2 anybody. Did anybody mention that?

3 A. I don't recall anyone mentioning that.

4 Q. So they never --- so nobody ever talked about what  
5 caused that air reversal here also?

6 A. I don't recall anyone ---

7 Q. Okay.

8 A. --- speaking on that, no.

9 Q. All right. Let's go back to their overcast here  
10 and their ventilation system in general. Now, you  
11 said Mr. Persinger said he believed that his overcasts  
12 had restricted --- how many --- that the area over the  
13 overcast had restricted his return. Did you ever see  
14 that overcast, that area over that ---?

15 A. Yes. I walked right to it and over it.

16 Q. How high was that?

17 A. I can't --- I just don't recall, and I did not  
18 measure it.

19 Q. I understand. I understand. Mr. Persinger, do  
20 you know anything about his background? Is he an  
21 engineer?

22 A. I don't know Mr. Persinger personally, just  
23 through these inspections here.

24 Q. Did you ever see any engineers at this mine or in  
25 this mine? And I mean mining engineers that were

1 actually looking at the ventilation for the company.

2 A. Assuming that these people I've mentioned are not  
3 engineers, no.

4 Q. Okay.

5 A. I mean, they may be engineers. I do not know  
6 their backgrounds.

7 Q. Okay. I understand. Okay. So your assessment of  
8 the vent controls, you would say that they had some  
9 problems with them squeezing out? Did I understand  
10 you correctly there?

11 A. They were replaced.

12 Q. And they were replaced as they were found during  
13 examinations?

14 A. Yes.

15 Q. Okay. What about methane along these seals here,  
16 did you ever find any methane?

17 A. Nothing.

18 Q. Nothing?

19 A. No, sir. I --- whenever the air was like that, I,  
20 you know, was very vigilant.

21 Q. How was your oxygen levels along those seals?

22 A. 20.8.

23 Q. 20.8. Were they outgassing or ingassing? Did you  
24 ever --- typically?

25 A. Typically ingassing.

1 Q. Okay.

2 A. And I believe I'm correct saying that.

3 Q. What about your ---?

4 A. I thought I had that on every one of these. This  
5 one says outgassing on 13, outgassing on 12. So see,  
6 I misspoke there, but it's on --- it's outgassing on  
7 11, outgassing on Ten, Nine I have no note, Eight says  
8 outgassing. So I misspoke there. It's in my notes.

9 Q. Okay. That's fine. What about your roof, rib and  
10 floor conditions along these areas right here, along  
11 15, 14 and 13 seals and on down I guess to Five seal?

12 A. Actually, my recollection is a pretty good  
13 walkway.

14 Q. Pretty good?

15 A. Yes, sir.

16 Q. Okay.

17 A. Now, down in here, there was some old gob areas,  
18 worked-out areas. But the travelway itself, my  
19 recollection, it was good.

20 Q. Okay. So they had the roof supports installed,  
21 had the curtains up, ventilating the seals and ---?

22 A. Yes. The seals were good.

23 Q. Okay. Ever find any accumulations of combustible  
24 material in that area, trash or anything?

25 A. No.

1 Q. No. What about water?

2 A. In the walkway itself, my recollection is that we  
3 walked around a couple water holes but never had to  
4 walk through water.

5 Q. Did you ever see any water coming through the  
6 water traps?

7 A. No, sir.

8 Q. Okay. Let's go back to that south end of the  
9 mine. Right here. This area right here.

10 A. Okay.

11 Q. Now, you mentioned something about that there was  
12 some outstanding citations, that they had had some  
13 problems at MP --- the area where they had MPs Ten,  
14 Nine and Eight, you know, Seven and Six and MP-12,  
15 this area right in here.

16 A. Yes.

17 Q. What were they cited for?

18 A. Well, I'll go to my notes. I can give you a rough  
19 recollection. Okay. Here it is. They were cited for  
20 not having doors in a proper location.

21 Q. Okay.

22 A. I went and terminated that at ---.

23 Q. Okay.

24 A. Of course, I don't have in my notes where it is,  
25 but it was I want to say up at MP10 panel.



1 Q. Okay.

2 A. And then I went and checked EP-11 for directional  
3 flow.

4 Q. Okay.

5 A. That was the two citations I terminated.

6 Q. Okay.

7 A. So the flow was correct.

8 Q. So the flow was correct.

9 A. And the door was installed.

10 Q. Did they ever tell you what they did to correct  
11 that flow?

12 A. I remember Gary May saying it was an easy fix, is  
13 what he told me. I do not recall. I'm sure he said.  
14 I don't recall it, and it's not in my notes.

15 Q. I understand. All right. Let's go back to the  
16 section right here. Let's talk a little bit about his  
17 area up in here. You mentioned something about  
18 traveling up here to seal 15, that you traveled along  
19 the track entry. Did I understand you correctly?

20 A. I rode in on a mantrip.

21 Q. Rode in on a mantrip?

22 A. Yes.

23 Q. So did you travel through any man doors or any  
24 equipment doors?

25 A. Oh, yes. You know, on their track, their airlock

1 doors, ---

2 Q. Yeah.

3 A. --- runs in my mind there was a set at Plumley  
4 switch. And I'm probably forgetting it, but right ---  
5 there was a set right here at this area that were  
6 really running --- yeah, right here. Went through  
7 those.

8 ATTORNEY WILSON:

9 That's near seal 13?

10 A. Near seal 13, at Break 130, roughly.

11 BY MR. STEFFEY:

12 Q. Okay. What type of doors were they? Were they  
13 automatic or did you have to get off a mantrip and  
14 open them up?

15 A. They were electrical --- you know, electrically  
16 operated.

17 Q. Okay. What kind of condition were these equipment  
18 doors in?

19 A. They seemed to work fine.

20 Q. Seemed to work fine. Did you ever see any of them  
21 that were damaged or anything, that somebody had run  
22 into them?

23 A. I see so many mines that --- they weren't damaged  
24 to the point of causing me to feel a problem, but you  
25 understand, I see so many mines ---

1 Q. Yeah, I understand.

2 A. --- they kind of run together? But I didn't cite  
3 them for any doors.

4 Q. Did you ever see any lay in there that had been  
5 damaged that they had replaced?

6 A. Once again, I'm getting my mines confused here,  
7 and I'm not for sure. I want to say yes, but ---.

8 Q. You're in a lot of mines. I mean, you know, I  
9 understand.

10 A. And you would note that. I can't say for sure.

11 Q. Okay. Did you ever hear any of the miners talk  
12 about air reversals along the track due to doors being  
13 left open?

14 A. No.

15 Q. Ever heard anything about that?

16 A. No.

17 Q. Don't guess you ever found that condition there  
18 either?

19 A. No.

20 Q. In your opinion, when you looked at all the doors  
21 in this mine, what are your thoughts on the doors and  
22 all the regulators and everything else?

23 A. You're asking my opinion?

24 Q. Your opinion. You've got 32 years of experience,  
25 so your opinion on that.

1 A. I just --- I don't want to give an opinion on this  
2 entire mines at this time. I don't ---.

3 Q. Okay.

4 A. I'm not familiar enough with where the ---

5 Q. Okay.

6 A. --- crisis happened to really --- to elaborate.

7 Q. Okay. That's fine. That's fine. Are you aware  
8 of any complaints that were ever lodged at this mine,  
9 against it?

10 A. No, I don't --- no.

11 Q. Nobody ever came to you while you were there and  
12 expressed a concern about work conditions or anything?

13 A. No, sir.

14 Q. Okay. Are you aware of any conditions or ever  
15 hear of anything that required all or a portion of the  
16 miners to be withdrawn from the mine?

17 A. Oh, Keith Stone and I had conversations.

18 Q. Okay.

19 A. He discussed the air.

20 Q. What did he say about the air?

21 A. Well, you know, his first day there, if I'm not  
22 mistaken, he --- and you know, I'm speaking --- I  
23 don't have his notes.

24 Q. I understand. Just from your best recollection.

25 A. In general, yeah, he --- you know, he said they

1 had air problems up around the longwall, in the  
2 sections up through there.

3 Q. And did he --- can you recall anything that he  
4 said about the problems they were having or ---?

5 A. Well, he explained to me his first (d) citation,  
6 how the intake air, instead of being in the men's  
7 faces if they were to escape, would be coming over  
8 their back instead of into their face.

9 Q. So it reversed?

10 A. Well, actually, it went the way they planned. It  
11 might --- now, this is recollection.

12 Q. I understand.

13 A. I wasn't there. I did not take notes.

14 Q. I understand.

15 A. And I could picture in my mind what he was  
16 speaking about. And you know, he said that the air  
17 situation up there was a nightmare, really. You know,  
18 he didn't use the word nightmare, but it was --- it  
19 was tough.

20 Q. They were having difficulties, ---

21 A. Yes.

22 Q. --- would be the best way to assess it, I guess?

23 Okay. So are you aware of any times that the oncoming  
24 shifts were cancelled or delayed due to conditions?

25 Did anybody ever talk about that, one of the miners or

1 Mr. Stone or anybody?

2 A. No.

3 Q. Okay. Did they ever talk about --- did you ever  
4 hear anybody talk about any breaks in the floor and  
5 any methane coming up, any methane outbursts along the  
6 longwall face? Did anybody ever mention anything  
7 about that?

8 A. No.

9 Q. Never heard anything about that? This particular  
10 mine right here, when you look at the map, there's a  
11 three-year gap in longwall production. Mr. Persinger,  
12 or just anybody at the mine, miners, management,  
13 anybody, ever talk about why they had a three-year  
14 gap? Did you ever just hear something in passing, to  
15 the best of your recollection?

16 A. No, I didn't.

17 Q. Never heard anything like that?

18 A. No.

19 Q. And also, if you look at the map right here, you  
20 can see areas of this longwall, particularly on this  
21 panel right here, that they skipped. They skipped  
22 this area. And I see the Black Knight II beltline  
23 comes through here. They skipped from here to here,  
24 and then the last panel, in the sealed area, the  
25 northernmost panel, they skipped from here, you know,

1 down to that beltline. Did anybody ever say why they  
2 skipped? Did you ever hear of a reason? And I know  
3 you weren't at the mine when all that took place, so  
4 that was ---.

5 A. No, sir, I don't recall anyone saying anything  
6 about that.

7 Q. Okay. So none of the miners ever approached you  
8 with concerns about conditions?

9 A. No.

10 Q. How did the miners behave when you were at the  
11 mine? Did they talk to you? Did they seem like they  
12 was a little bit afraid to talk to you? What was your  
13 feeling on that?

14 A. I felt like they were fairly loose around me. I  
15 didn't feel like they were afraid to talk.

16 Q. Okay. What about mine management, foreman,  
17 section bosses, how did they behave?

18 A. I was treated with the utmost respect while I was  
19 there.

20 Q. When you had to issue a citation, did they have  
21 anything to say about any of the citations that you  
22 wrote?

23 A. They just, you know, wondered if it was S&S and  
24 how I came to that, and I don't remember any specific  
25 people, you know, saying anything. You know, I had

1 wrote --- let's see. Gary May once didn't like some  
2 of the verbiage I used in a citation, and that was the  
3 only thing that was ever said ---

4 Q. Okay.

5 A. --- that I can remember.

6 Q. Did he seem like he got really upset over it or  
7 just commented that he didn't feel like that was a  
8 fair assessment or ---?

9 A. He was not --- I mean, he said that's the only  
10 thing he disagreed with, ---

11 Q. Okay.

12 A. --- was those words I used in it.

13 Q. Any time during your inspection did you have any  
14 concerns regarding conditions at this mine? Did  
15 anything really alarm you to where you worried about  
16 it?

17 A. No.

18 Q. Okay. During the last quarter, if I can find it  
19 here, you had ten inspection days that you issued  
20 citations on. There were 32 citations issued during  
21 those ten days. And you issued one on the ventilation  
22 plan for the air reversal. On the 11th you issued  
23 four citations on the beltline. Can we --- on the  
24 11th of January. Can we talk about that date and ---

25 A. Sure.



1 Q. --- what you remember about the beltline?

2 A. Yes.

3 Q. Where were you at in the mine on that date?

4 A. I've got my notes here. One South belt is ---.

5 Q. One South belt. We've got a map here on that. Is  
6 that down in here anywhere?

7 A. Right here is One South belt.

8 Q. One South belt.

9 A. You see it runs out right here, probably where the  
10 citation was at. It's actually not on this map.

11 Q. Okay. So it's going towards the silo and the  
12 portal?

13 A. Yes.

14 Q. Okay. All right. Let's talk about that right  
15 there. You had issued four citations that day for,  
16 you know, different things, stuck belt rollers and  
17 belts rubbing. Was all that just right in there in  
18 that short distance?

19 A. Yes, sir.

20 Q. Okay. What about accumulations along the  
21 beltline? Were they --- did they --- what did the  
22 belts look like? You can start with just the belts in  
23 general in the mine. What were your findings on them?

24 A. Okay. If you look at the area I checked, this is  
25 the only belt that was operating at that time in my

1 area, was One South belt.

2 Q. Okay.

3 A. On the 11th I went from where the section belt  
4 head was at that time to the surface.

5 Q. Okay. And that was the only area you found a  
6 problem in?

7 A. Well, that's the only area of that belt I traveled  
8 that day.

9 Q. Okay.

10 A. And it was all, you know, ---.

11 Q. All right.

12 A. Break 15 to the surface is where I found all these  
13 citations.

14 Q. Okay.

15 A. So it was a troubled area.

16 Q. Yeah. That's a short distance right there. The  
17 rest of the mine, when you were just traveling, you  
18 know, glance over toward the belts, you know, as  
19 you're traveling, everybody does, what was the  
20 condition in general that you just noticed? What kind  
21 of shape?

22 A. Actually, I didn't travel along very many  
23 belts ---

24 Q. Oh, really?

25 A. --- if you look where I traveled. Now, Ellis, you

1 know, I was in a mantrip and I don't even remember,  
2 but you know, you'd look.

3 Q. Yeah.

4 A. If you see a pile of something, you'll notice it.  
5 I don't recall seeing anything like that.

6 Q. The belt over there, though, on the day that you  
7 traveled, on the 11th, you know, what type of shape  
8 would you describe that belt as being in? You said  
9 that was a troubled area.

10 A. There was some rollers had been --- or excuse me,  
11 stands that had gotten old and rusted and cut, where  
12 the belt had rubbed and stuff and it got down and let  
13 the rollers get into the --- accumulations on the  
14 bottom.

15 Q. Yeah.

16 A. That's a lot of problems in a 15-break area.

17 Q. Yeah. Yeah, it is. This mine right here, would  
18 you describe this as a large mine?

19 A. Oh, yes.

20 Q. You know, with a lot of beltline in it; right?  
21 Several miles of beltline?

22 A. Yes.

23 Q. Do you know about how many beltmen they had to  
24 take care of all of that?

25 A. The day I was there, I can only say there was two

1 beltmen on this particular belt.

2 Q. On that particular belt. So do you think  
3 staffing, as far as maintenance, along the outby areas  
4 could have --- might have been an issue?

5 A. I'm sure they'd like to have more people.

6 Q. How come you don't --- did anybody ever mention  
7 why they didn't have more people? Did anybody ever  
8 talk about that?

9 A. They never gave a reason for not having more  
10 people. They just said, you know, that --- and you  
11 know, once again, this is not in my notes. I'm going  
12 by recollection.

13 Q. I understand.

14 A. It seems like they're saying, you know, we're  
15 doing the best we can with what we have.

16 Q. I understand.

17 A. But I didn't notate anything like that.

18 Q. So basically they implied that, you know, they had  
19 all that they were allowed to have to maintain those  
20 areas was their implication?

21 A. I believe that would be a fair statement.

22 Q. Okay. Let's shift gears a little bit. We'll talk  
23 a little more about mine management here. And you  
24 mentioned Mr. Persinger and Mr. May. Did you ever  
25 meet anybody else? I think you mentioned a couple

1 more names there. Did you ever meet anybody else that  
2 was in the management structure of this particular  
3 mine?

4 A. Berman Cornett.

5 Q. Okay.

6 A. The safety director is what I would call him.

7 Q. Okay.

8 A. You know, we just talked in passing a few times.

9 Q. Okay. Did he ever mention anything? Did he ever  
10 seem like he was frustrated or ---?

11 A. In my --- you know, just my take was he was more  
12 concerned about the Ellis side. That's just my take.

13 Q. Did you ever meet Mr. Blanchard or Mr. Whitehead?

14 A. Mr. Blanchard was in the office one day, the same  
15 day I was there, but there was no comments made  
16 or ---.

17 Q. Didn't speak to him or didn't ---?

18 A. We didn't have a conversation, no.

19 Q. Okay. All right.

20 A. And Mr. Whitehead, we probably talked in general,  
21 but nothing really to do with, you know, any problems  
22 at this mines.

23 Q. Okay. When you had your conversations with the  
24 men, you said they were pretty open with you on the  
25 sections. Did they ever express any frustration as

1 far as not getting vacation time or did they ever  
2 seem, you know, like they were being --- you know,  
3 somebody was, you know, talking to them about they  
4 weren't producing enough or ---?

5 A. No.

6 Q. No?

7 A. No.

8 Q. Just a happy bunch of guys, huh?

9 A. Well, you know, they complained a little bit about  
10 not being off, but I think that's, I would say,  
11 typical coal miners.

12 Q. Okay.

13 A. And I like coal miners.

14 Q. Oh, yeah. Absolutely. Let's talk about April  
15 5th. When and how were you notified of the accident?

16 A. I actually saw it on the news, on television.

17 Q. Were you involved in the rescue and recovery  
18 efforts?

19 A. No.

20 Q. No?

21 A. Now, I was on the property, you know, taking air  
22 samples and things like that, but I never went  
23 underground.

24 Q. Okay.

25 A. That's what you mean by rescue and recovery;

1 right?

2 Q. So you were actually on the property, though,  
3 taking air samples?

4 A. Probably starting the 8th.

5 Q. Starting on the 8th. So you arrived on the  
6 property on the 8th. Who contacted you to come to the  
7 mine?

8 A. Mr. Moore, my supervisor.

9 Q. All right. Where did you come to, to take those  
10 air samples? Where were you at?

11 A. Okay. I started at the North Portal on the first  
12 day. And these notes --- let me think. The first day  
13 I went up on the mountain where the boreholes were  
14 being drilled.

15 Q. Okay.

16 A. And they were trying to get the --- they was  
17 needing a report on the depth on the boreholes, ---

18 Q. Okay.

19 A. --- and I was up on top of that ridge.

20 Q. You was up on top of the ridge there, where they  
21 were drilling the boreholes at?

22 A. Yes. And actually, there was no sampling going on  
23 at that time. They were trying to get the boreholes  
24 down.

25 Q. Okay. Who was in charge at the mine site when you

1 arrived?

2 A. Well, I went to the MSHA trailer.

3 Q. Went to the MSHA trailer?

4 A. Yes. And oh, my goodness. I can't think of ---  
5 Mr. Dooley was more or less the guy from Madison that  
6 directed me almost every day after that while I was  
7 down there.

8 Q. Did you see anybody there from the company?

9 A. Just passing by, walking, I saw them.

10 Q. Any idea who was in charge for the company that  
11 day?

12 A. No, sir. I couldn't tell you.

13 Q. Okay. When you were up on the ridge and you were  
14 reporting depths on the borehole, who was you up there  
15 with?

16 A. I was by myself that day.

17 Q. You were by yourself? No company people or  
18 anything?

19 A. Oh, yes, there was company people.

20 Q. Okay. Do you remember any names?

21 A. It may come to me in a little bit. Roger Whitt is  
22 the guy I made contact with on a regular basis.

23 Q. Okay. Now, what does he do for them?

24 A. He works for the engineering company that works  
25 for Mr. --- I think it's Route 3 Engineering. Roger



1 Whitt.

2 Q. So is he an engineer? Is he a surveyor? Do you  
3 know what he does for them?

4 A. I don't know his title.

5 Q. Don't know his title. All right. Did he seem  
6 surprised by what had happened?

7 A. Oh, yes.

8 Q. Did anybody approach you on that day to talk about  
9 conditions in the mine that may have contributed to  
10 this? Anybody say anything?

11 A. No one asked me anything about the conditions.

12 Q. Did any of the miners that you may have come in  
13 contact with, did they say anything?

14 A. At any portion while I was up on that mountain on  
15 this day?

16 Q. Yeah, at any portion. Did somebody --- just at  
17 any portion, while you --- during your time after the  
18 accident that you were on the property, did you hear  
19 --- do you recollect anybody mentioning anything about  
20 conditions or something that may have contributed to  
21 this?

22 A. No. Everyone I talked to seemed to think some  
23 event happened that caused this, and they had not a  
24 clue what it was, you know.

25 Q. So they didn't know what kind of event it could

1 have been?

2 A. No, no one --- no one had --- no one came to me  
3 with anything.

4 Q. Okay. On the 8th, did you go to the field office  
5 before you went to the mine?

6 A. I left from the field office. I'm just concerned  
7 about that date. The 5th was on a Monday; right?

8 A. Yes.

9 Q. It was the 8th. I'm correct about that. Yes, I  
10 was in the field office, and Mr. Moore said they  
11 needed some help out at UBB, yes.

12 Q. All right. How long did it take you to go from  
13 your house to the field office?

14 A. My house to the field office, it's about an hour  
15 drive.

16 Q. About an hour drive. How long does it take you to  
17 get from the office to the mine?

18 A. Usually about an hour-and-a-half.

19 Q. Now, you said you was up on top of the hill on the  
20 8th, you know, while they were drilling the hole.

21 What else did you do during those days after that?

22 Did you --- you mentioned something about air  
23 sampling.

24 A. That was later on down.

25 Q. Later?

1 A. Yes. But I monitored drill holes, the depth once  
2 they got the drill holes down, and they started  
3 checking. I'm getting --- my dates are running  
4 together with me now, but ---

5 Q. I understand.

6 A. --- the way it actually happened was I would go  
7 down there and get my assignment. And if they wanted  
8 me to go to a certain place, that's where I'd go and  
9 I'd check depth.

10 Q. Okay.

11 A. Later I was sent down there after the holes were  
12 drilled and, you know, they had their pumps set and  
13 some of them had fans on them, ---

14 Q. Yeah.

15 A. --- and I was monitoring air and taking samples  
16 and bringing them back to Mount Hope.

17 Q. Okay.

18 A. But that was just a couple of weeks ago when I was  
19 doing that part.

20 Q. Okay. Now, you mentioned Mr. Whitt was --- worked  
21 for Route 3 Engineering. And did Route 3 Engineering  
22 take care of this mine?

23 A. It's my understanding they did.

24 Q. Did you ever meet anybody else from engineering?

25 A. Yes. He stopped by and tried to help me figure

1 out where the holes --- the head engineer for Route 3  
2 is what he introduced himself as, chief engineer. And  
3 if somebody could help me with his name, I'd  
4 appreciate it?

5 MS. CRAWFORD:

6 May I answer?

7 A. Just to see if I've got the same ---.

8 MS. CRAWFORD:

9 Keith Trent.

10 A. No. That wasn't him. I never met Keith.

11 BY MR. STEFFEY:

12 Q. Was the last name Braynard?

13 A. That don't sound right either. How many Keiths do  
14 they got. I don't know.

15 MS. CRAWFORD:

16 It's just your recollection.

17 A. Okay. Let's --- I can't remember his name, ---

18 BY MR. STEFFEY:

19 Q. Okay.

20 A. --- but he --- I'm sure it's on some notes  
21 somewhere that was taken later in the day.

22 Q. That's fine.

23 A. But he stopped by and ---

24 Q. That's fine.

25 A. --- opened up a map. The first day I was trying

1 to find where all these boreholes were, and he was  
2 trying to help me, show me on the map.

3 Q. Was this the first time that you met anybody from  
4 Route 3 Engineering, on the day of the accident?

5 A. To my recollection, yes.

6 Q. Okay. Is there anything else that you'd like to  
7 add, anything that you can tell us?

8 A. No, sir.

9 MR. STEFFEY:

10 That's all I've got.

11 ATTORNEY WILSON:

12 All right. Perry, how are you doing? Do  
13 you need to take a break or ---?

14 A. I'm fine right now.

15 ATTORNEY WILSON:

16 Okay. Terry?

17 EXAMINATION

18 BY MR. FARLEY:

19 Q. Mr. Brown, looking at your notes and following the  
20 interview thus far, is it correct that you did not  
21 inspect the Upper Big Branch Mine last year?

22 A. You mean as an EO1 inspector or ---?

23 Q. Under any circumstances.

24 A. Oh, my goodness.

25 MS. CRAWFORD:

1 Do you remember going down there any at  
2 all before ---?

3 A. Yes, but I don't remember whether it was last year  
4 or the year before last. I have been with MSHA for  
5 two years, and I have been at this mines before.

6 BY MR. FARLEY:

7 Q. Okay.

8 A. And I'm not sure if it was in 2009 or if it was in  
9 2008. I do not remember.

10 Q. You started with MSHA in 2008; is that right?

11 A. Yes, I believe so. Yes.

12 Q. Well, it has to have been within the last couple  
13 years?

14 A. Yes, if it was ---.

15 Q. Okay. Close enough. When you traveled, you  
16 traveled a pretty extensive portion of this mine. You  
17 traveled the seals from around Break Number 75, and  
18 you traveled seal sets 15 through 5. Now, I  
19 understood you to say that some of the controls had  
20 been squeezing out or had been replaced; is that  
21 correct?

22 A. That's correct.

23 Q. Now, can you elaborate on what you think was  
24 causing them to squeeze out, the controls? Would it  
25 have been floor hooving or some other scenario?

1 A. There's nothing in my notes, but I believe it was  
2 floor hooving was probably the culprit.

3 Q. Okay. Now, in the areas where you noticed that  
4 the controls were apparently squeezed out and  
5 replaced, did you notice any cracks in the mine floor,  
6 any visible cracks?

7 A. No, sir.

8 Q. Okay. In the areas --- in these same areas, did  
9 any of the seals show any visible damage?

10 A. No, the seals did not.

11 Q. Okay. Are you familiar with a coal seam which is  
12 underlying the Eagle seam at the Upper Big Branch  
13 Mine?

14 A. No, I'm not familiar.

15 Q. Okay. Reportedly, there is a coal seam 10 to 20,  
16 30 inches below the seam, and that's why I asked the  
17 question.

18 MR. STEFFEY:

19 Feet.

20 MR. FARLEY:

21 Feet. Feet. I said inches. Excuse me.

22 Pardon me.

23 BY MR. FARLEY:

24 Q. As you were walking the area from the 15 seal set  
25 through the five seal set, did you ever have any

1 instances where you felt your eyes burning?

2 A. No.

3 Q. I think he asked you a question earlier about  
4 employees possibly being threatened or loss of  
5 vacation time. And I think your response was that you  
6 didn't exactly remember anybody saying that. But in  
7 your travels in and around the mine office on the  
8 surface did you notice any type of document on the  
9 mine bulletin boards that was addressed to employees  
10 or words to the effect that if production or costs  
11 don't improve, that vacation may be cancelled,  
12 something along that line?

13 A. No, sir, I never saw that.

14 Q. Okay.

15 ATTORNEY WILSON:

16 Jim?

17 EXAMINATION

18 BY MR. BECK:

19 Q. Mr. Brown, you said you were assigned to help  
20 Keith Stone on this quarterly inspection?

21 A. Yes, sir.

22 Q. Why would he need help?

23 A. The size of the mines.

24 Q. Size of the mine. Was that a common practice?

25 A. I've only been with MSHA two years, but ---.



1 Q. Have you ever helped anyone else?

2 A. I don't recall helping anyone else.

3 Q. So a quarterly inspection --- let's say the  
4 quarter of January 1 to March 31st, that's --- that  
5 would constitute a period for a quarterly inspection;  
6 is that right?

7 A. Yes, sir.

8 Q. Okay. Was a quarterly inspection for Upper Big  
9 Branch during that period completed, ---

10 A. Yes, sir.

11 Q. --- as required by law?

12 A. Have you ever had or know of any quarterly  
13 inspections that weren't completed on time?

14 ATTORNEY WILSON:

15 At this mine?

16 MR. BECK:

17 At this mine.

18 A. No, sir, I don't.

19 BY MR. BECK:

20 Q. When you're traveling, making your inspection, and  
21 you come across something that should have been in the  
22 pre-shift exam, for example, a post --- cribs knocked  
23 out or posts knocked out where there should have been,  
24 do you have authority under the law to cite inadequate  
25 pre-shift?

1 A. Yes, sir.

2 Q. Have you ever done that?

3 ATTORNEY WILSON:

4 Again, I'm sorry, are you talking

5 just at Upper ---?

6 MR. BECK:

7 Just Upper Big Branch.

8 BY MR. BECK:

9 Q. Have you ever done that at Upper Big Branch?

10 A. I do not recall writing a citation on inadequate  
11 pre-shift.

12 Q. Would that be just a judgment call or, you know,  
13 are there guidelines to ---? We'll come back to that.  
14 On the airlock doors, what was your assessment of  
15 those again? Were they adequate?

16 A. Adequate was my assessment.

17 Q. Are they required to be fireproof or fire  
18 resistant?

19 A. Yes.

20 Q. Were they at Upper Big Branch?

21 A. Yes.

22 Q. You mentioned a person by the name of Jim Humphrey  
23 or Humphries.

24 A. Jim Humphrey, I believe it is.

25 Q. What was his position with MSHA at the time you

1 mentioned his name?

2 A. Acting supervisor.

3 Q. And you said --- the way I understood you, you  
4 said that he said there were a lot of outstanding  
5 violations at Upper Big Branch and that, you know,  
6 they were going to be given abatement time to give  
7 them enough time to --- give them adequate time to  
8 abate the violations; is that correct?

9 A. Fair abatement time, yes, sir.

10 Q. And how do you determine a fair abatement time?

11 A. By your experience and conditions and the degree  
12 of danger to the miner.

13 Q. Now, is that something MSHA does for every  
14 operator or was that just unique at Upper Big Branch?

15 A. We do that for every operator.

16 Q. Back on March 11th, when you were talking about  
17 the problem with the air reversed at seals 15 --- 8  
18 through 15, I think it was, how long did you say it  
19 took to abate that violation? How much time were you  
20 given?

21 A. I would have to look at my citation to see what I  
22 put on there. I don't recall.

23 Q. But it was more than one day? Or do you think  
24 it's fair to say it was more than one day?

25 A. I could not answer that unless I looked at my

1 citation.

2 Q. Okay. You talked about a conversation with Wayne  
3 Persinger, ---

4 A. Persinger (corrects pronunciation).

5 Q. --- Persinger, who's an official with Massey at  
6 Upper Big Branch?

7 A. Yes, sir.

8 Q. And he said he knew some things he could do to  
9 make some changes to fix the problem?

10 A. Yes.

11 Q. Did those changes that he either proposed or did  
12 to abate the violation require a revision to the  
13 ventilation plan, or did they have to get approval to  
14 do it?

15 A. I would have to talk to Reba to give you the exact  
16 answer on that. Can I have a minute with her?

17 Q. Uh-huh (yes).

18 WITNESS CONFERS WITH REPRESENTATIVE

19 A. They did not have to request a vent change to do  
20 what they did.

21 BY MR. BECK:

22 Q. Why was that?

23 A. That was already in their plan, that they could  
24 split their air or sweep their air, and they went from  
25 split to sweep, and it was already in their plan that

1 they could do that.

2 Q. That change, would that change involve moving more  
3 than 9,000 cfm?

4 A. Probably not.

5 Q. But you don't know for sure?

6 A. No.

7 Q. You made mention that Keith Stone and yourself had  
8 discussed the air at the mines, and Keith said they  
9 had problems around the longwall and the sections in  
10 that area; correct?

11 A. Yes.

12 Q. Was that ever brought up to anyone else in MSHA  
13 about the problem with air, with the other inspectors  
14 or supervisors?

15 A. I'm sure it was.

16 Q. And did you discuss it with any supervisors?

17 A. I did not discuss it, by word of mouth, with  
18 supervisors, no.

19 Q. Now, I believe under the Mine Act that miners  
20 shall be given the opportunity to accompany a federal  
21 inspector, or when there's no authorized  
22 representative, the inspector shall consult with a  
23 reasonable number of miners as to health and safety at  
24 the mine; is that right?

25 A. Yes, sir.

1 Q. How does this generally work with you in your  
2 inspections and how did it work at Upper Big Branch?

3 A. Well, the first day I held a safety meeting, and  
4 as my notes say, approximately 24 people. I gave them  
5 their talk about the miners' rep and that they are  
6 allowed to have a miners' rep or choose a miners' rep  
7 to travel with me. So that was the first day. And  
8 then as I go through the mines, I talk to people and  
9 give them opportunity to express any feeling they had.

10 Q. How do you document that in your notes or --- I  
11 mean, do you put down Miner Number One or Miner Number  
12 Two or --- I mean, how is that accounted for in your  
13 notes that you did?

14 A. On the first day I put down where I did the safety  
15 meeting, how many people and I gave out stickers and  
16 informed them of their miners' rep right. No one came  
17 forward. And after that, I don't believe I have  
18 anything documented in my notes that I talked to  
19 people. It's just --- you know, I go through and make  
20 myself available.

21 Q. And then on your inspection on March the 11th,  
22 back to the air reversal, you mentioned your concern  
23 about it. And Mr. Steffey mentioned that a citation  
24 was issued on, I believe, March 9th for a similar  
25 problem in a nearby area. What's the District's

1 procedure for taking inspectors to where a problem was  
2 found by previous inspections or previous inspectors?  
3 How do you pass this information on or is it passed on  
4 or ---?

5 A. I don't know of a written procedure that they do.  
6 It's by word of mouth with other mine inspectors, and  
7 we come forth with each other if we ---.

8 Q. So it's just it may get passed on, it may not?

9 A. Well, we see each other on a regular basis, and we  
10 will talk about our mines. But as far as having a  
11 regular procedure, I don't know of one.

12 Q. One last question back on --- we talked about  
13 inadequate pre-shifts.

14 A. Yes, sir.

15 Q. I'd ask you to forgive me. This is the first time  
16 I've ever seen inspector's notes like this, but ---.  
17 I'm looking at --- it's from a violation that was  
18 written on February 4th. I guess that's what it is.  
19 But it's noted on here who knew the violation existed,  
20 and your notes say pre-shift examiner. And I was just  
21 wondering why that wouldn't require a violation for an  
22 inadequate pre-shift?

23 A. Which date was that, sir?

24 Q. February 4th. Page nine.

25 A. Page nine?

1 Q. I'm looking at the --- yeah, the violation, I  
2 guess, is 8090269.

3 A. Okay. Yes, that's it.

4 Q. Rib alongside the Number Four section power  
5 center, where persons work or travel regularly, is not  
6 being maintained in a safe condition, area of 15 feet  
7 in length up to five inches in thickness, zero up to  
8 32 inches in height.

9 A. Yes, sir, I'm reading that.

10 Q. All right. And then am I correct in reading the  
11 next page, page ten, where it says who knew the  
12 violation existed, and it says pre-shift examiner,  
13 that refers to that violation; is that right?

14 A. That is correct.

15 Q. Okay.

16 A. And actually, --- go ahead.

17 Q. Was there an inadequate pre-shift written with  
18 this?

19 A. No. And actually what that should have said is  
20 should have known.

21 Q. You're saying pre-shift examiner should have  
22 known?

23 A. Yes.

24 Q. Whether he should have known or he did know, he  
25 didn't write it in the books. Does that make a



1 difference as to whether or not a violation should  
2 have been written?

3 A. Probably not. I just failed to cite it.

4 Q. In your experience with MSHA, is an inadequate  
5 pre-shift cited very often?

6 A. I don't know.

7 MR. BECK:

8 That's all I have.

9 ATTORNEY WILSON:

10 Let's go off the record, and then we'll  
11 come back and finish up.

12 SHORT BREAK TAKEN

13 ATTORNEY WILSON:

14 Okay. Let's go back on. I don't believe  
15 we have any more questions. Terry?

16 MR. FARLEY:

17 No, sir.

18 ATTORNEY WILSON:

19 Then we're done. Thank you very much for  
20 coming in. On behalf of MSHA and the Office of  
21 Miners' Health, Safety and Training, I want to thank  
22 you for appearing and answering questions today. Your  
23 cooperation is very important to the investigation as  
24 we work to determine the cause of the accident.

25 We require that you not discuss your

1 testimony with anyone other than your personal  
2 representative. After questioning other witnesses, we  
3 may call you if we have any follow-up questions that  
4 we feel we need to ask you. If at any time you have  
5 additional information regarding the accident that you  
6 would like to provide, please contact Norman Page at  
7 the contact information that was provided to you.

8 At this time, if you would like to add  
9 anything to the record, I'm giving you the opportunity  
10 now to clarify anything or to make any type of a  
11 statement that you would like to make.

12 A. I have no statement.

13 ATTORNEY WILSON:

14 Okay. And again, thank you for coming in  
15 today.

16 A. Thank you.

17  
18 \* \* \* \* \*

19 STATEMENT UNDER OATH CONCLUDED AT 10:09 A.M.

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1 STATE OF WEST VIRGINIA )

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CERTIFICATE

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



*Brett Steele*