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Transcript of the Testimony of Robert Hardman

Date: June 6, 2010

Case:

Printed On: May 25, 2011

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CONTINUED STATEMENT UNDER OATH

OF

ROBERT HARDMAN

taken pursuant to Notice by Danielle Ohm, 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 Sunday, June 6, 2010, beginning at 2:00 p.m.

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2

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Good afternoon. Today is Sunday, June
5 6th. We are here to continue the interview of Robert
6 Hardman, which was suspended on Friday, June 4. My
7 name is Bob Wilson. I'm with the Office of the
8 Solicitor, United States Department of Labor. With me
9 is Norman Page, the lead accident investigator for the
10 Mine Safety and Health Administration. There are
11 members present from the West Virginia teams. I'll
12 ask that they state their appearance. Celeste?

13 MS. MONFORTON:

14 Celeste Monforton, with the Governor of
15 West Virginia's special team.

16 MR. FARLEY:

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

19 ATTORNEY WILSON:

20 There are some other members of the
21 investigation teams present in the room, so I'll read
22 the following statement, which applies to everyone in
23 the room. All members of the Mine Safety and Health
24 Administration Accident Investigation Team and all
25 members of the State of West Virginia Accident

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

16 Mr. Hardman, I'll remind you that you are
17 still under oath.

18 -----
19 ROBERT HARDMAN, HAVING BEEN PREVIOUSLY SWORN,
20 TESTIFIED AS FOLLOWS:

21 -----
22 A. Okay.

23 ATTORNEY WILSON:

24 And Terry Farley is going to start the
25 questioning this afternoon. Terry?

1 RE-EXAMINATION

2 BY MR. FARLEY:

3 Q. I think when we left off Friday afternoon, we got
4 to a point where we were about to get into the events
5 of April 5th, 2010. So I will ask you if you will
6 please try and take us through those events, beginning
7 from the time of your first notification of some type
8 of problem with the Performance Coal, Upper Big Branch
9 Mine.

10 A. Okay. We received a call from our National Call
11 Center at 3:45 p.m. on April the 5th. And I'm reading
12 from a document that was captured in our office from
13 that notification. And it was --- the company was
14 Performance Coal Company, Upper Big Branch Mine-South,
15 and it came from Donna at our National Call Center,
16 D-O-N-N-A. And it was received initially by Melissa
17 Hinte, H-I-N-T-E.

18 The National Call Center said that the call had
19 been reported by Janet Bowles, B-O-W-L-E-S, and the
20 information transmitted to us at that time was a,
21 quote, unquote, inundation of gas, carbon monoxide
22 gas, 50 to a hundred parts per million, air reversal
23 on the beltline at Ellis Portal. The cause of buildup
24 is unknown. Mine is being evacuated. That was the
25 initial ---. That was the initial notification. At

1 that point, I gathered up a few rudimentary things
2 that I would need, and Mike Dickerson, who is my staff
3 assistant, and I traveled to the mine.

4 We arrived at the mine shortly after 5:00 p.m. A
5 (j) order was initialed verbally. A 103(j) order was
6 issued verbally on the phone at four o'clock. We was
7 able to contact the company by telephone and issue a
8 103(j) order, taking control of the mine.

9 When I arrived at the Ellis Portals of the mine, I
10 initially ---. I initially stopped at the UBB bridge,
11 where you travel to the mine itself, to see where
12 would be the best location to start this, and it was
13 Ellis Portal. It was apparent that --- at that time
14 that there had been some injured brought out of the
15 mine. I traveled to the Ellis Portals and again there
16 --- I arrived there shortly after 5:00 p.m. I don't
17 have that exact time, but I modified the (j) order to
18 a (k) order at 1720 hours on the 4th and the 5th and
19 issued that to --- verbally to Elizabeth Chamberlin.

20 When I assessed the situation there at Ellis
21 Portals, there were six confirmed dead on the surface
22 and three injured.

23 Q. Had the injured people been transported when you
24 arrived, or do you know?

25 A. I can't say they were --- whether they had been

1 transported when I arrived or not. The ambulance
2 crews --- the ambulance crews were there and in the
3 process of transporting the --- I'm certain --- I'm
4 pretty certain that they were, and they were staging
5 to transport the confirmed dead. And I went from
6 there --- I started back to north/south portals. I
7 left Mike Dickerson there, at the Ellis Portal
8 location. At that time there was no power or
9 communication. I met Kevin Stricklin on the way down
10 the mine road from Ellis Portals to the main road, and
11 he followed --- he followed me to the mine.

12 MR. PAGE:

13 About what time was that?

14 A. Well, it was shortly after ---. It was shortly
15 after 1720. I did this assessment, Norman, of what I
16 had and made the determination to leave Mike there and
17 I'd go to the main portals. But that would have been
18 --- that would have been shortly after 1730 hours,
19 because I have a modification --- another modification
20 here, when I reduced it to writing, at 1730, so it
21 would have been shortly after that point in time. And
22 at that --- when I arrived at the north/south portals,
23 I started the normal protocol of organizing a command
24 center, directing that a check be made of the mine,
25 get all the power off going underground. Made sure

1 that we had all the power circuits deenergized, and
2 then we start --- we began the thrust of the
3 rescue effort ---.

4 BY MR. FARLEY:

5 Q. Would it be correct that you assumed the role for
6 MSHA at that point?

7 A. Yes.

8 Q. Who would have assumed the role for the Massey
9 people at that point?

10 A. Chris Adkins, who's --- I think he's a
11 vice-president of the company, of Massey. I think
12 that's his title. He's chief operations officer for
13 underground mining.

14 Q. Was a state representative from Miners' Health,
15 Safety and Training ---?

16 A. Yes. And I believe at that point in time it might
17 have been Steve Snyder. I don't have a note to that,
18 but there was a State representative there either when
19 I arrived or shortly thereafter.

20 Q. Please continue at your own pace.

21 A. The initial assessment of mine gases and things
22 were --- I had CO at Bandytown fan. The exact CO in
23 parts per million was pretty hard to establish because
24 --- because it was above 3,000. I'll put it that way.
25 We viewed that to be somewhere --- it was above --- I

1 was confident it was above that because we were a
2 little bit --- it was a little bit tough to get in
3 there because of the amount of CO that we had. And
4 this mines was a 103 mine, so I expected to have some
5 methane in the return air. And near as I could tell
6 on the initial assessment, we had somewhere in the
7 neighborhood of four-tenths of a percent methane.
8 Now, that's with a handheld. The accuracy of that
9 would be very debatable, meaning you can take away
10 methane, but you can't create it, so ---.

11 MR. PAGE:

12 Was there anyone underground?

13 A. Yes. There were ---. And I never did get a
14 handle initially, Norman, on how many we had
15 underground. But there were bare-faced people
16 employed by Massey underground in the mine.

17 MR. PAGE:

18 Do you have any idea what time they went
19 in or was someone from Massey ---?

20 A. They went in initially. There were no records
21 that's I could determine. Now, I won't say there
22 weren't any, but I wasn't made aware of any. And they
23 went in initially after the event occurred.

24 MR. PAGE:

25 Okay.

1 A. No, I think the fan chart showed us this event
2 occurred somewhere around 3:02, 1502. And again, they
3 said --- they reported to me as --- as 1527 hours.
4 But I did determine that there were people that went
5 underground from the Ellis Portal side, I believe.
6 They went underground, I do know that, right after the
7 event occurred.

8 MR. PAGE:

9 Do you know who they were?

10 A. Again, I don't know exactly who they were. I
11 think it was Jason Whitehead and Chris Blanchard are
12 the two that I believe were in there. And there
13 may --- I'm certain there were others, but Norman, I
14 don't know who they were.

15 MR. PAGE:

16 Okay. You don't know if they had
17 apparatus or not or ---?

18 A. No. I don't know that to be a fact. I was under
19 the assumption at that time that they were bare-faced
20 with SCSRs.

21 MR. PAGE:

22 Okay.

23 A. And I can say that with a degree of certainty, but
24 I can't say that absolute. One of the two actually
25 drove to portal us out with --- to the Ellis Portal

1 with the six deceased and the three injured. They
2 went in and --- they went in and brought 'em out on a
3 bus, is my understanding.

4 MR. PAGE:

5 One of those two guys did?

6 A. It's my understanding. Again, I can't say that
7 with absolute certainty.

8 BY MR. FARLEY:

9 Q. For the time you had the command center set up,
10 were there rescue teams underground then?

11 A. We did have --- I modified the (k) order shortly
12 after I left the top of the hill to allow two mine
13 rescue teams to enter the mine to 35 Crosscut.

14 Q. I'm sorry, what was that time?

15 A. That was --- that was 1730 hours.

16 Q. Okay.

17 A. To allow two teams to enter the mine to travel to
18 35 Crosscut.

19 Q. Please continue at your own pace.

20 A. Let me get some of my notes here. Thirty-five
21 (35) Crosscut, we determined that the air quality
22 there would allow us to explore further inby, and at
23 1815 hours I modified the (k) order to advance totally
24 to 78 Crosscut.

25 MR. PAGE:

1 Who was underground? Who went
2 underground?

3 A. We had two Massey mine rescue teams go in the
4 mine.

5 MR. PAGE:

6 Okay. Any MSHA people?

7 A. At that point in time, we had --- we sent Fred
8 Wills in to fresh air base, but when we left Mount
9 Hope and when I got to the mine and seen what actually
10 happened, ---

11 MR. PAGE:

12 Uh-huh (yes).

13 A. --- Norman, I asked for all the people as quickly
14 as I could get 'em to the mine.

15 MR. PAGE:

16 Sure.

17 A. But Fred wills was our first MSHA person to
18 go ---.

19 MR. PAGE:

20 Did he go in with those teams?

21 A. Hold on just a second and let me think. He
22 went ---.

23 MR. PAGE:

24 Crosscut 35 was the fresh air base.

25 A. I need to see when Fred arrived on the site. I

1 got it.

2 MR. PAGE:

3 You probably said it. I was writing.

4 A. No, I didn't --- didn't refer to it. But I had
5 Fred Wills, Jerry Cook and Mike Hicks, D4 --- Jerry
6 and Mike are Mine Rescue Team members from D4 ---.

7 MR. PAGE:

8 Okay. Fred is?

9 A. Fred is the field office supervisor ---

10 MR. PAGE:

11 Okay.

12 A. --- in Mount Carbon, in the Mount Carbon field
13 office.

14 MR. PAGE:

15 Okay.

16 A. And I can say with certainty, on to 35 Crosscut,
17 we did not have an MSHA representative with us at that
18 time.

19 MR. PAGE:

20 Okay.

21 BY MR. FARLEY:

22 Q. Do you know if any State people were underground
23 by this time?

24 A. Now that, I can't answer. To my knowledge, I
25 cannot answer that, Terry.

1 Q. That's fine. At 7:05 p.m. we had two full State
2 teams at the mine. We had a total of nine teams at
3 the mine. Initially, when --- and I'll back up a
4 little bit in this series of events. After I
5 determined to me it looked like we had --- we had had
6 a massive mine explosion, I asked the company to make
7 contact with drilling operations and get all the
8 drills and dozers in that they possibly could. And at
9 --- roughly 7:05, we had one drill within 30 minutes
10 away. We had two dozers pretty close to the mine.
11 And one dozer was coming with that single drill that
12 was 30 minutes. So the drills were starting to show
13 up and ---. And I do have an indication in my notes
14 that at 7:10 p.m. Steve Snyder from the State was ---
15 was there at the mine. Now, I have referenced at that
16 time, at 7:10 p.m., that Whitehead and Blanchard I
17 referred to earlier, it was Chris Blanchard and Jason
18 Whitehead, if I recall, were in the mine, and we were
19 trying to track him down and get them out of there.

20 Q. Have you read any reports by them of any of the
21 bodies found, other than the initial six?

22 A. We had --- and I'll have to look and see exactly
23 what --- if I got a note here on what time. There
24 were --- we initially found one body at the Mother
25 Drive of the longwall, and it was initially reported

1 out that there were two, which later there was the
2 third one in the headgate entry going to the longwall.

3 MR. PAGE:

4 So the fresh air base is at 78 now; am I
5 correct?

6 A. Fresh air base --- we were trying to call for a
7 fresh air base at 78 at 7:05.

8 MR. PAGE:

9 Okay. So that's with Fred, Jerry Cook
10 and Hicks? That's where they went with the team?

11 A. I know for sure ---. I know for sure Fred. Fred
12 went to --- and Jerry Cook and Mike Hicks went into
13 the mine with the teams representing Monroe's unit.

14 MR. PAGE:

15 Okay.

16 A. I'll look and see. The first indication that I
17 gave, that Fred --- gave a direction to Fred, we'll go
18 to the fresh air base with the teams at 7:20 p.m.

19 It's in the notes. At 7:26 p.m., Break 15, on the
20 Mother Drive, that was where they all three --- three
21 victims --- two initially, and then the third one.

22 They walked past them. So it was reported around 7:26
23 p.m. that ---.

24 MR. PAGE:

25 About that time, Bob, you know, you got

1 that fresh air base and everything set up. Did ---
2 and believe me, I've been in your shoes, so I know how
3 it is you get it started. Have you figured out who
4 all was underground from the company you said that
5 went in prior to you even getting in?

6 A. We did ---. We did figure out at --- let me back
7 up here. Whitehead and Blanchard were the two that
8 were trying to find that were unaccounted for,
9 underground. We were looking.

10 Q. So to your knowledge, that's the only two?

11 A. That's the only two that I have knowledge of.

12 Q. Okay.

13 A. Yeah.

14 Q. Those others had gone outside?

15 A. And they had went --- they had went off the deeper
16 end into the mine.

17 Q. Do you recall if they reported to the command
18 center what the extent of their explorations might
19 have been at that point.

20 A. I have it in here. I'll have to go back and
21 search it out. I do know that --- that Whitehead was
22 open-faced and a notation that I made was
23 Whitehead --- Break 15, three victims in the track
24 entry. At the longwall, the SCSR sled had --- was
25 empty. We thought that perhaps if the crew up there

1 had donned rescuers or --- and had grabbed the ones
2 off of the sled, but we later found out, of course,
3 that wasn't true. At 724 they called out severe
4 damage on tail side ventilation controls. They found
5 Whitehead on the tail side of the face.

6 MR. PAGE:

7 Tail side? Are you saying --- where's
8 the tail side at?

9 A. I'm ---.

10 MR. PAGE:

11 Is it at the face, tailgate, is that what
12 you said?

13 A. It would be tailgate, but I don't know whether he
14 was at the face. He was on the tailgate side of the
15 wall.

16 MR. PAGE:

17 Okay. I just wondered how far --- how
18 close he was.

19 A. But at 7:10 p.m. we gave the directive to the mine
20 rescue crews in there to look for Whitehead and
21 Blanchard.

22 BY MR. FARLEY:

23 Q. As far as you know, did Blanchard and Whitehead
24 travel together up to this point?

25 A. I have no idea. Only thing --- the only thing

1 that --- Terry, that I knew, that they were inby and
2 had been in there evidently since this event occurred,
3 off and on. I can't say that they were continuously,
4 but ---.

5 MR. PAGE:

6 But probably was from the time that you
7 started, until the time you arrived?

8 A. Yeah. I would say that's probably ---.

9 MR. PAGE:

10 I mean, that's the way I took it.

11 A. Probably --- that's probably a fair statement. I
12 can't verify that accurately a hundred percent.
13 Shortly after 7:26, in that range, in that
14 neighborhood, there's a notation in the log that seven
15 --- seven deceased had been located. And by names it
16 was William Lynch, Carl Acord, Benny --- I can't
17 recollect his name, Clark, Atkins and ---.

18 BY MR. FARLEY:

19 Q. Are you referring to the seven individuals from
20 the mantrip that had been brought out at the Ellis
21 Portal?

22 A. This is just in notes in the log. And again, at
23 that time, around 7:26, it was called out that there
24 was severe damage to controls on --- no. Excuse me.
25 It said been to the head and tail --- most severe

1 damage on tail.

2 MR. PAGE:

3 Who called that out?

4 A. That was called out from the inside. And I don't
5 have who called it out, but Chris Adkins was the one
6 that received it from ---.

7 MR. PAGE:

8 Did he say who was the one that reported
9 it to the fresh air base?

10 A. No.

11 BY MR. FARLEY:

12 Q. Bob, by 7:30 you were ---.

13 A. Let me say this the best I can answer it is, a
14 conversation was, are you two okay? So that was Chris
15 Adkins, are you two --- are you two okay? So you can
16 take that for what it is, that possibly could have
17 been ---

18 MR. PAGE:

19 Blanchard and Whitehead.

20 A. --- Blanchard and Whitehead on the phone.

21 MR. PAGE:

22 Okay.

23 A. Now, we were still having some --- at that point
24 in time, we were still having some difficulty with
25 communications, and particularly being able to page

1 all the time.

2 BY MR. FARLEY:

3 Q. At what point were the --- was the use of headsets
4 by folks in the command center starting?

5 A. Terry, I can't answer that honestly. I know they
6 did arrive. And at some point ---. At some point, we
7 were able to utilize those, but at this time they were
8 not available.

9 Q. Okay.

10 A. And we moved to the other end of the building and
11 the big --- a bigger room, you know, when those did
12 --- those did arrive.

13 I have a note here that --- and I'll correct my
14 statement earlier, Norman, about who brought these
15 people out. Wayne Persinger was in the mine. It says
16 Persinger, and that would have been Wayne Persinger,
17 said brought out six deceased, one in shock. So that
18 would have been Persinger. It said, same conversation
19 in and around 7:26 p.m. I don't have an exact time to
20 indicate, but ---.

21 MR. PAGE:

22 So those would leave them still in the
23 mines?

24 A. Yes. And the conversation at that point in time
25 was the severity of the injuries and ---. And around

1 that point in time Keven --- Kevin Stricklin,
2 Administrator for Coal Mine Safety and Health, went
3 down with the families. And we were --- we were
4 trying to come up with numbers at that point in time,
5 the ones we had found, for him.

6 Danny Spratt brought those phones, Terry, in and
7 around 7:38 p.m. We were notified that they were
8 available. And the statement was have phones, can use
9 for headphone systems, won't have to hold phone. So
10 that was ---. Also at 7:38 p.m. Eugene White notified
11 us that they had two teams, fully equipped and ready
12 to go. Bill Tucker was also there. We were still
13 trying to look --- trying to find --- I got a note
14 here that Steve Stider, he was still trying to find a
15 list of the deceased, some sort of a list that we
16 could start giving Kevin information. I have a
17 notation that this would have been --- this would have
18 been 7:15 that --- I'm going to try to locate that
19 here in a second. At the --- at the fresh air base,
20 78 Crosscut.

21 MR. PAGE:

22 Well, as of right now, we've made ---
23 somebody's made it up to the head and the tail. Is
24 that where we're at?

25 A. Yes. And we've been in the area of the head side

1 and the area of the longwall.

2 MR. PAGE:

3 The fresh air base is 78?

4 A. Seventy-eight (78) Crosscut.

5 MR. PAGE:

6 And Blanchard and Whitehead are probably

7 still inby.

8 A. We talked --- we talked to those guys again up

9 here. I had that earlier.

10 MR. PAGE:

11 Chris Adkins talked to 'em.

12 A. Also, they're still in the mine because at eight

13 o'clock there's a reference here in the notes that

14 said Chris and Jason had gone to the longwall. Please

15 notify our families okay. Please call Jason and

16 Chris' wife and tell okay. So that was at eight

17 o'clock. And I have a notation here in the notes at

18 7:45 from the command center notes that would be taken

19 by MSHA that there was a call, hello, Jason, hello,

20 Chris, fresh air base.

21 Shortly after 8:00 p.m., and I'll say it was

22 between eight o'clock and 8:07, we sent four rescue

23 --- mine rescue teams in. Federal, two --- two teams

24 and Patriot, two teams.

25 BY MR. FARLEY:

1 Q. I want to make sure I heard you correctly. You
2 said four teams? You mean four teams entered around
3 8:00, 8:07 p.m.?

4 A. Yeah, that's correct. Again, two of those were
5 Federal and two of those were Patriot.

6 MR. PAGE:

7 So we got six teams underground?

8 A. No. I won't say that, Norman.

9 MR. PAGE:

10 You got four?

11 A. At 8:40 I have an indication that the team members
12 --- the teams exploring inby the fresh air base at 78
13 Crosscut to Headgate 22.

14 MR. PAGE:

15 Okay.

16 A. And I have an indication in the notes that phone
17 lines are being run, you know, to the Mother Drive.
18 And at 9:07 the fresh air base is located at 98
19 Crosscut. At 9:12, four crosscuts from the Mother
20 Drive, there were no air quality problems, and that
21 was from the Knox Creek team, because the Knox Creek
22 team was in the mine at that time also.

23 BY MR. FARLEY:

24 Q. In the command center, were any individuals
25 designated to take notes?

1 A. Yes. At this point in time, Reba Crawford, for
2 our agency, took notes. And I don't know who else ---
3 you know, I was --- you know, I'm looking at her notes
4 here.

5 Q. And by this time, were many people in and out of
6 the command center?

7 A. There were a lot of folks --- there were a lot of
8 folks there at this point in time. The air quality at
9 98 Break was 20.8 oxygen, .05 methane and no CO, zero
10 parts per million CO.

11 MR. PAGE:

12 Let me ask you a question, Bob. When
13 they moved the fresh air base up and they got
14 established, what was the procedure when they sent
15 teams inby versus backup people and things like that?
16 Do you have any idea or was that controlled
17 underground?

18 A. No, it was being controlled from the command
19 center, Norman.

20 MR. PAGE:

21 I've seen it done both ways.

22 A. Yeah. I mean, you know, I'll just say this, that
23 we did have a backup team at the fresh air base to
24 back up each team that was controlling --- that was
25 exploring the mine. That was standard protocol.

1 MR. PAGE:

2 Okay.

3 A. At 9:22 we had two more teams going underground.
4 Bill Tucker went in for the State. We had --- one of
5 those two teams was the Black Team, ICG. And we had
6 Carl Baisden from Southwestern Community College, was
7 at the mine at that time, and we --- and he had two
8 EMTs. And we decided to take Carl Baisden and the EMTs
9 to the fresh air base.

10 MR. PAGE:

11 They had not made the longwall face yet?

12 A. I don't think so, not that I can see. I know we
13 went through the --- we went in the longwall face.

14 MR. PAGE:

15 I'm just trying to keep up, Bob.

16 A. Yeah. We went in the longwall face, but I need to
17 --- because we split at that --- near that point in
18 time, and we started exploring up Seven North, a
19 45-degree angle on the map.

20 MR. PAGE:

21 Do we want to take the map and mark where
22 the fresh air base was and then ---?

23 A. You can if you want.

24 MR. PAGE:

25 Just to keep up with you a little bit.

1 ATTORNEY WILSON:

2 Let's go off the record.

3 OFF RECORD DISCUSSION

4 ATTORNEY WILSON:

5 We've got a map out. We'll mark that as

6 Hardman Exhibit --- I believe it's Number Six.

7 (Hardman Exhibit Six marked for

8 identification.)

9 ATTORNEY WILSON:

10 If you can just mark fresh air base,

11 F-A-B, at 98 Break of the Six North belt entries.

12 WITNESS COMPLIES

13 MR. PAGE:

14 Did you have any teams inby the front

15 belt, inby the fresh air base?

16 BY MR. FARLEY:

17 Q. We're about 9:22 p.m., I believe.

18 A. Okay. We are preparing to explore and exploring

19 towards the longwall and from this 98 --- 98 Crosscut

20 fresh air base. I have --- at that point --- at that

21 point the decision was made to explore inby toward

22 Headgate 22 section and explore in towards the

23 longwall head and tail from that point. We --- they

24 reported --- they reported out ---. Let's get a time

25 here, okay, exact time. We started getting reports

1 out concerning damage in the mine and they started
2 reporting out some of the damage that they had seen.
3 Ninety (92) Break, said that the controls were damaged
4 and ---. Whitehead had been up earlier to the
5 longwall, and the question was asked, is there a lot
6 of soot, and Whitehead responded some. Said that
7 there was a sled that had been moved from a crosscut,
8 an S1P2 sled. Tail side stoppings blown out. Again,
9 tail indicated more damage than the head. The
10 question was asked to Whitehead, any airflow on the
11 head? He said, yes, inby on the head at 20.8 oxygen,
12 zero CH4, and he said that the CO pegged.

13 Q. At the headgate?

14 A. That was when we were --- it says any airflow on
15 the head, and that's where he had been, and that's
16 where he had --- no methane, but we had CO and ---.

17 MR. PAGE:

18 So right now we've got Whitehead and
19 them's been up to the tail?

20 A. I know for sure at this point in time we
21 established that they'd been up on the head side. And
22 the --- earlier the notes say that they were on the
23 tail side.

24 MR. PAGE:

25 Okay.

1 A. It appears from the notes that we have on the ---.

2 MR. PAGE:

3 I don't mean to back you up, Bob, but do
4 we know about what time --- do you have it down about
5 what time that we found out about this and about what
6 time that you found that Whitehead and ---?

7 A. Yeah. Hold up just a second.

8 MR. PAGE:

9 Could we mark it?

10 A. Yeah, that's fine.

11 MR. PAGE:

12 Okay.

13 A. Do you want to go off for just a second and let
14 me ---?

15 ATTORNEY WILSON:

16 Sure. We'll go off the record.

17 SHORT BREAK TAKEN

18 ATTORNEY WILSON:

19 Back on the record.

20 A. You asked me before we took a break, Norman, to
21 repeat the information that I referred to earlier
22 concerning the tail side of the longwall. And in the
23 command center notes the ---. At 8:18 p.m. there was
24 an update called out by Jason Whitehead, and it
25 started --- the questions from Chris Adkins in the

1 command center was --- the question was, a lot of soot
2 on the longwall or not? Whitehead replied, some.
3 Can't see. The indication was --- Chris Adkins had
4 repeated the conversation that came out, tail side
5 stoppings blown out, head and tail. Tail more damaged
6 than head or less? That was a question. Whitehead
7 replied, more. And that was --- that was the
8 conversation, again, at 8:18 p.m. and indicated that
9 Whitehead had made an assessment on the tail side of
10 this longwall.

11 MR. PAGE:

12 Care to mark that?

13 ATTORNEY WILSON:

14 That comes out clear on the record, but
15 you can go ahead and put that in.

16 A. Well, at 8:18 all it was, was Whitehead.

17 WITNESS MARKS MAP

18 MR. PAGE:

19 Okay.

20 ATTORNEY WILSON:

21 Okay. Can you just read what you wrote
22 on the map?

23 A. Okay. At 8:18 p.m. Jason Whitehead, J. Whitehead,
24 indicated, more damage on the tail side controls than
25 on the head side.

1 ATTORNEY WILSON:

2 Thank you.

3 MR. PAGE:

4 Thanks, Bob.

5 A. But it said earlier on the fresh air bases at 98
6 Crosscut and four breaks from the Mother Drive. The
7 Mother Drive would be here.

8 WITNESS MARKS MAP

9 ATTORNEY WILSON:

10 We've indicated on Exhibit Six Mother
11 Drive.

12 A. And circled it.

13 ATTORNEY WILSON:

14 And circled it. And that's between 101
15 and 102 Crosscut.

16 MR. PAGE:

17 Do they indicate any air movement or
18 anything at the head ---? I guess somebody said more
19 damage or something.

20 A. Yeah, more damage. Let me go back in here exactly
21 at the reference to ---. I said that earlier, that we
22 had had CO and no methane pegged the detector, and I'm
23 almost certain that was the Solaris detector.

24 REVIEWS NOTES

25 BY MR. FARLEY:

1 Q. By 9:30, you account for --- you would have had, I
2 think, 11 confirmed fatalities, is that the right
3 number?

4 A. I'd have to --- about 9:36 --- at 9:36, the
5 command center records show that we were trying --- we
6 were trying to figure out that number. And I made a
7 statement on the command center notes, 14 fatalities
8 and one which had been transported died. And Chris
9 Adkins made the statement, seven original, three found
10 in the longwall, and one just found. So we were
11 trying to come to terms with what we had. And then at
12 9:42 we were still working on that. Chris Adkins made
13 the statement, Jamie, how many confirmed dead inside?
14 So we're still --- we're still trying to come to grips
15 with this information that had come from the inside
16 before we --- before we called Kevin or anyone.

17 We had ---. Chris Adkins made the statement ---.

18 I'm trying to add these things back up shortly
19 thereafter six on the mantrip, one in the hospital,
20 three on the track and one at the Mother Drive.

21 Q. I believe it's 11 by that time?

22 A. Near as we could tell, according to his count of
23 what had been brought out. Knox Creek had been
24 exploring up Six North belt, Seven North belt, as
25 indicated on the map. And this is the area on the map

1 called the Glory Hole, ---

2 Q. Uh-huh (yes).

3 A. --- which it's shown on the map the exact location
4 of the Glory Hole. And that Glory Hole is located ---
5 located on the map, between 125 and 130, by crosscut
6 numbers.

7 Q. Okay.

8 A. And the record shows that at 9:48 p.m. the Knox
9 Creek team is two breaks from the Glory Hole, and they
10 have 50 parts per million CO and they were going under
11 apparatus. Also at that time, Bandytown, at 9:45,
12 right near that time, the CO that was called out to us
13 was 4,050 parts per million. The CH₄, unchanged, and
14 20.02 oxygen. At 9:59 the record shows --- command
15 center notes show that three bodies were found on the
16 longwall at 67 plus 0. And I'd have to look on the
17 map to see if it's referenced --- if it's referenced
18 here anywhere. This map does not contain that, but it
19 runs from 55 plus 0, 60 plus 00, 65 plus 00, with
20 those numbers headed towards the longwall Mother
21 Drive, sequentially greater. I don't see that one on
22 the map, 67 plus 00. But that's the distance here.
23 It appears to be the same distance if you scaled it,
24 from 55 plus 00 to 60 plus 00, to 65 plus 00, that 67
25 would be somewhere in this neighborhood here on the

1 map (indicating).

2 MR. PAGE:

3 Would you say it's pretty close to where

4 they have marked --- approximately put in and marked

5 the longwall stop ---?

6 A. In that area.

7 MR. PAGE:

8 In this area, approximately?

9 A. Yeah.

10 BY MR. FARLEY:

11 Q. Now, would that be the three miners that we ---

12 that had already been confirmed?

13 A. See, that's what --- that was the confusion at

14 that time, Terry, when I said --- when I said 14 ---

15 Q. Uh-huh (yes).

16 A. --- and was still trying to iron it out, you know,

17 that they found these three. And totaling up what we

18 had before, are these three different victims or are

19 they the ones that we discovered before? And then at

20 10:05, the reference is, getting info but should be

21 the same three we know about. So that indicates

22 they're still trying to sort that out. Also around

23 10:05, at the mouth of Headgate 22, we have 122 parts

24 per million CO, 20.7 O2 and no CH4.

25 At 10:12 --- excuse me, 10:15, we have 35 --- 50

1 parts per million CO at Bandytown, 20. 02 and four-
2 tenths CH4.

3 Q. Sure.

4 A. At 10:14, four breaks inby 67 plus 00, which we
5 referred to earlier, would have been the stop ---
6 longwall stop point. The team with Rob Asbury, which
7 would have been a Massey team, indicated 20.8 O2, 35
8 parts per million CO, and 0.0 CH4. At 10:22, the Knox
9 Creek team called out 774 parts per million CO, 20.2
10 O2 and zero percent CH4. They took that near the
11 Glory Hole. They had advanced up near the Glory Hole
12 and called those readings out. And at that point in
13 time, 10:22, there was still time to figure out these
14 numbers of fatalities, persons unaccounted for.

15 At 10:35 Bill Tucker from the State called out.

16 He was with the ICG team, they were at 80 --- or 78
17 Crosscut, moving up the track to 98. And at that
18 time, they indicated --- they called out that 78 Break
19 was as far as anyone could go on a ride on the track.
20 The track was blocked by debris at that point. At
21 10:39 Eugene White from the State called out their
22 teams had made the crossover. This is called the
23 crossover.

24 Q. Okay.

25 A. And they called out 20.2, three parts per million

1 CO and no CH4. Requested permission to advance
2 further and permission is granted. At 10:30 we've got
3 an update on Bandytown. The CO had dropped to 2,800
4 parts per million. We had .4 CH4 and 20.4 O2.

5 MR. PAGE:

6 So we got two mine rescue teams. You got
7 the one team with that Asbury and you got the Knox
8 Creek team?

9 A. That's correct.

10 MR. PAGE:

11 Okay.

12 A. At 10:47 p.m., Rob Asbury, which is a Massey team,
13 they still were in air sufficient to explore bare-
14 faced, and they had discovered one body at the stage
15 loader.

16 MR. PAGE:

17 All right.

18 A. At 10:55 p.m., we're still trying to figure out
19 the count. And the --- the people that were in there,
20 and as near as we could tell, at that point in time we
21 thought there was seven on the longwall and counted
22 four. At 11:00 p.m., we were talking --- we were
23 talking about the SCSRs out there on the longwall, and
24 all the SCSRs were out of the box. The box was open
25 and all SCSRs were gone.

1 BY MR. FARLEY:

2 Q. And that's on the longwall face?

3 A. That's up there near the longwall.

4 Q. Okay.

5 A. And at that time we had thought that these miners
6 had donned rescuers.

7 MR. PAGE:

8 What time was that, Bob?

9 A. Let me back up. That's at 11:00 p.m.

10 MR. PAGE:

11 Okay.

12 A. Also at 11:00 p.m., we got another Bandytown fan
13 update. The CO had dropped to 2,000 parts per
14 million. CH₄ had bumped up a tenth of a percent to
15 .5, and 20.1 O₂. And we're up in the area now where
16 we're starting to really concentrate on chambers. We
17 had checked chambers as we went by in the mine, but
18 now the conversation is really shifting to the
19 chambers in that area because we had that box of self-
20 rescuers appear to be --- the miners had opened that.

21 MR. PAGE:

22 Did they say --- is that what he said,
23 the box was open, Bob, and ---?

24 A. He said the box was open and the rescuers were all
25 gone.

1 MR. PAGE:

2 Okay.

3 A. We were switching out ---. We were switching
4 teams a little bit up on Seven North area, up there
5 towards Headgate 22. Knox was coming back to the
6 fresh air base and we put another team in their place.

7 At 11:10 Eugene White had completed --- and that
8 team had completed the crossover, and they wanted ---
9 they requested to explore the tailgate. They reported
10 out 20.9 oxygen, no CH4, three parts per million, at
11 the section head to Tailgate 22. Tailgate 22 is the
12 short section on this map here.

13 MR. PAGE:

14 That's MMU 40?

15 A. MMU 040-0, as indicated on the map.

16 MR. PAGE:

17 Okay.

18 A. At 11:10, also the command center notes show that
19 Asbury and that team going across the longwall face.

20 MR. PAGE:

21 Is that the Black Team or is that ---?

22 A. That would be ---. That would be Asbury. That
23 would be Asbury and his team, which was the Massey
24 team, got in that area. Eugene White had left Fresh
25 Air Base 98, and he was taking care of the crossover

1 area and all of this area in here (indicating).

2 MR. PAGE:

3 Why? That's a main. That's not what

4 they called the team.

5 A. No, no. That's Eugene White with the State.

6 MR. PAGE:

7 Okay. I got confused. So they were ---

8 Eugene was kind of like the MEU guy for MSHA that

9 travels with a team?

10 A. Eugene --- Eugene is the supervisor for the State.

11 And I think Ed Chapman and ---. I don't know what ---

12 I really don't know what his function as far as mine

13 rescue is on the ---.

14 MR. PAGE:

15 Yeah. I was just --- okay.

16 A. They looked for the chamber at 11:13 and didn't

17 find the long longwall. This is Asbury, Rob Asbury,

18 didn't find chamber and had not been deployed on

19 longwall. I don't know what that statement means.

20 But he had not found any chambers --- chambers

21 deployed.

22 MR. PAGE:

23 Okay. Do you know if Whitehead and

24 Blanchard --- were they still underground or ---

25 A. Yes.

1 MR. PAGE:

2 --- they went out? They were still
3 underground?

4 A. Yes.

5 MR. PAGE:

6 The fresh air base?

7 A. Yes. At 11:20, the team was one break inby the
8 overcast on Headgate 22, headed towards the section.
9 This would be this team up here (indicating). And
10 there was --- I don't know which overcast they're
11 referring to. I think it's this overcast right here.

12 MR. PAGE:

13 Knox Creek ---?

14 A. Yeah.

15 ATTORNEY WILSON:

16 And you're referring to the overcast just
17 at the mouth of the Headgate 22 section?

18 A. Yes, that's what I'm saying, that in all
19 probability, with what's the case --- the notes just
20 reflect one break inby the overcast on Headgate 22,
21 headed towards the section.

22 ATTORNEY WILSON:

23 Okay.

24 A. At 11:15 p.m. we got an update on Bandytown fan.

25 The CO had dropped to 1,515 parts per million, 20.7 O2

1 and two-tenths, .2, CH4. Also, at roughly that same
2 time we had 13 teams outside. That was the total of
3 all of them. And that does include backup teams. We
4 had 13 total teams outside at the mine.

5 At 11:27, they called out. They called out and
6 gave us an air quality update three breaks inby on the
7 Headgate 22 panel. That would have been ---. That
8 would have been in that area right there. That update
9 was 14.702, 8,676 parts per million CO, and 3.3
10 percent methane.

11 MS. MONFORTON:

12 Should we mark for the record the time
13 that you're indicating that or something?

14 A. That's 11:27.

15 ATTORNEY WILSON:

16 Put 11:27 at that location.

17 WITNESS COMPLIES

18 BY MR. FARLEY:

19 Q. Had any bodies on Headgate 22 been found by this
20 point?

21 A. No.

22 Q. Had there been any additional bodies found along
23 the longwall face by this point?

24 A. At 11:46 p.m. six bodies had been found on the
25 longwall face.

1 MR. PAGE:

2 Which team went down the longwall?

3 A. I said that earlier, let me back up one.

4 MR. PAGE:

5 We had Knox Creek up here.

6 A. Yeah, Knox Creek is up there. We had Eugene
7 White's team outby. That would have been ---. That
8 would have been the A.T. Massey team.

9 MR. PAGE:

10 Okay.

11 A. They found two bodies at Shield 85, and they found
12 four bodies between Shields 103 to 105. Also, at
13 11:46 the Knox Creek --- they had made it to the Glory
14 Hole head. They reported out 770 parts per million,
15 temperature they said real high, 90-plus what the
16 notes say, and all stoppings blown out to the solid
17 side.

18 At 11:54 we were in the process of moving Fresh
19 Air Base Two up, 105 Crosscut, which would be here
20 (indicating). At midnight, 12:00 p.m., Eugene --- it
21 says Eugene, I'm assuming that's Eugene White, the
22 question was, what did you see. And it says, all air
23 going up crosscut --- the whole line of stoppings at
24 crossover are gone, gone from Headgate 22 to tailgate.
25 Most CO that they encountered was 32 parts per million

1 and 20.7 O2. The notes do not reflect methane. Also
2 around that same time, at midnight, 12:00 p.m., we
3 found six victims on Headgate 22. The notes here show
4 it to be 22 breaks inby the section switch. Also at
5 midnight, Bandytown fan, 2,450 parts per million CO,
6 two-tenths of a percent CH4, methane, .2, 20.7 O2. At
7 three minutes after 12:00, after midnight, 12:00 p.m.,
8 the command center log shows that I made the statement
9 that we had five unaccounted for and two were on the
10 longwall. We had two of the longwall crew remaining
11 unaccounted for and three on Headgate 22 unaccounted
12 for.

13 At 12:15, 15 minutes after midnight, we had over
14 range CO, which would have been on --- the instrument
15 would have been 9,999 or above, and 3.2 percent O2,
16 with CH4 also over range, and that's on Headgate 22
17 section, at or near the mantrip. They said the top of
18 the mantrip, meaning the canopy, I presume, was blown
19 off, with no operator in the operator's compartment,
20 and the six bodies they found were in the mantrip.
21 And at that point in time we gave the --- I think we
22 gave the directive to come out of the mine.

23 BY MR. FARLEY:

24 Q. Was that at 12:15?

25 A. That was in and around that time, yes. The times

1 vary a little bit from record to record, but that ---
2 at 12:18 the directive by Chris Adkins was sent into
3 the mine to retreat.

4 Q. I think you indicated that six people were found
5 on 22 Headgate section. At that point you thought
6 there were three unaccounted for on Headgate 22, the
7 two on the longwall. Did you later learn that that
8 was one on the longwall?

9 A. And I'll get into that. I think what happened was
10 that we were a little bit confused on the --- the guys
11 on the intake, up there on the longwall, and the count
12 that came out. And, you know --- and we're still
13 trying to sort that out, Terry, even --- at 22 minutes
14 after 12:00, different information about the guys
15 found on the longwall, and there was some miscounting.
16 We're still trying to read --- we're still trying to
17 come up with a correct count. They assigned some
18 people to work on the longwall in addition to the
19 longwall crew. Quite frankly, the information that
20 was provided, we couldn't put anything together.

21 Q. Did you remain at the command center after the
22 order had been given to evacuate the mine?

23 A. I remained ---. I remained until everybody was
24 out of the mine, and that was 2:25 a.m., on the 6th.

25 MR. PAGE:

1 Let me ask you a question, Bob. Is that
2 normal to have people at the fresh air base without
3 apparatus on a mine rescue event?

4 A. To have people at the fresh air base without
5 apparatus?

6 MR. PAGE:

7 Yeah.

8 A. If you have people inby the backup center, they
9 have to have apparatus and, you know, you can have
10 additional people at the fresh air base because
11 essentially you are in fresh air and that's what it
12 means.

13 MR. PAGE:

14 Does MSHA have a recovery manual or
15 anything like that that kind of gets people the book
16 on what they're supposed to do and things ---

17 A. Yeah, we have ---.

18 MR. PAGE:

19 --- at the fresh air base?

20 A. We have general guidelines. It's a book,
21 procedure for those. It's general ---. It's general
22 procedures that you use to set up the command center
23 and the procedures that are, in general ---. They're
24 not set in stone.

25 MR. PAGE:

1 Different situations?

2 A. You have --- I mean, there's a lot of folks out
3 there that don't understand that every mine rescue and
4 recovery effort is --- your reactions are unique to
5 the problems you have at the mine at that time. And
6 you know, you --- there are ---.

7 MR. PAGE:

8 Is there some procedures in that book
9 that allows people to be at the fresh air base without
10 apparatus?

11 A. You can have people at the fresh air base, but
12 anybody that goes inby the fresh air base has to be
13 apparatus wearers. You have to have an equal amount
14 for a backup team at the fresh air base with
15 apparatus. And outby the fresh air base or at the
16 fresh air base, that can be at the discretion of the
17 command center.

18 MR. PAGE:

19 And in this situation the air was flowing
20 --- the fresh air was flowing toward the fresh air
21 base?

22 A. They had intake air behind 'em.

23 MR. PAGE:

24 Okay.

25 A. In this situation, when I analyzed the mine ---

1 the way that it was ventilated prior to the event and
2 as we went in to 78 Crosscut area, that's where we
3 would have encountered ventilation problems, depending
4 on the extensive --- on the control damage. The
5 longwall was satisfied by the exhaust at Bandytown
6 fan. The lack of controls could certainly impact it
7 to some degree. The Headgate 22 and Tailgate 22
8 section was, again, dependent on controls of some sort
9 to be ventilated. As we progressed through, we
10 established ventilation. Through this event we
11 established ventilation. And when we went back into
12 the mine after we pulled ---.

13 MR. PAGE:

14 That's how Whitehead and Blanchard
15 explored so much?

16 A. That's how they were able to explore so much, is
17 because the exhausting Bandytown fan supplied --- the
18 intake air was supplied from the north/south portal
19 area, and they have a blowing fan over there, which is
20 also in operation. And with that, depending on the
21 resistance and regulation of Ellis Portal area, to
22 this point essentially you were assured that you would
23 have intake air. No matter what the damage was outby
24 78, it was dependent on the resistance of Ellis
25 Portal. You would have intake air to here and then,

1 depending ---.

2 MR. PAGE:

3 Can you explain where here is ---

4 A. Here is 79 Crosscut.

5 MR. PAGE:

6 --- for the record?

7 A. And I'll draw a line on 78 Crosscut. This was in
8 this area here.

9 ATTORNEY WILSON:

10 And you've marked 78 X-cut ---

11 A. Yes.

12 ATTORNEY WILSON:

13 --- on the map?

14 A. Yes, I did. And looking at the situation in the
15 map, even if --- even if all the controls were
16 destroyed, I was certain to have intake air to this
17 point. And looking at the ventilation of the mine,
18 Bandytown fan is still running. I knew that I would
19 have air at least here (indicating) to the solid ---
20 this corner and with varying degrees of likelihood was
21 that the tailgate of the longwall, this would be
22 ventilated. Even if the controls were damaged, it
23 would be ventilated. And dependent --- it was
24 uncertain to Headgate 21, ---

25 MR. PAGE:

1 Okay.

2 A. --- but if it could satisfy intake air, it also
3 would be ventilated.

4 MR. PAGE:

5 I just --- I know we had three people in
6 there without apparatus, and I was ---.

7 A. And that's how ---. And that's how they made it
8 where they made it at.

9 MR. PAGE:

10 Sure. And then the supervisor is, I
11 guess, over the fresh air base from the MSHA side?

12 A. Yes. Now, it's my understanding that Blanchard
13 and Whitehead had donned SCSRs also during the course
14 of this.

15 MR. PAGE:

16 Did anyone say whether there was any
17 footprints that went down to the longwall face or
18 anything? Did you hear anything like that?

19 A. There is a question --- there's a question about
20 footprints in the notes, and I'd have to go back in
21 the notes to answer that.

22 MR. PAGE:

23 I mean, you said they were in there,
24 so ---.

25 A. Yeah. They were in there.

1 MR. PAGE:

2 I mean, you said they were in your notes

3 is what ---

4 A. Yes.

5 MR. PAGE:

6 --- I'm saying.

7 A. Yeah. They're in the command center --- that

8 reference is in the command center notes, yeah.

9 EXAMINATION

10 BY MS. MONFORTON:

11 Q. Mr. Hardman, I want to ask some clarifying
12 questions. The notes that you're referring to, are
13 those notes that are MSHA's? Who do those notes
14 belong to?

15 A. The notes that I'm referring to was MSHA's
16 representative taking notes in the command center.

17 Q. And who was the person taking those notes or if
18 there were multiple people taking notes? Are they
19 indicated on --- in that log?

20 A. The log does not --- the notes, they do not
21 indicate on the notes themselves who the scribe was.

22 Q. Was it more than one person taking notes?

23 A. Over the course of the rescue and recovery it was
24 more than one person.

25 Q. Okay. And is it your understanding that other

1 individuals in the command center have their own
2 notes?

3 A. Other people --- other people in the command
4 center were taking notes. Now, I don't know, you
5 know, the total number of the people. I also was not
6 present in the command center 24 hours each day, so I
7 can't fully and honestly answer that question. But
8 during the time that I was in the command center,
9 there were various entities taking notes.

10 Q. Thank you. As I took notes on your testimony
11 here, I have a number of questions just to clarify,
12 just to make sure that I understand what you're
13 testifying about. You noted that around 5:30 or so,
14 when you were already at the mine, you saw Kevin
15 Stricklin on the road. Do you know his reason for
16 being in the area?

17 A. Yes, I do. He was traveling to District 6 for a
18 meeting and was also in the area. I had scheduled a
19 meeting with A.T. Massey concerning compliance that
20 same week, and he was going to make a return trip out
21 there and we were going to conduct that meeting also.

22 Q. Thank you. You mentioned that --- how I indicate
23 in my notes is someone drove the Ellis Portal bus with
24 the deceased in that vehicle. And it was not clear to
25 me, were you saying that Wayne Persinger drove that

1 bus?

2 A. That's what the notes indicate. They indicate
3 Persinger and I'm assuming it was Wayne Persinger,
4 because he's the only one I'm familiar with down there
5 in management.

6 Q. Okay. Thank you. You indicated at 1730 hours you
7 modified the (k) order to allow two mine rescue teams
8 to travel to the 35 Crosscut?

9 A. That's correct.

10 Q. And who were those teams?

11 A. Those were both A.T. Massey mine rescue teams.

12 Q. And at about 1815 hours you indicated that the (k)
13 order was modified. And I'm just trying to get this
14 clear, that there were, I believe you said three MSHA
15 people that advanced with the mine rescue teams to the
16 fresh air base. And I wasn't sure if this was part of
17 another team, they were accompanying the Massey teams.
18 And you indicated it was a gentleman named Fred Wills,
19 Jerry Cook, and Mike Hicks.

20 A. I modified the (k) order to move the fresh air
21 base at 1815. During the evening --- during the
22 evening I had onsite for my district, Mike Hicks, he
23 was a mine emergency unit member, Fred Wills --- Fred
24 Wills was there also and Gerald Cook. But at 1815
25 they were onsite.

1 Q. Okay. They were onsite but not traveling with the
2 mine rescue team?

3 A. They weren't traveling with the Massey mine rescue
4 team.

5 Q. I have in my notes and it just was not clear to
6 me, we sent Fred Wills to the fresh air base.

7 A. Fred went in to the fresh air base with the teams
8 that were sent in, not with the Massey teams, the two
9 initial teams, but it was with teams afterwards.

10 Q. Okay.

11 A. And in the command center notes you'll find the
12 statement that I said send Fred Wills in to the fresh
13 air base.

14 Q. Okay. Thank you. In my notes at about 7:10 p.m.
15 you said that --- I believe you said that the command
16 center at 7:10 p.m. gave directions to look for
17 Whitehead and Blanchard.

18 A. That's correct.

19 Q. And why were --- why was the command center
20 looking for them?

21 A. They were --- they were in this coal mine after an
22 explosion and they were not mine rescue team members.
23 We didn't know where --- if the likelihood was zero
24 --- they didn't have apparatus with them. We didn't
25 even know what the environment in the mine ---

1 Q. Uh-huh (yes).

2 A. --- the mine was.

3 Q. So would it be a fair statement that at 7:10 p.m.
4 there was some concern for their safety and their
5 circumstances underground?

6 A. I would have to say, yes, because you just don't
7 go wandering around inside a mine ---

8 Q. Uh-huh (yes).

9 A. --- after an explosion occurs, or even with SCSRs.

10 Q. Uh-huh (yes). Thank you. In my notes I have
11 indicated around the 7:25 time period around the
12 longwall the SCSR sled was emptied, and we thought
13 that perhaps the longwall crew had donned the SCSRs.

14 A. Did you say empty or emptied?

15 Q. Emptied.

16 A. I won't say that's --- that's not a correct
17 statement.

18 Q. Oaky. Could you ---?

19 A. We discovered that the box was opened, the lid was
20 open and there were no SCSRs in the box.

21 Q. Okay.

22 A. The speculation was that perhaps the miners had
23 had gathered those SCSRs from the box.

24 Q. Okay. Thank you for that clarification.

25 A. But we can't say that that was emptied, we

1 discovered it was empty. Empty.

2 Q. It was empty.

3 A. Had no SCSRs in it.

4 Q. Okay. At that point or in the hours and days that
5 transpired, was there any discussion that perhaps the
6 two Massey management people, Chris Blanchard and Mr.
7 Whitehead, that they perhaps had gone to that sled and
8 took out those SCSRs?

9 A. That was never discussed and that was never ---
10 that was never a part of any discussion that I'm aware
11 of.

12 Q. Okay. And when I suggest that perhaps they did
13 that knowing that they were underground and they were
14 doing this ad-hoc exploration, you know, was it a
15 possibility that maybe they took some of those
16 SCSRs ---?

17 A. I wouldn't speculate on that ---

18 Q. Okay.

19 A. --- because I have no facts to say that would be
20 true or untrue.

21 Q. Okay. Do you have information, either recalling
22 or from your notes, by 7:30 p.m. about how many teams
23 were underground?

24 A. I could probably figure --- I could probably
25 figure that out but I don't have ---. I don't have an

1 exact recollection and it would take me some time to
2 do that.

3 Q. Okay. Do you think that a person looking at the
4 notes would be able to determine how many teams were
5 underground at 7:30?

6 A. Possibly. But I won't say that with certainty
7 because I'd have to go back and actually --- actually
8 take a look at that. I know that I modified the (k)
9 order to allow initially the first two teams to go
10 into the mine. And that was --- that was at 1730 when
11 I modified the (k) order.

12 Q. Would the command center notes or the notes that
13 you have there be written in such a way that would
14 allow one to see this team is being sent underground?
15 Does it identify the teams so that one would be able
16 to reconstruct that?

17 A. I don't know whether --- I doubt very seriously if
18 these command center notes in all occasions will
19 identify --- identify the exact teams. I'm sure that
20 the information is available on what teams they are
21 and they went underground at what time.

22 Q. Normally as part of a mine rescue, would that be
23 something that the command center would keep track of,
24 how many teams are underground and where they're
25 located?

1 A. Yes.

2 Q. Okay.

3 A. And it would. I modified the (k) order at 1957
4 hours to allow four more mine rescue teams to go
5 underground. So that's roughly the time frame of the
6 question that you asked.

7 Q. So there were already two underground at 1957 and
8 the (k) order is modified to allow four additional
9 teams ---

10 A. That's correct.

11 Q. --- to go underground?

12 A. Yes, that's my record.

13 Q. Thank you. I don't have the exact time frame on
14 this. I believe from your testimony, again, it was
15 about the 7:30 hour that Mr. Blanchard and Mr.
16 Whitehead called out and they had been to the head and
17 the tail and they reported that the most severe damage
18 was at the tail.

19 A. They --- that's essentially correct. But you
20 would have to look at the conversation. They reported
21 and made a comparison between the damage at the head
22 and tail of the longwall. That would lead you to
23 believe that they had been to the tail, because they
24 made a comparison between damage on the headside and
25 tail side and they said that the tail side damage was

1 more severe.

2 Q. Right. So knowing that some minutes prior to that
3 or half an hour before that the command center was
4 looking for these gentlemen, at that time when you ---
5 when the command center heard from them, were they
6 ordered out of the mine?

7 A. They were not ordered out of the mine at that time
8 by the command center, no.

9 Q. Is there a reason why they weren't ordered out of
10 the command center --- I mean, out of the mine at that
11 time by the command center?

12 A. I can't say that there was a reason that they were
13 not. What the command center wanted to do was get
14 those two accounted for and get 'em in fresh air,
15 which was the fresh air base or outby. And they
16 wanted to assess them on their well-being at that
17 point in time.

18 Q. So was there instructions to them at that point to
19 get to a fresh air base? I'm trying to get a sense of
20 once you identified these men who had been underground
21 perhaps since right after three o'clock, what was ---
22 what was discussed in the command center about these
23 men being underground and instructions to them?

24 A. I know that the company representative in the
25 command center assigned --- assigned Whitehead

1 certainty at the fresh air base. And they were
2 instructed not to go inby fresh air bases. That was
3 the instructions. And at that point in --- at that
4 point in time that was where they were to remain until
5 we could arrange transportation, we being the command
6 center, not necessarily me as the district manager of
7 MSHA, to get those individuals out of the mine.

8 Q. Okay.

9 A. Now, I mean, you have to realize that this mine is
10 very deep. You know, you're approaching five miles
11 from the surface. You also have to realize that these
12 are battery-operated mantrips, which is there's a
13 considerable amount of charge time if you bring 'em to
14 the surface they've been used. And you know, it
15 wasn't like you could send them down the hallway here
16 in comparison at the mine. You had to plan and
17 utilize the resources, the transportation resources
18 also. So they were to be removed from the mine but we
19 had to plan on getting those out with a return to the
20 outside with mine rescue team or have some purpose to
21 it.

22 Q. Uh-huh (yes).

23 A. But the intent was to get 'em to the fresh air
24 base and --- and make sure that they remained in fresh
25 air.

1 Q. Thank you. Mr. Hardman, I don't have an exact
2 time for this but at one point you testified again Mr.
3 Whitehead reported on --- he was asked about air flow
4 on the head and he said yes. And then presumably had
5 some type of hand-held monitor. My information is
6 that he reported out some gas readings?

7 A. Yes.

8 Q. And you indicated that the CO had pegged. Can you
9 explain for the record what that means?

10 A. Well, it was pegged or rather it was up to the
11 limit of the instrument's capability to read CO.

12 Q. And when he was reporting that information, was he
13 reporting something that he had experienced some
14 period earlier? Was he reporting that at the moment
15 in time?

16 A. All I can say is he reported the air quality. And
17 whether he had, you know, whether --- how much prior
18 to, you know, I can't speculate on that. The question
19 was asked what about the air flow and air quality, and
20 that was what his report contained. Now, whether he
21 took that reading five minutes before or he took it
22 ten minutes before, I have no knowledge of that.

23 Q. Okay. Thank you. My notes indicate at about 9:42
24 you were reporting that Chris Adkins asked a question
25 and my notes say Jamie, how many confirmed dead

1 inside.

2 A. Yes.

3 Q. And who was Jamie and ---?

4 A. Jamie would have been Jamie Ferguson, who was, he
5 was Upper Big Branch management and he was in
6 management, but I don't know exactly officially what
7 position.

8 Q. And when he was asking Jamie Ferguson that, where
9 was Jamie Ferguson located? Was he in the command
10 center?

11 A. No. These are mine-phone conversations. This was
12 communication inside/outside the command center.

13 Q. Okay. And so Jamie Ferguson was somewhere else on
14 mine property?

15 A. Jamie Ferguson was in the mine.

16 Q. So Jamie Ferguson was in the mine along with Chris
17 Blanchard and Jason Whitehead?

18 A. Jamie Ferguson was in the mine and with the mine
19 rescue teams. He was --- and if I'm not mistaken I
20 believe Jamie is a mine rescue team member for
21 Massey.

22 Q. Okay. Thank you. So he's a member of one of the
23 A.T. Massey mine rescue teams?

24 A. I believe that to be true.

25 MR. PAGE:

1 Was he at the fresh air base?

2 A. No. This was an observation and I can't say that
3 he was at the fresh air base when this call was made,
4 Norman, I just don't know.

5 MR. PAGE:

6 But he was either outby --- he wasn't
7 inby the fresh air base?

8 A. Not when he made --- not when the discussion was
9 taking place.

10 MR. PAGE:

11 Okay.

12 A. But at least that's my opinion.

13 MR. PAGE:

14 Right.

15 A. I can't say that a hundred percent.

16 BY MS. MONFORTON:

17 Q. In your experience in mine-rescue procedures,
18 normally would the mine rescue teams have information
19 about how many, either individual --- how many miners
20 are missing? It seemed like there was disagreement or
21 confusion on how many people were underground in terms
22 of miners that were being unaccounted for.

23 A. A mine rescue team would simply explore and report
24 what they see. And the misunderstanding on the
25 numbers and the uncertainty on the numbers is you can

1 have overreporting. You know, if you had one team go
2 through and they would mention it or someone would
3 call it out and then another person also would report
4 it, and you're trying --- you're trying to determine
5 is that one person or is it --- are there two victims
6 and that's what we had. We had in the intake of the
7 longwall, we had initially two reported at one
8 location and then we discovered actually there were
9 three. And so I mean --- and you also have to
10 remember in every experience this emotion, there are a
11 lot of emotions of the situation.

12 Q. And just to clarify, I wasn't trying to suggest
13 that the mine rescue teams --- that they were creating
14 confusion. I'm trying to get a sense of when you send
15 teams underground, do they normally have some idea of
16 whether they're looking for three people, they're
17 looking for ten people? I'm trying to understand ---.

18 A. During the briefings, they will be briefed prior
19 to going underground with all the factual information
20 that we have about the areas that they're going to be
21 assigned to explore. Now, dependent on the time
22 initially and quite some time into the evening we were
23 still uncertain on the numbers. I mean, you know, we
24 finally tracked it down but there had been additional
25 crew members assigned to the longwall crew and we

1 didn't know that initially.

2 Q. Uh-huh (yes).

3 A. And so those numbers --- that assessment of people
4 that were unaccounted for, we didn't know, you know,
5 that true number for some time.

6 Q. That's what I'm trying to get a sense --- I'm sure
7 you're familiar with the tracking system that the
8 company put in place at the mine. And just prior to
9 that electronic system, they had another system in
10 place that essentially said that there was someone on
11 the surface who was responsible for always knowing
12 where people were underground.

13 A. The system prior to full electronic tracking, they
14 --- the administrative system that they use was
15 primary a block system. And as far as knowing that I
16 had an individual at an exact location, that's not
17 true. It was you would have numbers of people that
18 were assigned to work in certain areas but it was a
19 block system. You would have X number of miners inby
20 this point and then when they travel and clear that
21 block, then you would have X numbers inby that block.

22 Q. Uh-huh (yes).

23 A. But in this case, making an assessment on the
24 numbers that were being provided to us, quite frankly,
25 you couldn't depend on --- with any certainty on who

1 you had, where they were and how many.

2 Q. Uh-huh (yes). And I think you testified you
3 couldn't put any face in it.

4 A. That's correct.

5 Q. And so you were referring to the information from
6 Performance Coal on the number of miners and
7 contractors who were underground?

8 A. I was referring to the total number of miners and
9 where they were assigned to work initially. And we
10 did get that ironed out, but again, it took some
11 effort to do that. And we finally did come up with
12 those numbers and then at the end of the day when this
13 rescue effort ended, they were the correct numbers.

14 Q. Just for the record, were the rules governing mine
15 rescue and perhaps the one that Mr. Page was talking
16 about, were those rules followed completely during the
17 April 5th events?

18 A. To say that they were followed to the letter,
19 those are general guidelines, those rules. And I
20 mean, we do certain things.

21 Q. Uh-huh (yes).

22 A. We establish command center. You establish a
23 place for the families. There are general --- general
24 guidelines. And there certainly are some dos and
25 dont's. But again, in a mine rescue and recovery

1 situation, you have those as basic guidelines. And
2 then the decisions that you make in a command center
3 are tailored to the events that are occurring in the
4 mine.

5 Q. Uh-huh (yes).

6 A. You can't take a recipe off the back of a box and
7 make it better. You cannot --- those rules also are
8 designed, written with a degree of flexibility and
9 depict circumstances that you have on hand.

10 Q. Uh-huh (yes). Are there certain rules when you
11 have the fresh air base set up that you think are
12 critical protocols for following when you're exploring
13 beyond the fresh air base?

14 A. And there are ---.

15 Q. The Golden Rules.

16 A. I mean, and there are. And, you know, I mean,
17 again, there are certain things that you can have a
18 little bit of flexibility and there are certain things
19 that you don't want to be flexible in.

20 Q. Uh-huh (yes). What would you say would be the
21 things that you don't want to venture away from those
22 rules? Can you think of any?

23 A. Well, I can sit here and talk about ones that you
24 don't and ones that you can. I mean, you don't send
25 anybody in the fresh air base that --- beyond the

1 fresh air base without being equipped with apparatus.
2 I mean, a mine rescue team member. Now whether they
3 travel until you encounter --- encounter air quality
4 to a degree they can't put on the apparatus.

5 Q. Uh-huh (yes).

6 A. You just don't send them inby, mine rescue teams,
7 without apparatus. You don't send them inby the fresh
8 air base without communication.

9 Q. Uh-huh (yes).

10 A. Those are some of the rules that are set in stone,
11 you don't do it.

12 MS. MONFORTON:

13 Okay. Thank you. Okay. I don't think I
14 have any other questions.

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. I have a couple. Mr. Hardman, during the UBB
18 rescue operation and while you were in the command
19 center on the evening of April 5th, 2010, up to the
20 time the order to evacuate was given, do you recall
21 any significant disagreements among the leadership of
22 the command center regarding tactics, procedure,
23 rules?

24 A. There were --- there were several disagreements.
25 You know, I mean, there were several --- I won't say

1 heated disagreements but disagreements during the
2 course of the event. There aren't any that would
3 stand out among another.

4 Q. Did any of the parties stand up and say I object,
5 we're not going to do this?

6 A. I don't recall anyone standing up and saying we're
7 just not going to do this.

8 Q. Okay.

9 A. I think after discussion --- I mean, there were
10 some question periods between --- you know, who's
11 going in the fresh air base but at the end of the
12 conversation, I don't think that there were --- there
13 was nobody that said absolutely we're not going to do
14 this.

15 Q. Would you characterize the mine rescue operation
16 on the evening of April 5th, 2010 as aggressive?

17 A. I would. And I'll state the reason. The reason
18 for that is that you know, we had a lot of miners
19 unaccounted for in that coal mine. We had a new
20 element that for the first time ever, a mine rescue
21 effort was in place that we had refuge chambers in
22 this coal mine. And if you've never been in a mine
23 rescue effort, there's a degree of complexity that
24 that adds to it. And especially the families have
25 been tossed out there. The layperson out in public

1 thinks that 96 hours and it's --- the option is gone.
2 And we had a very, very good chance looking at mine
3 gases to get in this mine in a reasonable distance.
4 Like I stated earlier, when the mine was ventilated, I
5 had no doubt that it was ventilated at 78 Crosscut,
6 even without controls, it would be ventilated to 78
7 Crosscut. I had no doubt that the longwall would be
8 ventilated by Bandytown fan, even if the controls were
9 gone. That the tailgate entry would be ventilated and
10 unless there was a blockage by falling water or
11 something, that the headgate entry would also be
12 ventilated, have that supply. And so I had a crew ---
13 I had a crew there if there was not a fire outby or
14 high CO outby that we had a good chance if we had
15 injured people there to get 'em outside this coal
16 mine.

17 BRIEF INTERRUPTION

18 A. Excuse me.

19 RE-EXAMINATION

20 BY MR. PAGE:

21 Q. I just got a couple of questions, Bob. Do you
22 know or did the responsible person, did he step
23 forward when this took place?

24 A. The responsible person did step forward. We ---
25 when I say we, he was questioned. Now, I didn't

1 personally question, but we were --- the records, the
2 responsible person ---. When I say records, that was
3 the tracking system and the CO monitoring system and
4 all those things were quickly --- quickly reviewed.

5 Q. I guess my question is, the responsible person
6 until I guess Chris Adkins and you and the State got
7 on the --- onsite?

8 A. Norman, I do not know. I have no knowledge of
9 what that responsible person's actions were when this
10 event initially occurred.

11 Q. Okay. That was basically my question.

12 A. I don't. Because I didn't arrive until actually
13 it was closing in on two hours after the event
14 occurred. So I don't know.

15 Q. When the teams came out and Blanchard and
16 Whitehead came out, do you know who debriefed those
17 teams?

18 A. The debriefings of those teams occurred in the
19 command center. They would hold debriefings in the
20 command center.

21 Q. Who took those notes, do you know?

22 A. Those teams, the debriefing they went through and
23 all the notations were on maps. The discussion, the
24 maps were there on the tables.

25 Q. Okay.

1 A. And that was a combined effort of ---

2 MR. PAGE:

3 That's all I got.

4 A. --- both agencies.

5 MR. PAGE:

6 Terry, do you have any follow-up?

7 MR. FARLEY:

8 Not right now.

9 RE-EXAMINATION

10 BY MS. MONFORTON:

11 Q. Just to clarify for the record, the responsible
12 person at the Upper Big Branch Mine was who?

13 A. That I don't have a name. I do not have that name
14 with me. I could have brought it with me but I didn't
15 because, you know, I have --- I have 80 pounds of
16 records here with me and that was the extra pound that
17 I didn't --- the topic that ---.

18 MR. FARLEY:

19 The bag is rated for 85?

20 A. It might have been.

21 BY MS. MONFORTON:

22 Q. For the record, I don't believe this was covered
23 in your previous testimony. Can you just talk a
24 little bit about your own experience with mine rescue,
25 in terms of mine rescue teams, training, those types

1 of things?

2 A. I've been --- I came in the agency in 1988. And
3 since that period of time in the agency in one form or
4 another we've trained for mine emergency events. And
5 I mean, it's been continuous. I've not been a member
6 of a team in --- not been a member of mine emergency
7 in my career.

8 Q. But your responsibility as a district manager
9 is to ---?

10 A. And we do. And we do have mine emergency response
11 development training.

12 Q. And then my final question, the notes that you
13 have been referring to, are those part of the record?

14 ATTORNEY WILSON:

15 We have those in the investigation
16 record. We'll make them available to you.

17 MS. MONFORTON:

18 Okay. Thank you.

19 ATTORNEY WILSON:

20 Then if there's nothing further. Mr.
21 Hardman, on behalf of MSHA and the State of West
22 Virginia teams, thank you for appearing today and
23 Friday and the previous day. Your cooperation is very
24 important to the investigation as we work to determine
25 the cause of the accident. Since we will be

1 interviewing other witnesses, we ask that you not
2 discuss your testimony with anyone. After questioning
3 other witnesses, we may call you if we have any
4 follow-up questions that we feel that we need to ask.
5 And if at any time any additional information that you
6 believe would be relevant or helpful to the
7 investigation, please contact Norman.

8 You've already said a lot, but before we
9 go off the record if there's anything else that you
10 would like to add to the record or any statement that
11 you would like to make, I'll give you that opportunity
12 at this time.

13 A. The only thing that I really --- it would be in
14 addition to follow up a little bit. Your last
15 question was, you know, I've been involved in the
16 agency during mine emergency events when I was an ADM
17 in District 6 and certainly in District 4 prior to
18 that, not to this scope. I mean this, I don't think
19 anyone has been involved in one to this scope. And
20 the impact that it has on you and it has on the people
21 that are ---. I don't think that ---. I think the
22 training that you receive in general --- in general is
23 very valuable, very helpful when you face one of
24 these. But there's no training that can prepare you
25 for one of these and there's no training that, again,

1 as I stated earlier, is a cookie-cutter approach to
2 these situations. Now, you can sit back and Monday
3 morning quarterback to no end. But until you walk in
4 those shoes, you'll never know. That's all I have to
5 say.

6 ATTORNEY WILSON:

7 All right. And again, Mr. Hardman, I
8 want to thank you for your cooperation and also state
9 our thanks for all the work you've done with respect
10 to this --- this incident.

11 A. You're very welcome. Thank you.

12 MR. PAGE:

13 You do an excellent job. All of you do.

14 I've been in your shoes. I've not been in your shoes
15 to this extent. And I know how difficult it is. You
16 and your team and the State, you did a good job.

17 A. And Terry's been in some pretty tight pinches
18 since I've been ---.

19 MR. FARLEY:

20 And I agree with what you said.

21 A. It's not easy. There's no cookie-cutter approach.

22 MR. FARLEY:

23 It's not an experience I would recommend.

24 A. No. I mean, when you go out there and pick 'em up
25 and put 'em in body bags and ---.

1 ATTORNEY WILSON:

2 We're still on the record.

3 A. That's all right. I mean, I don't mind making
4 this statement because it's --- you know, it's very,
5 very difficult and there are people that were onsite
6 at this mine that will be emotionally scarred for the
7 remainder of their days.

8 ATTORNEY WILSON:

9 But you all did a good job and I just
10 want ---.

11 A. Okay. I appreciate the opportunity to sit here.

12 ATTORNEY WILSON:

13 Thank you. Go off the record.

14

15 * * * * *

16 STATEMENT UNDER OATH CONCLUDED

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Danielle Ohm, 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.



Danielle Ohm