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Transcript of the Testimony of **Mike Plumley**

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STATEMENT UNDER OATH  
OF  
MIKE PLUMLEY

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-123, Beaver, West Virginia, on Tuesday, May 18, 2010, beginning at 8:12 a.m.

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

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P R O C E E D I N G S

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. Today is May 18, 2010. We're here to conduct an interview of Mike Plumley. Also present with me are several individuals with the State of West Virginia. I would ask that they state their appearance for the record.

MS. SPENCE:

I'm Beth Spence, with Davitt McAteer's independent team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY WILSON:

And with me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. There are also several members of the investigation teams present in the room. All members of the Mine Safety and Health Administration Accident

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

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



1 Training. We appreciate your assistance in this  
2 investigation.

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

16 MR. PLUMLEY:

17 No.

18 ATTORNEY WILSON:

19 You may refuse to answer any question and  
20 you may request a break at any time. This is not an  
21 adversarial proceeding. Formal Cross Examination will  
22 not be permitted. However, clarifying questions may  
23 be asked as appropriate. A court reporter will record  
24 your interview. Please speak loudly and clearly. If  
25 you do not understand a question, please ask that the

1 question be rephrased. Please answer each question as  
2 fully as you can, including any information that you  
3 may have learned from someone else.

4 I would like to thank you in advance for  
5 your appearance here today. Your assistance in this  
6 investigation is important. Your cooperation is  
7 critical in making the nation's mines safer. After we  
8 have finished asking questions, we will provide you  
9 with an opportunity to make a statement or provide us  
10 with any other information that you believe to be  
11 important. If at any time after the interview, you  
12 recall additional information that you believe might  
13 be useful to the investigation, please either contact  
14 Terry Farley or Norman Page at the telephone number  
15 that was provided to you in the letter that I just  
16 gave to you. At this time I'll ask the court reporter  
17 to swear you in.

18 -----  
19 MIKE PLUMLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
20 AS FOLLOWS:

21 -----

22 ATTORNEY WILSON:

23 And Terry Farley will begin the  
24 questioning.

25 EXAMINATION

1 BY MR. FARLEY:

2 Q. Mr. Plumley, would you please begin by giving us  
3 your full name, home address and telephone number,  
4 please?

5 A. Michael Anthony Plumley. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. Okay. How long have you --- you're employed by  
9 the Office of Miners' Health, Safety and Training;  
10 correct?

11 A. That is correct.

12 Q. How long have you been with the Office of Miners'  
13 Health, Safety and Training?

14 A. Roughly a year-and-a-half.

15 Q. Okay. What's your position with the agency?

16 A. I'm an underground inspector.

17 Q. Who's your immediate supervisor?

18 A. Steve Snyder.

19 Q. Which Office of Miners' Health, Safety and  
20 Training regional office is your station?

21 A. Oak Hill, 4.

22 Q. Okay. Can you give us an estimate on your total  
23 years of experience in the coal mining industry?

24 A. Roughly 32.

25 Q. Can you give us an idea of where you worked before

1 you joined Miners' Health, Safety and Training?

2 A. I was employed at the Pinnacle Mine, the old U.S.  
3 Steel Mine, presently the Cleveland-Cliffs Mine, from  
4 1978 to November of 2008, about 30 ---

5 Q. Thirty (30) years?

6 A. --- 30, 31 years.

7 Q. Okay. Which about covers it, don't it?

8 A. Yep.

9 Q. All right. General idea what you did there? What  
10 was your ---?

11 A. A little bit of everything. Most of the time I  
12 was considered the mine pumper for over 20 years.

13 Q. Okay.

14 A. Section experience, I had the run of the coal  
15 mines.

16 Q. Okay. All right. Now, aside from your extensive  
17 experience, was there any particular special training  
18 that you had?

19 A. I've always educated myself. I have a Bachelor's  
20 in mining engineering, a mine safety Master's, and an  
21 M.B.A. also from Marshall. I've done a lot of  
22 training. My mine rescue experience is, roughly, 28  
23 years.

24 Q. I want to make sure I got that right. You have a  
25 mine engineering, M.B.A. in ---?

1 A. In mine safety, I've got a Master's from Marshall.

2 Q. A Master's in mine safety?

3 A. Through the Academy and Marshall.

4 Q. All right. Are you also a member of the Miners'  
5 Health, Safety and Training Mine Rescue Team?

6 A. Yes, I am.

7 Q. Is that the Oak Hill branch?

8 A. Actually, the Welch branch. I'm a member of the  
9 Welch team.

10 Q. Okay. Excuse me. I'm sorry.

11 A. Yeah.

12 Q. I guess that's for geographic reasons?

13 A. That, plus that's where the opening was.

14 Q. Okay. All right. I just assumed. Excuse me.  
15 Have you visited or inspected the Upper Big Branch  
16 Mine prior to April 5, 2010?

17 A. Yes. I was in the mine on two different  
18 occasions. Once, it was toward the end of the fourth  
19 quarter of '09. And I was also in the mine March the  
20 30th, ---

21 Q. Okay.

22 A. --- assisting Gerry Pauley, walking some airways.

23 Q. Okay. Also, before I forget, you've been with the  
24 agency I guess a year-and-a-half. When was your  
25 probationary period up?

1 A. It's roughly a year. I got a letter in the mail,  
2 so ---.

3 Q. Okay.

4 A. Roughly six months ago.

5 Q. All right. Now, let's begin with the fourth  
6 quarter of 2009. Do you recall the date you actually  
7 visited the mine?

8 A. No, I don't. I know it was toward the end of the  
9 quarter, though.

10 Q. Okay. Did you travel underground during that  
11 visit?

12 A. Yes, I did. The exact areas, I'm not really sure.  
13 It was some outby airways.

14 Q. Okay. Now, when you visited the UBB Mine here the  
15 latter part of the fourth quarter of 2009, were you  
16 traveling alone or were you in the company of another  
17 agency inspector?

18 A. Actually, Jeff Spratt was also with us.

19 Q. Okay.

20 A. And we were --- I was dropped off in a particular  
21 area, where we picked up some intakes, and walked  
22 those particular airways.

23 Q. Do you recall which portal you entered?

24 A. It was the UBB portals.

25 Q. Okay. Meaning the main portals that mined coal,

1 where the rescue and recovery operation took place  
2 from?

3 A. It was the --- it was actually at the new portals.

4 Q. Okay.

5 A. The Ellis Portals I think is the name of them.

6 Q. Okay. All right. Now, did you --- how did you  
7 enter the mine? Did you walk in or were you  
8 transported?

9 A. I was transported, and the company official was  
10 Everett. I think he's like the general manager.

11 Q. Okay. Everett ---?

12 A. Superintendent maybe.

13 Q. Do you remember his last name?

14 A. No.

15 Q. Okay. So you were in the company of Everett and  
16 Spratt. And was anybody else with you?

17 A. And Gerry Pauley.

18 Q. Gerry Pauley?

19 A. Uh-huh (yes).

20 Q. Okay. So you traveled a portion of an airway; is  
21 that correct?

22 A. That is correct.

23 Q. Do you know how large this portion of the airway  
24 was? How far did you walk?

25 A. It seems like it was in the neighborhood of 40

1 breaks.

2 Q. Okay. Would a look at the map refresh your memory  
3 possibly?

4 A. Yes. It was the intake ---.

5 Q. You say you started in at the Ellis Portal?

6 A. Yeah. We traveled the Ellis Portal by rail up to  
7 a particular point, and it was one of these  
8 cut-throughs, in the area of --- it was either 65 or  
9 35.

10 Q. Okay. Now, do you recall the time of day you  
11 entered the mine?

12 A. It was mid-morning.

13 Q. Okay. Now, the portion of the airway that you  
14 traveled, did you travel it alone?

15 A. Yes, I did.

16 Q. Now, after you traveled this particular portion of  
17 the airway, did you visit any other area of the mine  
18 that day?

19 A. There was a particular section that myself and  
20 Gerry had discussed as far as a roof control issue.  
21 It was like a section where they were mining a  
22 residual block had been left behind from the longwall.

23 Q. Can you indicate the area of the mine where this  
24 section was located?

25 A. No, not really. I don't think it was in the area



1 of the mine that I became acquainted with the map from  
2 the incident that happened on the 5th.

3 Q. Okay.

4 A. All I know is there was a residual box that was  
5 left over from the longwall, like a barrier.

6 Q. All right. Now, so if I understand you correctly,  
7 you visited that section?

8 A. Yes, that particular section.

9 Q. Okay. Did you travel --- from the area where you  
10 inspected the airway, did you travel by mantrip to  
11 this other section?

12 A. Yes.

13 Q. Okay.

14 A. Do you have any recollection of the overall  
15 condition of the track haulage entry as you were  
16 transporting?

17 A. There was really no outstanding details that I can  
18 recall. Nothing that would spark any interest to me  
19 that I can --- no, not really.

20 Q. Okay. All right. This particular section that  
21 you visited, did you and Mr. Pauley travel to the  
22 working faces?

23 A. Yes, we did.

24 Q. Do you recall making any examinations for methane?

25 A. Yes.

1 Q. What were the results of those examinations, if  
2 you can recall?

3 A. When we arrived on the section, I went directly to  
4 the roof bolter, and the --- I walked up to actually  
5 the ventilating side of the roof bolter and took a gas  
6 test and watched the general procedures of the roof  
7 bolters themselves. And I didn't detect anything at  
8 that time.

9 Q. Did you examine any of the other working faces?

10 A. I concentrated on the roadways on the section.  
11 There was some conditions that required some personnel  
12 to actually pull some of the rib material down.

13 Q. Okay. Do you know if Mr. Pauley examined the  
14 remaining working faces?

15 A. To my knowledge --- you know, we were separated  
16 there for a little while, ---

17 Q. Right.

18 A. --- and to my knowledge, he was on the right-hand  
19 side of the section and I was on the left.

20 Q. Okay. Do you recall how many entries were being  
21 mined?

22 A. No. No, I don't. I knew there were several.  
23 Like I say, I concentrated on the roadways that would  
24 have been traveled by the haulage equipment.

25 Q. Was it a single-unit mining unit or was it one of

1 those super section arrangements?

2 A. I don't recall.

3 Q. Do you have any recollection of the rock dusting,  
4 the quality of the rock dusting on the section that  
5 day?

6 A. Nothing that I noted at that time on the section.

7 Q. Okay. All right. During that day, did you have  
8 any conversations with any of the miners? Did anyone  
9 offer any complaints or raise any safety issues with  
10 you?

11 A. No.

12 Q. Okay. Now, prior to entering the mine on this  
13 day, during the fourth quarter of last year, did you  
14 review any of the pre-shift/on-shift reports or any  
15 other examination books?

16 A. No.

17 Q. Okay. This may call for something of an opinion,  
18 but while you were on this working section, did you  
19 get any sense of the section crew makeup? What I mean  
20 is, did it appear that any particular individual was  
21 assigned to ventilation duties, meaning a ventilation  
22 man or a ventilation person?

23 A. I didn't form any such opinion.

24 Q. Okay. All right. Let's move to 2010. And if I  
25 understood you correctly, one day in 2010, and what

1 date was that again?

2 A. That I was at the mine previous?

3 Q. Yes. Yes, prior to April 5th.

4 A. March the 30th.

5 Q. Okay. All right. Let's back up again. Did you  
6 travel with anyone in particular that day?

7 A. That's the day I was discussing. Apparently we  
8 got mixed up on our dates. The day I was discussing,  
9 when we were walking the intake and everything, that  
10 was the --- March the 30th. The first time, you might  
11 want to revert back to that. Apparently I got my days  
12 crossed up.

13 Q. Okay. Let me get it straight here.

14 A. Yeah.

15 Q. When you were traveling the intake entries, when  
16 you entered from the Ellis Portal, ---

17 A. Yes.

18 Q. --- was that fourth quarter, 2009?

19 A. No.

20 Q. Okay. All right. Then that would have been March  
21 30th, 2010?

22 A. Yes.

23 Q. All right. Okay. Now, after that, you told me  
24 you visited another section where they were mining a  
25 barrier. Now, was that on March 30th or ---?

1 A. March the 30th.

2 Q. Okay. All right. Now, so I need to go backwards  
3 now then; right?

4 A. Yeah. Yeah, you need to go backwards.

5 Q. All right. The fourth quarter of 2009, you were  
6 there for one day, ---

7 A. Yes.

8 Q. --- you indicated. Where did you travel to on  
9 that day?

10 A. As it was an outby airway and it was --- I can't  
11 remember the particular area, but I do know it was an  
12 airway, and I know there was a --- I remember going  
13 and looking at a pump that was in a return. And we  
14 traveled some track headings and we looked at some  
15 power boxes, and if I'm not mistaken, Gerry was in the  
16 area of doing some abatement.

17 Q. Okay.

18 A The details of that particular trip I don't  
19 remember exactly. It's been a while.

20 Q. All right. Do you recall any particular problems  
21 or issues ---

22 A. No.

23 Q. --- that came up that day?

24 A. No.

25 Q. All right. Let's go back to 2010.

1 A. Okay.

2 Q. March 30th. Keep me in the right year here.

3 After you traveled the airways and you entered ---  
4 after you entered the Ellis Portal and after you went  
5 to this other section, what time did you leave the  
6 mine that day; do you recall?

7 A. Don't remember.

8 Q. Okay. Did you cite any violations?

9 A. No.

10 Q. Okay. All right. Let's move to --- before we  
11 move to anything, as far as you know, those were the  
12 only two days that you inspected at UBB, March 30th  
13 and then one day in the fourth quarter of 2009; is  
14 that correct?

15 A. Yes.

16 Q. All right. To start, let's go to April 5th, 2010.  
17 How and when did you learn of an emergency at the UBB  
18 Mine that day?

19 A. We were actually at the Chief Logan Convention  
20 Center, doing our mine rescue practice with the State.  
21 We had just checked in, and we were --- I had come  
22 back to the parking lot to see if anybody needed any  
23 assistance with equipment. And at that time, Danny  
24 Spratt notified us that we had an incident and we was  
25 to go directly to the mine.

1 Q. Okay. Now, what's Danny Spratt's position?

2 A. He is the head of the Mine Emergency Unit for the  
3 State of West Virginia.

4 Q. Okay.

5 A. Trainer.

6 Q. Now, do you remember Danny's actual description of  
7 the event at UBB?

8 A. No. It seemed like he said there has been an  
9 incident or something along that line.

10 Q. All right. Do you recall the approximate time  
11 when Danny notified you?

12 A. 4:30, approximately.

13 Q. Okay. When did you depart for the UBB Mine?

14 A. Just a few minutes shortly after that.

15 Q. Okay.

16 A. We had made sure everybody had got their  
17 notification. There was a lot of people.

18 Q. Okay. Now, can you estimate when you ---  
19 approximately when you arrived at UBB?

20 A. It was --- no, not really. It was --- approximate  
21 estimate, between 5:30 and 6:00.

22 Q. Okay. At which portal did you arrive at?

23 A. Initially we went to the Ellis Portal, the new  
24 one. And things got very crowded very fast, and we  
25 were in the process of bringing equipment on the hill,

1 and then we were told to come around to the  
2 Performance side of UBB.

3 Q. Okay. Did you eventually enter the mine as part  
4 of the mine rescue team later that evening?

5 A. Yes.

6 Q. Okay. Do you recall what time you entered the  
7 mine?

8 A. No, sir, I don't. Everything was so blurry, you  
9 know, it kind of --- everything kind of ran together.

10 Q. Do you think it would have been before midnight?

11 A. It seemed like it was, yes.

12 Q. Okay. When you entered the mine, who did you  
13 travel with; do you recall? Was there a particular  
14 mine rescue team or a group of individuals that you  
15 traveled with?

16 A. We were --- basically at that time there were  
17 several individuals, but I was traveling with the  
18 Welch team.

19 Q. Okay. Meaning the Miners' Health, Safety and  
20 Training team?

21 A. Yes.

22 Q. Okay. I take it you traveled underground in a  
23 mantrip?

24 A. To a certain point. I think they referred to it  
25 as 178, or 78 Break.



1 Q. Seventy-eight (78) ---

2 A. Yeah.

3 Q. --- you think? Okay. Is that a location you can  
4 point to on the map?

5 A. I think so, especially if there's numbers. It was  
6 in this --- right here or this switch.

7 Q. Okay. You're pointing to an area on the map that  
8 shows the location break through 75. I think that's  
9 numbered from the Ellis Portal. There's a track  
10 switch at that point. Why did you stop at that point?

11 A. At that given point in time there was a lot of  
12 debris on the track.

13 Q. Okay. So it was not possible to travel any  
14 farther on the mantrip?

15 A. That is true.

16 Q. Okay. So I guess you left the mantrip and  
17 traveled on foot; would that be correct?

18 A. That is correct.

19 Q. Okay. Now, was there an established fresh air  
20 base at that time?

21 A. There was an established fresh air base, but it  
22 was my understanding it was a good distance inby.

23 Yes, there was a fresh air base. Exactly what break?

24 I know it was in the neighborhood of the --- I can't  
25 say exactly what break. It was a good distance inby

1 where we got off the ride.

2 Q. Okay. Now, do you know if it would have been ---  
3 would you have traveled through --- up the Six North  
4 area, inby there, on foot?

5 A. Yes. We traveled the track heading, up to a  
6 particular point where the fresh air base was set up.

7 Q. Okay.

8 A. We were trying to stay in the track heading at  
9 that time.

10 Q. Okay. All right. Were you under apparatus at the  
11 time?

12 A. No.

13 Q. Okay. Did you have any sensation of your eyes  
14 burning as you were walking?

15 A. Yes, extremely.

16 Q. Can you describe ---? Was it fairly severe? Is  
17 that correct?

18 A. It was bearable. It was uncomfortable. It was  
19 more of a chemical ---. It actually reminded me of a  
20 formaldehyde, the odor did.

21 Q. Okay. All right. It smelled like formaldehyde?

22 A. Yep.

23 Q. Do you have any idea where it was coming from?

24 A. I have no idea. Actually, the odor really  
25 surprised me. You know, you would expect a burnt

1 smell, but it wasn't there. It was, like I say, a  
2 very strong chemical smell.

3 Q. Okay. Would it be fair to say the other members  
4 of the team detected the same odor and had the same  
5 burning sensation?

6 A. I heard several team members --- especially after  
7 continued exposure to it.

8 Q. Okay. All right. Why don't you take it from  
9 there? Just tell us where you went and what you did.

10 A. The --- like I said, we got off the road in the  
11 neighborhood of the line switch. Like I said, it was  
12 around 70 --- between 75 and 78. We proceeded up to  
13 an established fresh air base. There was teams, as I  
14 recall, in the area of the longwall. And we advanced  
15 --- after some discussion at some point that night, we  
16 advanced the fresh air base up to --- it seemed like  
17 it was just inby the longwall switch, where the belt  
18 actually crossed the ---.

19 Q. Can you possibly mark the map for us, please? To  
20 begin with, mark the area where you think you parked  
21 the mantrip and left on foot, if you can. Circle it  
22 or make an X and then draw a line from it and identify  
23 it and put your initials, please.

24 A. All right. Like I say, it was in this area.

25 Q. Okay. And just draw a line out here to give a

1 little more detail, the location where you parked the  
2 mantrip or ---.

3 WITNESS COMPLIES

4 A. And from that point, we actually traveled inby the  
5 track heading and --- the map isn't long enough.

6 BY MR. FARLEY:

7 Q. We got one underneath it, that should be correct.  
8 I think it is. All right. I think you marked your  
9 location of the mantrip right there, where you have  
10 your finger, at around 75 break.

11 A. That is correct. And the next move with the fresh  
12 air base was in this neck of the woods.

13 Q. And the area that you described as this neck of  
14 the woods is there a number there, a break-through  
15 number there?

16 A. I'm sorry. It's approximately 105.

17 Q. Okay. Now, is that the approximate location of  
18 the fresh air base?

19 A. Yes.

20 Q. Okay. All right. Now, did you travel inby from  
21 the fresh air base at that point?

22 A. If --- no, we did not. There was some --- another  
23 team that was inby, and at some point we were given  
24 the instructions to withdraw ourselves from the mine.

25 Q. Do you recall why those instructions were given?

1 A. Unfortunately, I was --- that was never shared  
2 with us.

3 Q. Okay. All right. Do you recall, then, the  
4 approximate time when you exited the mine?

5 A. It was early in the morning.

6 Q. After midnight, ---

7 A. Yes.

8 Q. --- into ---?

9 A. Yeah.

10 Q. That would be into April 6th?

11 A. Yes.

12 Q. Can you estimate when you arrived outside?

13 A. No, not really. The times just kind of ---

14 Q. Okay.

15 A. --- run together.

16 Q. Okay. Is there anything about the evacuation that  
17 would have made it more complicated than it needed to  
18 be or --- if you can recall?

19 A. Yes. There was some confusion about getting some  
20 of the team members out. You know, it seemed like we  
21 ended up sitting at the end of the track for an  
22 abnormal length of time.

23 Q. Okay. Any recollection as to why that occurred?

24 A. No, not really.

25 Q. Okay.

1 A. It was just making sure everybody was on the  
2 buses.

3 Q. Okay. All right. So you're into the early  
4 morning hours of April 6th. What happened at that  
5 point? Did you reenter the mine at any time after  
6 that?

7 A. Eventually, yes. I think I was in the mines for a  
8 total of --- it was either three or four different  
9 times. But after, you know, some of the hours we were  
10 working and stuff, things kind of just run together.  
11 You know, I have good memories of the first night  
12 under and the last night. Everything else just kind  
13 of blurred together, for lack of a better word.

14 Q. Okay. Well, if you exited the mine on April 6th,  
15 that's your first trip underground, would your next  
16 visit underground have been the following day or can  
17 you ---

18 A. I just really ---.

19 Q. --- piece it together that way?

20 A. I really just don't remember. It was --- it  
21 seemed like it was Wednesday, if my memory serves me  
22 correctly.

23 Q. Okay. Do you recall where you might have traveled  
24 to underground?

25 A. No, other than a general area. The three times I

1 have good memory was the once --- the first time we  
2 were in. The next time that I have good memory of  
3 what we were --- the exact trip that we were taking  
4 was --- would have been to the north section, when  
5 we --- we had to go to the face of the north section  
6 to take a couple of samples.

7 Q. When you say the north section, ---

8 A. I think that was the name of it.

9 Q. --- you are pointing to the section known as Eight  
10 North?

11 A. Yeah.

12 Q. Did you travel with a mine rescue team ---

13 A. Yes.

14 Q. --- to Eight North?

15 A. Yes.

16 Q. And you don't recall what day that was?

17 A. Not exactly the day, no.

18 Q. Okay. All right. Do you recall which mine rescue  
19 team you traveled with?

20 A. It was the Patriot team, being led by Travis Lett.

21 Q. Okay. Now, I'm going to --- May I ask where the  
22 fresh air base was at the time before you advanced  
23 into the Eight North section?

24 A. It was in the --- still around the neighborhood of  
25 the mouth of the longwall section. That would have

1       been Break 105.

2       Q. Okay. What do you recall about your visit to the  
3       faces in Eight North? Did anything stand out?

4       A. Yeah. They have a long way up there.

5       Q. Okay.

6       A. It was a very tough trip. There was a lot of CO.

7       Q. Okay.

8       A. And I know as a team member, the oxygen got kind  
9       of low.

10      Q. Okay. All right. Do you recall any --- what the  
11      levels of methane were on the ---?

12      A. Yes. We actually --- that was the reason for our  
13      trip in that area, was to determine the quality of air  
14      in that neck of the woods of the north section, and  
15      1.4, if my memory serves me correctly.

16      Q. Okay.

17      A. I do remember the CO being quite high, in excess  
18      of 3,000.

19      Q. Okay. All right. Now, again, when you refer to  
20      that neck of the woods, do you mean the ---

21      A. Eight North.

22      Q. --- Eight North section?

23      A. Eight North section.

24      Q. Okay. All right. On the way into the Eight North  
25      section, you'll see on this map there's an indication



1 of a gas belt.

2 A. Yes.

3 Q. When you reach a point where you turn left toward  
4 the faces, Eight North faces, did you travel in that  
5 area?

6 A. No, we did not.

7 Q. Did you detect any more methane in that general  
8 area than you did at the faces?

9 A. No.

10 Q. Okay. Now, after you exited Eight North, what did  
11 you do then?

12 A. We came out of the mine.

13 Q. Okay. All right. And you think that was your  
14 second trip?

15 A. That was my second trip.

16 Q. Second trip underground at UBB?

17 A. Yeah. It was either the second or third.

18 Q. Okay. Now, do you recall when you entered the  
19 mine again after that?

20 A. It should have been Monday evening, the 4th.

21 Q. The 4th?

22 A. Yeah, when we were going to 22 Headgate to do the  
23 last of the recovery.

24 Q. When you say the 4th, do you mean ---?

25 A. Shoot. It would have been one week later. It

1 would have been the 12th --- should have been the  
2 12th.

3 Q. Okay. All right. Now, you entered the mine  
4 Monday evening, on the 12th; is that correct?

5 A. Yes.

6 Q. Okay. And can you tell us where you traveled  
7 through then?

8 A. I was with the Riverton team. We were assigned to  
9 set up the roadway for the --- to carry the last nine  
10 remaining victims. We done that, and then we went to  
11 the fresh air base on 22 Headgate.

12 Q. Okay. Now, when you were establishing this  
13 roadway, can you specify the location on the map?

14 A. It was --- the track heading and the entry to the  
15 left of it. And there was --- it did go back and  
16 forth. We marked it with red reflectors, but I don't  
17 think a map was ever prepared.

18 Q. Okay. Now, when you traveled into the mine again  
19 on the evening of Monday, April 12th, did the mantrip  
20 take you to the same location it had taken you to  
21 previously?

22 A. Just maybe two breaks farther inby.

23 Q. So that would have put you at ---? I think you  
24 originally said you traveled to about 75 or so.

25 A. Yeah. It was possibly no farther than 80.

1 Q. Okay. So the roadway you're speaking of, would  
2 that have been inby from where you parked the  
3 track-mounted vehicle?

4 A. That is correct.

5 Q. Okay. Now, the area you prepared, how far did it  
6 extend inby? Did it extend all the way to the 22  
7 Headgate section or at some point ---?

8 A. Yes, yes. That was the intent, to establish a  
9 roadway and to have basically reflectors marking the  
10 relay points of the victims.

11 Q. Okay. When you say establish a roadway, what kind  
12 of work did that involve?

13 A. It was just picking a particular ---

14 Q. A route?

15 A. --- entry that had less obstructions.

16 Q. Okay. And you marked that travelway?

17 A. Yes, with red reflectors.

18 Q. Okay. All right. Now, after you established this  
19 route of travel or --- let me ask you this. Is it  
20 possible for you to take one of the markers and  
21 approximate the location which you would have  
22 traveled?

23 A. No. We were back and forth between the track  
24 heading and the entry to the left of the track  
25 heading, traveling inby.

1 Q. All right. Is it fair to say that this route of  
2 travel was from the original fresh air base around 105  
3 in the inby direction to the 22 Headgate section?

4 A. Yes. It came from --- actually from where we  
5 parked the ride, you know, inby, all the way to the 22  
6 Headgate.

7 Q. Okay. Did you make it up to the 22 Headgate area  
8 section?

9 A. Yes.

10 Q. How far up there did you travel?

11 A. It was at the last fresh air base that was  
12 established. I never seen a stopping number. It was  
13 close to the end of the track.

14 Q. Did you encounter --- or did you come to a  
15 location where you found any bodies on 22 Headgate?

16 A. We were within sight of the bodies. We could  
17 actually see the bodies in the manbus.

18 Q. Okay. Does that mean you were outby that mantrip?

19 A. We were outby the mantrip.

20 Q. Did you advance any further?

21 A. We did carry materials up to within maybe 20 feet  
22 of the mantrip for additional building of some  
23 ventilation controls.

24 Q. Okay. All right. Were you involved in the  
25 restoration of the ventilation at 22 Headgate?

1 A. No, I was not.

2 Q. Okay. As you advanced from 75, 76, wherever the  
3 mantrip was originally parked, as you advanced in by  
4 via the track entry or the adjacent entry, traveling  
5 toward 22 Headgate, did you develop any sense of how  
6 the forces of the explosion might have traveled based  
7 on your observations of damage and debris?

8 A. It was very hard to detect much --- to get a good  
9 feel for where things might have happened.

10 Q. Okay.

11 A. And one of the reasons that, you know, I'm so ---  
12 the lack of detail is that the area had extensive  
13 destruction, and everything was black, and there was  
14 no way to differentiate one break from another. The  
15 debris was --- the debris field was quite large, and  
16 there was areas that, you know, if you were trying to  
17 determine it, it would be very confusing. But when I  
18 was in that mine, I had the --- it was not my intent  
19 to determine that at the time.

20 Q. Okay.

21 A. I had a job to do, and I was there to complete  
22 that job.

23 Q. Okay. Well, whether you intended to or not, you  
24 just gave us a pretty good description of what you  
25 saw.

1 A. Okay.

2 Q. Now, after you established this route of travel,  
3 did you --- at what point did you leave the mine  
4 afterwards?

5 A. We were in the area for the full time of the  
6 extraction of the victims. We actually all came out  
7 at the same time.

8 Q. When you say you were in the area, where did that  
9 place you?

10 A. That place changed quite often with the addition  
11 of additional teams coming in. Originally we were  
12 carrying the victims for quite long distances. But as  
13 additional teams came onto the scene, the area kept  
14 getting shorter, and we were backed up. There at  
15 least we were carrying, you know, six, eight breaks  
16 maybe before we were relayed to another team.

17 Q. Now, these relays, of course, took place at  
18 various locations between 22 Headgate ---

19 A. And the mantrip.

20 Q. --- and the mantrip at 75 or 76?

21 A. Uh-huh (yes).

22 Q. Do you recall when you ultimately exited the mine?

23 A. It seemed like it was early hours of the morning.

24 It seems like around 3:30 maybe.

25 Q. Now, you entered on April 12th. That gets you

1 into the next day; doesn't it?

2 A. Yeah.

3 Q. Okay. All right.

4 A. Gentlemen, can we have a quick break?

5 Q. Sure.

6 (Plumley Exhibits One and Two marked for

7 identification.)

8 ATTORNEY WILSON:

9 Before we go off the record, just for the

10 record, we marked two of the maps Plumley Exhibit One

11 and Plumley Exhibit Two. And we'll go off the record

12 and take a break.

13 SHORT BREAK TAKEN

14 EXAMINATION

15 BY MR. SHERER:

16 Q. Mr. Plumley, first of all, I want to thank you for

17 serving on the mine rescue team and going into this

18 mine. I understand that there were some very tough

19 conditions that you guys had to get through there.

20 You mentioned that you had --- something was burning

21 your eyes, and it smelled like formaldehyde ---

22 A. Yes.

23 Q. --- when you went back in on the 5th. Where did

24 you first notice that? Can you give us a rough idea?

25 A. You tended to notice it the most once you got into

1 the area actually where you got off the bus, but you  
2 could detect the odor while you were still on the  
3 mantrip, proceeding to the 75 Break.

4 Q. Okay. So from where you went in the portals, did  
5 you pick it up about halfway or ---?

6 A. Yeah, that's reasonable.

7 Q. Okay. And you said that that was burning your  
8 eyes and such. You were bare faced to where the  
9 manbus parked, obviously. Did you proceed inby bare  
10 faced?

11 A. Yes.

12 Q. And you went up to about, roughly, Crosscut 105  
13 you said?

14 A. Yes. That is correct.

15 Q. And were you bare faced at that point?

16 A. Yes.

17 Q. There were people, teams and individuals, I  
18 understand, inby that point. Were they bare faced or  
19 under apparatus? Do you remember? Do you know?

20 A. I do not know for sure, no.

21 Q. Okay. Was the burning sensation worse from where  
22 you parked the manbus to where you moved the fresh air  
23 base up?

24 A. It seemed to get more intense ---.

25 Q. The farther you were?



1 A. Inby into the mine.

2 Q. Okay. Thank you. And you mentioned that you were  
3 involved in moving the fresh air base up. Could you  
4 tell us just a little bit about what you did? Did you  
5 move material, supplies?

6 A. Myself and one other team member actually  
7 stretched the cable out for the advancement of the  
8 fresh air base.

9 Q. Okay. Communication scale?

10 A. Yeah.

11 Q. Thank you. You mentioned at a later date you were  
12 with a team that proceeded into the Eight North area.  
13 Could you give me just a general idea of what the  
14 conditions were like there? Was the destruction as  
15 bad as you saw down in the --- where the fresh air  
16 base was, for example?

17 A. Yes.

18 Q. The destruction was bad up there?

19 A. Uh-huh (yes).

20 Q. Overall, you were up in this northern section of  
21 the mine several times, is there anyplace that the  
22 destruction seems to have been worse and places where  
23 it was not quite so bad? Could you kind of give me an  
24 idea where that was at?

25 A. Worse is a term that can be only described by how

1 much materials were in the area prior to the incident.

2 Q. Sure.

3 A. And those --- the materials were, you know, thrown  
4 around quite a bit.

5 Q. For example, was the track damaged in certain  
6 areas?

7 A. I personally never seen track that was damaged.  
8 However, materials in the area were strewed on top of  
9 the track and everything was black, and it was really  
10 hard to differentiate.

11 Q. Okay. Thank you. When you were in there several  
12 times, do you remember any changes of pressure or  
13 sound or indications that things may have been going  
14 on at other parts of the mine? We have several blips  
15 on the fan charts and we've gotten some other reports  
16 of curtains moving and things like that.

17 A. Yes.

18 Q. Could you tell us about that, please?

19 A. When we were on 22 Headgate, ---

20 Q. Okay.

21 A. --- at the fresh air base, the gentleman that was  
22 performing the task of communications briefing  
23 officer, he is with one of the federal teams. His  
24 first name is Mark. And we had --- there was  
25 temporary curtains that had been installed to

1 ventilate the 22 Headgate area. While we were at the  
2 fresh air base there was a loss of pressure on the  
3 curtain at the fresh air base. But then it --- you  
4 know, just a few seconds later the pressure was  
5 restored. We tried to --- by communicating with the  
6 people that we knew were in those areas, that was  
7 working on ventilation inby, and there was somebody  
8 who had went outby to find additional communications  
9 cable. We contacted everybody who was not in the  
10 immediate area to find out if they had, you know, went  
11 through a curtain, and we could not find anybody. We  
12 could not count for that movement in that curtain at  
13 the fresh air base.

14 Q. Okay. Did you notice anything besides the curtain  
15 moving? Did your ears pop?

16 A. No.

17 Q. Okay. Thank you. When you were --- that was the  
18 last day you were in there; is that correct?

19 A. That is correct.

20 Q. When you first went in on the 5th, did you notice  
21 any similar incidents?

22 A. No.

23 Q. Okay. Thank you. In all of your trips into the  
24 mine after the event, did you notice any flames at any  
25 particular location, flames, embers, smoke,

1 indications of fire?

2 A. The first night that we were in, we were traveling  
3 in the track heading. Two of the team members were in  
4 the belt heading. I think there was --- somebody  
5 mentioned something along the lines of, you know, go  
6 ahead and travel the track heading. And I stayed in  
7 the track heading with some team members. Bill Tucker  
8 and I think Greg Norman were in the belt entry.

9 Q. Sure.

10 A. They actually found a crib block that was burning,  
11 if I'm not mistaken, and we actually acquired a little  
12 bit of water and poured onto it and stirred it and  
13 beat it out. Bill and Greg did.

14 Q. Did you notice anything like that when you  
15 traveled up to Eight North?

16 A. No, did not. The last night that we were in, we  
17 did find a hot spot. There was no flames involved.  
18 It was in the entry to the left of the track heading  
19 and it was close to the same area that we found the  
20 crib block that was burning. There was no flames, but  
21 there was a large amount of smoke involved that was  
22 traveling inby. And I was with the Riverton team at  
23 that time.

24 Q. Did anybody do anything to try to address where  
25 the smoke was coming from, try to dig through the

1 debris or ---?

2 A. Yeah. We did remove the material that was hot,  
3 and we left two team members with it to make sure it  
4 didn't rekindle. We stayed with the area until there  
5 was no more smoke being produced, and we left two team  
6 members in that area and then traveled inby to a  
7 telephone, and one of the team members --- one of the  
8 team captains was supposed to have notified, you know,  
9 the command center of what we found.

10 Q. Okay. Good. Thank you. You also were in the  
11 mine a couple of times prior to the event. One of  
12 those was in the fourth quarter. Just for  
13 clarification, is that the fourth calendar quarter or  
14 do you guys have a fiscal year or something like that?

15 A. The last --- it was in the month of December.

16 Q. Okay. Thank you. One last question. Once you  
17 got up to the mine site, initially it seems like you  
18 were there throughout the course of the rescue and  
19 recovery efforts. Did you receive any comments from  
20 any of the miners or anybody else associated with the  
21 whole process that --- about the condition of the  
22 mine, the potential causes, the --- anything like  
23 that?

24 A. No.

25 Q. Okay. Thank you.

1 EXAMINATION

2 BY MS. SPENCE:

3 Q. Mr. Plumley, on behalf of our team, thank you all  
4 for your service on the mine rescue team. We greatly  
5 appreciate it. I just had a couple of questions. One  
6 is about the chemical smell. What would be your  
7 opinion as to what that would be?

8 A. I actually was very curious of that chemical  
9 smell, and I went home and Googled it and come to find  
10 out that formaldehyde-based gases are a derivative of  
11 possibly the burning of propane, acetylene. It can be  
12 linked to it. Because I was very curious. I never  
13 encountered anything along that line and --- but you  
14 know, I've never seen anything associated with  
15 underground coal mines that smelled like it. It  
16 actually clinged to your clothes. I have to wash my  
17 mining belt at some point or you can still detect it.

18 Q. And you said it got worse as you --- did it ever  
19 get better as you went in or did it just keep getting  
20 worse as you went in the mine?

21 A. The intensity of it seemed to get worse as you  
22 went inby.

23 Q. And one more question. As a mine safety expert,  
24 someone with an M.B.A. in mine safety, ---

25 A. Okay.

1 Q. --- did you ever, in your visits to this mine, see  
2 anything that might raise a red flag for you?

3 A. No.

4 Q. And did anything equivalent to --- had you ever  
5 heard anything about ventilation problems in this mine  
6 prior?

7 A. No.

8 MS. SPENCE:

9 Thank you.

10 ATTORNEY WILSON:

11 Okay. Let's go off the record.

12 SHORT BREAK TAKEN

13 ATTORNEY WILSON:

14 Let's go back on. Terry?

15 MR. FARLEY:

16 No.

17 ATTORNEY WILSON:

18 Eric?

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. One slight clarification, Mr. Plumley. You  
22 mentioned when you were marking and exploring for a  
23 roadway to recover the victims, you marked that with  
24 red reflectors. And one question that we had was, in  
25 preparing that roadway, did you move or rearrange any

1 of the debris?

2 A. There was a chance that some, you know,  
3 inadvertently.

4 Q. Sure.

5 A. Because I know I tripped over a few things.

6 Q. Sure. And you probably tried to move that out of  
7 other people's way.

8 A. If I thought that a person could --- you know,  
9 like a sharp piece of metal or something, somebody  
10 could be injured, ---

11 Q. Sure.

12 A. --- I'm sure things, you know, at that point might  
13 have got kicked to the side and that kind of stuff.

14 Q. Sure.

15 A. That's just the nature of 200 men tromping up and  
16 down the entry.

17 Q. Sure. Thank you.

18 ATTORNEY WILSON:

19 Anything further?

20 MS. SPENCE:

21 I don't have anything.

22 ATTORNEY WILSON:

23 All right. Mr. Plumley, on behalf of

24 MSHA and the Office of Miners' Health, Safety and

25 Training, I want to thank you for appearing and



1       answering questions today. Your cooperation is very  
2       important to the investigation as we work to determine  
3       the cause of the accident. We require that you not  
4       discuss your testimony with any person, because we  
5       will be interviewing additional people. After  
6       questioning additional witnesses, we may call you if  
7       we have any follow-up questions that we feel we need  
8       to ask. If at any time you have additional  
9       information regarding the accident that you would like  
10      to provide to us, please contact either Terry Farley  
11      or Norman Page at the phone number that was provided  
12      to you.

13     At this time I want to give you an  
14      opportunity to either go back over any answer that you  
15      provided to clarify anything if you want, or if you  
16      would like to make any kind of a statement or provide  
17      us with any other additional information that you  
18      think may be relevant I'd like to give you that  
19      opportunity now.

20      A. No. Thank you.

21     ATTORNEY WILSON:

22      Okay. Again, thank you for your  
23      cooperation in this matter. We're off the record.

24                             \* \* \* \* \*

25                     STATEMENT UNDER OATH CONCLUDED AT 9:24 A.M.

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*