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Statement Under Oath of **Wendell Willis**

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STATEMENT UNDER OATH

OF

WENDELL WILLS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, June 25, 2010, beginning at 4:00 p.m.

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

One

Map

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*exhibit not attached

P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Polly Anna Hampton. Today is June 25th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia, and I ask that they state their appearance for the record now.

MR. O'BRIEN:

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

MR. JARRELL:

Dan Jarrell, with the Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

Patrick McGinley, with the Governor's independent investigation team.

ATTORNEY HAMPTON:

There are also several members of the accident investigation teams also present in the room today. Mr. Sherer will be conducting the initial

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

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

1 Safety and Health Act and the West Virginia Office of
2 Miners' Health, Safety and Training. We appreciate
3 your assistance in this investigation. You may have a
4 personal attorney present during the taking of this
5 statement or another representative, if MSHA has
6 permitted it.

7 Your statement is completely voluntary.

8 You may refuse to answer any question and you may
9 terminate your interview at any time or request a
10 break at any time. Since this is not an adversarial
11 proceeding, formal Cross Examination will not be
12 permitted. And just so that the record is clear, do
13 you have a personal representative with you here
14 today?

15 MR. WILLIS:

16 No.

17 ATTORNEY HAMPTON:

18 Your identity and the content of this
19 conversation will be made public at the conclusion of
20 the interview process and may be included in the
21 public report of the accident, unless you request your
22 identity remain confidential or your information would
23 otherwise jeopardize a potential criminal
24 investigation. If you request us to keep your
25 identity confidential, we will do so to the extent

1 permitted by law. That means that if a judge orders
2 us to reveal your name or if another law requires us
3 to reveal your name or if we need to reveal your name
4 for other law enforcement purposes, we may do so.
5 Also, there may be a need to use the information you
6 provide to us or other information we may ask you to
7 provide in the future in other investigations into and
8 hearings about the explosion. Do you understand?

9 MR. WILLIS:

10 Yes, ma'am.

11 ATTORNEY HAMPTON:

12 Do you have any questions?

13 MR. WILLIS:

14 No.

15 ATTORNEY HAMPTON:

16 After the investigation is complete, MSHA
17 will issue a public report detailing the nature and
18 causes of the fatalities in the hope that greater
19 awareness about the causes of accidents can reduce
20 their occurrence in the future. Information obtained
21 through witness interviews is frequently included in
22 these reports. Since we will be interviewing other
23 individuals, we request that you not discuss your
24 testimony with any person, aside from a personal
25 representative or counsel.

1 A court reporter will record your
2 interview. Please speak loudly and clearly. If you
3 do not understand a question, please ask the
4 questioner to rephrase it. Please answer each
5 question as fully as you can, including any
6 information you have learned from someone else. I'd
7 like to thank you in advance for your appearance here.
8 We appreciate your assistance in this investigation.
9 Your cooperation is critical in making the nation's
10 mines safer.

11 After we have finished asking you
12 questions, you will then have an opportunity to make a
13 statement and provide us with any other information
14 you believe is to be important. If at any time after
15 the interview you recall any additional information
16 that you believe might be useful, please contact
17 Norman Page at the telephone number or e-mail address
18 provided to you in that letter.

19 Any statements given by miner witnesses
20 to MSHA are considered to be an exercise of statutory
21 rights and protected activity under Section 105(c) of
22 the Mine Act. If you believe any discharge,
23 discrimination or other adverse action is taken
24 against you as a result of your cooperation with this
25 investigation, you are encouraged to immediately

1 contact MSHA and file a complaint under Section 105(c)
2 of the Act. John?

3 MR. O'BRIEN:

4 What I'd like to do is go over this with
5 you. Basically on behalf of the West Virginia Office
6 of Miners' Health, Safety and Training and the West
7 Virginia Code 22A-1-22 you are protected against
8 discrimination from this --- anything stemming from
9 this interview. If that would happen, here's some
10 contact information I want to give you. If you would
11 experience such discrimination, you have 30 days from
12 the point of that discrimination, not today, to file a
13 complaint. Also, I would like to give you cards,
14 business cards from Terry Farley and Bill Tucker.
15 They are our lead investigators in this accident
16 investigation. And if you have any questions, feel
17 free to contact them. Okay? Any questions?

18 MR. WILLIS:

19 No.

20 MR. O'BRIEN:

21 Thank you.

22 ATTORNEY HAMPTON:

23 Would you please swear in the witness?

24 -----

25 WENDELL WILLIS, HAVING FIRST BEEN DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 -----

3 EXAMINATION

4 BY MR. SHERER:

5 Q. Would you please state your full name and spell
6 your last name?

7 A. Spell the last name?

8 Q. Yes, please.

9 A. Wendell Dale Wills, W-I-L-L-S.

10 Q. Thank you. How about your address and telephone
11 number?

12 A. Mailing address is [REDACTED]

13 [REDACTED]

14 Q. And your telephone number, please?

15 A. [REDACTED]

16 Q. Okay. Thank you. Are you appearing here today
17 voluntarily, Mr. Wills?

18 A. Yes.

19 Q. How many years in the mining industry do you have?

20 A. Thirty-three (33) years.

21 Q. Can you give us a rough outline of what you've
22 done during the 33 years?

23 A. I did everything from general inside laborer to
24 belt work, roof bolt, continuous miner, shuttle car,
25 scoop, become foreman. I've worked in roof control,

1 ventilation, basically --- I did about everything in
2 the mines.

3 Q. You sound very experienced. What companies have
4 you worked for?

5 A. I worked --- I started at Beckley Coal in 1974,
6 and I worked there 12 years, then went to Maben,
7 worked for a while in Boone County. I worked in Logan
8 County for Ballard Brothers, and then I came to A.T.
9 Massey in around approximately '91.

10 Q. Okay. Are you currently employed?

11 A. No. [REDACTED].

12 Q. Have you ever worked at Upper Big Branch Mine?

13 A. Yes.

14 Q. When did you work there?

15 A. I think I started there in '92 or '93, I believe.
16 I came from --- I started at Castle and went to White
17 Knight. And then from White Knight I came to Upper
18 Big Branch.

19 Q. Those are mines located above Upper Big Branch,
20 aren't they?

21 A. Pardon me?

22 Q. Those mines are located above Upper Big Branch?

23 A. No. They were down --- they were on down in Boone
24 County, ---

25 Q. Okay.

1 A. --- and I just moved up to them.

2 Q. Okay. When did you leave Upper Big Branch?

3 A. It was the latter part of 2006.

4 Q. What were you doing at Upper Big Branch at the
5 time that you left there? What was your job title?

6 A. I was mine foreman. I had recently --- prior to
7 late --- I think in November I was superintendent, and
8 then they got a new superintendent. I asked them to
9 bring a new superintendent, and I --- after 2006 I was
10 transferred again to Shank Run. I asked to be
11 transferred.

12 Q. Okay. Any particular reason you asked to be
13 transferred?

14 A. At that time we had the Glory Hole, which coal
15 came from Logan's Fork to our mines. And I needed
16 more people. We were having trouble with keeping our
17 belts clean and --- we just didn't have enough people,
18 and I couldn't be a mine foreman or superintendent and
19 shoveling belt and taking care of the business. I
20 just wanted to do one or the other, so I asked to be
21 transferred to their beltline and at --- it's called
22 Shank Run. I think it's S-H-A-N-K or something. I'm
23 not sure.

24 Q. So you're trying to do what you needed to do and
25 you just didn't have enough resources?

1 A. That's why I left.

2 Q. And you were superintendent for approximately how
3 long?

4 A. Approximately for two years.

5 Q. Okay. Well, it sounds like you were very familiar
6 with this mine. And was the longwall operating during
7 that time period of this mine, Upper Big Branch?

8 A. Yes. When I was superintendent, yes. It wasn't
9 at the time that I left. The longwall was in Logan's
10 Fork and was coming to our mines, and we were
11 supposedly going to drive panels for it, and we
12 didn't. Because I was superintendent through a lot of
13 those panels, all of those panels up there that were
14 longwalled.

15 Q. Oh, geez.

16 A. The ones from, I think, Headgate 22 up to Headgate
17 11 --- down to Headgate 11.

18 Q. Mined a lot of them out?

19 A. It was good mining at that time. Good
20 conditions ---

21 Q. That's good.

22 A. --- on a lot of them. The last three or four were
23 not so good.

24 Q. What was the management structure when you were
25 there? Who ran the entire operation?

1 A. Well, my boss was Eddie Lester and Homer Wallace,
2 but the president was --- golly, I just went blank.

3 Q. Don't worry about it. I go blank quite often
4 myself.

5 A. James Hancock was the last one I worked for.

6 Q. Okay. And you reported directly to Mr. Lester?

7 A. Yes.

8 Q. And his position was?

9 A. General manager is what they called him.

10 Q. Okay. And then he reported to the president?

11 A. Yes.

12 Q. Were there any vice-presidents?

13 A. Not at that time. I think Eddie Lester was ---
14 because he didn't have a college degree, they called
15 him mine manager/vice-president.

16 Q. And the president was over Performance Coal?

17 A. Yes.

18 Q. So Performance Coal is the --- did they operate
19 other mines at the same time?

20 A. No. We only had Upper Big Branch.

21 Q. How about the preparation plant, was that under
22 Performance Coal?

23 A. No. The preparation plant was Ed White. It was
24 under someone else.

25 Q. Okay. What about under you? What was the

1 management structure like under you at that time?

2 A. Well, I had mine foremans and section bosses. I
3 had the shift foremans.

4 Q. What about the longwall when it was operating?
5 How was it structured? Was it operated just like
6 another section?

7 A. Yes. It was --- they had the coordinator and the
8 assistant coordinator and they took care of the
9 longwall and I took care of the ventilation.

10 Q. Okay. And they reported to you?

11 A. No. Very seldomly. I mean, if they had troubles
12 they reported to me, but no, they didn't report to me.

13 Q. So they reported directly to the general mine
14 foreman?

15 A. Yes.

16 Q. When you were operating this mine did you have
17 equipment doors where the track had to cross other air
18 courses or did you use overcasts?

19 A. I used overcasts. And we used track doors, you
20 know, too. That was for neutral air and not for
21 ventilation.

22 Q. Sure.

23 A. Not for intake ventilation. We had overcasts.

24 Q. Okay. And do you recall methane outbursts that
25 may have occurred in 2003 and 2004?

1 A. Yes.

2 Q. Could you tell us what you remember about those
3 outbursts?

4 A. Well, they were --- I was close to the longwall,
5 on the last one, I remember, and they called and said
6 they had methane outbursts. And I said, was the power
7 knocked. And the power was knocked. By the time I
8 got up there, you could still --- it was --- it just
9 sounded like a train in a tunnel. It was so loud
10 coming out of the bottom. The bottom had busted and
11 we were --- we immediately --- you could look down the
12 fan line of the longwall and you could see --- it
13 looked like road heat coming off the road, coming out
14 from the jacks, and it was up high. And I think
15 somebody was with me, we crawled down there. I wanted
16 to see if I could get closer to the --- and my
17 detector got down to 14 percent of CO, and then I came
18 back out.

19 And MSHA arrived. And I stayed up there. We got
20 everybody out of the mines, and I stayed there
21 monitoring to see if it was going to quit or what was
22 going to happen and make sure we had good ventilation.
23 They called me outside, and we proceeded then to
24 re-ventilate. We had a fan in behind North Mains,
25 straight back, and you could go and knock a stopping

1 out up there, build two stoppings across the track
2 outby the tail on the wall, put all the air across the
3 wall to that fan behind the North Mains. Eventually
4 it cleared out.

5 Q. Roughly, how long did you have to keep the mine
6 evacuated?

7 A. I'm not sure. I think it was a couple days just
8 to be sure, and we had to re-ventilate after --- after
9 we got clear, it got down to where we weren't getting
10 any readings. Once the methane had stopped, you know,
11 the outbursts, you would get zero percent of methane.
12 But we had to re-ventilate the mines where we built
13 the stoppings across the track and the beltline and
14 rebuild the stoppings we had knocked up in North
15 Mains.

16 Q. Sure. Where were those cracks located in
17 relationship to the wall; do you remember?

18 A. Yeah. It was --- the one I remember was at 94
19 jack. That's probably midface.

20 Q. Did the cracks parallel the face or did they go
21 back into the gob?

22 A. It just went back in behind the jacks. I guess
23 with the pressure it just busted up. It was in
24 between and behind the jacks. You could see it coming
25 out of the jacks.

1 Q. Did you see anything going on in the face area
2 where that crack was located?

3 A. No.

4 Q. How about the top? Did you see any problems with
5 the top in that area?

6 A. No. We went back to normal mining after it played
7 itself out. It happened a couple times, but I can't
8 remember. That's the one I remember the most.

9 Q. Did you have any advanced warning of that
10 outburst?

11 A. No. No. I think during that time the top set,
12 you know, where it had pressure it just busted the
13 bottom out.

14 Q. Do you recall if you had to submit a ventilation
15 plan change after that crack was found?

16 A. Yes, we did, I think. I believe Bill Ross and
17 David Morrison, maybe Raymond ---

18 Q. Browning?

19 A. --- Browning was there. And together, we knew we
20 had to do something quick, and then we got the okay.
21 I'm not sure who was in charge of ventilation from
22 MSHA at that time, but I think --- I believe it was
23 Bill Ross.

24 Q. I think it was Billy.

25 A. And they were okay with that, to do that. And

1 they were with us all the time when we were doing
2 this.

3 Q. That's good. You say you encountered it --- was
4 it prior to that one, that outburst, or after that
5 outburst? You said you had encountered a couple times
6 you remember.

7 A. That was one of them. And one more time I think
8 you had mentioned 2003 maybe. But I knew it happened
9 a couple times.

10 Q. Okay.

11 A. When the longwall would come out, it would put
12 pressure, you know, like on the panel. You may be
13 driving beside of it, and sometimes the bottom would
14 hoove all the way across the other panel, but you
15 didn't necessarily get methane out of it.

16 Q. Sure. Where you encountered this crack and
17 outburst, did you notice any other things going on,
18 like excessive hoofing in the gate roads or anything
19 like that?

20 A. No. No. It just happened in the jack line, in
21 behind the jack.

22 Q. Had anything happened with the coal seam, that it
23 had pinched down or ---?

24 A. No.

25 Q. Okay.

1 A. No. The bottom just busted and methane come out
2 and that was about it. And then I found out there was
3 a lot more gases than methane. They came in with
4 bottle samplers, and I couldn't tell you the different
5 kinds of gases that were in that with the methane. I
6 thought it was just methane.

7 Q. Do gases like propane and ---

8 A. Yes.

9 Q. --- and ethane and things like ethane and things
10 like that ring a fall?

11 A. Yes. They had several different runs.

12 Q. That's very interesting and helpful. Did you do
13 anything different as far as ventilation on subsequent
14 panels?

15 A. No. No. Our ventilation was really pretty good
16 at that time. When you got in trouble with
17 ventilation is when the tailgate would fall in or you
18 may get water behind you. That would cause a problem.
19 We had that one panel --- if I'm not sure, I believe
20 it's Headgate 11, we had water that --- we had a pump
21 that came down to the 100 break, and it was a surface
22 pump, and we pumped --- you know, we had to keep that
23 running because that water would roof back there, and
24 it would shut your ventilation off, so we had to keep
25 it running.

1 Q. What would happen when the water roofed and
2 ventilation shut off? Did you just get methane coming
3 out of the gob?

4 A. You can tell because we had eight people that's
5 evaluation points back there, and we had to go do
6 those evaluation points every day. And if your air
7 was getting weak and going back to the gob, you knew
8 that the pump was needed started or wasn't running.

9 Q. Okay. You mentioned that you had helped drive the
10 area that they're referring to as Eight North now.
11 And I'm pointing to the area on the map that's north
12 of the Glory Hole. What did you guys call this area?

13 A. North Mains.

14 Q. North Mains, okay. Do you recall why the
15 development of the North Mains was abandoned at some
16 point in time?

17 A. We abandoned and pulled the equipment off. It got
18 low coal. There wasn't a lot of coal back there, and
19 the top started getting bad, and we had beltlines that
20 ran from North Mains all the way, you know, outside
21 the beltline. The beltlines were pretty rough, but
22 then we had some bottom heaving up in there that we
23 had to continually work on the beltline.

24 Q. Okay.

25 A. So I just pulled out. I don't know whose call

1 that was, but we pulled out.

2 Q. Sure. And you mentioned earlier that at one time
3 you were considering setting another fan on the north
4 side of this mine?

5 A. We had talked about it. We had talked about
6 punching out at the town of Eunice and set a fan up
7 there just to let that fan take care of all the north.
8 The one at Upper Big Branch would take care of all the
9 seals and that area south.

10 Q. How was the ventilation up on this North Main when
11 you guys were driving that?

12 A. We had good ventilation up there at that time
13 because there was only that one section up in there,
14 and that was fairly good.

15 Q. Did you recall any problems with methane up in
16 this ---

17 A. No.

18 Q. --- portion of the mine?

19 A. No, never had any methane in it.

20 Q. Okay.

21 A. The only time I found methane in that mines, I was
22 --- I've been all over, from behind the wall, all the
23 way through it is in the gob. Occasionally you'll get
24 --- in the gob you get two percent, 2.5. And that
25 depended on the barometers. Half the time I had a set

1 of seals back over in that first headgate we did, and
2 the seals didn't leak, but the ribs around it, I'd
3 have to carry plaster back in there. And they were
4 way back in behind the wall, and keep it plastered
5 down. I could look at the barometer and go back there
6 and tell you if it was coming out or coming in, you
7 know.

8 Q. Sure.

9 A. When you were --- did you get involved in the
10 planning of the longwall panels and the ---

11 A. No.

12 Q. --- pillars and stuff?

13 A. No.

14 Q. Who did that?

15 A. The engineers and --- I worked for --- Bill Potter
16 was another president I didn't tell you. He was there
17 during the time we were driving these panels, and the
18 --- it was usually the president and the engineers who
19 tell us where they wanted to go, and we'd go set it
20 up.

21 Q. Did you have engineers at Upper Big Branch at that
22 time?

23 A. Not at the mine site. They would come up and go
24 in. No, not on the site. They were down behind the
25 maintenance office.

1 Q. So it was a separate office or separate company?

2 A. Right.

3 Q. Have you seen the current longwall layout?

4 A. Just on that. I looked at a little map that came
5 in one of the coal news books.

6 Q. Would you mind spending just a few minutes and
7 looking at this layout? And having all of the
8 experiences that you've got at this mine, see if this
9 makes much sense to you. And let me tell you a couple
10 things. One, they had tremendous problems with the
11 headgate, floor hoove and keeping the ribs and roof
12 up. The tailgate entries were becoming almost
13 impassible and they had a tremendous amount of water
14 at the end of the longwall. They put a turbine pump
15 down by the Bandytown fan which they used to pump the
16 water out of these entries, but it didn't drain
17 straight back down there?

18 A. I've heard that when they drilled for the turbine
19 pump they hit the halfway, but actually my headgate
20 was on this side. I brought my intake air down, it
21 would come across --- this was my tail and my panels
22 and we kept the conduit back that way.

23 Q. So you were actually pulling your panels up ---?

24 A. Yeah.

25 Q. So you leave most of the water behind you?

1 A. Yes. Well, now, the one panel we had to go in,
2 and we had a good engineer at that time, Mike Milam.
3 And we had to go back and shoot bottom. He said, it's
4 not going to bother you now. That's the North Mains
5 we drove up. And he said, it won't bother you now,
6 but it will later because when the water comes, you're
7 going to get roof back there. So we had --- I think
8 we had to take approximately four foot of the bottom
9 in places we drill shot, because we were dug out of
10 there. And he did his elevations and found out that
11 water would roof sometimes, but we fixed that before
12 we came out.

13 Q. That's good.

14 A. But as far as ventilation, I couldn't tell you
15 anything because this was my headgate. I brought my
16 intake down.

17 ATTORNEY HAMPTON:

18 I just want to interrupt you because I
19 see you're doing some pointing and saying this and
20 here in reference to the map. Could you --- I just
21 want to emphasize if you could explain where on the
22 map you were pointing to.

23 A. I'm pointing to Headgate One North. And the way
24 they ventilate is not the way --- it's different than
25 when I was superintendent. We ventilated --- what is

1 their tailgate was our headgate. We brang our air
2 down to the headgate, across the face to the tail and
3 then back to the fan. It's just reversed. I don't
4 know. I'm not saying there's anything wrong with
5 that. I just never had done it that way.

6 BY MR. SHERER:

7 Q. Sure. This Bandytown fan, as I understand, is a
8 very large, centrifugal fan, so it's pulling about a
9 half million cubic feet per minute, but it's pulling
10 it at a high pressure also. Did you have any
11 experience with that type fan?

12 A. Actually, we had a fan behind our wall. But as
13 far as --- I can just tell you, you know, how much CFM
14 was coming out of the fan. I couldn't tell you
15 anything else about it.

16 Q. Okay. It appears that this was actually their
17 main return for this part of the mine.

18 MR. MCGINLEY:

19 Do you want to identify where you are?

20 BY MR. SHERER:

21 Q. Yeah, the Bandytown fan was the --- was
22 ventilating this portion of the mine and the main
23 return was the entries from the tailgate side of the
24 longwall down to the Bandytown fan, and much of the
25 air ventilating the northern part of the mine went

1 down both the tailgate and the headgate of the current
2 panel.

3 A. With the fan like --- with your intake coming down
4 this side, I can see ---.

5 ATTORNEY HAMPTON:

6 What do you mean this side?

7 A. The intake is coming down the headgate side of the
8 wall. I can see where it would want to pull back that
9 way, and you would have to almost --- and I don't know
10 how you would keep it from pulling out of the gob.

11 ATTORNEY HAMPTON:

12 And when you just said pull back that way
13 you were pointing over to the ---?

14 A. To the Bandytown fan.

15 BY MR. SHERER:

16 Q. Okay. Thank you.

17 A. Where was the return for the panel that the
18 Headgate 22 was driving at?

19 Q. Okay. Their return comes back down here.

20 A. And it comes down, too.

21 Q. Yeah. And they initially ---.

22 ATTORNEY HAMPTON:

23 Keep in mind you're just pointing and
24 saying here, and that's not going to come across on
25 the ---.

1 A. Well, I can see Headgate 22's return is going down
2 to the Bandytown fan, too.

3 BY MR. SHERER:

4 Q. Yes. Basically it connects up with the headgate
5 of the current panel. Ventilation was extremely
6 problematic at this mine, we understand, in the, oh,
7 approximately two or three months prior to the
8 explosion. Have you heard anything about that?

9 A. I heard that they were shut down for seven days or
10 a week or so to --- because of ventilation, to work on
11 their ventilation.

12 Q. Do you know who was in charge of the ventilation
13 at this mine prior to the explosion?

14 A. No, I do not.

15 Q. Have you talked to any of the employees in this
16 mine about the ventilation?

17 A. Not in the last --- well, I've talked to people
18 who stopped by the house and would say, you know, I'm
19 getting methane when I'm bolting. They would complain
20 a little bit, and see, I wasn't working, and they
21 wanted to know if I was coming back to work. And I
22 said, no. But they would just be --- that would be
23 what they were saying. I really don't know, ---

24 Q. Sure.

25 A. --- but ---.

1 Q. We've actually had several people say that you
2 were the last person that knew how to ventilate this
3 coal mine.

4 A. Well, I wasn't that smart. I just stayed in it
5 all the time. I knew where it was at. I knew where
6 my air was and where it was going. If something went
7 --- I could tell you --- at one time I could tell what
8 every evaluation point had, and we had several,
9 because I was in there. I was afraid --- I didn't
10 have a lot of help when I stayed in there, and I would
11 track my air from the fan probably once a month. I
12 would do the whole thing, but I stayed in the airways
13 all the time because I wanted to be sure.

14 Q. Sure. Is there any particular reason you felt
15 that you needed to keep up with the ventilation that
16 well?

17 A. Well, I was good at it, I thought.

18 Q. Okay.

19 A. And I just liked --- that was something I liked to
20 do, and I made sure --- I wanted air on the wall. If
21 nowhere else, I wanted air on the wall.

22 Q. Do you recall how much air you did have on the
23 wall, how much was coming down the face?

24 A. Yeah. It was always around --- I think we had to
25 have 60,000 at the headgate, and it was always --- at

1 times it would be up to 90,000. I can't remember the
2 face readings. It seems like it was 300 at the head
3 or --- no, I can't remember at the head and tail, but
4 I had to have air readings at the headgate and the
5 tail.

6 Q. Do you know if this is the same set of longwall
7 equipment in this current panel that you operated?

8 A. I'm not sure, because it's a different --- well,
9 their headgate is on the tailgate. I would say not.
10 I'd say the jacks probably came from Logan's Fork.

11 Q. Yes. We understand this was at Logan's Fork for a
12 while. I was just wondering whether they had replaced
13 the equipment?

14 A. I would say the shearer and everything had to be
15 different ---

16 Q. Sure.

17 A. --- to be able to come back --- what I call
18 backwards.

19 Q. Yeah.

20 A. That would be ignorant to ventilate that.

21 Q. Sure. Do you know roughly how many million tons
22 you'd get off of a shearer in the beltline?

23 A. Well, back when we were running good, we mined
24 over a million tons a month.

25 Q. And how long ---?

1 A. For 13 or 14 months.

2 Q. Okay. And so you get 13 or 14 months. Would you
3 have to overhaul the shearer at that point in time?

4 A. No. No, we did our maintenance on the hoot owl
5 and we ran a lot. You know, you get maybe four hours
6 of maintenance on it, but it ran all the time.

7 Q. Okay.

8 A. Now, when Pete Hendrick was there, we always
9 seemed --- every time we went to a new panel, we had a
10 new shearer waiting, and they would be setting up, and
11 all we would have to move would be the jacks and ---.

12 Q. Did you have a new pan line or another pan line?

13 A. Yeah. They would have --- we'd be putting in ---
14 we had some. We didn't have enough to do it all. We
15 had to move some, but nine out of ten times we just
16 had to move the jacks and the stage loaders.

17 Q. That cuts down quite a bit on the move time,
18 doesn't it?

19 A. Oh, yeah. They moved several times in nine days,
20 you know, running the wall.

21 Q. That's a quick move. When you were running this
22 mine, did you ever have to report the production or
23 downtime on a regular basis?

24 A. Yes.

25 Q. Who did you report that to?

1 A. To Bill Potter, our superintendent. We filled out
2 reports and they would go down to the main office, and
3 the main office would send them to Chapmanville, to
4 Mr. Blankenship or wherever he was at. I think it was
5 in Chapmanville.

6 Q. Sure. Was that a daily report?

7 A. Every day.

8 Q. Did you have to report anything on a shorter
9 basis?

10 A. Yeah. Yeah. The section foreman had to call out
11 at 10:00, 12:00 and 2:00, I believe. I can't
12 remember.

13 Q. Okay.

14 A. They called out two or three times ---

15 Q. Sure.

16 A. --- to let you know what they had.

17 Q. What about down time? If a miner was down or the
18 wall was down, did that have to be called out?

19 A. Oh, yes. Usually within 15 minutes you need to
20 call out by like when you have an accident.

21 Q. Sure.

22 A. Yeah. If they were down there, you had to call
23 out and then you'd have to call someone down at the
24 main office, you know, and they would call --- they
25 would pass it on up the line.

1 Q. Okay. Do you recall if this mine made a lot of
2 water or ---?

3 A. Yes. We had a lot of water in the mine, but we
4 had a lot of pumps. I left a lot of pumps behind the
5 panel I couldn't get.

6 Q. Sure.

7 A. But they worked and served the purpose. They're
8 just gone now.

9 Q. Flooded?

10 A. Filled up.

11 Q. Do you feel like you're able to control the water?

12 A. Yes. But it was a constant battle with water.

13 Q. I imagine so. Do you feel that there was an
14 excessive amount of pressure to run coal for this mine
15 when you were in charge of it?

16 A. Actually, probably was, but they didn't put a lot
17 of pressure on me because I was --- I didn't let
18 pressure get to me on running coal and --- but the
19 longwall had more pressure than probably anybody to
20 run coal, and I didn't catch a lot of that heat.

21 Q. Oh, okay.

22 A. So I'm sure there was.

23 Q. Have you ever heard of dust pumps being hung in
24 intakes or any other way to keep the dust out of the
25 samples?

1 A. No. Now, there's one you hang there anyway, but
2 no.

3 Q. Do you feel that the mine ventilation was adequate
4 at all times when you were in charge of this mine?

5 A. There's several times on the wall when maybe the
6 tailgate would fall in, and you would be borderline.
7 We had troubles, yes. We had ventilation troubles,
8 too, just --- but for the most of the time we had good
9 ventilation, or I thought we did.

10 Q. Sure. Do you know of ventilation changes that
11 were made --- major changes made while miners were
12 underground?

13 A. Just rumors. I've heard that, but I ---.

14 Q. And that's rumors of the current operation?

15 A. Yes, and never when I was superintendent. We did
16 it on the hoot owl. When we had to make a ventilation
17 change, we did it with nobody in the mines, unless it
18 was some little ventilation, you know. But when we
19 had a major ventilation change, we did it on the hoot
20 owl with everybody out of the mines, except the people
21 who were doing the change, then we fire bossed the
22 whole mines.

23 Q. Can you explain to us, Mr. Wills, why you did it
24 that way?

25 A. Well, I didn't want to go to jail for one thing.

1 And I didn't want nobody hurt. I wanted to do it
2 right so nobody couldn't come --- I'll tell you, I had
3 --- Bill Ross and Dave Morris I probably had the most
4 respect for because they helped me, and I didn't want
5 to do anything to get them on my back either.

6 Q. They were both ventilation people with District
7 IV?

8 A. Yes.

9 Q. But when you say you didn't want to get anybody
10 hurt, could you help us out for the record and explain
11 why you thought that may be a hazard?

12 A. Anything can happen in a ventilation change. You
13 can short circuit and maybe lose air on the wall, and
14 you will get methane behind the wall.

15 Q. Sure. Have you ever made a ventilation change and
16 the air didn't do what you thought it was going to do?

17 A. Yeah.

18 Q. So that's why you needed ---?

19 A. Yes.

20 Q. Have you ever heard of mining taking place in this
21 mine without ventilation curtains in place?

22 A. I've heard of it, but I've never, you know, ---.

23 Q. Have you ever heard of methane monitors being
24 bridged out?

25 A. No. Actually, I've heard about it, but I wouldn't

1 know anything about it because I wouldn't know how to
2 do it if I wanted to.

3 Q. But you have heard about it?

4 A. I've heard about it, yes.

5 Q. Do you think that was a common practice? Was it
6 just an isolated incident or ---?

7 A. The one I heard about was --- it was like it would
8 maybe shut the shearer down because maybe the methane
9 monitor would be malfunctioned, wouldn't let the
10 shearer run, and they'd bridge it out until they found
11 the problem.

12 Q. Okay. When you're operating the longwall, how
13 many methane sensors were on that wall?

14 A. One at the head, midface and tail. I'm pretty
15 sure.

16 Q. Do you recall if there was one on the shearer
17 also?

18 A. Oh, yeah. Yes.

19 Q. Do you know --- have you heard or do you know of
20 any retaliation against miners who complained about
21 safety issues like if they thought there was problems
22 with ventilation, do you think miners got in trouble
23 for trying to get that fixed?

24 A. I think they were afraid of getting in trouble.

25 Q. Okay. Do you --- have you heard anybody talking

1 about that?

2 A. I've heard that a foreman supposedly called
3 outside and said that he wouldn't be down for a little
4 bit. He was working on the ventilation of methane. I
5 know it's --- someone told him he was running coal or
6 he would get somebody out there. That's the only one
7 I've heard about.

8 Q. So the foreman was trying to fix the ventilation
9 and basically he was told either run coal or be fired?

10 A. Yeah.

11 MR. SHERER:

12 That's all the questions I've got for
13 right now.

14 EXAMINATION

15 BY MR. JARRELL:

16 Q. Do you recall who that was?

17 A. Dean Jones was the foreman.

18 Q. Dean Jones?

19 A. Was the section foreman.

20 Q. And he was a victim in this ---?

21 A. Yes, he was. He was my buddy.

22 Q. Oh, geez.

23 A. Now, what I told you about him calling out, that
24 was hearsay. Now, they told --- I was told that that
25 was what was said.

1 Q. So you never had that conversation with Dean
2 Jones?

3 A. No, I didn't.

4 Q. And do you recall what his nickname was?

5 A. Dino. He got a twin brother names Geno.

6 Q. I didn't know that.

7 A. He was a fine man.

8 Q. That's what I've heard. I've heard a lot of good
9 things said about him.

10 MR. JARRELL:

11 That's all the questions I've got for
12 right now.

13 EXAMINATION

14 BY MR. O'BRIEN:

15 Q. Just bear with me. I may re-track some places
16 we've been, so just bear with me, please. You said on
17 --- the outburst that you were speaking of that you
18 were close to and responded to. What year was that?

19 A. I'm not sure exactly. I'm not sure.

20 Q. Do you remember what panel that --- what longwall
21 panel that was on possibly?

22 A. If you'll let me look at the map there just for a
23 second on the wall.

24 Q. Sure.

25 A. I'm almost sure it was 11. I'm not sure. It was

1 Headgate 14 or 15. It was there in the middle. Maybe
2 even 12. I'm not sure. We didn't have a 13.

3 Q. If I understood you correctly, to be able to go
4 back to operating you had to make changes in the
5 ventilation plan?

6 A. Yes.

7 Q. Do you remember what those ---?

8 A. No. We didn't have to make changes. We had to
9 put it back the way it was. I changed it to ventilate
10 the wall face, and we had to put it back the way it
11 was.

12 Q. Put it back the way your ventilation plan ---
13 your ---

14 A. Right.

15 Q. --- existing one calls for?

16 A. Yes.

17 Q. Okay. I just wanted to clear that up for myself.
18 Do you know of any other outbursts that has
19 happened ---

20 A. No.

21 Q. ---- before or after ---?

22 A. We had two that I know of, but there was one ---
23 the bad one that I remember was at 94 Jack at midface.
24 That's the one I can remember.

25 Q. The other one, do you know when it was?

1 A. No, I really don't.

2 Q. By chance, do you know a person by the name of
3 George Levo.

4 A. Yes, I know George Levo.

5 Q. And who was he?

6 A. He was an engineer.

7 Q. For?

8 A. Upper Big Branch.

9 Q. Oh, okay. Why, he took care of a lot of places.
10 He was the one that I'd call to make sure my pump was
11 running, the one I was telling you about. He'd make
12 sure --- he'd start --- he would check the line on
13 weight to and from work to make sure it was running
14 because it was over near where he lived in Boone
15 County somewhere.

16 Q. It made it convenient, didn't it?

17 A. Yeah. Yeah. Because he was probably the only one
18 that knew how to start it.

19 Q. And what about a Bill Downey?

20 A. Bill Downey was the longwall coordinator.

21 Q. At that time?

22 A. Yes.

23 Q. Do you recall any kind of an underground
24 evaluation pertaining to the outbursts in, say,
25 February of '04? People come in and evaluate what

1 happened or the situation?

2 A. I'm not sure. There were a lot of people there
3 during that time. I'm not sure.

4 Q. Do you know of anything that may have any
5 recommendations or results from any of the
6 outbursts ---

7 A. No.

8 Q. --- that was passed down to you, but ---?

9 Q. No. The only recommendation --- or what we had to
10 do was for dust control. Every time we'd come out on
11 our dust we had to add more air or put more air on the
12 face. That was the only thing we ever had to do.

13 Q. Did you ever experience any outbursts on the
14 continuous miner sections?

15 A. No.

16 Q. The belt man section?

17 A. Nothing.

18 Q. Just strictly on the longwall?

19 A. Yes.

20 Q. Were they --- at any certain point in the panel,
21 were they near the beginning, middle or end or was
22 there any rhyme or reason to where the outbursts were
23 located that you can remember?

24 A. I can't remember really. It was usually,
25 generally, something --- it seemed to me like they

1 were pretty much up to the pullout, you know, within,
2 I'd say, 2,000, 3,000 feet. I can't remember.

3 Q. 2,000 or 3,000 feet of being finished?

4 A. Yes, of that panel.

5 Q. Okay. Because we didn't --- the last one --- the
6 reason I say that was because I could walk from the
7 pullout area down to the tailgate when we were
8 changing air, and it wasn't very far down in there.

9 Q. This may have been discussed, but on the outburst
10 that you responded to, what was the highest methane
11 reading?

12 A. I wouldn't wear a detector.

13 Q. I sort of figured that. Who was the foreman on
14 that longwall that day? Do you remember?

15 A. It might have been Jack Roles. I'm not sure.

16 Q. Is there anything else you can tell us about any
17 of the outbursts that you recall that we haven't
18 covered?

19 A. No. When you have an outburst like that, there's
20 no warning. I mean, it just --- the bottom will
21 hoove, bump, whatever. It's there. It comes out. I
22 think you might have been there. You can hear it.
23 You can hear it from the headgate before you ever get
24 to the rolling out. It's scary.

25 Q. Did you do anything different in the adjacent

1 panels? The rest of the panels were just continue to
2 ventilate the way you had been ventilating all of them
3 or ---?

4 A. Yeah. We ventilated the way we always --- all the
5 panels.

6 Q. Did you ever drill any degasification holes in any
7 of the panels after that or ---

8 A. No.

9 Q. --- to help ---?

10 A. No.

11 MR. O'BRIEN:

12 That's all I have right now.

13 A. See, we didn't have methane out of the coal. You
14 very seldom --- I mean, you might get two or
15 three-tenths, but the methane that we got at that
16 mines came out of the bottom or up high at the top.

17 BY MR. O'BRIEN:

18 Q. I'm glad you say that. You never saw a crack in
19 the coal face, any methane outbursts of the coal face?

20 A. No.

21 MR. O'BRIEN:

22 That's all.

23 EXAMINATION

24 BY MR. MCGINLEY:

25 Q. Now, Mr. Wills, do you remember anything about the

1 2003 methane outbursts?

2 A. Actually, the only one I can remember is the one
3 that I had to change the ventilation on.

4 Q. Well, were you the superintendent in 2003?

5 A. Probably the mine foreman at that time.

6 Q. The 2003 outburst event was reported as a Part 50
7 accident by Performance. Does that make sense to you
8 that that would have been done?

9 A. Yes.

10 Q. But at least the independent team hasn't been able
11 to find any indication that the 2004 outburst was
12 reported as a part 50 accident, as a mine inundation.
13 Do you have any idea why that would be?

14 A. No, unless I've got the two mixed up now, because
15 MSHA came. We called MSHA and they came straight down
16 and ---.

17 Q. When you were superintendent, did somebody have a
18 responsibility for filing those Part 50 accident
19 reports with MSHA, if you recall?

20 A. No. Anything that we would --- that we had
21 accidents or ventilation changes went through
22 engineering and the president. Engineering usually
23 took care of everything.

24 Q. In terms of filing whatever reports had to be
25 filed with MSHA?

1 A. Yes, and safety.

2 Q. And safety.

3 A. The safety department.

4 Q. And the president at that time was Bill Potter?

5 A. I'm pretty sure.

6 Q. 2003/2004?

7 A. Yes.

8 Q. And who would have been at engineering that would
9 have been sort of in charge?

10 A. Michael Milam.

11 Q. The fellow you had mentioned earlier?

12 A. Yes.

13 Q. You think --- strike that.

14 You said after the 2004 outburst there were bottle
15 samples taken?

16 A. Yes. MSHA had taken bottle samples.

17 Q. And it sounded --- because you mentioned a couple
18 of different gases, propane, for example, that you had
19 heard the results of that sampling?

20 A. I can't remember what they were.

21 Q. Do you remember that some report of the sampling
22 did come back to the company?

23 A. Oh, yeah, it came back. They told us what we had.

24 And they were also taking bottle samples at the fan
25 belt in behind the wall. They were telling you how

1 many parts per million we had back there, and it was a
2 lot at that time. And you could see it go down as
3 they took their ten-day bottle sample.

4 Q. Now, when did that occur, after the 2004 outburst?

5 A. Yes.

6 Q. And then when would they have been taking the
7 samples, immediately after or sometime later?

8 A. I'm not sure. They take them during that time,
9 but they always --- at one time there we were on like
10 a ten-day spot and they would take a bottle sample and
11 check.

12 Q. And they were shown fairly high methane ---

13 A. Yes.

14 Q. --- behind the longwall and the gob?

15 A. Yes.

16 Q. And was that gob being ventilated or was that
17 shield ---?

18 A. Yes, it was being ventilated. But when you
19 ventilate the gob, you just don't have a lot of air.
20 You have to move back through it to ---.

21 Q. Was that a matter of concern for you at that time?

22 A. No.

23 Q. Because you had enough air you felt?

24 A. Yes. If you could keep pressure on your wall face
25 and the head and tail and you --- what was --- what

1 would alarm me, if we didn't have --- if we had air
2 coming back. As long as you had positive pressure
3 going into the gob, I wouldn't --- because I would go
4 behind there and you can get it all as far as I could
5 go. You had air movement going back through there.

6 Q. You were trying to recall what panel was involved
7 in the 2004 methane outburst. You recalled something
8 like 10 or 11; is that right?

9 A. I'm not sure which one it was.

10 Q. I have an MSHA memo here dated July 15th, 2004
11 that says the Upper Big Branch Mine experienced a
12 floor methane outburst in February 2004 on the 17
13 longwall panel. Previously similar floor methane
14 outbursts occurred in the longwall panel in July 2003.
15 Does that sound right to you?

16 A. Probably. Probably.

17 Q. Did you have any other problems with that 16 and
18 17 longwall panels that you can recall?

19 A. No. Once we cleared that methane out and it bled
20 itself out, we were back to normal.

21 Q. The MSHA report, it indicates that the Harris Mine
22 --- at least there was a report that the Harris Mine
23 adjacent to UBB had experienced similar events on the
24 longwall panels. Had you heard that?

25 A. I hadn't heard that.

1 Q. Would that have been something you would have
2 liked to have known back at the time?

3 A. You know, I --- not really.

4 Q. Okay.

5 A. I just wanted it in my area there. I knew where
6 they were talking about. It was in behind their
7 longwall, I believe, the area had been longwalled out.

8 Q. I see. Mike Milam, according to this memo, was
9 with Performance Coal Company. Is that your
10 recollection or was he with one of the other Massey
11 groups?

12 A. Mike Milam?

13 Q. Milam.

14 A. Yes. He was their --- he was their engineer.

15 Q. And he was --- I think you said he was located at
16 the office.

17 A. Yes.

18 Q. What's the proximity between that and where you
19 were working outside there at UBB?

20 A. Probably ---- I don't know if it's a mile down to
21 the main office. We was up on the hill where the mine
22 office was.

23 Q. And George Levo, did he work under Mike Milam?

24 A. Yes.

25 Q. What was the relationship --- do you remember Tim

1 Comer?

2 A. Who?

3 Q. Tim Comer?

4 A. No.

5 Q. New River Energy Corporation?

6 A. No.

7 Q. Do you know what that company was at all, New
8 River Energy Corp?

9 A. No.

10 Q. In this memo Tim Comer is listed as Performance
11 Coal Company personnel back in July 2004, but that
12 doesn't ring a bell?

13 A. No. During this time or sometime later we had a
14 --- doggone, I think it was an outfit of ventilation
15 people come in and do surveys, and they could take
16 pressure drops and ventilation survey. Basically they
17 said that we was probably as good as we was going to
18 get because we were so far in there, trying to
19 ventilate gob, too.

20 Q. Now, was this around 2004 or later?

21 A. Later.

22 Q. That was outside consultants or from other
23 Massey ---?

24 A. Yes, it was a consultant. And Gary Herzog was the
25 guy's name that came in and did the survey,

1 ventilation survey. He owned a ventilation company
2 that just --- that's all they did.

3 Q. And do you know where they were located?

4 A. In Mabscott.

5 Q. In Mabscott?

6 A. Yeah.

7 Q. Do you recall the name of his company?

8 A. I'm thinking it's Alpha, but I can't remember.

9 Q. You're thinking it's what?

10 A. Alpha.

11 Q. Alpha. And so who requested that survey?

12 A. Bill Potter and myself.

13 Q. And was that because you had concerns about the
14 ventilation the further along you got?

15 A. Yeah. And the future mining, if we were going to
16 be able to keep ventilating it, you know. I knew the
17 farther we went, the tougher it was going to get.

18 Q. And I'm not looking to pin you down to the exact
19 time, but about what period would you --- would it
20 become clear to you and Mr. Potter that the further
21 you got along in mining, the more panels, the more
22 ventilation problems you would have?

23 A. We had discussed that and that's when we come up
24 --- or I did, if you cutting out down in Eunice,
25 that's at the head at North Mains.

1 Q. That's what they call the Ellis Portal now?

2 A. Yes. The projections on the map that we had ---
3 and Mike Milam was there at that time. They actually
4 didn't turn back right handed there, it just went
5 straight out. And we talked about putting a fan out
6 there and driving the Five entry, putting a fan out
7 there and not worried about putting anything behind it
8 at that time until the wall was ready so you could
9 ventilate your --- you could ventilate your driving
10 sections. It was a straight shot in, straight shot
11 out with the air.

12 Q. That makes sense. What happened to that plan?

13 A. I don't know.

14 Q. Did you leave before that time came to implement
15 that?

16 A. Well, I left before they started even driving out
17 there, where they're driving now.

18 Q. Did you think that was a good idea?

19 A. I think it was a good idea.

20 Q. Mr. Potter agreed with you?

21 A. Yes.

22 Q. Was that something that Gary Herzog was looking at
23 with the ---?

24 A. I'm not sure if he did or not. He was just doing
25 like pressure drops from point A to point B and air

1 loss, which we knew we was losing air.

2 Q. You say it was basically inevitable that the more
3 you mined, the more panels, the less air you would
4 get?

5 A. It's going to get weaker as you go --- drive
6 deeper. It would get weaker because the best you can
7 build a permanent stopping, it leaks, the best you can
8 do.

9 Q. Was there any thought of, you know, there would
10 come a time when you just couldn't go any further
11 because of ventilation?

12 A. Not --- there probably would have come a time had
13 they not put the Bandytown fan in. There would
14 probably have come a time, yes, that it would have
15 been hard then.

16 ATTORNEY HAMPTON:

17 We've been going a little over an hour,
18 so maybe we can take a quick break.

19 MR. MCGINLEY:

20 Sure.

21 ATTORNEY HAMPTON:

22 Let's go off the record.

23 SHORT BREAK TAKEN

24 ATTORNEY HAMPTON:

25 Back on the record.

1 BY MR. MCGINLEY:

2 Q. Now, Mr. Wills, you said you and Mr. Potter had
3 talked about putting five entries in at Eunice Portal
4 at some point?

5 A. We were talking about driving from North Mains to
6 the outside just for ventilation, but it never came
7 about.

8 Q. And did you also discuss the possibility of doing
9 something like what ultimately was done, putting a fan
10 in at Bandytown?

11 A. No. I hadn't talked to him about Bandytown at
12 all. I knew they were going to. The engineers had
13 talked about putting a fan over there. I was just
14 more concerned about ventilation of ---.

15 Q. Where you were working then?

16 A. Yes.

17 Q. So the Bandytown fan was --- that was being
18 projected?

19 A. We didn't have a wall there at that time. We knew
20 it was coming, so I knew they would take care of it
21 when it got there. I just wanted more air, and I
22 thought that was the way to do it.

23 Q. After the 2004 methane outburst, do you recall
24 that Performance engineers prepared a variety of maps
25 looking at overburden and underburden and the

1 overmining that was going on there, looking at
2 structural contour relationships, in an effort to
3 understand what had happened with regard to these
4 floor bursts? Do you recall that?

5 A. They had some overlay maps, but actually I don't
6 think it was because of the floor burst. It was ---
7 we were getting --- sometimes we were having trouble
8 with the top on the shearer and the jacks at different
9 times, and they were just going to make sure, you
10 know, when we come out from under maybe that solid
11 block of sandstone, that we'd prepared, you know,
12 because we were getting the shearer covered up some.

13 Q. Well, the reason I ask that, there's a March 4,
14 2004 MSHA memo that says the mine has prepared a
15 variety of maps to portray overburden, underburden,
16 overmining ---

17 A. Yeah.

18 Q. --- and structural contour relationships and
19 appear to have devoted considerable effort to
20 understanding the controls on the floor bursts.

21 A. I'm not sure, but we did have an overlay map, yes.

22 Q. Right. But you didn't know somebody was working
23 on trying to understand how to deal with the floor
24 burst; is that right?

25 A. No.

1 Q. You didn't know that was going on?

2 A. No. We looked at it every time we were coming out
3 from a solid block of coal and we knew we were going
4 to get pressure on the shearer. If it was on the head
5 side. That's what I used it for. I didn't know what
6 was ---.

7 Q. And maybe there was different maps and different
8 information; is that possible?

9 A. It could be that they didn't even bring it to me.

10 Q. That sort of information, would you expect
11 Performance to keep those maps? I mean, you know,
12 we'd be interested in looking at them if ---.

13 A. I'm sure they're --- they have overlay maps.
14 Their engineer --- I'm sure engineers have got the
15 maps of anything you want or they could pull it up.

16 Q. I'm thinking specifically about what they were
17 doing in response to the floor outbursts, anything
18 they developed. Do you think they'd still have them,
19 I mean, in terms of the document retention policy?

20 A. I'm not sure.

21 Q. This March 4th, 2004 memo says that mine personnel
22 reported that in the subsequent longwall panel
23 degasification wells would be developed in the lower
24 equal seam in an attempt to decrease the potential for
25 future outbursts. Do you know anything about that?

1 A. No.

2 Q. That wasn't done, was it?

3 A. I don't know. I didn't know anything about it if
4 it was done.

5 Q. Do you know anything about any degas wells ---

6 A. No.

7 Q. --- at UBB?

8 A. No.

9 Q. And you've --- at least in the time you were
10 there, you would have known about that, I assume?

11 A. I would think, yes.

12 Q. This March 4th, 2004 report also indicates --- it
13 says a floor burst occurred at approximately 41 ---
14 I'm sorry, 40/41 Crosscut at Headgate 17 longwall
15 panel and gas is issued from a fracture in the floor
16 behind the seals that was reportedly up to 240 feet
17 long. Is that consistent with your recollection?

18 A. Could you read that last part again?

19 Q. Sure. An evaluation of the controls of the floor
20 burst that occurred on February 18th, 2004 was
21 conducted at Performance Coal Company's Upper Big
22 Branch Mine on February 24th, 2004. The floor burst
23 occurred at approximately 40/41 Crosscut at the
24 Headgate 17 longwall panel, and gases issued from a
25 fracture in the floor behind the shields that was

1 reportedly up to 240 feet long.

2 A. Yeah.

3 Q. And is that consistent with your recollection?

4 A. Yeah.

5 Q. At the time you remember that the bottom heave
6 that was part of that outburst tilted the longwall
7 shearer weight from the face and toward the shields?

8 A. Yeah.

9 Q. What did you have to do to ---?

10 A. They just put it against the top and pulled it up
11 with paneling.

12 Q. Also said the shearer had been down for 20 minutes
13 preceding the methane outburst, so the face was idle.
14 Do you recall that?

15 A. No, I don't recall it, but I'm sure it was.

16 Q. It was probably fortunate?

17 A. That's what I was going to say. I'm glad it was.

18 Q. And this report says the outburst occurred at
19 11:40 on a Wednesday morning. I believe it was
20 February 18th, 2004. It says the longwall face was in
21 production on Friday evening. Is that also consistent
22 with your recollection?

23 A. I can't remember. I really can't.

24 Q. Now, you had said before that you thought it was
25 down for two days or so?

1 A. Yeah. I knew we had to work. We were down for a
2 couple shifts for sure maybe a couple days because we
3 had to build stoppings and then we had to wait until
4 the gas cleared up, and then we had to go back and
5 redo everything. It took a while for it to clear out,
6 even --- it seemed to me like we had 80,000 feet of
7 air going through that hole to clear it out.

8 Q. You were trying to remember who the mine foreman
9 was on the shift when that occurred. Would Donald
10 Kelly ---

11 A. Yes.

12 Q. --- would that be the person?

13 A. Yeah.

14 Q. This March 4th, 2004 MSHA memo also says that the
15 mine has constructed a series of contour maps that
16 portray the overburden thickness above the Eagle seam,
17 the underburden thickness between the Eagle and lower
18 Eagle seams, structured contours on top of the Lower
19 Eagle seam, and the thickness of the Eagle seam, and
20 goes on to say the mine interprets the major
21 controlling factors on floor bursts events as an
22 interaction between high overburden, 1,100 feet,
23 combined with a thin underburden between the Eagle and
24 Lower Eagle seams, 13 feet. Do you remember anything
25 about that?

1 A. No.

2 Q. Might that have been information that engineering
3 had generated and that you weren't privy to that?

4 A. I'm sure they --- I've probably --- they've given
5 me --- probably given me the information, but I just
6 don't remember.

7 Q. Also says that the --- a similar --- this is again
8 in the March 4th, 2004 memo, a similar but apparently
9 higher pressure floor burst occurred in the previously
10 mined adjacent panel in July 2003 at approximately 49
11 Crosscut. Mine personnel reported this outburst event
12 was also associated with formation of a floor crack
13 that was parallel to the face in the approximate
14 center of the face behind the shields. Mine personnel
15 described the July 2003 outburst as a very high
16 pressure event, comparable to the sound of a jet
17 engine. Mine personnel indicated that, although
18 accompanied by a high level of noise and rapidly
19 rising methane levels, coal outbursts or coal
20 ejections were not associated with the events. Now,
21 do you think --- is it possible you've gotten the 2003
22 and 2004 outbursts confused?

23 A. I could have gotten them mixed up because that's
24 exactly what it sounded like, you know, and it did ---
25 see, we've had the bottom to hoove from the longwall

1 across to the next panel, and I mean, you can just
2 watch it rip like across the bottom, but ---.

3 Q. But not associated with gas outbursts?

4 A. Not associated with gas. It would just hoove up.
5 A lot of the areas would go back in there. We
6 couldn't get track out of some of them, you know,
7 because the bottom was heaved like that, but no gas.

8 Q. Now, there was a report in a newspaper recently
9 about these MSHA memos that I've been reading from.
10 Have you read those articles? Are you aware of them?

11 A. No. The only --- I've been reading, but I don't
12 remember any.

13 Q. Okay.

14 A. The only thing I remember was I told my wife, I
15 said they hit a crack in the bottom again, they'll
16 find out. When that came out in the paper and I said
17 that's probably ---.

18 MR. MCGINLEY:

19 The July 15th, 2004 memo, which I'd like
20 to mark but not necessarily enter so that Mr. Wills
21 can see this. Do we have a ---? So this would be
22 Wills Exhibit One.

23 (Wills Exhibit One marked for
24 identification.)

25 ATTORNEY HAMPTON:

1 Yes, June 25th, 2010.

2 BY MR. MCGINLEY:

3 Q. Mr. Wills, I'm going to hand you a document that's
4 been marked for identification as Wills Exhibit Number
5 One, June 25th, 2010. I'm going to ask you a couple
6 questions. I know you have not seen that document.
7 The document discusses a meeting that was held between
8 State and Federal and Performance Coal people back in
9 May of 2004. And on page three it lists a number of
10 considerations for mitigating future methane floor
11 outbursts, and that's --- so I direct your attention
12 to page three of that document. Do you see where
13 there's a heading consideration?

14 WITNESS REVIEWS DOCUMENT

15 BY MR. MCGINLEY:

16 Q. Did you have an opportunity to read through that?

17 A. I read one through three.

18 Q. Do you want to go --- just continue on, because
19 just ---

20 A. Okay.

21 Q. --- I want to ask you just a couple of questions.
22 I know you weren't at the meeting between the various
23 regulatory officials and the mine --- Performance Coal
24 personnel, and I just want to ask you some general
25 questions.

1 WITNESS REVIEWS DOCUMENT

2 A. I've never seen this. Okay?

3 BY MR. MCGINLEY:

4 Q. Okay. Considering you've not seen that memorandum
5 that was marked as Wills Exhibit Number One,
6 nevertheless, did any of the Performance Coal people
7 who attended that meeting or anyone else from
8 engineering or management, the attendees on page five
9 there, did anyone else talk to you about these
10 considerations that are listed on page three and four
11 of that exhibit, that memorandum?

12 A. No, but a lot of stuff we were already doing then,
13 except during the pullout, you know, we could --- we
14 didn't have as much air as we needed --- as we did
15 when we were mining during pullout. You know, you
16 would have minimum air.

17 Q. When you say the pullout, when you ---?

18 A. We were finished longwalling and to get ready to
19 move the jacks and the shearer and everything.

20 Q. You mean over to ---?

21 A. The next panel.

22 Q. Okay.

23 A. When we're moving the jacks from one panel to the
24 other. So we're getting ready to start. It seemed to
25 me like, if I can remember, we --- we were required

1 --- just, for example, 60,000 feet before entering the
2 headgate, I think we could have like 30,000 during the
3 pullout. But I didn't know this.

4 Q. Would you have liked to have known that
5 information that's in that memo?

6 A. Probably would have been good if I would have
7 known about it. You know, I haven't seen this. And
8 about the jack legs and --- I didn't like to go to
9 meetings. They might not have --- it might have been
10 not. I'd sneak underground every time I knew they was
11 having a meeting.

12 Q. You said some of these things that are listed on
13 page three and four of Exhibit Number One were being
14 practiced?

15 A. Some of it we were being practiced anywhere, such
16 as welding or cutting. They always had rock dust
17 available right there at the work site. I mean, I
18 seen that before and ---.

19 Q. What about the use of a welding mat or blanket?

20 A. I've only seen that in the shop, but I don't think
21 we ever used that.

22 Q. Does it look to you from reading through those
23 considerations for mitigation that all of those, they
24 make sense to you?

25 A. Yeah.

1 Q. In light of, you know, what was an unusual event
2 of so much gas being emitted through the floor burst?

3 A. Yeah. It sure does. I don't know about sealing
4 the fracture, though. I don't know if that's a good
5 idea or not. I don't know if it --- you know, it
6 could be easy enough done. You could punch stuff into
7 it, but ---.

8 Q. Right. With an event like the methane floor
9 burst, whether it was 2003 or 2004, that sort of
10 suggested that there's a possibility it could happen
11 again at the Upper Big Branch Mine; would you agree
12 with that?

13 A. Yeah.

14 Q. And so what the management, including the
15 president of Upper Big Branch at the time, Bill
16 Potter; and whoever Tim Comer is, the president of New
17 River Energy; Mike Milam, who is the chief engineer
18 there at Upper Big Branch, these were basically
19 suggestions coming from MSHA's Technical Services
20 people that maybe you ought to be doing these things
21 as a matter of course or considering them, would you
22 agree with that?

23 A. Yeah.

24 Q. It's sort of like if you have a lot of water
25 impounded and you've got a barrier, you want to make

1 sure you don't go into that barrier like at Queecreek.
2 That's one of those things you always have on your
3 mind, would you agree with that, about this experience
4 with the methane floor bursts at Upper Big Branch?

5 A. That was the only thing that scared me was the
6 bottom heaving and busting the methane because that's
7 the only thing in the mines I was ever afraid of was
8 methane.

9 Q. So would you agree, you know, that the upper
10 management should have taken both you, as the mine
11 superintendent, subsequent mine superintendents and
12 subsequent presidents and so forth, taken you all into
13 their confidence and had you look at these contingency
14 plans or suggestions?

15 A. I think so, yes, but I think that they probably
16 thought we were doing most of these anyway because we
17 were most of the time, you know. I don't really know.
18 I know I haven't seen this.

19 Q. Well, can you identify what you were not doing,
20 you definitely were not doing?

21 A. See, I'm kind of ignorant to the longwall as far
22 as the jacks moving upwards or forward, but --- like
23 where it says the rapidly yield and shield legs or
24 unusual noise to indicate that a floor outburst may be
25 initiating, monitor shield leg pressures in outburst

1 prone areas so the longwall crew can rapidly be
2 removed from the face. I don't know anything about
3 that.

4 Q. Well, you know, one might assume from that the
5 idea was that the longwall crew, if they heard
6 something that was extraordinary, as you described
7 from ---

8 A. Yes.

9 Q. --- one of the outbursts, they ought to get the
10 hell out of there?

11 A. Exactly.

12 Q. But if they weren't aware of that, they might be
13 looking at each other and not making that decision to
14 --- if, for example, the longwall was running, you
15 know, shut it down, get out immediately?

16 A. Yeah.

17 Q. Would you agree that's sort of the intent of that,
18 that's sort of ---?

19 A. Yes, because if just say the shearer was coming to
20 the head and they were pulling the jacks in as he
21 comes in, if you're inby those jacks, the only way you
22 can get through there is climb overtop or get in the
23 pan line. So yeah, it would be good to know to knock
24 that power where you can't get in the pan line, get
25 out because you can't get by. When the jacks are

1 pushed up, the pan line is pushed up, there's no walk
2 area there.

3 Q. Does having reviewed these considerations of page
4 three and four, do these seem to be --- I understand
5 you're saying that you're doing a lot of that, what's
6 recommended here. But in terms of impressing on the
7 crew at the longwall that this is always a concern and
8 we ought to --- this always ought to be done, it's not
9 something we ought to cut corners on, wouldn't you
10 think that would be --- that was the intent of this,
11 that would be a wise goal?

12 A. Yes. Yes, it would. I'm not trying to make
13 excuses, but a longwall man knows more about what's
14 going on that longwall than I ever would when I would
15 go up there, you know.

16 Q. Sure.

17 A. They know something, you know. Out of all the
18 noise, they can tell you if something is not right, a
19 dog bone broke or --- they could hear a dog bone break
20 and I couldn't, you know, or whatever.

21 Q. Sure.

22 A. But I'm not --- I don't know if they --- the
23 longwall coordinator may have went over with them. I
24 didn't. I didn't.

25 Q. Well, you would agree that a longwall coordinator

1 should have gone over it with them ---

2 A. Yes.

3 Q. --- if he had known about this, ---

4 A. Yes.

5 Q. --- these suggestions?

6 A. Because they had a safety meeting every Monday
7 morning, just the longwall crew and I'll do the miner
8 crew. But the foreman has a meeting every day before
9 they get on the --- before they start mining. That's
10 something --- that could be like part of the roof
11 control you read every morning. He could go over
12 these things and make sure ---.

13 Q. Those considerations on page three and four would
14 be a good thing to go over ---

15 A. Right.

16 Q. --- at the beginning of every longwall shift;
17 would you agree with that?

18 A. Yes.

19 Q. Would you ever send a man in water up to his neck?

20 A. I have. I, myself, have been in it. Well, I take
21 me and --- our pump was down behind the wall. A guy
22 named Gary Calvert, we had to swim from crib to crib
23 to get to it. The line had blew off, yeah.

24 Q. Would you send a red hat on his first ---

25 A. No.

1 Q. --- day in the mine ---

2 A. No.

3 Q. --- in water up to his neck?

4 A. No.

5 Q. What would you feel about that?

6 A. I wouldn't do it.

7 Q. Why not?

8 A. Well, the guy I was talking about, Gary Calvert
9 and myself, we did stuff like that. I mean, that's
10 what we've been doing since we've been in the mines.
11 No, I would not send a red hat in water.

12 Q. Why? Is there some danger of doing that for at
13 least ---?

14 A. Well, yeah. I mean, you know, he could trip and
15 fall, hit his head on the cribs because --- or
16 anything, you know. Plus, usually when you're in
17 water like that, you're way behind the wall. You're
18 going to be two or three hours from getting outside,
19 the best you can do if you get cold, chilled.

20 Q. For those guys that are working behind the
21 longwall, where should the first-aid materials be?

22 A. First-aid materials?

23 Q. For those guys that are working way back, doing
24 the pumping behind in the longwall gob, how close
25 should that be to them?

1 A. Actually, the closest first-aid box would be at
2 the headgate, the old headgate. I know how they got
3 it now, but there should be one at the head and the
4 tail and the face. They should keep rescuers, too.
5 But generally you're not spending a shift behind the
6 wall. You go back and do what you got to do and get
7 out, you know, rather than just take an air reading
8 and gas checks and fix a pump.

9 Q. So has anybody told you that there was a pumping
10 crew for a whole shift back there trying to pump water
11 out behind the longwall in the last year or so? I
12 mean, they weren't just going in and going out?

13 A. Oh, no. They've been back there working the whole
14 shift.

15 Q. I'm not asking you about when you were in the
16 mine, but you know, you've had --- you know people who
17 worked in the mine. You know some of the people who
18 died in the explosion. Do you have any reason to
19 think there was pressure on the fire bosses not --- if
20 there was inadequate ventilation maybe to report it to
21 their superior but not to write it down in the
22 pre-shift reports?

23 A. No, I don't know.

24 Q. Is it your understanding from talking with people
25 that you know, worked in the mine in the last year or

1 so that they were having some serious ventilation
2 problems?

3 A. I knew they were having ventilation problems, yes.

4 Q. Would you expect those problems somehow to be
5 reflected in the pre-shift reports?

6 A. You would think that you would see it.

7 Q. And if they weren't, do you have any sense --- how
8 would you --- what would you attribute that to?

9 A. If it's not --- if they had problems and it's not
10 down, then just it wasn't reported.

11 Q. Do you think --- that's why I was asking. Do you
12 think that it was --- have you heard there was
13 significant pressure, kind of pressure for production
14 that --- not that the foreman, the supervisor, the
15 bosses in the mine weren't reporting it, the pressure
16 was not to write it down? Is that a possibility?

17 A. It's a possibility, but I couldn't imagine
18 somebody not reporting it and doing the right thing
19 and fixing it.

20 Q. Are you familiar with the terms S1 and P2?

21 A. Pardon?

22 Q. S1 and P2, are you familiar with those terms?

23 A. Yes.

24 Q. What do they mean? What's S1?

25 A. Safety first. And P2 is just where people over

1 the years from Massey got together and figured out the
2 best way to mine, the quickest and the fastest and
3 safest way to mine.

4 Q. With regard to S1, it means safety first. Does it
5 mean anything else to --- what else does it mean? Are
6 those just sort of the creed or the slogan of the
7 company that they've come up with?

8 A. Well, that's always been our slogan, and we live
9 by it. I honestly believe it.

10 Q. Is there an S1 manual?

11 A. Yes. I don't have one. I've ---.

12 Q. Have you ever seen it?

13 A. Oh, yeah.

14 Q. Did they keep one at UBB?

15 A. Yes. I left mine there, and P2 and the M3 book.
16 It's still in my locker.

17 Q. M3 was method?

18 A. Yeah. That was over my head. I'm just a coal
19 miner. I didn't know ---.

20 Q. Are those manuals something you would actually
21 look at ---

22 A. Yeah.

23 Q. --- every day?

24 A. No, not every day, but ---.

25 Q. The S1 manual, was that used in training miners at

1 all?

2 A. Yes.

3 Q. Were they asked to read through it or did they
4 have copies of it?

5 A. Actually the safety department would send up
6 something out of --- either out of that book or they
7 would give you some literature they would go over in
8 the safety meeting from the safety department.

9 Q. And the safety meetings would be held where?

10 A. In ---.

11 Q. Is like on every shift or are you talking
12 periodically?

13 A. No. Every Monday we had a safety meeting outside
14 in the shop or in the --- what we call waiting room,
15 over there, at the check-in/check-out board. You'd
16 have a safety meeting every Monday. Sometimes we'd
17 have a special one where we'd talk to everybody, but
18 generally Monday morning they would get their crews
19 and, you know, we'd --- if there was something special
20 we'd want to talk about, we'd go there. But the
21 foreman always had the safety meeting every day once
22 they got to the section.

23 Q. I'm trying to connect the safety manual with what
24 actually miners are learning and being told, whether
25 it's coming out of the safety manual or is the generic

1 things that you know are safe mining practices.

2 A. Well, they go over the roof control plan with ---
3 you know, every morning. They go over the roof
4 control plan. They read a part of the roof control
5 plan like I was talking about when they used to do
6 that. And then they'll tell them, you know --- yeah,
7 just general safety.

8 Q. So in terms of this concept of safety first, it
9 means what you would expect to be practiced at any
10 good mine?

11 A. Yeah.

12 Q. It's not any different than what you'd expect at a
13 --- you know, one of the bigger coal company
14 competitors?

15 A. I don't think so. I think it's probably the
16 stuff --- the people that wrote this have learned just
17 like, you know, like I have from Maben Energy. You
18 learn stuff from everywhere you work, safe practices,
19 you know, wear your safety glasses and if you're rock
20 dusting or if you're in dust, use your respirator,
21 earplugs, you know, just ---.

22 Q. So it's nothing unique, it's ---?

23 A. Just the general stuff, tie your --- tape your
24 britches legs so you don't have any loose clothing on,
25 just ---

1 Q. Sure.

2 A. --- general stuff that you do every day.

3 Q. S1 is not anything unique, it's just good
4 practices, safe practices?

5 A. I don't think so. I think the good thing that
6 they did come out, I think, that I was impressed with
7 when I first came to Massey was the reflective
8 clothing. I think that's the best thing that they've
9 ever done.

10 Q. And that's been adopted by other companies?

11 A. Yeah. Everybody's got it now.

12 Q. So of course what you're talking about here with
13 regard to S1 is what was going on when you were still
14 working for Massey?

15 A. Yes. I didn't like the reflective clothing. I
16 couldn't tell when MSHA was showing up. That's a
17 joke.

18 Q. It's taken as such.

19 MR. MCGINLEY:

20 Okay. I don't have any other questions.

21 Thank you, Mr. Wills.

22 RE-EXAMINATION

23 BY MR. SHERER:

24 Q. I've got a few follow-ups, Mr. Wills. You
25 mentioned that you went in on the longwall right after

1 that outburst. Were you actually on or near the
2 longwall when that happened?

3 A. I think I was up around the mouth of the section.

4 Q. Oh, okay. Do you recall any vibrations or sounds
5 when that burst occurred?

6 A. I didn't hear anything until they started calling
7 from the wall, and I was by the phone at the belt
8 head, so I went straight down. And as I got near what
9 we call the mule train, in by there, the power went
10 out and I could hear it.

11 Q. Okay. You mentioned that you crawled back in,
12 trying to stay under the gas. Do you recall if it had
13 a distinctive odor or if there was any burning of your
14 eyes or anything like that?

15 A. No. I could --- see, you could see it coming out
16 of the jacks, and it was up high, and I --- that was
17 probably a bad thing for me to do, but I just wanted
18 to see where it was coming from is what I was trying
19 to see. I didn't go but two or three jacks and I come
20 back.

21 Q. Oh, okay. But you don't ---?

22 A. No. I didn't smell anything, just --- I can't
23 remember if I did.

24 Q. Okay. Sure.

25 A. I was just amazed at the pressure.

1 Q. Sure. Did anybody in Upper Big Branch management
2 want to ventilate areas of the mine in ways that you
3 didn't agree with when you were running this mine?

4 A. No, no, because probably we discussed it every
5 time, but nine times --- most --- well, all of the
6 time they let me do what I wanted to.

7 Q. Okay.

8 A. And if I needed help, you know, they would help
9 me.

10 Q. Sure. You recall that there was some overlay
11 maps. Did you try to lay out the longwall panels
12 differently looking at those maps or ---?

13 A. No, I never did. Engineering and the longwall
14 coordinators, they --- actually the president, they
15 --- once it's been --- the engineers puts their
16 projections up, that's where it goes.

17 Q. Okay. Sure. You mentioned some roof bolters that
18 said they were getting methane during their drilling
19 the bolt holes. Do you recall where in this mine that
20 may have occurred, which section?

21 A. No. No. It was one of the driving sections.

22 Q. Okay.

23 A. I don't know whose section it was.

24 Q. Sure. Mr. McGinley has mentioned the little Eagle
25 seam. Were you aware of that prior to this floor

1 outburst?

2 A. No.

3 Q. Do you know much about that little Eagle seam?

4 A. Uh-uh (no).

5 MR. MCGINLEY:

6 You have to say yes or no for the court

7 reporter.

8 A. Pardon me?

9 MR. MCGINLEY:

10 You have to say yes or no so the court

11 reporter can take it down.

12 A. No, I didn't know about it.

13 BY MR. SHERER:

14 Q. Thank you. And one last question. You mentioned

15 that you're disabled now. Did you get injured at

16 Upper Big Branch?

17 A. No. I got injured at --- it was Elk Run. They

18 called it ██████████, and we were --- we were putting

19 a belt channel in. I was bolting a belt channel with

20 another guy. I fell off the roof bolter.

21 Q. Oh, geez. Sorry about that.

22 MR. SHERER:

23 That's all the questions I've got.

24 MR. O'BRIEN:

25 I have one.

1 RE-EXAMINATION

2 BY MR. O'BRIEN:

3 Q. Has any Massey lawyer talked to you since the
4 explosion?

5 A. No.

6 MR. MCGINLEY:

7 A couple more.

8 RE-EXAMINATION

9 BY MR. MCGINLEY:

10 Q. You said you knew Dean Jones pretty well.

11 A. Yes.

12 Q. If Dean Jones had reported for months prior to the
13 explosion that there wasn't enough air when he was
14 working, he was coming home exhausted, and he was
15 really concerned about the air, would you find him to
16 be credible?

17 A. Absolutely. When I first got hurt and was off, he
18 used to call me at home and he'd want to know how he
19 could get him some more air up there. And I told him
20 where he --- see, he's the section boss, and he goes
21 straight to the section, and it's not his job, but he
22 would --- I told him where his regulator was, and he
23 could do it a little bit at a time, and in two or
24 three days he would get enough air. He would open up
25 his regulator and --- but I also --- I said, you got

1 to get somebody to do that for you. I said, tell the
2 mine foreman. He said, I can't do that. They won't
3 help me. That's all. And that's again --- that was
4 right after I got off. That's probably six months
5 after I got hurt he used to call me.

6 Q. And when would that have been just time-wise, a
7 couple years ago?

8 A. I was hurt April of 2007. Probably, yeah, 2008.

9 Q. Had you heard or seen from him any time in the
10 last year?

11 A. No. He kept telling my son he was going to stop
12 and he didn't. He goes by the house on the way to
13 work.

14 Q. Yeah. From what we've heard he's very highly
15 regarded?

16 A. Pardon?

17 Q. From what we've heard he's very highly regarded by
18 everybody?

19 A. Oh, yeah. If he told you it was July and it was
20 snowing out, you better put a jacket on. He was just
21 truthful. If he had troubles, he would shut down to
22 fix them. That was the good thing. He wouldn't try
23 to mine without --- when I was there. He wouldn't
24 mine without proper ventilation.

25 Q. If he expressed serious concerns about

1 ventilation, about something happening, would you find
2 that to be credible?

3 A. Yes.

4 MR. MCGINLEY:

5 I don't have any other questions.

6 ATTORNEY HAMPTON:

7 Okay. On behalf of MSHA and the Office
8 of Miners' Health, Safety and Training, I want to
9 thank you for appearing and answering questions today.
10 Your cooperation is very important to the
11 investigation as we work to determine the cause of the
12 accident. We request that you not discuss your
13 testimony with any person aside from an attorney or a
14 personal representative.

15 After questioning other witnesses, we may
16 call you to see if you --- if we have any follow-up
17 questions. And if at any time you have additional
18 information regarding the accident that you'd like to
19 provide to us, please contact us at the information
20 that was provided to you in that letter.

21 So now at this point, if you wish, you
22 can go over any answer you've given to us or you may
23 make any statement. Is there anything else you'd like
24 to say?

25 A. No. If I think of anything else, I'll let you

1 know.

2 MR. MCGINLEY:

3 We appreciate that.

4 ATTORNEY HAMPTON:

5 Again, we want to thank you for your

6 cooperation.

7 A. You're welcome.

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9 * * * * *

10 STATEMENT UNDER OATH CONCLUDED AT 6:15 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards