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Transcript of the Testimony of ^{(b)(7)(C) & (b)(7)(D)}

Date: ^{(b)(7)(C) & (b)(7)(D)}

Case:

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OF

(b)(7)(C) & (b)(7)(D)

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,
(b)(7)(C) & (b)(7)(D) , beginning at (b)(7)(C) & (b)(7)(D) .

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A P P E A R A N C E S (cont.)

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P R O C E E D I N G S

ATTORNEY WILSON:

Good morning. My name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. Also present are officials with the State of West Virginia. I'll ask that they state their appearance for the record.

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 West Virginia Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

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

ATTORNEY WILSON:

Today is July 16, 2010. We're here to conduct an interview of (b)(7)(C) & (b)(7)(D) . (b)(7)(C) & (b)(7)(D) , we appreciate you coming in this morning. All members of the Mine Safety and Health Administration Accident Investigation Team and all members of the State of

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

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

1 (b)(7)(C) & (b)(7)(D) , you may have an attorney or a
2 personal representative present with you today. Do
3 you have someone with you?

4 (b)(7)(C) & (b)(7)(D) :

5 No.

6 ATTORNEY WILSON:

7 Your statement today is completely
8 voluntary. You may refuse to answer any question and
9 you may terminate your interview at any time. This is
10 not an adversarial proceeding. Formal Cross
11 Examination will not be permitted, but each of the
12 parties will be asking follow-up questions. If at any
13 time you need to take a break, please let me know.

14 Your identity and the content of this
15 interview will be made public at the conclusion of the
16 interview process and may be included in the public
17 report of the accident, unless you request that your
18 identity remain confidential. If you request us to
19 keep your identity confidential, we will do so to the
20 extent permitted by law.

21 (b)(7)(C) & (b)(7)(D) :

22 I would like for it to be.

23 ATTORNEY WILSON:

24 Okay. Now, when I say to the extent
25 permitted by law, that means if a judge orders us to

1 reveal your identity or some other law requires that
2 we reveal your identity, we may do so at that point.
3 But you know, based on your request initially, we will
4 keep your identity confidential. There may also be a
5 need to use the information that you provide to us or
6 other information that you provide in the future in
7 other investigations or hearings concerning the
8 explosion.

9 After the investigation is complete, MSHA
10 will issue a public report detailing the nature and
11 causes of the fatalities in the hope that greater
12 awareness about the causes of accidents can reduce
13 their occurrence in the future. Information obtained
14 through witness interviews is frequently included in
15 those reports. We will be interviewing other
16 individuals, so we request that you not discuss your
17 testimony today with anyone outside of this room. A
18 court reporter will record the interview, so please
19 speak loudly and clearly. If you do not understand
20 the question, please ask that the question be
21 rephrased. Please answer each question as fully as
22 you can, including any information that you may have
23 learned from someone else.

24 Again, I want to thank you in advance for
25 appearing here today. After we have finished asking

1 questions, we will provide you with an opportunity to
2 add anything to the record that you may want to add,
3 including just making a statement. If at any time
4 after the interview you recall additional information
5 that you believe would be helpful to our
6 investigation, you can contact Norman Page at the
7 telephone number and e-mail address that was provided
8 to you in the letter requesting your appearance here
9 today. And I've got another copy of that letter that
10 you can have for your records. Terry?

11 MR. FARLEY:

12 (b)(7)(C) & (b)(7)(D) , on behalf of the Office of
13 Miners' Health, Safety and Training, we'd like to
14 advise you that the West Virginia Coal Mine Health and
15 Safety Regulations also provide protection for miners
16 against potential discrimination for participating in
17 these type of interviews. I'm going to pass along
18 some contact information for you, the mailing address
19 for the West Virginia Board of Appeals, which will
20 hear the complaints on those type of matters, and a
21 phone number for myself and Mr. Bill Tucker, who is
22 our lead underground investigator. You can contact us
23 if there's a problem. I would advise you that If
24 something happens, you need to file the claim within
25 30 days.

1 ATTORNEY WILSON:

2 Pat?

3 MR. MCGINLEY:

4 (b)(7)(C) & (b)(7)(D) , the only thing I would add is
5 that --- to emphasize what we're doing here. We've
6 got 29 dead miners and their families looking to us to
7 try to figure out what happened, and if there's
8 somebody that should be responsible, hold them
9 responsible. If not, then let them go on with their
10 lives. So you being here is important, and your
11 truthful responses to our questions helps us advance
12 that goal. So we appreciate you being here.

13 ATTORNEY WILSON:

14 (b)(7)(C) & (b)(7)(D) , would you please face the
15 court reporter, and she'll swear you in?

16 -----

17 (b)(7)(C) & (b)(7)(D) , HAVING FIRST BEEN DULY SWORN, TESTIFIED
18 AS FOLLOWS:

19 -----

20 ATTORNEY WILSON:

21 Would you please state your full name for
22 the record?

23 A. (b)(7)(C) & (b)(7)(D) (b)(7)(C) & (b)(7)(D)

24 ATTORNEY WILSON:

25 And would you provide us with your

1 mailing address and telephone number?

2 A.

(b)(7)(C) & (b)(7)(D)

3

(b)(7)(C) & (b)(7)(D)

4 ATTORNEY WILSON:

5 Thank you. I'm going to turn it over to

6 Erik Sherer to start the questioning for MSHA.

7 EXAMINATION

8 BY MR. SHERER:

9 Q. Again, let me thank you for coming down this
10 morning, ^{(b)(7)(C) & (b)(7)(D)}. Mr. McGinley has a very
11 important point. We're looking for information on
12 this explosion to provide closure to the families and
13 friends and the coworkers of the victims. But equally
14 important, we're looking at ways to prevent this type
15 of accident from occurring in the future. This is the
16 worst mine disaster we've had in a long time, and we
17 don't know what caused it yet, but that's what we're
18 trying to determine. So your help is vital to us.
19 Are you appearing here today voluntarily?

20 A. Yes, sir.

21 Q. Have you been interviewed by anyone else
22 concerning this accident?

23 A. I think back shortly after it, just a team of
24 Massey lawyers.

25 Q. Okay. Now, shortly after, was that a few weeks or

1 a month or so?

2 A. I'm really not sure. I'd say probably just three
3 or four weeks, maybe five weeks ago.

4 Q. Okay. Do you recall where that interview took
5 place?

6 A. Pardon?

7 Q. Do you recall where that interview took place?

8 A. At the Elk Run Mine office.

9 Q. Okay. How long did that interview last?

10 A. Probably an hour-and-a-half, two hours.

11 Q. Okay. Do you recall what sort of questions they
12 asked you?

13 A. Just about everything, from A to Z. I mean,
14 just ---.

15 Q. Sure. Anything in particular stand out?

16 A. Well, they just asked, you know, how the
17 dispatcher and stuff got access to the phones and
18 stuff. They asked, you know, if I would hear fire
19 boss reports and stuff like that. And I tried to make
20 it a habit of not to.

21 Q. Sure.

22 A. I do not want to get involved in doing fire boss
23 reports and stuff because they weren't paying me to do
24 fire boss reports and stuff.

25 Q. There you go. Thank you. How long have you been

1 employed at UBB?

2 A. I started at UBB I (b)(7)(C) & (b)(7)(D) .

3 Q. (b)(7)(C) & (b)(7)(D) ?

4 A. Yes.

5 Q. Okay. So you've been there ---?

6 A. Just a short time.

7 Q. Yeah, roughly (b)(7)(C) & (b)(7)(D) or so ---

8 A. Right.

9 Q. --- prior to the explosion?

10 A. (b)(7)(C) & (b)(7)(D) .

11 Q. How many years of mining experience do you have?

12 A. In and outside, probably (b)(7)(C) & (b)(7)(D) .

13 Q. Okay. Has that all been with Massey?

14 A. No, no. I just started working for Massey in
15 (b)(7)(C) & (b)(7)(D) .

16 Q. Okay. Where had you been employed previously,
17 just in general?

18 A. Previous to Massey, I worked for (b)(7)(C) & (b)(7)(D) , who
19 bought out (b)(7)(C) & (b)(7)(D) , for about two years.

20 (b)(7)(C) & (b)(7)(D) for them. And up until that point I hadn't
21 worked in the mines since (b)(7)(C) & (b)(7)(D) .

22 Q. Okay. Where were you working for (b)(7)(C) & (b)(7)(D) ?

23 A. Over at head of (b)(7)(C) & (b)(7)(D) , over at (b)(7)(C) & (b)(7)(D) .

24 Q. Okay. Do you have any mining certifications?

25 A. Yes, sir.

1 Q. What do you got?

2 A. I got a shot firer's card, mine foreman
3 certification, everything pretty well except for
4 electrical card. I don't have that.

5 Q. Okay. You got a lot of experience in the mines.

6 A. Yes, sir.

7 Q. Have you worked as a foreman?

8 A. Yes, sir, I have.

9 Q. Where was that at?

10 A. Well, I done some --- worked for ^{(b)(7)(C) & (b)(7)(D)} after
11 I got --- first got my papers, for ^{(b)(7)(C) & (b)(7)(D)}
12 ^{(b)(7)(C) & (b)(7)(D)} .

13 Q. Have you worked as a mine foreman?

14 A. Just to fill in maybe for a week's vacation or two
15 here and there.

16 Q. Okay. And at Upper Big Branch you indicated you
17 were a ^{(b)(7)(C) & (b)(7)(D)} . Have you had any other positions
18 with Upper Big Branch?

19 A. No. Well, when they hired me in, they hired me in
20 as a ^{(b)(7)(C) & (b)(7)(D)} .

21 Q. Oh, okay.

22 A. But that's just --- didn't make sense.

23 Q. I understand you had many, many different duties
24 up there. Could you let us know ---?

25 A. Well, besides ^{(b)(7)(C) & (b)(7)(D)} , you had to ^{(b)(7)(C) & (b)(7)(D)}

1 (b)(7)(C) & (b)(7)(D) You have
2 to sometimes (b)(7)(C) & (b)(7)(D)
3 (b)(7)(C) & (b)(7)(D) We done a lot of (b)(7)(C) & (b)(7)(D) like that.
4 That's pretty well it. I mean, like I say, it's a big
5 operation, a lot of it.
6 Q. Sure.
7 A. I felt, but of course, I --- one thing I'm good at
8 is expressing myself.
9 Q. Good.
10 A. And more than once I expressed the safety factor
11 of trying to do supply duties and (b)(7)(C) & (b)(7)(D) ,
12 and it just kind of ---.
13 Q. Sure.
14 A. But I think that, too, I think --- well, you all
15 probably know more than I do. A lot of it's up in the
16 air about what (b)(7)(C) & (b)(7)(D) can and can't do to a
17 point.
18 Q. We may help you out with that in the future.
19 A. Well, I hope so. But I think we did up there ---
20 we got to the point that you didn't (b)(7)(C) & (b)(7)(D) .
21 Q. Okay. So it sounds like you were working as a
22 (b)(7)(C) & (b)(7)(D) ?
23 A. They were paying me as a (b)(7)(C) & (b)(7)(D) .
24 Q. Okay. You were (b)(7)(C) & (b)(7)(D) . You were doing
25 (b)(7)(C) & (b)(7)(D) . You were doing what I'd classify

1 as just a (b)(7)(C) & (b)(7)(D) , doing (b)(7)(C) & (b)(7)(D) like
2 that.

3 A. Right.

4 Q. Were you also in charge of the atmospheric
5 monitoring system?

6 A. Yeah. Well, not the atmospheric. Are you talking
7 about the barometric pressure and stuff?

8 Q. No, the ---

9 A. CO?

10 Q. --- CO.

11 A. Yes, sir.

12 Q. Were you trained in that?

13 A. Yes, sir.

14 Q. When did you receive that training?

15 A. They give me a block of instructions to go along
16 with my --- when I started there, for my orientation,
17 you know, to the mines and maps and stuff like that.

18 Q. Sure. Did you get underground?

19 A. I was underground about three different days.

20 Q. Was that when you first hired on?

21 A. When I first hired on.

22 Q. Have you been underground since then?

23 A. Not there, no. I was under --- like I was just
24 telling you, when --- my orientation, where I'm
25 working at now, I went underground the day before

1 yesterday it was.

2 Q. Okay. At Upper Big Branch, where did you go when
3 you went underground?

4 A. I pretty well covered it all. Like I said, you
5 know, wasn't there at any one place very long, but
6 they covered the whole shebang. They did a good tour,
7 you know.

8 Q. So you went to all the production sections?

9 A. Yes, sir.

10 Q. Did you go to the longwall?

11 A. Yes, sir. I was very impressed. I had never seen
12 a longwall.

13 Q. Okay. That is impressive. It's a lot of
14 equipment.

15 A. Yeah, it's something else to see.

16 Q. Did you travel to the newer sections, the barrier
17 section?

18 A. Let me see. The barrier section, that would
19 be ---.

20 Q. It's on --- not on this map. It's on this bigger
21 map, just a bit inside the UBB Portal.

22 A. It's just up a little bit?

23 Q. Yeah.

24 A. That --- I never did make it up there. Like I
25 say, it just hadn't been open that long, and I hadn't

1 gotten to it yet.

2 Q. Okay. What about this 22 Tailgate section?

3 A. The tailgate, it was more or less starting the
4 drive over. They hadn't started --- they was just
5 getting started probably, what, two weeks, three
6 weeks, before the incident.

7 Q. So you didn't go there?

8 A. No, I hadn't been ---.

9 Q. You went to the 22 Headgate. Was that started
10 when you took your tour?

11 A. The 22 Headgate ---.

12 Q. Up near the Glory Hole.

13 A. I was up to the Glory Hole.

14 Q. Did you go inby the Glory Hole?

15 A. No, sir.

16 Q. Okay. And of course, you said you went to the
17 longwall. There was a Three section I think down on
18 the other side ---.

19 A. On the other side. I was at the Three section on
20 the other side. It wasn't very far in either. It was
21 just ---.

22 Q. Okay. Thank you. Now, which shift did you work?

23 A. We swung shift. We worked from 6:00 A to 6:00 P,
24 and then off, worked four days off, two days, then
25 went back from 6:00 P to 6:00 A.

1 Q. Can be a rough schedule.

2 A. It's a hard schedule.

3 Q. Who did you swing with? Was there another

4 (b)(7)(C) & (b)(7)(D) that ---?

5 A. There was an Adam Fraley for a while. I'm trying
6 to think of the names. A Roosevelt Lynch there at
7 last, and there's a contractor. I can't think of his
8 name.

9 Q. And did he work for David Stanley Consultants?

10 A. He worked for David, yeah. I can't think of his
11 name.

12 Q. That's okay. Okay. When you guys changed shifts,
13 did you update each other on what was going on?

14 A. Oh, yes, sir.

15 Q. Who was your supervisor?

16 A. Well, for a while --- that's a good question.
17 Okay. I mean, that is --- that's a real good
18 question. I don't know. It --- there for a while,
19 directly, it was Gary May, but then you had the
20 president. You had Everett Hager from the other side
21 of the mine. The best I can tell you, there was at
22 least four or five of them.

23 Q. Okay. That probably created quite a confusion,
24 I'd imagine?

25 A. To a point, sir. But a (b)(7)(C) & (b)(7)(D) , when you think

1 about it, you don't have no boss.

2 Q. Okay. So just whatever anybody asked you to do,
3 you'd do it?

4 A. Kind of, depending. Like I said, I'm one that
5 don't care to raise a little trouble, but ---.

6 Q. I like folks like that.

7 A. But when it hits them rails, it belongs to me.

8 Q. What do you think was the most vital thing that
9 you did? Was it controlling the traffic on the rails
10 or keeping up with the paperwork?

11 A. Oh, definitely the rail traffic. I mean, the
12 paperwork, you know, that was just something you
13 did ---

14 Q. Okay.

15 A. --- because it was there. The paperwork end of
16 it, I didn't like it, some of it because when it was
17 there to have to do, that I didn't like.

18 Q. How often would you get a call out to --- about
19 somebody wanting to go on the track?

20 A. Travel on the track?

21 Q. Yeah.

22 A. Oh, my gosh. I would fill up, dayshift, probably
23 10, 12 pages a day, maybe more than that.

24 Q. Yeah, that's a lot of traffic.

25 A. Yeah. Evening shift, a little less, but not much.

1 Q. Would you say it's every 10 minutes, every 15
2 minutes?

3 A. On a dayshift, it could be every 10, 15 minutes
4 easy.

5 Q. How did you handle that when you were doing like
6 the ^{(b)(7)(C) & (b)(7)(D)} ?

7 A. Well, like I said, you had to put priority, you
8 know. But sometimes it would get confusing. Like I
9 say, you know, it's several vehicles ---

10 Q. Sure.

11 A. --- and ---.

12 Q. It's a big mine.

13 A. A lot of times, too, the people running these
14 vehicles, if they don't cooperate, if they choose a
15 lot of times to take the rail on their own or
16 something, then it creates a lot of confusion
17 sometimes.

18 Q. Sure. Now, were you also in charge of ^{(b)(7)(C) & (b)(7)(D)}
19 where these people were in the mine?

20 A. Yes, sir.

21 Q. So you did that ^{(b)(7)(C) & (b)(7)(D)}
22 duties?

23 A. Right.

24 Q. Was most of that just keeping up with the trips
25 and such or did you have to track individuals?

1 A. No, mainly with the trips. With the individuals,
2 you just needed to know, you know, where they're at,
3 which wouldn't be hard. You could just click on, you
4 know, your database and stuff, and it would tell you.

5 Q. What about like the weekly examiners, did you keep
6 up with them?

7 A. Yes, sir. When the weekly examiners was over
8 there, we had a lot of dead areas and stuff ---

9 Q. Sure.

10 A. --- that where, you know, the radios just didn't
11 work and stuff, monitors wouldn't work, and they would
12 always call before they would start into these dead
13 areas to give me an estimated time that they were
14 going to be out of the dead area, where they --- their
15 whole route that they were going to be doing.

16 Q. Sure.

17 A. And that way, you know, I'd have a time factor to
18 work with. If they weren't there in the appropriate
19 time, then ---

20 Q. Start looking for them.

21 A. --- you'd have to get somebody to start looking
22 for them.

23 Q. About how long was some of the longest times that
24 they were off the network?

25 A. Probably there at one time one route I think --- I

1 can't think of the one that did. It seemed to me like
2 his trip was about four or five hours.

3 Q. That's a long way to walk.

4 A. That's a long walk, buddy.

5 Q. So just give me a ballpark estimate, about how
6 much of your time was taken up ^{(b)(7)(C) & (b)(7)(D)} ?

7 A. Oh, the biggest part of the time, at least
8 probably 85, 90 percent of it.

9 Q. Okay. So you spent a lot of time ^{(b)(7)(C) & (b)(7)(D)} the
10 paperwork. And did you also have to ^{(b)(7)(C) & (b)(7)(D)} ?

11 A. Oh, yes. Well, now through the day it wasn't too
12 bad because the purchasing agent at one time, too,
13 would answer the phone.

14 Q. That was Mr. Clay?

15 A. Clay, yes, sir. But still, at that --- I mean,
16 the phone, if it didn't ring, you know, hundreds of
17 times a day, and if I wasn't real busy, I would try to
18 answer it, too, and direct the call to wherever. But
19 my main point ^{(b)(7)(C) & (b)(7)(D)} , because the shift
20 change --- you know, it's not like where I'm at now.
21 Your trips are all outside before the other guys start
22 inside. Over UBB it wasn't like that. Your trips
23 were passing in or changing inside, you know.

24 Q. Sure. UBB staggered their shift changes quite a
25 bit.

1 A. Right. And it, you know, --- that's when I didn't
2 like to have a truck come in and Mr. Clay send me down
3 the paperwork ---

4 Q. Sure.

5 A. --- to ^{(b)(7)(C) & (b)(7)(D)} That was not a proper
6 time to be taking my attention off of what I was
7 doing.

8 Q. Sure. Now, if my personal experience is
9 reflective of what you guys probably ran into, that's
10 when the truck showed up.

11 A. A lot of times, yes, sir.

12 Q. That would be tough. What about the atmospheric
13 monitoring system, how much time did that take up?

14 A. Most of the time, if it was upstairs where I could
15 see it, not a lot of time. Sometimes, like I said, my
16 gosh, they had so many monitors, and they're so
17 sensitive. A lot of times they would kick off, go
18 off, and they would check them out, call somebody to
19 check them out. It would be nothing other than ---

20 Q. Sure.

21 A. --- need to reset them or replace them or
22 something like that. As far as on-shift, the only
23 time I've ever seen them actually work is if like when
24 the midnight --- when you work in the midnight area
25 there and they would be doing some cutting on a head

1 or a tailpiece or something like that, then you could
2 actually see the monitors working. You know, they
3 would --- you know, you'd know they were there, you
4 know, and you would know not to get alarmed. But
5 still, if that would happen when I would be doing it,
6 I would call and check and make sure ---

7 Q. Okay. Sure.

8 A. --- and ---.

9 Q. So they'd give you advance notification ---

10 A. Right.

11 Q. --- of any ---? Now, just on average, about how
12 many alarms would you get during a typical day?

13 A. Well, like I say, some days, I mean, you know, you
14 wouldn't get any. But then some days, you know, you'd
15 only get 10 or 15 a day.

16 Q. So would you say you got five or six on a typical
17 day?

18 A. Probably.

19 Q. Or a typical shift.

20 A. Yeah.

21 Q. Which would be about half a day. Did you tend to
22 get more of those in the --- during the dayshift or
23 the evening shift or ---?

24 A. No, it would --- you really couldn't determine it
25 that way. No, it would just ---.

1 Q. Was just spread out all over the place?

2 A. Yeah. Like I said, most of them you got were just
3 nothing, just a fault in the instrument itself.

4 Q. And when you got one of those, you said you'd call
5 in and get them to check it out?

6 A. Right. I'd either --- it depends where it's at.
7 I'd try to get ahold of whichever fire boss was in the
8 area or belt man.

9 Q. If you got several alarms from the same sensor,
10 what would you do?

11 A. I would contact the electrician, whoever was over
12 that in that area. They would either take care of it
13 theirself. Or else if it was close on a section, I
14 would get ahold of the section electrician.

15 Q. Sure. And did you have some work order or
16 something you had to make out to get them to check it?

17 A. No.

18 Q. You'd just tell them?

19 A. Just tell them and they --- usually they were very
20 prompt.

21 Q. Sure. What about things that came to your
22 attention that needed doing, is there some whiteboard
23 or some way to jot things down like somebody called
24 out and said, you know, the water is getting really
25 bad at this location?

1 A. Usually if there would be a situation, I would
2 just make notes on my log and then make a note and
3 give it to whoever or notify whoever it should be
4 taken care of.

5 Q. Okay. You indicated you did some paperwork, some
6 filing and stuff. Were you in charge of --- or did
7 you have to keep up with production-type reports?

8 A. I'd have to make --- fax all production reports.

9 Q. And how did that work?

10 A. After they come out and done the production
11 reports, I would fax them to four or five different
12 people, from Don Blankenship down, especially longwall
13 reports. This was done like probably two or three
14 times on the dayshift and usually, I think, about
15 twice on the evening shift. Those were done every
16 half hour, the longwall reports were.

17 Q. Oh, geez. That's a lot of reports.

18 A. Right.

19 Q. How would they do that? Were they calling them
20 out on the mine phone?

21 A. Yes, sir. They called it out on the mine phone.

22 Q. What about downtime, did you have to report that?

23 A. Yes, sir. When they had downtime on the wall or
24 anything serious on a section, but mainly on the wall
25 is what they were concerned with, if they were down

1 for any amount of time, they had to call outside and
2 you had to notify from high up down or, you know,
3 everybody had to know.

4 Q. Sure. Now, you say there was four or five people,
5 and you mentioned Mr. Blankenship. Who else got those
6 reports?

7 A. Well, usually they had to go to Mr. Blankenship
8 and to Chris Adkins, and the next one would be at that
9 time Chris Blanchard and, let me see, I had to send
10 them to the office. And a lot of times now for the
11 evening shift you'd have to maybe --- I think
12 sometimes I've had to call and let him know like ---
13 he was over the dayshift, Jack ---.

14 Q. Jack Roles?

15 A. Jack Roles. And a lot of times different ones
16 would --- I'd have some that I wouldn't have to fax
17 stuff to like that, but a lot of times they would call
18 through the shift to get updates of the wall.

19 Q. Now, you said you had to fax one to the office.
20 Which office was that?

21 A. That would have been Marfork office.

22 Q. Okay. Did you have to fax any to the corporate
23 office?

24 A. No.

25 Q. Okay. So just to the --- I guess that's the

1 division office?

2 A. I would say it's the division office.

3 Q. What about the first buggy or the first coal run
4 off the wall, did you have to report that?

5 A. Oh, yeah, all --- the wall and all sections had to
6 start --- call out the start of loading time.

7 Q. Okay. Just on average, how long would it take
8 after a crew got to the section before they started
9 loading coal?

10 A. Depending on the distance, from the time they
11 would leave, they would get on the section, a lot of
12 them had a habit of not letting me know when they got
13 on the section.

14 Q. Sure.

15 A. But usually 15, 20, 25 minutes, just depending.
16 Sometimes the wall was a little quicker because, you
17 know, they hot seated, you know, where the miner crews
18 didn't. They would have to make more checks.

19 Q. What about if a crew should have got to the
20 section and they didn't call out for an hour?

21 A. Oh, I'd try to get ahold of them and make sure,
22 you know, ---.

23 Q. Would anybody call you, asking what was going on?

24 A. If they wasn't getting reports in time, yes, sir.

25 Q. What if a section was down or something, would

1 they call, asking you about that?

2 A. Usually, like I said, now you fax your reports
3 ever --- I forget what the hour, the time was, 7:00,
4 11:00, something like that. And on your production
5 reports you'd have to have why they were down for and
6 stuff. And if it were down and you didn't have a
7 reason, yeah, they would be right on the phone,
8 calling you, wanting to know what the problem was.

9 Q. Okay. What if you had a reason, like somebody
10 said, we're down because we don't have any
11 ventilation?

12 A. On a ventilation problem like that, then they
13 would call outside and let you know, you know, notify
14 whoever. And the only ventilation problems I seen
15 there, they were always Johnny on the spot, you know,
16 from my end of it, that I could see and stuff.

17 Q. Okay. So the section weren't down long for that.
18 What about break-downs, like if the wall was down for
19 a broken conveyor chain or something?

20 A. A conveyor chain, like I say, when they broke
21 something like that, when it breaks, they have to call
22 outside immediately and give you an estimated fix
23 time.

24 Q. Sure.

25 A. And if you haven't called back to that time, yeah,

1 you would get calls.

2 Q. Who would call you?

3 A. Anybody from Chris Blanchard, Chris Adkins. I
4 never had a call from Mr. Blankenship, but ---.

5 Q. Did anybody ever say to fire somebody or tell if
6 they couldn't get coal running, to fire them?

7 A. I've never heard any comments like that.

8 Q. You say that the ventilation-type problems were
9 fixed pretty quickly. Did you get a lot of
10 ventilation-type problems?

11 A. The bigger ones that I knew of, ones like where
12 they completely changed the ventilation, which I think
13 was like two or three times. But that was --- you
14 know, that was a known fact, I guess, through the
15 State and Federal, ---

16 Q. Sure.

17 A. --- the whole deal, you know.

18 Q. Now, you say that's when they completely changed
19 the ventilation. What about little changes, like
20 building some more stoppings or an overcast or
21 something like that, was that ever a problem?

22 A. Not that I can say. Like I say, I wouldn't be in
23 on that too much as far as, you know, the ventilation
24 situations and stuff like that.

25 Q. Okay. Any of the sections ever call and say they

1 didn't have enough air?

2 A. They would call out, and if they did, it would
3 usually be the first part of the shift or something.
4 If they didn't have enough ventilation, like I said,
5 that would be one reason why they wouldn't have
6 started to load or something, until they got proper
7 ventilation.

8 Q. Do you recall if there were many of those type
9 calls?

10 A. No, not many at all.

11 Q. The week before the explosion, do you recall any
12 ventilation-related calls?

13 A. I don't know how close it was, but it seemed to me
14 like one of their major changes was in that area. I
15 don't know where it was, a week or two weeks or even
16 three weeks prior, you know.

17 Q. But you do recall some major change?

18 A. Yeah. I mean, that's when they did one of the
19 major --- seemed to me like it was down probably a
20 shift, shift-and-a-half, two shifts, doing it.

21 Q. And when they got started back up, I guess they
22 had a few problems?

23 A. With the ventilation? I'm not really sure about
24 that.

25 Q. Okay. They were just down?

1 A. Down, yeah.

2 Q. What shifts did you work --- first of all, did you
3 work on the day of the explosion?

4 A. No, sir, ^{(b)(7)(C) & (b)(7)(D)} that day.

5 Q. Okay. What was the last shift you worked prior to
6 the explosion?

7 A. That would have been --- I don't remember --- let
8 me see. ^{(b)(7)(C) & (b)(7)(D)} --- I was going from evening shift
9 --- all right. Okay. I was going from evening shift
10 to dayshift, so probably I worked --- ^{(b)(7)(C) & (b)(7)(D)} the
11 morning before the explosion.

12 Q. So you worked ^{(b)(7)(C) & (b)(7)(D)}

13 A. Right.

14 Q. Okay. Good.

15 A. I think it was --- no, let me see. It would have
16 been ^{(b)(7)(C) & (b)(7)(D)} .

17 MR. MCGINLEY:

18 Sunday was Easter.

19 MR. SHERER:

20 Yeah, it was Easter Sunday.

21 A. That was a Saturday.

22 BY MR. SHERER:

23 Q. Okay.

24 A. I don't think they worked Easter day.

25 Q. Okay. So you worked ^{(b)(7)(C) & (b)(7)(D)} ?

1 A. Worked (b)(7)(C) & (b)(7)(D) .

2 Q. And came out (b)(7)(C) & (b)(7)(D) ?

3 A. Yeah.

4 Q. Do you recall what sections or the longwall
5 were ---?

6 A. Usually if just the wall would be running like on
7 a weekend a lot of times or, you know, days like ---
8 usually the only section would be running would be
9 like --- I think it was Headgate 22, whichever one was
10 the belt, until the next panel. That would be the
11 only two sections running.

12 Q. Now, Headgate 22 was developing, but also they had
13 Tailgate 22.

14 A. Well, they keep changing it there, but I think it
15 was --- would have been --- let's see. Tailgate,
16 Headgate 22. Tailgate, is that the one they changed
17 from ---?

18 Q. It seems like that tailgate had only been working
19 for a month or so.

20 A. It would have been the headgate.

21 Q. So it was Headgate 22. Do you recall who the boss
22 was on the longwall on the headgate section on
23 (b)(7)(C) & (b)(7)(D) ?

24 A. No, sir, I sure don't.

25 Q. Okay. Do you recall if there was any unusual

1 problems?

2 A. None that I can remember.

3 Q. Okay. So it was just kind of a typical

4 (b)(7)(C) & (b)(7)(D) ---

5 A. Yeah.

6 Q. --- shift? Okay. Do you recall anything that ---

7 in particular about that shift on (b)(7)(C) & (b)(7)(D)

8 (b)(7)(C) & (b)(7)(D) Does anything stand out as different?

9 A. No, sir, not really.

10 Q. Okay. Do you recall anybody talking about

11 ventilation?

12 A. No, sir.

13 Q. Do you recall anybody talking about methane?

14 A. No, sir.

15 Q. Do you recall if the --- was the president in the

16 mine over that shift?

17 A. Not that I can remember, no.

18 Q. Who was the highest person in the mine management

19 chain that was there on that shift; do you recall?

20 A. On the (b)(7)(C) & (b)(7)(D) shift?

21 Q. Uh-huh (yes).

22 A. I can't remember any of them being there, sir.

23 Q. Okay. How about the safety people, were any of

24 them in the mine?

25 A. Not to my knowledge, ---

1 Q. Okay.

2 A. --- unless they could come in on the other side
3 and not call or something, but that would be highly
4 unlikely.

5 Q. Sure. Do you recall anybody in the mine that
6 wouldn't typically be on the ^{(b)(7)(C) & (b)(7)(D)} ?

7 A. No, sir. Like I say, that's a ways to remember
8 back, but ---.

9 Q. Sure. Uh-huh (yes).

10 A. No. Usually, you know, everybody --- if they're
11 gone for the weekend, they're gone.

12 Q. Sure. When they're running a ^{(b)(7)(C) & (b)(7)(D)} like that,
13 you've got the crew on the longwall. You've got the
14 crew on the headgate section. Who else would be in
15 the mine?

16 A. Whoever would be fire bossing.

17 Q. Did you have any ---?

18 A. The wall sometimes would have an outby crew.
19 Usually they always had an outby crew.

20 Q. Anybody doing like rock dusting or anything like
21 that?

22 A. No.

23 Q. What about maintenance, would there be a
24 maintenance crew?

25 A. Well, as I can remember, it usually would just be

1 like, you know, the wall maintenance crew, you know,
2 worked their regular shift.

3 Q. Was there anybody that like run parts in, anything
4 like that?

5 A. Now, sometimes on the weekend they wouldn't have
6 nobody run parts in.

7 Q. Would there be anybody outside to do like
8 maintenance on the trips or anything like that?

9 A. I weren't really familiar with what their schedule
10 was, but I don't think so. I don't even think
11 probably on Sundays. I don't think they worked, but
12 I'm not sure.

13 Q. Pretty sparse out there on the weekends?

14 A. Yeah.

15 Q. Okay. Was there anything going on over that
16 weekend, any sort of construction or anything?

17 A. I don't --- they had that one section that was
18 doing construction, but I don't --- I don't think they
19 were working that weekend.

20 Q. Okay. Let's go back a little bit to that week
21 before. Was there anything unusual? You mentioned
22 the construction. That was out near the Ellis Portal?

23 A. Yes, sir.

24 Q. Was there anything else that was kind of out of
25 the ordinary going on in that mine?

1 A. Not that I can remember, sir.

2 Q. Okay. Was there anybody that had come in, like a
3 contractor, to do something?

4 A. I wouldn't remember, sir.

5 Q. Okay.

6 A. I know there were a lot of contract people coming
7 in and working on belts and stuff. But as far as that
8 weekend, being a holiday weekend, I don't think so.

9 Q. Okay. Somebody mentioned that they had seen some
10 folks up in the headgate of the longwall gluing the
11 top up. Do you recall anything like that?

12 A. I don't know whether the strata worked that
13 weekend or not. I do know that --- I can't see ---
14 you know, I can't remember, but I can't really see
15 them working on a holiday weekend.

16 Q. Sure. But had they been up there working; do you
17 recall?

18 A. Right. They was off and on. Yeah, they were up
19 in that area working.

20 Q. Do you recall roughly how long they had been up
21 there prior to the explosion? Was it a week or two
22 weeks?

23 A. No, sir, I wouldn't know.

24 Q. Okay. Anybody else like that that you recall?

25 A. That's the only ones I can remember, like I say,

1 other than people coming in to repair belt scrapers or
2 something like that.

3 Q. And that's pretty typical?

4 A. Pretty typical, yes.

5 Q. What about when inspectors came on the property,
6 either State or Federal inspectors, do you guys know
7 that?

8 A. Yes, sir.

9 Q. Was that information that was relayed underground?

10 A. Yes, sir.

11 Q. Who did that?

12 A. A lot of times I would, sir.

13 Q. Did anybody tell you to do that?

14 A. No, sir, just common courtesy.

15 Q. Okay. Was that something you just picked up on?

16 A. Well, I mean, sir, I've been in the mines for a
17 lot of years.

18 Q. Sure.

19 A. Like I said, to me it's just common courtesy to
20 call and let someone know, not necessarily an
21 inspector, just you got company.

22 Q. Oh, okay. So in the other mines you worked for,
23 that was pretty typical?

24 A. Yes, sir.

25 Q. Okay.

1 A. I've run into two incidents that could not do that
2 situation. If you get hit with a blitz and they walk
3 in and put the production down in front of you and
4 say, you don't call nobody, then you don't call.

5 Q. Sure. Now, these people that would --- you
6 reported production figures and downtime and things
7 like that, would they call back and ask you to give
8 messages to the folks underground?

9 A. No more than asking about, you know, how long is
10 it going to take to get something repaired or, you
11 know, what kind of problems they were having,
12 something like that, but no direct messages, as you
13 would be ---

14 Q. Sure.

15 A. --- you know.

16 Q. What about if something happened, something
17 unusual, if they called it out and you faxed it off,
18 would somebody show up to check on that?

19 A. Like who are we talking about?

20 Q. Let's say you had a major breakdown on the wall,
21 some --- you had a broken ranging arm or something,
22 would somebody ---?

23 A. No. Usually if they had something like that, not
24 only would I fax them my report, but I would
25 personally call ---

1 Q. Oh, okay.

2 A. --- Jack Roles or I can't think of the other guy
3 that's --- there's so many that's, you know, higher up
4 on the wall, that you would call them and stuff like
5 that.

6 Q. Okay.

7 A. But no. Sometimes if they thought they would need
8 help, they would come out ---

9 Q. Oh, okay.

10 A. --- and assist or something. But usually for
11 something --- it would have to be something awful
12 major for somebody to come out.

13 Q. Okay. What about Mr. Blanchard, did he come down
14 in the mine very often?

15 A. He was at the mine site quite often and did go
16 underground quite often.

17 Q. Did he come down on average every other day or
18 every day?

19 A. Sometimes he would be there quite often, but other
20 times it might go a week or so before you would see
21 him.

22 Q. Do you recall the week prior to the accident
23 whether he was in the mine many times?

24 A. I can't really remember because, like I said,
25 during that time somewhere is when they were having

1 the major ventilation changes and stuff, and he was
2 there along with a lot of other people.

3 Q. So he was in on the ventilation change?

4 A. Oh, yes, sir.

5 Q. What about Mr. Whitehead, was he ---?

6 A. Yes, sir, Jason was there.

7 Q. He was involved in that ventilation change?

8 A. Yes, sir, I'm pretty sure that he was.

9 Q. I imagine Mr. Persinger was there?

10 A. Yes, sir. Mr. Wayne Persinger was there.

11 Q. How about Gary May, was he involved?

12 A. Gary --- yeah, Gary was there at the time, yes,
13 sir.

14 Q. And I imagine Everett Hager was in on it also?

15 A. Yes, sir, Everett was there.

16 Q. That's a lot of horsepower?

17 A. Yes, sir. I mean, you've got a major problem.
18 They should be there.

19 Q. Sure. Do you know if there was any like engineers
20 from Route 3 engineering that would come up to assist
21 in those ventilation changes?

22 A. There was one young man that was there. It seemed
23 like it was somebody, but I can't remember his name.
24 I can't remember meeting him.

25 Q. Oh, okay.

1 A. But yeah, I remember some engineering people being
2 there, but I can't --- I can't remember who it was.

3 Q. Okay.

4 A. But I know --- it kind of impressed me because I'm
5 not used to seeing that many higher-ups being at a
6 situation like that.

7 Q. Sure.

8 A. But I mean, you know, they needed to get it done
9 and get it done right.

10 Q. And do you recall if that was within the week or
11 so before the explosion?

12 A. Sir, I really don't remember if it was within a
13 week or two weeks. I just don't.

14 Q. And you said you thought it was several shifts
15 that they were doing that?

16 A. It seemed to me like it was a shift-and-a-half,
17 two shifts, because, like I said, everything ceased.
18 You know, if you weren't working on ventilation, you
19 weren't working.

20 Q. Sure. That should be in the production reports, I
21 would guess?

22 A. I would think it would be, yes, sir, since they
23 had no production them days, I mean, you know.

24 Q. Sure. And no coal on the belts.

25 A. Don't make no paychecks like that.

1 Q. That's right. Did you keep up with the coal
2 production?

3 A. I found it interesting to try to keep up with the
4 coal production.

5 Q. Did you have to report it or track it in any way?

6 A. Just at the end of the day, whoever was working,
7 the nightshift part of it, you would have to fill out
8 your production report and fax it in with total
9 tonnage and stuff like that.

10 Q. Okay. How did you get that tonnage? Was there
11 some belt scales or something?

12 A. You just figured it up. They'd give you figures
13 to figure it with.

14 Q. Oh, okay. So the number of buggies and things
15 like that?

16 A. Usually it's footage.

17 Q. Oh, okay. What about when you had an emergency in
18 the mine? Let's say somebody was hurt or you got a
19 little fire or something like that, were you the guy
20 that would handle that?

21 A. Yes, sir. I never experienced no fires. I
22 probably had two or three incidents where you would
23 have to call an ambulance or something like that.

24 Q. Okay.

25 A. I think once or twice, I'm not sure, maybe since

1 the incident, where they would have like a roof fall
2 once or twice, maybe once, I'm not sure there, that I
3 had to call both the State and the Federal and notify
4 them of the size and the dimensions and stuff like
5 that.

6 Q. So they would call out in the mine and then you
7 would take care of whatever you needed to?

8 A. Yes, sir.

9 Q. Were you trained to do that?

10 A. Yes, sir.

11 Q. You had all the numbers and everything you needed?

12 A. Yes, sir.

13 Q. Did you have to contact anybody with the
14 company ---

15 A. Yes, sir.

16 Q. --- prior to doing that?

17 A. Well, now, depending on the seriousness of, you
18 know, what it was, ---

19 Q. Sure.

20 A. --- yeah, I always call and talk, you know, to the
21 higher-ups before I would call. It only takes a few
22 minutes to let them know what's going on and stuff.

23 Q. Okay. How many of those folks would you talk to?

24 A. Usually depending on which side of the mine it was
25 on. The last one would be on Gary May's side. It was

1 the UBB side or Everett's side on the other side. And
2 usually I would contact Everett. Usually you don't
3 get a hold of Everett after he goes home. But then I
4 would call usually there at last it would be Mr.
5 Persinger. I would call him. He was always good
6 about returning calls and stuff and ---.

7 Q. So you call one or two people?

8 A. Yeah.

9 Q. In general?

10 A. Right.

11 Q. What about if you had a bad accident, would you
12 just go ahead and call an ambulance?

13 A. Oh, yes, sir, definitely. I mean, when they call
14 you like that, I mean, you got to get --- try to get a
15 little information from them so you know what to tell
16 the ambulance people. But yeah, I mean, you've got to
17 get something on the way, that's a fact.

18 Q. Did you ever call Flight for Life?

19 A. I've never had to do that, no, sir.

20 Q. Were you set up to do that?

21 A. Yes, sir. I don't know exactly. I never did see
22 any grid coordinates or anything for that place up
23 there where they done it at, whether the --- usually
24 Whitesville Ambulance was always the ones that ran
25 those. So whether they had --- I know in the area

1 there are some places where MedEvacs lands, you know.
2 But as far as on the property, I know a lot of places
3 --- you know, Mr. Blankenship can land his helicopter
4 and stuff, but --- MedEvac can land at those places.
5 Now, whether they --- not while I was there they
6 didn't have to.

7 Q. But there were some landing pads ---?

8 A. Yes, sir.

9 Q. Do you recall who the responsible person was at
10 the mine or persons?

11 A. Who was it? I'm trying to think. Well, like
12 there at last, I know Gary May was. I can't think if
13 there's another one. I can't think. Of course, they
14 may even have me listed as the responsible person.

15 Q. You just can't recall?

16 A. I can't recall, no.

17 Q. Was there someplace, a bulletin board or someplace
18 where that was posted?

19 A. Yes, sir.

20 Q. Where was that at?

21 A. I think they had a couple --- I know usually they
22 had one place where I'd go out and I could look at and
23 see, and I think it would be probably --- some of that
24 stuff at Mr. Clay's office and over where they had the
25 CO monitor stuff, they had a lot of stuff there.

1 Usually, even though it was posted, a lot of times I
2 would try to keep me a cheat sheet handy ---

3 Q. Sure.

4 A. --- because a lot of times, you know, you get to a
5 phone, the phone don't happen to be right sometimes
6 where you need to be at.

7 Q. Well, it sounds like you're just all over the
8 place?

9 A. Yes, sir.

10 Q. And you kept that cheat sheet with you?

11 A. Yes, sir.

12 Q. Were there a lot of mine phones scattered around
13 the surface area there?

14 A. There was one in about every office.

15 Q. Okay. So if something happened, you could get to
16 them in what, a minute?

17 A. or less, yeah.

18 Q. Okay.

19 A. And of course, you know, too, you know, you had
20 your radios, too, ^{(b)(7)(C) & (b)(7)(D)} and stuff
21 for vehicles and stuff.

22 Q. Did you have a cell phone you took around?

23 A. No cell phone, sir.

24 Q. Okay.

25 A. You don't have cell phone service in that area.

1 Q. That's right. I remember that now. It's kind of
2 a blank part of the earth up there.

3 A. Yeah.

4 Q. I guess it's hard to get service down in some of
5 those ---.

6 A. It wouldn't be. It's a political game.

7 Q. Oh, it is? Okay. Did you take any notes while
8 you were doing all this stuff?

9 A. Yes, sir.

10 Q. Did you keep copies of those notes?

11 A. Just what would be on my daily log.

12 Q. Okay. So you did have a daily log?

13 A. Yes, sir.

14 Q. What did you do with that daily log?

15 A. At the end of the shift they had a clipboard I put
16 it on.

17 Q. Okay. Do you know if that was filed at some point
18 in time?

19 A. No idea, sir.

20 Q. Just put it on the clipboard. Were there a lot of
21 those that would stack up on that clipboard?

22 A. Quite a few, yes, sir.

23 Q. Who would read that daily log?

24 A. Sir, I couldn't tell you if anybody did.

25 Q. Okay. I do a lot of paperwork like that.

1 A. Unless there would be a problem or something, ---

2 Q. Sure.

3 A. --- I would say, no, it probably was never looked
4 at.

5 Q. Sure. Just somebody would read it if there was an
6 exception?

7 A. Right.

8 Q. Okay. Do you recall who the dispatcher was at the
9 time of the accident?

10 A. Yes, sir. I think Adam Fraley was working that
11 night --- or day.

12 Q. And that would have been --- he would have come on
13 at 6:00 that morning?

14 A. 6:00 that morning, yes, sir.

15 Q. Have you spoken with him since the accident?

16 A. Yeah. We both worked kind of together there a few
17 days after.

18 Q. During the rescue and recovery?

19 A. During the rescue, yes, sir.

20 Q. Did he mention anything unusual?

21 A. No, sir.

22 Q. Do you know if the longwall was operating that
23 day?

24 A. I'm not sure, sir.

25 Q. Did you hear of any problems with the longwall on

1 the 5th?

2 A. No. Like I said, after --- you know, after it
3 happened, you just didn't hear.

4 Q. Sure. You guys were probably preoccupied with the
5 rescue and recovery, I imagine?

6 A. It was an experience.

7 Q. I imagine. Who was running the rescue and
8 recovery; do you recall?

9 A. I'm not sure of the name and stuff. I can't ---.

10 Q. Who did you primarily --- who gave you
11 instructions during the rescue and recovery?

12 A. They come from several people.

13 Q. Everybody who walked by?

14 A. Yeah, anybody --- well, more or less, running
15 errands, yes, sir, from Mr. Blanchard to Chris Adkins
16 to Craig Boggs to some --- whoever Federal and State
17 were.

18 Q. Sure.

19 A. You know, just ---.

20 Q. A lot of people up there?

21 A. Yes, sir. Took a lot of phone calls.

22 Q. I imagine. Geez. What would you suggest that all
23 of us do different in that rescue/recovery phase?

24 Could we have made your life easier?

25 A. I don't see how it could have been any easier. I

1 mean, it was set up good, I think. You know, you can
2 only do so much in a certain rate of time.

3 Q. Sure.

4 A. From what I seen, I think it was handled great.
5 Of course, you fellows may have more access to the
6 communications end of it. But from what I seen, you
7 know, they worked around the clock. That's about all
8 you can do.

9 Q. It's tough on everybody. That's something we try
10 to learn from every time we have to do that. That's
11 why I'm asking you. Any suggestions we appreciate.

12 A. None, nothing I can think of. Like I said, you
13 know, just the people that was there, the teams and
14 inspectors, whatever, was well taken care of as far as
15 being fed and stuff like that. I think it was
16 fantastic.

17 Q. Okay. Good.

18 A. I mean, you couldn't --- as far as teams, you
19 couldn't have got no more teams there than you had.

20 Q. I understand parking was a real short?

21 A. Well, parking --- yeah, parking was a little
22 cramped.

23 Q. Now, you guys had an emergency response plan.
24 Were you familiar with that?

25 A. To a point. It was went over with me and stuff,

1 you know, so ---.

2 Q. Did you have to like set up areas for the families
3 and the press?

4 A. No, sir, I didn't do that.

5 Q. Okay.

6 A. That was took care of, I guess, by human resources
7 or whoever.

8 Q. Okay. Do you think that the ventilation was
9 adequate in this mine?

10 A. Sir, I really couldn't tell you, but I'm sure it
11 was. I mean, ---.

12 Q. Okay. You mentioned several ventilation changes
13 went on while you were there. Do you know who was
14 underground? Were the production crews underground?

15 A. Just whoever was working on the ventilation.

16 Q. Okay.

17 A. Like I said, you know, that's the first time I've
18 been involved on a major ventilation situation like
19 that. And you know, I didn't realize when you were
20 doing one, you could do no other kind of activities
21 other than work on ventilation.

22 Q. Did you ever hear of anybody running without
23 ventilation curtains in this mine?

24 A. Sir, none that I heard of, but I said, you know,
25 that could happen.

1 Q. Sure.

2 A. The way I look at that, if a boss and a crew don't
3 have enough gumption to keep their ventilation up,
4 shame on them.

5 Q. Sure. Did you ever hear of methane monitors being
6 bridged out?

7 A. No, sir. But it falls in the same category. If
8 people does that and other people lets them get by
9 with it ---.

10 Q. Sure. And have you read the NPR story that's been
11 in several of the papers?

12 A. No, sir. I try to stay away from them.

13 Q. Okay. That's probably for the best. Do you
14 recall Massey Appreciation Day, about mid-February?

15 A. Massey Appreciation Day, I think I had to work
16 that day, sir.

17 Q. Okay. Was that on a --- was that a Sunday or a
18 Monday or a Saturday?

19 A. You know, actually, to be perfectly honest with
20 you, I think it was over before I even knew it was
21 happening.

22 Q. Oh, okay.

23 A. So I don't remember what day exactly it was.

24 Q. Okay. Did you ever hear about a miner being
25 threatened or some sort of retaliation for reporting a

1 safety issue?

2 A. No, sir. I've never heard anything like that.

3 Q. Okay.

4 MR. SHERER:

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

6 Terry?

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. ^{(b)(7)(C) & (b)(7)(D)}, I may be working backwards and all
10 around here to clarify some things, so just bear with
11 me. You identified the dispatcher on April the 5th as
12 Adam Fraley. Could it possibly have been a guy named
13 Adam Jenkins?

14 A. Jenkins, yes, sir.

15 Q. If I understood your actual time underground at
16 UBB correctly, it was about --- you went in about
17 three days?

18 A. Yes, sir.

19 Q. Probably in the latter part of 2009, during your
20 tours?

21 A. Right.

22 Q. Erik asked you about the section under
23 construction at some point. Were you referring to the
24 section near the Ellis Portal?

25 A. Yes, sir.

1 Q. Were you aware of any construction pertaining to
2 the installation of a new mother drive somewhere in
3 the vicinity of the Glory Hole?

4 A. No. They were setting some heads in that area,
5 but I'm not sure.

6 Q. Okay.

7 A. I didn't keep up with it, you know.

8 Q. Okay. All right. Okay. And when you had to call
9 people, management people, after hours, you said you
10 usually couldn't reach Everett.

11 A. Yeah.

12 Q. Was there any particular reason for that? What
13 separated him from others?

14 A. He just --- I don't know. A lot of times it would
15 just be he wouldn't answer his phone. You would just
16 leave a message. It would be small stuff, nothing of
17 real great importance that I'd call, and his wife
18 would say he was in bed or something at that time. If
19 it wasn't really important, I wouldn't bother with it.

20 Q. Okay. All right.

21 A. Because, then again, I've done called usually Mr.
22 Persinger before I ever call Everett and stuff.

23 Q. Okay.

24 A. For that reason, I know usually I could get a hold
25 of Mr. Persinger, and he didn't mind being called

1 and ---.

2 Q. Okay. You indicated that at least a couple
3 occasions you --- when there was some type of
4 emergency you had to call the State and Federal
5 agencies and so forth. What's the most serious event
6 you remember at UBB, other than the explosion, while
7 you were there?

8 Q. Serious event?

9 A. Most serious event you can recall.

10 Q. As far as being serious, probably the rock fall.
11 I mean, there were no --- really no serious injuries,
12 you know, on my shift.

13 Q. Okay.

14 A. Usually, you know, as far as anything like that,
15 it was maybe a mashed finger, people getting sick or
16 something like that.

17 Q. Okay. You don't recall any event ---

18 A. No.

19 Q. --- during your shift where someone was seriously
20 injured?

21 A. No.

22 Q. Okay. I think your duties included tracking
23 people?

24 A. Yes, sir.

25 Q. Were you responsible for tracking people both at

1 UBB and Ellis Portals?

2 A. Yes, sir.

3 Q. Were you able to do that? Did you track them
4 manually or with the Pyott-Boone tracking system?

5 A. With the Pyott-Boone. Well, usually --- and we
6 always kept a list. You know, before the section
7 would go inside, they would always fax me over a list
8 if they were over there or call me verbally. I would
9 usually keep a list of the men that was on our crew
10 and they would call and let me know who they had on,
11 who they had off. That way I would know --- like I
12 said, I would know personally who was on the section,
13 going to the section and stuff. The same, most of the
14 time, the higher-up people, if they were going in from
15 the other side or this side, they would always call
16 and let me know who was going where.

17 Q. You just answered my next question, which was how
18 did you know who was underground?

19 A. Yeah. All right.

20 Q. Concerning the overall functionability of the
21 tracking system, what was your impression of how well
22 it worked?

23 A. I think it works real well. Like I said, over
24 there they were just getting it in, a fairly new
25 system over there. And like I said, a lot of the mine

1 didn't even have it --- didn't have it all the way in
2 the mines, you know. But like I said, they were still
3 working some bugs out of it and stuff, but I think
4 down the road it's going to be great. But ---

5 Q. Okay.

6 A. --- from what I seen there --- well, of course,
7 you all know, too, when you have an explosion like
8 that, I mean, it's just --- that's why I like to keep
9 notes.

10 Q. Sure. Okay. Now, you had to deal with CO
11 monitoring system alarms ---

12 A. Yes, sir.

13 Q. --- from time to time? Were you given any written
14 procedures to follow as to how to handle those things?

15 A. Yes, sir.

16 Q. Okay. Who did that come from?

17 A. It came from the gentleman that give me the block
18 of instructions and stuff. They keep a log, a
19 notebook thing. It's got all the --- what to do, you
20 know, if it's in the yellow and in the red and
21 what ---

22 Q. Okay.

23 A. --- you know what I'm trying to say?

24 Q. Well, let me ask you this. Were the written
25 procedures sufficient to handle ---

1 A. Yes, sir.

2 Q. --- most situations you encountered?

3 A. Yes, sir.

4 MR. FARLEY:

5 Okay.

6 ATTORNEY WILSON:

7 Pat?

8 EXAMINATION

9 BY MR. MCGINLEY:

10 Q. ^{(b)(7)(C) & (b)(7)(D)} you said you were pretty good
11 expressing yourself, and I think that's very clear.
12 You've got a lot of experience in mining. You said
13 more than once I expressed concerns. What were those
14 concerns?

15 A. Well, like I said, more or less for my own self,
16 like when I would be trying to ^{(b)(7)(C) & (b)(7)(D)}
17 ^{(b)(7)(C) & (b)(7)(D)} and you've got
18 four sections and a longwall trying to get in and out
19 at the same time.

20 Q. Right.

21 A. It's no time to be trying to do paperwork.

22 Q. Right. So how did you do that? You said, what
23 was it, ^{(b)(7)(C) & (b)(7)(D)}

24 ^{(b)(7)(C) & (b)(7)(D)}

25 A. Right.

1 Q. It sounds like, you know, you had to fill out the
2 longwall production reports after 30 minutes?

3 A. Well, that kind of went --- I mean, just kind of
4 --- the reports and stuff just kind of fell in between
5 everything else.

6 Q. Yeah, but the production reports are pretty
7 important to the folks you're ---

8 A. Yes, sir.

9 Q. --- faxing them to; right? And so if you didn't
10 get those faxed within a certain time, would you get a
11 call?

12 A. Yes, sir.

13 Q. Who would call you?

14 A. Usually the secretary from the office, the
15 executive office.

16 Q. The executive office, meaning --- what's her name,
17 if you recall?

18 A. I think the one at Marfork was Lisa.

19 Q. Did you just send it to Marfork or ---?

20 A. No. I had to fax it to Marfork, to Chris Adkins.
21 Usually in the evenings I would fax them to Mr.
22 Blankenship.

23 Q. Where did Mr. Blankenship --- where was that
24 faxed; do you know?

25 A. I have no idea where it went to.

1 Q. If you sent a report to Mr. Blankenship and
2 someone got that report, I assume, did you ever get a
3 call back on behalf of Mr. Blankenship?

4 A. I never received a personal call from Mr.
5 Blankenship. Usually the highest up I ever received a
6 call from was from Chris Adkins.

7 Q. But I was asking, you know, did you ever get any
8 call from wherever you sent the fax ---

9 A. To him?

10 Q. --- to Mr. Blankenship?

11 A. Not that I know of.

12 Q. You couldn't tell?

13 A. No.

14 Q. So if you didn't get the longwall production
15 report --- strike that.

16 Let me ask you this. How long did you have to get
17 that longwall production report faxed?

18 A. If they got it out on time, on the half hour, if
19 you didn't have it within ten minutes, usually you
20 would get a call.

21 Q. And who would call you, the secretary or somebody
22 else?

23 A. Usually it would be the secretary. If she
24 couldn't get no results, then usually Chris Blanchard
25 would call you.

1 Q. And what would they say?

2 A. They just wanted to know where it was at and why
3 they didn't have it.

4 Q. And were there times when you didn't get the
5 report from the longwall ---

6 A. Yes, sir.

7 Q. --- and you'd get a call?

8 A. Yes, sir.

9 Q. And would you be able to answer the question ---
10 the question would be, where's the report; is that
11 right?

12 A. Yes, sir.

13 Q. And so how did you respond to that?

14 A. Well, usually I would be able to say that I am
15 trying to reach them on the mine phone, because it
16 didn't take me long to learn that if you don't have a
17 report within such a time, you find out why.

18 Q. Okay.

19 A. I found out that when these people --- when they
20 call, they want figures, they want reasons and they
21 want why.

22 Q. And how detailed reasons did they want?

23 A. Detailed.

24 Q. Would you write that down in your daily report?

25 A. Yes, sir.

1 Q. Did you have a form for that log that you filled
2 out?

3 A. Yes, sir.

4 Q. And it was provided by the company?

5 A. Yes, sir.

6 Q. What did it look like?

7 A. Just a sheet of typing paper, you know.

8 Q. Right. And with a heading? Did it have anything
9 printed on it?

10 A. It would have this is the dispatcher log and then
11 it would have the times and the trips and --- for the
12 trips and stuff like that, where they was going ---
13 leaving to or going to, and then I would just make
14 additional notes and stuff like that.

15 Q. If the longwall was down, for example, for a
16 period of time, and I understand the longwall being
17 down is as matter of concern because they don't have
18 production, you would find out why; ---

19 A. Yes, sir.

20 Q. --- is that correct? Would you write that down on
21 your log or somewhere else?

22 A. I would write it down on the log, and usually I
23 would write it down on a note sheet, because a lot of
24 times it would be easier to just look at my notes than
25 it would to go back through the log.

1 Q. What would you do with your note sheet?

2 A. I would usually just throw them away and stuff.

3 Q. And so the log would contain any information about
4 down time?

5 A. Any information they gave me went on a piece of
6 paper.

7 Q. And would it be specific and detailed?

8 A. Yes, sir.

9 Q. And were there times when there was Chris
10 Blanchard or Adkins or whoever you were faxing these
11 reports to would call and what you were telling them
12 didn't satisfy them?

13 A. Usually if it didn't satisfy Chris Adkins, he
14 would tell you why he wasn't satisfied, you know. But
15 you usually wouldn't --- didn't have the proper
16 information or something. But a lot of times I think
17 it come from Mr. Blanchard because he was very
18 arrogant.

19 Q. We've heard that.

20 A. And he just --- I think he just didn't know, to be
21 perfectly honest with you.

22 Q. Was he --- would you call it abusive, he was upset
23 and ---?

24 A. I don't know just exactly what you call it, but a
25 lot of people let it bother them, but ---.

1 Q. Unprofessional?

2 A. Unprofessional, yes, sir, that would --- I mean,
3 when you --- someone calls you out and you got --- and
4 you tell --- call back in and say, well, you ought to
5 have that running in such and such time.

6 Q. Would Chris Blanchard ask you to relay messages?

7 Say the longwall was down and it was ---.

8 A. If it was going to take too long or something like
9 that, but no threatening ---

10 Q. Right.

11 A. --- stuff like that.

12 Q. So what would you do if Chris Blanchard said,
13 well, that's taking too long?

14 A. Well, one incident, ^{(b)(7)(C) & (b)(7)(D)}

15 ^{(b)(7)(C) & (b)(7)(D)} --- the head shaft broke. Usually it's not just
16 a few minutes.

17 Q. Right.

18 A. But this time it happened to be they had some rib
19 roll in on it or something ---

20 Q. Right.

21 A. --- and it was all gobbled up and more involved.

22 And they said --- they gave me an estimated time. I

23 think it was 45 minutes to an hour, and he said,

24 that's too long. And I politely asked him, have you

25 ever changed one? No. I said, well, how do you know

1 how long it's going to take? And he let it go, but
2 you know, ---.

3 Q. No response?

4 A. No. I mean, you know, ---.

5 Q. So maybe if you spoke up and say your piece, he
6 would back off?

7 A. (b)(7)(C) & (b)(7)(D)

8 Q. We've heard from other people and we've talked to
9 other (b)(7)(C) & (b)(7)(D) and so forth, it seemed like ---.

10 A. Well, I can give you an incident. Like I said,
11 Gary May, you know, worked under him there. Of
12 course, I worked under Gary. Gary was under a lot of
13 pressure. Okay. Now, I got transferred down to (b)(7)(C) & (b)(7)(D)
14 . Gary is --- down there now he's the superintendent
15 now. Completely different person. The pressure is
16 not there. He's just a different man.

17 Q. Just a lower level of stress?

18 A. Yeah.

19 Q. So you've been a (b)(7)(C) & (b)(7)(D) at other mines. How
20 would you compare the level of pressure and stress on
21 you personally?

22 A. Me, UBB is disaster when it comes to trying to
23 (b)(7)(C) & (b)(7)(D) it, I mean, compared to these other places.
24 When they moved me from up there down --- when I say
25 disaster, I'm just referring to as a lot. I mean,

1 it's a lot of responsibility. That's why I fussed
2 about the paperwork and stuff. You've got your hands
3 full there just trying to take care of what you need
4 to take care of.

5 Q. So you knew that if --- you were concerned if you
6 were distracted by the paperwork or going out when a
7 truck came in, something serious might happen?

8 A. Right. I mean, if you got a trip to run, who are
9 they going to look at? Me.

10 Q. Did that happen?

11 A. I had a couple near misses. Several, like I said,
12 they were --- a lot of them is bad about stealing the
13 rail on you and stuff. And when they do that, you
14 can't --- you have no control.

15 Q. Right.

16 A. But as far as stress relief, when I transferred
17 from up there down to where I'm at now, right now I
18 feel like I'm on vacation.

19 Q. Are ^{(b)(7)(C) & (b)(7)(D)} there, too?

20 A. Yeah. But down there I got --- now we got three
21 sections. We've got maybe six rail vehicles, eight
22 rail vehicles. It's nothing. ^{(b)(7)(C) & (b)(7)(D)}

23 ^{(b)(7)(C) & (b)(7)(D)}

24 Q. Do you have to fax out production?

25 A. Usually --- occasionally I do production, but

1 usually the section foremans fax their own production
2 reports. A lot of times if it happens to be the last
3 shift of the week, if there's not going to be nobody
4 there on midnight, I'll fax them, make sure they do
5 get faxed. That way if they don't go through the fax,
6 I'll drop them off at the office yard shack.

7 Q. You said that with regard to ventilation --- in
8 answer to one question you said if you get a call out
9 of the mine and say there are ventilation problems,
10 that they were Johnny on the spot, which is a term I
11 know from --- popular in my family. But who were you
12 talking about?

13 A. That would be the section foreman. Usually it
14 would be on the section. They were --- you know, if
15 they got in and they didn't have adequate air to start
16 mining, they would have to shut down. Couldn't start
17 until they got their ventilation up, which could be
18 anywhere, where maybe a stopping got something knocked
19 out or a curtain down or something like that.

20 Q. They'd have to call back and tell you when they
21 were starting up?

22 A. Yes, sir. And usually they would be also talking
23 to whoever the higher-up --- maybe Gary, you know, he
24 would be notified or whoever would be, you know, over
25 outside, and they'd have to have proper air readings

1 before they would start back.

2 Q. So would you write that down?

3 A. Usually not, no, sir, because that really didn't
4 pertain to me, and I wouldn't write that stuff down.
5 Like I say, I tried to stay away from that. Anything
6 to do with fire bossing, stuff like that, I tried to
7 stay away from it. They weren't paying me to do it.

8 Q. But it would interfere with production and other
9 reasons ---?

10 A. Right. I would just --- all I can say, I would
11 just write down that they didn't have enough
12 ventilation, and I'd write down the time that they
13 restored it.

14 Q. Okay. So you would write ---

15 A. Right.

16 Q. --- not enough ventilation? How often do you
17 think you wrote that down, two times since you've been
18 there, once a week?

19 A. Probably not more than two or three times the
20 whole time I was there.

21 Q. Okay.

22 A. Yeah, it wasn't --- not too often.

23 Q. So when you ---?

24 A. A lot of times what it would be, it would be like
25 maybe somebody left a set of doors open somewhere or

1 something like that and forgot to shut them back or
2 something like that.

3 Q. Did you write that down if somebody left ---?

4 A. No, sir.

5 Q. So you said a lot of times, but there are only two
6 or three times in the whole time you were there. How
7 many times was it that the doors were open, or was
8 that more frequently?

9 A. That would probably be a more frequent reason, for
10 like a section, you know, not having ventilation or
11 something like that.

12 Q. How often would that happen?

13 A. Well, like I said, probably two or three times the
14 whole time I was there.

15 Q. Other than the times when they had to adjust ---

16 A. Major.

17 Q. --- curtains?

18 A. Yeah. I mean, ---.

19 Q. So five or six times?

20 A. Yeah, five or six, something like that.

21 Q. So with regard to them calling out, you'd write
22 down something about ventilation?

23 A. Right.

24 Q. Then in the office did they have a place where
25 they hung up the violations they'd get from MSHA?

1 A. Yes, sir.

2 Q. So you knew that they were getting violations?

3 A. Yes, sir. For a lot of the violations I would ---
4 they would --- they would --- I would make copies of.
5 Massey makes --- a violation is handled just like a
6 purchase. You write a receiving document and you
7 write a release document. And a lot of times I would
8 write those and stuff, so you know, I seen a lot of
9 violations that came through and stuff.

10 Q. So you were really probably as aware as anybody at
11 the mine of the violations they received?

12 A. Yes, sir.

13 Q. So you knew that they were getting some serious
14 violations and (d) orders ---

15 A. Yes, sir.

16 Q. --- for ventilation, among others?

17 A. Yes, sir.

18 Q. So you know --- I think you were asked about did
19 you think the mine had adequate ventilation and you
20 said you thought ---?

21 A. I think it did, I mean, as far as --- like I say,
22 the major ventilations, you know, the major changes
23 and stuff, they usually --- like I say, I wouldn't see
24 these things unless it was, you know, wrote up as a
25 violation.

1 Q. Sure.

2 A. I would never hear anything discussed like that,
3 other than the small stuff.

4 Q. Right. Well, the one violation involved reversed
5 air for a couple weeks.

6 A. I don't ---.

7 Q. Do you remember that?

8 A. I knew it was a while or something there, but I
9 don't know just what the time factor was there.

10 Q. Well, that would be serious, wouldn't it?

11 A. Well, I don't --- I don't know. Like I said, I
12 don't know whether they would have done it
13 intentionally or --- I don't know.

14 Q. Well, whether it's intentional or not, if it's not
15 corrected, you know, somebody ought to be taking air
16 readings and ---.

17 A. That's true.

18 Q. So your experience as a mine foreman, you know
19 that's a serious problem?

20 A. Yes, sir.

21 Q. And it wasn't corrected, according to the
22 violation?

23 A. Well, like I said, ---.

24 Q. Except you would write --- when that violation was
25 corrected, you would indicate right on a form

1 that ---?

2 A. Now, they took care of the rebuttals and stuff,
3 sir. I didn't do that.

4 Q. No, but I mean when it was terminated. I thought
5 you were saying you would ---?

6 A. The termination notices I didn't --- like I said,
7 this --- when they done the violation, the original
8 violation, ---

9 Q. Okay.

10 A. --- is all that I seen. And now, maybe some of
11 those I wouldn't see.

12 Q. Sure.

13 A. You know, maybe they chose to do those their self
14 instead of passing them on to me.

15 Q. Right. Well, you said there was a form when they
16 come in and go out?

17 A. Yeah.

18 Q. Well, ---.

19 A. Well, they come in --- the form came in and I made
20 copies of it. They kept a copy. They sent a copy
21 maybe to the office, and then you had to keep a copy
22 there on file.

23 Q. Would you know --- before they made these big
24 ventilation changes I think you said there were two or
25 three while you were there. Would you know they were

1 doing that beforehand?

2 A. Yes, sir. Beforehand?

3 Q. Uh-huh (yes).

4 A. Yeah, they'd have to post it that they were going
5 to do it.

6 Q. Would somebody tell you or did they just post it?

7 A. All I would know, ---.

8 Q. They would come and tell you?

9 A. Yeah.

10 Q. A couple days before?

11 A. No. It would be usually a day because, like I
12 say, you know, they wouldn't be doing production or
13 anything like that.

14 Q. Right.

15 A. And sometimes they'd even --- it seemed like they
16 tried --- as well as I can remember, they'd like try
17 to maybe do it on the weekends or maybe they'd just
18 let, you know, ---

19 Q. Sure.

20 A. --- a crew or two off, you know.

21 Q. They wouldn't be missing as much production?

22 A. No.

23 Q. Do you remember a time or times when the longwall
24 was shut down because there was too much water?

25 A. Yes, sir.

1 Q. How often did that happen?

2 A. There for a while it seemed like it was every day.

3 At one time now they were getting some water back in
4 behind the wall, as well as I can remember.

5 Q. Now, we've heard they had a lot of water.

6 A. Yeah. And they were down --- it seemed to me like
7 it couldn't --- it wasn't returning, like the air
8 wasn't returning like it was or something.

9 Q. Water was roofed out in ---

10 A. Right.

11 Q. --- some of the entries? Do you remember when
12 that might have been? Was it earlier since you came
13 there or more recent?

14 A. That would have been --- I would just roughly
15 guess --- I would say probably January, February area,
16 because I know, you know, they were constantly, you
17 know, ordering pumps and stuff like that.

18 Q. People coming out wet?

19 A. Oh, yeah.

20 Q. Wearing waders, ---

21 A. Yes, sir.

22 Q. --- chest waders?

23 A. Yes, sir.

24 Q. So would you write that down in your reports if
25 they --- you know, you came in and they were trying to

1 get water off the longwall ---

2 A. No, usually ---.

3 Q. --- and then they'd start up?

4 A. No, usually it's right on the wall. If there was
5 a reason for production being slow, whatever, I'm sure
6 it was written down.

7 Q. Okay.

8 A. Because I know a lot of times, you know, they
9 would be waist deep in water on the wall.

10 Q. Right. How often did --- they'd be telling you?
11 They'd be calling out and telling you?

12 A. Oh, yeah. It was an obvious fact. I mean, you
13 know, ---

14 Q. Right.

15 A. --- it was like that for quite some time. I don't
16 know just how long.

17 Q. Now, would you write that down or was it just so
18 common that you ---?

19 A. I mean, just like I said, you know, if it went
20 into the area of slowing the production down, then it
21 would be written down.

22 Q. Okay. Do you have any relatives that work for
23 Massey?

24 A. To my knowledge, sir, I'm not sure. None that I
25 could readily ---.

1 Q. I didn't mean going back in the family tree, like
2 the sixth generation, but ---.

3 A. No, none --- maybe ^{(b)(7)(C) & (b)(7)(D)} . I'm not sure,
4 but I think ^{(b)(7)(C) & (b)(7)(D)} .
5 I'm not sure.

6 Q. Okay.

7 A. But no, none that I know of.

8 Q. We just found a lot of folks that are --- they
9 have relatives, brothers, uncles.

10 A. Oh, yeah, they are, I mean, you know, because I've
11 seen, you know, different people like that.

12 Q. I'm flipping around here. You'll have to excuse
13 me. I'm just sort of following my notes. You talked
14 to the Massey lawyers for an hour-and-a-half to two
15 hours?

16 A. An hour-and-a-half, two hours, something like
17 that.

18 Q. And did they --- what did they tell you about the
19 possibility you'd be interviewed by a group like this
20 or the FBI is out there ---?

21 A. They mentioned it, yeah, that there would be.

22 Q. And what did they --- did they talk about what it
23 would be like, what kind of questions you'd ask, how
24 you should respond?

25 A. No.

1 Q. They didn't say tell the truth?

2 A. Well, I mean, you know, that's --- I told them
3 just like I tell you.

4 Q. Yeah. But I'm --- we're just trying to figure
5 out ---.

6 A. Yeah, I understand. No, they never, you know, ---
7 just said to be honest, you know.

8 Q. So that's what I meant, they said that to you?

9 A. Yeah.

10 Q. Did they take notes when you were ---

11 A. Oh, yes, sir.

12 Q. --- talking to them? Was it a man or a woman; do
13 you recall?

14 A. It seemed like it was two guys.

15 Q. Two guys.

16 A. He was young like that gentleman. I don't
17 remember their names, but they were pretty thorough.
18 I mean, they covered, like I said, ---.

19 Q. We're trying to be thorough here. What did they
20 ask you that we haven't asked you?

21 A. Really, nothing. I mean, that's pretty long ---
22 that's the same line of stuff, you know, but what
23 tickled me was the first thing they said was we have
24 to tell you that we are Massey's lawyers, not yours.

25 Q. That's important. They're not your friends. I

1 think that their ethical obligations as lawyers is to
2 tell you that. Was there a different form for
3 production reports than your log?

4 A. Oh, yes, sir.

5 Q. Were the production reports --- you were faxed
6 those; correct?

7 A. Yes, sir.

8 Q. And was that a form as well with a heading?

9 A. Their production report consisted of about seven
10 to eight pages. What all different stuff they had on
11 it, I'm not really sure. I never was --- the only
12 thing I was interested in was the top sheet, which
13 give me footage and stuff like that.

14 Q. And were there other things that other people
15 filled out on those reports?

16 A. Just the section report.

17 Q. Okay. And when would they do that?

18 A. At the end of the shift.

19 Q. Okay. So you would --- is that different than the
20 faxes?

21 A. No, that's what I --- I would fax that all
22 together. That whole thing is considered their
23 production report.

24 Q. At the end of the shift?

25 A. Right.

1 Q. What about the 30-minute ---?

2 A. Oh, okay. That's ---. Yeah, that's just an
3 on-shift production report.

4 Q. Just one page?

5 A. Right. They would just call it out and give me
6 figures, and I'd write it down.

7 Q. So many feet?

8 A. Yeah.

9 Q. You mentioned at least I guess it was the (b)(7)(C) & (b)(7)(D)
10 (b)(7)(C) & (b)(7)(D) ?

11 A. Yes, sir. He was more or less --- the best I can
12 gather, (b)(7)(C) & (b)(7)(D) .

13 Q. Did he send any of the longwall production
14 reports?

15 A. On the dayshift, he pretty well took care of the
16 longwall reports, just the longwall.

17 Q. So that was some help for you?

18 A. Right.

19 Q. Do you know why they were having him do it?

20 A. He done it because that way he done it on the
21 computer and e-mailed it or stuff. What the purpose
22 was, I don't know.

23 Q. Oh, that's right. You didn't e-mail anything.

24 A. No. When we did it, we had to write it down on a
25 form and fax it and stuff.

1 Q. At some point you said there were no --- I think
2 you were asked were there any unusual problems around
3 the time of the explosion, near the time of the
4 explosion. You said, not that I can remember. And I
5 just want to clarify this. I mean, you would remember
6 if there was anything?

7 A. Anything, if I would have heard it, yes, sir.

8 Q. So to your knowledge, there weren't any?

9 A. No.

10 Q. And another point, and this is just a point of
11 clarification, you said that not much --- there wasn't
12 much going on over the weekend or at least in response
13 to that question you agreed with that. How do you
14 define weekend? Are you including Saturdays?

15 A. Well, whatever the holiday was there.

16 Q. Okay.

17 A. Yeah. Usually they would try --- say, like
18 Easter, whoever worked the evening shift would try to
19 finish their shifts up a little early so they could
20 get home, you know.

21 Q. Right.

22 A. And I mean, not real early but maybe an hour,
23 something like that, sometimes they would finish up
24 early.

25 Q. So is that different --- you're talking about

1 holiday weekends. What about just an average ---

2 A. No.

3 Q. --- Saturday and Sunday?

4 A. No. No. Well, they'd have --- they run straight
5 through, the wall did. I mean, there was no break.

6 Q. Right. So there was a lot going on?

7 A. Right.

8 Q. Continued to be, just like any other day?

9 A. Well, like I say, on the weekends, unless it was a
10 scheduled production weekend, which usually --- they
11 run the whole mines every other weekend or something
12 like that. But on the off weekends, there would just
13 be the longwall and whoever is driving the other
14 panel ---

15 Q. Okay.

16 A. --- for the next wall setup.

17 Q. So ordinarily, every other weekend was a full
18 production weekend?

19 A. Right.

20 Q. And would that mean ---

21 A. All.

22 Q. --- just Saturday or Sunday included?

23 A. Just usually Saturday.

24 Q. Right.

25 A. And on Sundays, usually just like I say, the wall

1 and the one section.

2 A. Now, we've heard from not just dispatchers, but
3 you know, a whole lot of people that it was just a
4 matter of course there was a call in the mine when an
5 inspector came on the property, you got company.
6 Everybody agrees with that. And how would you know?
7 Would you --- who would call you, somebody at the
8 guard house?

9 A. The guard shack would just say that there's an
10 inspector on the property.

11 Q. So they would always call you?

12 A. Oh, yeah.

13 Q. And so this is just a matter of routine, it's a
14 matter of courtesy?

15 A. Sir, the way I look at it, like I say, as long as
16 I've ever been in the mines, it's just been ---.

17 Q. Everybody from the people --- anybody in the mine
18 to top management knew that was ---

19 A. Sure.

20 Q. --- standard routine; is that right?

21 A. Yeah. I mean, when I do that, I don't normally do
22 that for mine inspectors. I do that for any company
23 official or anybody coming in. You know, I call the
24 section and notify them, you got company.

25 Q. So if Chris Adkins come in, ---?

1 A. Yes, sir, I'd call and let them know.

2 Q. Would you say Chris Adkins rather than company?

3 A. Yes, sir.

4 Q. Would you distinguish State and Federal
5 inspectors?

6 A. No, sir.

7 Q. Or would you know --- would the guard ---?

8 A. Oh, yeah, he would know, but I would never ---
9 usually with an inspector, I would just say, you've
10 got company. Of course, when you say that, they know,
11 but they don't know whether it's State or it's
12 Federal.

13 Q. Right. You said you knew the emergency response
14 plan to a point. Can you explain that? I just want a
15 little clarification.

16 A. Well, what do you mean by emergency ---?

17 Q. Well, Mr. Sherer asked about the emergency
18 response plan.

19 A. Like for somebody --- if somebody calls out hurt
20 and stuff like that?

21 Q. Yes.

22 A. Yeah, I know it, sir, right to the letter.

23 Q. Okay. Well, with regard --- let me go back for a
24 second to the process of letting folks in the mine
25 know that inspectors were on the property. Was that

1 discussed --- when you came to UBB, was there any kind
2 of training or discussion about your role as a
3 dispatcher?

4 A. Not regarding to that, no.

5 Q. But there was some?

6 A. Yeah, for your duties and stuff like that.

7 Q. But they didn't mention anything ---

8 A. No, sir.

9 Q. --- about inspectors?

10 A. No.

11 Q. Who did that training at UBB?

12 A. Some of it was done by --- I think some of it was
13 done by Everett. Some was done by the safety
14 department, Berman I think, Berman. And then some of
15 it was done by Pyott-Boone.

16 Q. The consultants ---

17 A. Yes.

18 Q. --- with the tracking system?

19 A. Right.

20 ATTORNEY WILSON:

21 Go off the record.

22 OFF RECORD DISCUSSION

23 ATTORNEY WILSON:

24 Go back on the record.

25 MR. MCGINLEY:

1 I just have a couple more things.

2 BY MR. MCGINLEY:

3 Q. With regard to the CO monitors, you were given a
4 book that explained what to do if they showed up
5 yellow or in the red?

6 A. Yes, sir.

7 Q. What do you do?

8 A. Well, usually when it's in yellow you can either
9 --- like you can reset them. If it goes so high, you
10 need to contact somebody. But then if it happens to
11 go into the red --- as well as I can remember, if it
12 goes into the red, you would set a section belt down,
13 you would get a hold of the section and let them know.
14 And like I said, whoever would be able to get to it to
15 check it first is who you get a hold of the quickest.

16 Q. How often would it go in the red?

17 A. Like I said, the only time I ever seen any of them
18 go in the red was when they would be doing maintenance
19 work.

20 Q. Okay. So you'd still have to call in?

21 A. Yeah, I would always call just to make sure, but
22 it was nice to know that you could sit there and you
23 could literally watch the CO monitors working.

24 Q. Sure. But would you have to document that if it
25 went into the red? Would you write that down?

1 A. Usually if they were doing --- working on a
2 tailpiece or something like that, I would just
3 document it on my nightly notes or daily notes. But
4 now if it would be something other than that, then you
5 have a logbook for CO monitors that you --- they're
6 supposed to have it there, that you would write down
7 the documentation, what time it happened, which one it
8 was, who you contacted, what they done to take care of
9 the problem and stuff.

10 Q. Did you ever have to write in it?

11 A. I've never had to write.

12 Q. Do you know for sure there's such a book there?

13 A. Yes, sir, it was there.

14 Q. Have you ever looked at, looked in it?

15 A. Yes, sir.

16 Q. Were there any ---?

17 A. None that I could ever see.

18 Q. I mean, did anybody ever write anything in it, if
19 you looked at the book?

20 A. Sir, I can only speak for myself, ---

21 Q. Sure.

22 A. --- but no, I didn't.

23 Q. I mean, did you flip through the pages to see ---?

24 A. Not that far back, but no, there was nothing there
25 that I could see.

1 Q. Okay.

2 A. I try to look at stuff like that.

3 Q. Okay. So that should be available if we wanted to
4 take a look at that?

5 A. I would say somebody probably has it.

6 Q. Sure.

7 A. But I'm sure as big a mines as that is, somewhere
8 along the lines surely they'd have hot rollers and
9 stuff.

10 Q. Right.

11 A. Whether they get wrote down or not, I couldn't
12 tell you.

13 Q. Were there times when you'd get a call out that
14 the methane monitors on equipment like roof bolters
15 and continuous miners or the ones up at the longwall
16 were malfunctioning and have to be replaced?

17 A. A lot of times I'd get calls out for --- on the
18 miner section especially, where the sniffer wouldn't
19 be working. And if it's working properly, the miner
20 won't run if it ain't working right.

21 Q. Right.

22 A. And they would call out for someone to bring a
23 replacement for it.

24 Q. Would you write that down?

25 A. Sometimes I would. Sometimes I wouldn't. But a

1 lot of times they call out like that on the evening
2 shift. If the chief electrician was there in charge,
3 I would just holler at him and he would take care of
4 it.

5 Q. But sometimes you would write it down?

6 A. Sometimes I would write it down.

7 Q. Was it more often you'd write it down?

8 A. More often I would, yes, sir, because --- at least
9 make a note of it. Because if I didn't, you know,
10 that way I wouldn't forget to tell ---.

11 Q. Right. And then would you put that --- would that
12 be in the daily log book or would you ever put in the
13 production?

14 A. I wouldn't put it into production, no. Now, the
15 mine foreman would.

16 Q. Okay.

17 A. The section boss, he would have it in his, I'm
18 sure.

19 Q. Were there ever any problems with the methane
20 detectors on the longwall that you recall?

21 A. None that I can remember.

22 Q. Only on the continuous miner?

23 A. Just the miners, yeah.

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

25 A. You know, I haven't quite figured that out, sir.

1 Q. Some kind of slogan?

2 A. Yeah. I don't know what it is. S1, S2, I
3 couldn't tell you the difference.

4 Q. All right, sir. Well, thanks. I appreciate your
5 frankness.

6 A. What is the difference?

7 Q. We're trying to figure that out, too, because we
8 get a very similar answer from a lot of people.

9 A. I don't know.

10 Q. Okay.

11 ATTORNEY WILSON:

12 Erik?

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. At the mine, how did they keep up with the miners
16 that were going underground? Did they have a tag
17 board?

18 A. Oh, yeah. They all had to check out and tag in
19 and out board. But like I say, for myself, always
20 down there I had a list. Each section boss would give
21 me a list of his men ---

22 Q. Okay.

23 A. --- before they went in. Anybody went underground
24 was supposed to call and give me a name.

25 Q. Okay.

1 A. You know, even inspectors and stuff, I'd write
2 their name down and stuff.

3 Q. Sure. And there was a checkout board at the UBB
4 portal and one at the Ellis Portal?

5 A. Yes, sir.

6 Q. What if somebody went in at UBB ---?

7 A. Well, now I'm assuming there was one at Ellis
8 Portal because I never was over there at Ellis Portal.

9 Q. Okay. Did you have some method if you went in one
10 portal and came out the other or ---?

11 A. They would just radio and let me know. Usually if
12 they went out that way, they would come back in and
13 come back out the way they went in.

14 Q. Okay. Did you ever get a call that said, take my
15 tag out because I come out up at the Ellis Portal?

16 A. No, not that they would ever take tag off, no.
17 The only call I would even have like that, I had one
18 fire boss, when he would finish up his run, he would
19 finish it up at Ellis.

20 Q. Okay.

21 A. And somebody would usually then pick him up and
22 bring him back around his vehicle or something.

23 Q. Okay. Was there like a ride between the two
24 portals?

25 A. Oh, yeah, you could rail. I mean, you know, the

1 rails ran from one to the other.

2 Q. How about on the surface, could you get ---?

3 A. They had a company truck.

4 Q. Okay. You said you worked the Saturday night to
5 Sunday morning shift on Easter Sunday. Do you recall
6 if the wall was going to go ahead and run during the
7 day Sunday?

8 A. On Easter?

9 Q. Uh-huh (yes).

10 A. I don't think so.

11 Q. Okay.

12 A. I'm sure they didn't, not on Easter.

13 Q. Sure. You mentioned you did janitorial-type work.
14 Did you have to keep up with like the bath house?

15 A. The bath house itself I didn't mess with, but the
16 whole upstairs of the building ---

17 Q. Okay.

18 A. --- I did, which is larger than what the bath
19 house was.

20 Q. Oh, okay. I guess you just tried to fit that in
21 as you could?

22 A. Yeah. I mean, --- well, usually if you did that
23 you were on --- it's when you were going to evening
24 shift shift.

25 Q. Okay.

1 A. And sometime two, three o'clock in the morning,
2 you know, would be a slow time and you'd try to get
3 --- or else you would try to do a little here and a
4 little there through the night and try to get it
5 finished.

6 Q. Now, you also had mentioned you had to go down
7 when trucks came in. Did you have to unload those
8 trucks?

9 A. I did for a while until the Federal came in and
10 said, you don't load trucks no more.

11 Q. Okay. What about the inventory that came off
12 those trucks, did you have to check that in and out of
13 the warehouse?

14 A. We never did actually really check it in. You
15 just signed the receiver for it and --- yeah, I had to
16 do that a lot.

17 Q. Okay. Did you have some sort of inventory system
18 at the warehouse?

19 A. They had an inventory system, but nothing I messed
20 with.

21 Q. Okay. So you didn't have to keep up with it?

22 A. No.

23 Q. So if somebody called out and said, send me a
24 drive shaft, did you have to do anything ---?

25 A. If it happened to be one that I knew was there, I

1 would just say it was out there. If I had someone ---
2 a supply crew that was going in that way, I'd send it
3 with them. And in most incidents, the electrician
4 would have to --- if they had an extra ride on the
5 section, he would have to come out and get it himself.

6 Q. Thank you. Did you ever hear of Mr. Blanchard
7 kicking a cigarette out of anybody's hand?

8 A. No, sir.

9 Q. Did you ever hear of any other physical
10 violence ---

11 A. No, sir.

12 Q. --- he may have been involved in? Now, when
13 you're calling in the mine, saying you got company, it
14 was a Federal or a State inspector, do you recall if
15 any of the mine management were in the same office
16 with you when you were calling it out?

17 A. No, not particularly standing there and see that I
18 do, no.

19 Q. Were they just there? Could they hear?

20 A. Huh?

21 Q. Could they have just been standing there and
22 overheard?

23 A. The mine manager?

24 Q. Uh-huh (yes).

25 A. Well, I'm sure they could have been. I mean, you

1 know, --- I've done it when the inspector would be
2 there.

3 Q. Okay. Do you recall who the inspector was?

4 A. No, I wouldn't.

5 Q. What about when an inspector has gone underground
6 and they called for a switch or a block of track,
7 would you pass that information along?

8 A. If they needed to block the track so they could
9 get through and stuff? Sure.

10 Q. Would you tell the section they were coming?

11 A. They were coming?

12 Q. Yeah.

13 A. No more than just normally, you know. No, I
14 wouldn't call the section after they got on the rail,
15 no.

16 Q. Okay. Thank you. We understand that the
17 dispatcher logs went missing for the day of the
18 explosion.

19 A. I wouldn't know, sir.

20 Q. You hadn't heard anything about that?

21 A. No, sir. I wasn't there. I wouldn't know.

22 Q. We understand that Gary May took those logs and
23 locked them up supposedly.

24 A. I have no idea, sir.

25 Q. You haven't heard anything about it?

1 A. No.

2 Q. Okay. Thank you.

3 A. The only thing I know is that when I showed up to
4 work there was a lot of stuff gone, but I have no
5 idea.

6 Q. You don't know what happened to any of that stuff?

7 A. No, sir. If it had my name on it, I would be very
8 concerned about where it was at.

9 Q. Sure. Okay. Thank you.

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. When you say a lot of stuff was gone ---?

13 A. Well, I mean, you could see just like --- like I
14 say, the clipboard where the dispatcher's log used to
15 be, it was gone. Just anything pertaining to any kind
16 of forms, I think even maybe the violations that had
17 been written in the books were gone, as well as I can
18 remember. Cabinet doors had been cleared out, just
19 --- I don't know, just it seemed odd to me, you know.

20 Q. Okay. And this was when you arrived to work on
21 April 5th?

22 A. On Tuesday.

23 Q. 2010?

24 A. Yeah, the dayshift Tuesday in 2010, the day after.

25 Q. Okay. When you arrived the next day?

1 A. Right.

2 Q. Earlier someone asked you if any foreman
3 underground had called out from underground to mention
4 ventilation problems at the beginning of a shift, and
5 you indicated that that had happened a couple of times
6 maybe. Do you recall the names of the foreman who
7 would have called out with this type of information?

8 A. No, sir, not right offhand I couldn't remember
9 which foreman it was.

10 Q. Now, when this occurred, would this have been on
11 which of your two shifts?

12 A. Well, I've had it happen on both shifts, day and
13 evening, you know, shifts.

14 Q. Okay. Did you --- your rotation, did your
15 rotation coincide with the rotation of shifts
16 underground of coal production crews?

17 A. Well, like I say, our shifts were like from 6:00
18 to 6:00. And theirs is usually from --- their shift
19 started like at --- evening shift started like at
20 3:00, 4:00. Dayshift were like 6:00 to 6:30, 7:15, in
21 that area.

22 Q. Okay.

23 A. So usually if you were on the dayshift, you were
24 there on the evening shift. Midnight come out,
25 dayshift went in, and you usually caught then the

1 dayshift --- evening shift going in, dayshift coming
2 out.

3 Q. Okay. All right. Thank you.

4 ATTORNEY WILSON:

5 Any follow-up?

6 MR. MCGINLEY:

7 Just a couple follow-ups.

8 RE-EXAMINATION

9 BY MR. MCGINLEY:

10 Q. How long did you work in the office? You said you
11 came back the Tuesday after the explosion. How long
12 did you stay there?

13 A. I was there when they got the last bodies out.

14 Q. Okay. So you were there for almost a week?

15 A. Yeah. I'm roughly guessing probably seven days.

16 Q. At some point did somebody from the government
17 take the computers?

18 A. Oh, I have no idea.

19 Q. I mean, you noticed that there were a lot of
20 things missing. There was a computer that Mr. Clay
21 used to send ---.

22 A. At that time his computer was still there because
23 he was still using it, yeah.

24 Q. Okay. That's all. Thank you very much.

25 ATTORNEY WILSON:

(b)(7)(C) & (b)(7)(D)

, on behalf of MSHA and the

Office of Miners' Health, Safety and Training, I want to thank you for appearing and answering questions today. Your cooperation is very important as we work to determine the cause of the accident. We request that you not discuss your testimony with anyone outside of this room because we will be interviewing additional witnesses. If, after questioning witnesses, we have additional information, we may call you to ask follow-up questions. And if at any time you think of additional information that you would like to provide to us, please contact us at the contact information that was provided to you.

I do want to inform you of your rights.

Under the Mine Act, as a miner, any statements given by miner witnesses to MSHA are considered to be an exercise of statutory rights and protected activity under Section 105(c) of the Mine Act. If you believe any discharge discrimination or other adverse action is taken against you as a result of your cooperation with this investigation, you should immediately contact MSHA and file a complaint under Section 103(c) of the Act. Remedies under the Mine Act include back wages and immediate temporary reinstatement to your most recent position, pending a complete investigation

1 of your complaint. In order to file such a complaint,
2 you can contact the District 4 MSHA office in Mount
3 Hope. And their contact information and additional
4 information concerning your rights as a miner can be
5 found at MSHA's website, which is www.msha.gov.

6 Before we finish up, I want to give you
7 an opportunity to go back over, you know, anything we
8 discussed today. If there's anything that you would
9 like to add or clarify or, you know, if there's any
10 sort of a statement you would like to make, you may do
11 that now.

12 A. I think everything is okay.

13 ATTORNEY WILSON:

14 Okay. Then again, thank you for your
15 appearance today and have a nice day. Go off the
16 record.

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18 CONFIDENTIAL STATEMENT UNDER OATH

19 CONCLUDED AT 11:07 A.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