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WEST VIRGINIA MINE SAFETY HEALTH ADMINISTRATION

IN THE MATTER OF:

THE INVESTIGATION OF THE
APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE.

The interview of JIM AUREDNIK, taken upon oral examination, before Lisa Marie Short, Certified Court Reporter and Notary Public in and for the State of West Virginia, Wednesday, December 1, 2010, at 1:05 p.m., at the Mine Academy, 1301 Airport Road, Beaver, West Virginia.

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1 MR. TUCKER: My name is Bill
2 Tucker with Miners' Health Safety and
3 Training.

4 Today is December the 1st, 2010.

5 If I could get the court reporter
6 to swear in the witness, I'd appreciate
7 it.

8 JIM AUREDNIK, WITNESS, SWORN

9 MR. TUCKER: If you don't mind,
10 Jimmy, I'd like for you to state your
11 name, your full name and spell your last.

12 THE WITNESS: James L. Aurednik,
13 Jr., A-u-r-e-d-n-i-k.

14 MR. TUCKER: And state your
15 address and phone number.

16 THE WITNESS: [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 MR. TUCKER: Do you have a lawyer
20 with you today?

21 THE WITNESS: Yes.

22 MR. TUCKER: Could you identify
23 yourself and the firm that you're with?

24 MR. MCCUSKEY: Yes, sir. John

1 McCuskey with the firm of Shuman McCuskey
2 & Slicer in Charleston.

3 MR. TUCKER: Is Mr. Aurednik your
4 client?

5 MR. MCCUSKEY: Yes, sir.

6 MR. TUCKER: I see we have
7 another attorney in the room today. Would
8 you identify who you represent and your
9 firm and your name?

10 MR. SILKWOOD: Yes, sir. Eric
11 Silkwood with Allen Guthrie & Thomas here
12 on behalf of Performance Coal Company.

13 MR. TUCKER: Jim, are you
14 appearing here voluntarily or did you
15 receive a subpoena?

16 THE WITNESS: I received a
17 subpoena.

18 MR. TUCKER: We've got a copy of
19 that document here. I'll get you to look
20 at it. And also a copy of the paper where
21 it was served to you.

22 Is that what you received?

23 THE WITNESS: I have never seen
24 one of those before.

1 MR. MCCUSKEY: Are you waiting
2 for him?

3 MR. TUCKER: Yeah.

4 You received the subpoena,
5 though? That's the subpoena that you
6 received? Okay.

7 MR. BABINGTON: Is that a yes?

8 THE WITNESS: Yes.

9 MR. TUCKER: Sorry.

10 MR. BABINGTON: That's okay.

11 MR. TUCKER: If we could enter
12 those as Exhibits 1 and 2.

13 (Exhibit Nos. 1 & 2 marked for
14 identification.)

15 MR. TUCKER: If you choose, you
16 can contact --

17 THE WITNESS: I only received
18 this one. I did not receive the second
19 one.

20 MR. TUCKER: That's where
21 somebody signed for it at your --

22 THE WITNESS: I didn't know. No
23 one signed for it at my house. They hand-
24 delivered it.

1 MR. MCCUSKEY: I think that just
2 proves he served it.

3 MR. BABINGTON: Yeah. I believe
4 this is the affidavit of the server.

5 MR. MCCUSKEY: They're not
6 claiming you saw that.

7 MR. BABINGTON: The subpoena will
8 be Aurednik Exhibit 1; the affidavit of
9 service from the server will be Aurednik
10 Exhibit 2.

11 MR. TUCKER: Give you the name of
12 the court reporter's Johnny Jackson &
13 Associates. And if you choose, you can
14 contact them on Tuesday of next week to
15 schedule an appointment where you can go
16 into their office and review the
17 transcript and make any corrections, maybe
18 something you, if you want to read over
19 something maybe you said and you think
20 it's something different than what they
21 put down, you can make corrections on the
22 sheet. But you cannot receive a copy of
23 the transcript, but you can go in and
24 review it.

1 So I'll give you one of their
2 business cards if you need to contact
3 them, then one of mine.

4 I'd just like to mention to you
5 that there are laws that protect you as
6 far as being discriminated against for
7 appearing here today, and if at any time
8 you feel you have been discriminated
9 against for your appearance here, then you
10 can contact me. Here's some information
11 to the board of appeals, you need to
12 contact them also. And you have 30 days
13 from the time that you would feel like
14 you've been discriminated against to file
15 a claim. I'll give you a copy of their
16 information.

17 MR. BABINGTON: Should we have
18 everyone introduce themselves?

19 MR. TUCKER: That would be good.

20 MR. BABINGTON: Bill, I guess you
21 already introduced yourself.

22 MR. TUCKER: Bill Tucker with
23 Office of Miners' Health Safety and
24 Training.

1 MR. O'BRIEN: John O'Brien with
2 the West Virginia Office of Miners' Health
3 Safety and Training.

4 MR. SHERER: Eric Sherer with
5 MSHA.

6 MR. BABINGTON: Matt Babington.
7 I'm an attorney with the Department of
8 Labor.

9 MR. MCATEER: Jim, I'm Davitt
10 McAteer, and I'm with the Governor's
11 Special Investigative Team.

12 Two others in the room, could
13 they identify themselves as well?

14 MR. WATKINS: Yeah, I'm Tim
15 Watkins with MSHA.

16 MR. MCCUSKEY: J.B. McCuskey with
17 Shuman McCuskey & Slicer.

18 MR. BABINGTON: Before we get
19 started, I have a letter from Norman Page,
20 who's our chief accident investigator,
21 describes just some of the background of
22 this interview and includes contact
23 information for contacting him at a later
24 time if you have any additional

1 information you'd like to provide.

2 MR. MCCUSKEY: Go ahead and take
3 a minute and read that, because I thought
4 maybe you'd gotten one, but I don't think
5 you'd seen that.

6 THE WITNESS: No, I haven't seen
7 that.

8 MR. BABINGTON: Do you want to go
9 off the record while he reads that?

10 MR. MCCUSKEY: Yeah.

11 (Break.)

12 MR. BABINGTON: Before we go back
13 on, just a couple of little things to keep
14 in mind since we have a court reporter.

15 First is try to remember to say
16 yes or no when you're asked those
17 questions rather than nodding or shaking
18 your head. You know, it helps for the
19 transcript and the court reporter if you
20 affirmatively say yes or no. And we'll
21 jump in and remind you of that if you end
22 up getting into a habit.

23 The second thing, if we end up
24 using the map, if you could be as

1 descriptive as possible about the names of
2 the different areas or entry, crosscut,
3 things like that, the map is pretty well
4 labeled. If you don't know, you can say
5 it's an approximation or an estimate. And
6 again, we can help out.

7 We also may have you highlight
8 areas like travelways and things like that
9 if that comes up.

10 The last thing is as much as
11 possible, wait for the interviewer to
12 complete asking his or her question before
13 you start answering, again, so we don't
14 have people talking over each other.
15 It's, again, easier for the court
16 reporter.

17 Any other questions?

18 THE WITNESS: No.

19 MR. BABINGTON: Let's go back
20 on.

21 EXAMINATION

22 BY MR. O'BRIEN:

23 Q. First of all, we appreciate you coming in
24 today helping us out on this investigation.

1 First of all, how many years of mining
2 experience do you have, roughly?

3 A. Fourteen, 15 years, somewhere in there.

4 Q. And could you give us a brief history of
5 your mining experience, where you've worked and
6 what you've done, things like that?

7 A. Yeah. Massey Energy is pretty much the
8 only company I've worked for. I started at Elk Run
9 processing plant in the lab, lab technician. I
10 worked there for four or five months and moved into
11 the electrician training program.

12 And after a year, was certified there in
13 being just a -- actually, after I was certified, I
14 went to the move crew, worked on the belt move crew
15 on the midnight for about a year. Then got a job
16 in the electrical field, and just from there worked
17 my way up to a chief electrician over the years. I
18 done everything, section boss to mine foreman.

19 MR. BABINGTON: I'm sorry.

20 Mr. Aurednik, could you speak a little bit
21 louder, please? Thank you.

22 Q. And what is your current job?

23 A. Full-time mine rescue.

24 Q. And what does that entail? What does that

1 involve? What duties do you perform as full-time
2 mine rescue, strictly all mine rescue or?

3 A. No. Yes and no. I mean, we are sort of
4 like safety compliant officers for the company
5 right now. I'm a crew leader. I have six guys
6 under me. We take care of all the mines up north
7 right now and plus make all of our team visits at
8 all of our mines that we cover, that's required by
9 law.

10 Q. Do you have a station, place that you're
11 stationed out of?

12 A. We are stationed out of Mt. Hope, right in
13 front of MSHA's main office there right beside the
14 post office in Mt. Hope.

15 Q. And who is your employer?

16 A. Massey Coal Services.

17 Q. Massey Coal Services.

18 Let me back up just a second. What mining
19 certifications do you possess or do you have?

20 A. Certified electrician, certified shop
21 fireman, certified foreman, MSHA instructor, MSHA
22 electrical instructor, EMT, that's about all I can
23 think of right offhand.

24 Q. Okay.

1 A. Surface miner.

2 Q. And on April the 5th of this year, what
3 was your job title or what did you do then?

4 A. I was crew leader full-time mine rescue.

5 Q. Same as you are now?

6 A. Same as I am now, yes.

7 Q. All right. You say you're a, have your
8 safety compliance officer or, you and your team,
9 aside from full-time mine rescue?

10 A. Yes.

11 Q. In addition to?

12 A. In addition to. That way we've kind of
13 went that route so that we can stay familiar with
14 all of our mines that we cover, which is required
15 by law, and we pretty much know what we have. You
16 know, if you go in and walk your airways and walk
17 your beltlines and your track, at least this way
18 you have people from the team in all aspects that
19 is someone when you go is familiar totally 100
20 percent with this coal mines.

21 Q. Now do you visit all Massey mines or do
22 you have a set number of mines that you and your
23 team visit?

24 A. I visit 31 at the present time.

1 Q. Are they all, what states are they
2 located?

3 A. All in West Virginia.

4 Q. Is that all of Massey's mines?

5 A. No, it is not.

6 Q. Is it primarily -- where are they located,
7 northern, southern, all throughout the state?

8 A. Route 3 and northern and the one in
9 Pineville.

10 Q. And when you say when you visit these
11 mines, what exactly do you do, you and your team
12 do?

13 A. There's a difference between the visiting
14 and what I take care of. When we make a team
15 visit, we do as required by law. But the teams
16 that, the mines that I am not primarily responsible
17 for, we go in and make a team visit, most of the
18 time we'll ride a mantrip to the section, make the
19 faces, we see anything wrong, we'll have it
20 straightened up then, and most of the time I'll
21 have my team, we will walk the belts back out.

22 Q. Okay. Now from --

23 A. Sometimes if it's just a team visit,
24 depending on how much time we have and how many we

1 have to make, sometimes just ride to the face and
2 ride back up. It just all depends on --

3 Q. Bear with me for my clarification. When
4 you say "team visits," is that a compliance team or
5 as the mine rescue team?

6 A. That is as a mine rescue team.

7 Q. That is to comply with the regulations?

8 A. Law, comply with the regulations.

9 Q. Now do you make other visits as a
10 compliance team?

11 A. Yes.

12 Q. Separately?

13 A. Yes.

14 Q. What mines do you visit there?

15 A. At the time, now or?

16 Q. Let's go back then on April 5th.

17 A. At the time I was responsible for Mammoth,
18 Green Valley, and Nicholas Energy.

19 Q. And how about now?

20 A. Now I am responsible for Green Valley,
21 Nicholas Energy, and the one mines at Kepler.

22 Q. And on the compliance team, what things do
23 you and your team look for? What kind of functions
24 do you do when you go to the mines?

1 A. We walk all the airways, walk all the
2 beltlines, have an electrical guy that takes care
3 of the electrical side, I have a guy that spends
4 three days on a section, I have a guy that stays
5 outside and audits all the files. And I'm pretty
6 much a captain, wherever they need help, I try to
7 fill in.

8 We take pictures, compile our audit, come
9 back and -- you spend a day, day and a half typing
10 it up and preparing it, then we present it to the
11 superintendent, and from there it goes from super,
12 with the superintendent president, and if it needs
13 to, we take it all the way to West Branch. It just
14 all depends.

15 Q. So basically, what in your report, what do
16 you put in your report?

17 A. Time out. I have not done one of these
18 new audits, because I have been here.

19 Q. Okay.

20 A. Since April 5th.

21 Q. Okay.

22 A. Now the other guys have already started
23 doing them. The guys from my team are doing them,
24 but I have been here, so I can't answer a whole lot

1 of those questions.

2 Q. April 5th and before, did you make these
3 types of visits?

4 A. Just -- yes.

5 Q. Did you compile reports?

6 A. Yes, we compiled audits then.

7 Q. What kind of things did you put in the
8 audits? What kind of information was in the audit
9 report?

10 A. Just deficiencies that we found, that we
11 discovered, and then the audits that we done then
12 were pretty detailed, but not as detailed as what
13 we are doing now as far as the airways and neutrals
14 and things.

15 Q. What sort of -- you say "deficiencies."
16 What sort of deficiencies are you speaking about?
17 Just kind of give us some examples.

18 A. Same thing your inspector is looking for
19 as far as roof control, combustible materials,
20 equipment violations, things of that nature.

21 Q. And as an audit, or compliance officer or
22 audit team member, you did that April 5th and
23 before?

24 A. Yes.

1 Q. You have not done that since?

2 A. I have not personally, no. I have went
3 and checked a couple of the audits that have --
4 well, one audit that they have already done, I went
5 back on to check, but I have not done an audit
6 since.

7 Q. Now this report you say that you compile
8 or the team compiled before and I assume now
9 they're compiling reports and it goes up the ladder
10 to some point, the command chains to some point.
11 What happens after that? Do you get feedback from
12 these people or?

13 A. Yes.

14 Q. What kind of feedback do you get exactly?

15 A. Some of them are really glad that we come
16 do the audits, and some of them hate to see us
17 coming just like they hate to see you all coming.

18 Q. I can appreciate that. And I can
19 appreciate the job that you guys did, because
20 before I came with this agency, I did what you did
21 for another coal company, so I can feel your pain,
22 so to speak. Okay? Okay. And I appreciate it.

23 The deficiencies, is there any follow up
24 on the deficiencies, seeing they were corrected?

1 A. Yes.

2 Q. And how does that look or how does that
3 work?

4 A. We'll follow up on the audit after they
5 have signed off on it and everything is complete
6 and we will go back and see that it all has been
7 done.

8 Q. So the team goes back --

9 A. Yes.

10 Q. -- to check up on the deficiencies that
11 they had seen previously?

12 A. Yes.

13 Q. Then the mine personnel doesn't say, okay,
14 we've corrected it?

15 A. Yes.

16 Q. And tells you that it's corrected? Which
17 way is it? I'm sorry.

18 A. Both.

19 Q. Both. Okay. Okay. Thank you.

20 All right. Let's go from April 5th on.
21 Now what have you been doing since then?

22 A. UBB. And the days that we are away from
23 UBB, I have been trying to get all my team visits
24 done that are required by the regulations.

1 Q. What are you doing at UBB?

2 A. Whatever Mr. Tucker tells me to.

3 No, it just depends on what's going on
4 that day. You cannot ever -- I mean, you'll plan
5 something one day and it changes before the next
6 morning, so it just depends.

7 Q. I understand.

8 Did you have a chance to visit UBB prior
9 to April 5th?

10 A. Yes.

11 Q. In what capacity did you visit?

12 A. Team visit.

13 Q. And how many times did you visit prior to
14 April 5th, visit UBB prior to April 5th, how many
15 times? Roughly, approximately.

16 A. Seven to eight.

17 Q. Now you say "team visit," that is a mine
18 rescue team visit?

19 A. Yes.

20 Q. Not as a safety compliance --

21 A. No.

22 Q. -- visit? Okay.

23 A. I was not responsible for that coal mines.

24 Q. I'm trying to get clear in my head.

1 Okay.

2 When you were there at UBB, did you see
3 anything that stood out as far as deficiencies or
4 any problems or even any good things that you may
5 want to relate to this group?

6 A. No. Just the, it's just an ordinary
7 everyday coal mines. I mean, the track entry was
8 always dusted well and --

9 Q. How would you characterize the ventilation
10 from what you saw?

11 A. The last time that I was across the
12 longwall face, I had to wear a coat. It was a lot
13 of air coming across the face.

14 Q. And about when was that visit?

15 A. Probably a month to a month and a half
16 prior to the explosion.

17 Q. Let's go back to April 5th. When did you
18 find out about the event, the explosion, and how
19 did you find out about it?

20 A. I received a phone call, I was at home on
21 vacation. I didn't even know there was an
22 explosion at the time I received the call. I was
23 just told to report to the station as quickly as
24 possible.

1 Q. And who called you?

2 A. Robert Asbury.

3 Q. And who is Robert Asbury?

4 A. Robert is my captain.

5 Q. Then what did you do?

6 A. Drove from home to the station and from
7 the station to the Ellis Portal.

8 Q. And you're a member of which team? I'm
9 sorry. Are you a member of a particular team,
10 Massey team?

11 A. Southern West Virginia Mine Rescue Team.

12 Q. So you reported to Ellis Portal, you and
13 the entire team?

14 A. Yes, the entire team was at Ellis Portal
15 when I arrived. As far as I know. I can't answer
16 that, I mean.

17 Q. I understand.

18 About what time was that?

19 A. It was probably between 3:30 and 4:00.

20 Q. If you would, just please take your time
21 and describe to us what transpired once you got to
22 Ellis Portal throughout the next day or two of your
23 mine rescue.

24 A. When I arrived at the Ellis Portal, Rob

1 and I's apparatuses were already RZ'd and ready to
2 go.

3 We placed them on a mantrip and proceeded
4 to go underground.

5 I guess we made it four to six crosscuts
6 underground and I seen lights. I was driving the
7 mantrip. And I seen lights coming down the track,
8 so I immediately backed out, because I knew that
9 that that mantrip coming out, something was going
10 on.

11 At that time, you know, we knew they had
12 an explosion at that time.

13 But when they got outside, the seven
14 deceased, first deceased were on that mantrip, as
15 well as the two survivors.

16 And we removed those guys from the
17 mantrips and began CPR. There was not even an
18 ambulance on the property at the time. We pretty
19 much done CPR until one of the guys from
20 Whitesville Ambulance Service come around and
21 pronounced them dead.

22 After that was kind of all settled down, I
23 guess 25, 30 minutes later myself and Robert Asbury
24 and Mark Bolen put our stuff back on the mantrip

1 and proceeded back underground to Ellis switch.

2 From Ellis switch inby, for about 40
3 breaks I guess Rob and I walked in front of the
4 mantrip checking the atmosphere, checking phone
5 lines. I removed the phone from the Ellis switch
6 and took with us so we would have something to
7 communicate on.

8 And everything was good all the way up to
9 about 60 break. Somewhere in that area we started
10 noticing the darkness, you could really tell the
11 difference. It was really well rock dusted outby.
12 I mean, it was really white. And then you could
13 tell when you start getting in this dark, black
14 area where the soot and stuff.

15 But until you get to 78 break, we really
16 didn't notice any destruction, a whole lot of
17 anything at all. And from that point in is where
18 we pretty much had to start working on the phone
19 lines a lot. Slowed down a lot.

20 From 78 break -- this is where I lose a
21 lot in here, because I mean, we're ...

22 Q. I understand.

23 A. From 78 break inby, I traveled the
24 beltline, probably made it up five to six to seven

1 crosscuts where the fresh water line was broke in
2 two. It was running wide open. We retreated from
3 there and went back to 42 break on Ellis track and
4 found the shutoff valve and shut the main water off
5 to keep everything from flooding out.

6 At that time when we got back up to 78
7 break, we seen lights coming down the track, which
8 was Jason Whitehead and Chris Blanchard. We ran
9 into those two there and they pretty much stayed
10 there as we proceeded on inby repairing phone lines
11 and exploring up to the mother drive belt where we
12 found our first victim.

13 All this took quite some time, because
14 you're trying to maintain communications and by
15 mine rescue procedures and --

16 But from there, we ran our phone line up
17 the headgate side where we found the next four
18 victims along the headgate track and proceeded from
19 there to the face of the longwall where we set up
20 our last fresh air base and that's as far as I
21 went. I only made it to like shield 80 on the face
22 and that was it.

23 Like I said, it all took quite some time.
24 Then they pulled us out.

1 That was Tuesday morning sometime, as far
2 as I can remember, or Monday night late or
3 something.

4 Tuesday was pretty much a down day.

5 Q. Now I'm going to ask you a few clarifying
6 questions. When you first went in what's the
7 mantrip --

8 Before I go any further, if at any time
9 you need to take a break, just let us know, feel
10 free to let us know and we'll take a break. Okay?
11 Let you know that up front.

12 Let's go back. You went outside, the
13 first bus came out, then you went back in. And who
14 went back in with you?

15 A. Robert Asbury and Mark Bolen.

16 Q. And about what time was that, would you
17 guess?

18 A. I wouldn't even try to guess.

19 Q. And those two gentlemen are on your team?

20 A. Yes.

21 Q. Team members.

22 A. Yes.

23 Q. Massey.

24 A. Yes.

1 Q. And when you proceeded in, it was just you
2 three -- everything that you had explained to us,
3 was it just you three guys at that time?

4 A. Yes, pretty much. I mean, we had explored
5 about half of this and come back and had some guys
6 bring some phone line in, because we didn't have
7 enough phone line, and some more of our guys off
8 our team brought some phone line up to us and we
9 pretty much proceeded up with those guys. And I
10 can remember one of them as being Shane McPherson,
11 but I really couldn't tell you who all was there
12 and who all wasn't.

13 Like I said, these first five days really
14 run together a lot, because, I mean, you're working
15 on 10 hour sleep in five days, and time runs
16 together, you don't know if it's daylight or if
17 it's dark or what the date is or anything else.

18 Q. Were you under apparatus during this
19 period at any time?

20 A. No. Not the first night, no.

21 Q. What was the highest CO rating that you
22 recall?

23 A. The first night the highest I recall was
24 in this crossover belt was at 280 some or something

1 like that.

2 Q. Did you pick up any other gases, such as
3 methane?

4 A. We had picked up some methane, but nothing
5 in the explosive range. We were staying at like
6 one and a half, 1.8. You know, it just depended on
7 the area in the dead end, the dead zones, what you
8 would call wasn't a whole lot of air ventilation
9 moving or whatever. A lot of stoppings being out.

10 Q. What was your oxygen content?

11 A. Never had any low O₂ that I can remember.
12 Not until we made that push up here on the very
13 last night to find the last of the victims. That
14 was after, you know, everything had already been,
15 after we done pumped nitrogen in and everything
16 else.

17 Q. Did you encounter, going back to the first
18 night into the next day, next morning, did you
19 encounter any fires?

20 A. No.

21 Q. Did you see any smoke?

22 A. No.

23 Q. At what point did you see any other teams
24 arrive other than Massey teams underground, or did

1 you ever see any other teams?

2 A. I never seen another team arrive. I was
3 always on the lead up front.

4 Q. And when you got a notification to come
5 out, you said on Tuesday morning sometime?

6 A. As far as I can -- as far as I know.

7 Q. Who gave that command to come back?

8 A. Command center.

9 Q. Command center.

10 Did you encounter anyone on the way out,
11 any other teams or team members?

12 A. Yes. Team members. But as far as, like I
13 say -- I can remember one ICG team being there, but
14 I can't remember what day that was. I remember one
15 of his guys, they had a diabetic outbreak I guess
16 or whatever you call it and they had to remove that
17 team.

18 But as far as I know, this is the first
19 five days that that was the only other team that
20 was underground besides Massey Energy's team, and
21 we also took Terrell Blankenship and several three
22 to four guys from their team. But the first five
23 days, we were the only team underground.

24 Q. Going back to that first day, April 5th

1 into April 6th, did you guys have to do any
2 ventilation changes --

3 A. No.

4 Q. -- checks or --

5 A. No.

6 Q. -- move the air in any way?

7 MR. MCCUSKEY: Let him finish.

8 A. No.

9 Q. Let's go back. You said you ran into
10 Chris Blanchard and -- was it Jason Whitehead?

11 A. Yes.

12 Q. Where had they been, do you know?

13 A. At the time, as far as I know, the only
14 place they had been was to the longwall face on the
15 head side and the longwall too. They did not go
16 across the face.

17 Q. What did they relay to you when you met?

18 A. Just they had a lot of CO when they went
19 up the tail side and that they had seen a couple
20 victims on the longwall track and that was about
21 all they really knew.

22 Q. And where did they go after that, do you
23 know?

24 A. No.

1 Q. And where was this? Where did you meet
2 these guys?

3 A. 78 break.

4 Q. 78 break, okay.

5 One more clarifying question. Just take
6 you back. You said around 3:30 or 4:00. Was that
7 when you got the call or when you arrived at Ellis?

8 A. When I arrived at our Performance station
9 would be at Ellis.

10 Q. About what time did you get the call, do
11 you think?

12 A. I was thinking it was right around 3:00,
13 3:15, somewhere in between that time frame.

14 Q. And you were at home in Beckley?

15 A. Yes.

16 Q. You live in Beckley. Okay. Thank you.
17 When did you call out about finding the
18 victims?

19 A. As we located them.

20 Q. And who did you speak to?

21 A. At that time I think Chris Adkins was in
22 the command center on the phone.

23 Q. Chris Adkins?

24 A. Yes.

1 Q. Okay. I'm sorry.

2 And did you say you went down the longwall
3 face the first night?

4 A. I went to like Shield 80.

5 Q. Did you see any bodies, any victims?

6 A. Two.

7 Q. And where were they located?

8 A. I cannot -- I don't know.

9 Q. That's all I have for right now.

10 A. I know one was at the stage loader and --
11 that's the only one I knew for sure, at the stage
12 loader.

13 MR. O'BRIEN: Okay. I appreciate
14 it. That's all I have for right now.

15 Eric?

16 EXAMINATION

17 BY MR. SHERER:

18 Q. Again, thank you for coming down here,
19 Mr. Aurednik. I'm going to jump around a bit, so
20 just bear with me.

21 You mentioned that you, your team does
22 compliance audits and that you had not done that
23 for Upper Big Branch. Who would have done that for
24 Upper Big Branch, do you know?

1 A. It would have been the other team. We
2 have two teams. It would have been number one
3 team. I was classified as number two team.

4 Q. Number one team. And that's Southern West
5 Virginia. Who's the head of that organization or
6 group?

7 A. I'm trying to think to that time. I think
8 -- at that time I suppose it would have been Rob
9 Asbury. As far as I know, I'm not a hundred
10 percent sure on that who was the crew leader at
11 that time on that group.

12 Q. Okay. Sure. I appreciate that.

13 Now you mentioned that you got to the
14 station at the Ellis Portal approximately 3:30 to
15 four o'clock. And you, I think you mentioned that
16 you first went to Mt. Hope?

17 A. No.

18 Q. You went directly to?

19 A. Yes.

20 Q. Okay. Thank you.

21 When you first got there, who filled you
22 in? Who told you what was going on?

23 A. Rob Asbury.

24 Q. Rob Asbury. Do you know how long

1 Mr. Asbury had been on-site?

2 A. No. Like I said, I was on vacation that
3 day. On vacation for the week. I met Rob Asbury
4 at our Performance station.

5 Q. Okay.

6 A. He was the only one there at the time.

7 Q. You mentioned that you started
8 underground, you back, back out when the mantrip
9 with the first victims came out, and then you later
10 went back into the mine. Did Mr. Asbury tell you
11 to go back into the mine?

12 A. No.

13 Q. Who told you to do that?

14 A. No one.

15 Q. No one. You just did that of your own
16 violation (sic)?

17 A. On what?

18 Q. Of your own freewill, I guess.

19 A. Yes. That's what I do for a living.

20 Q. And we appreciate that, sir.

21 You said you'd gotten up to roughly 78
22 break and that's when things really started to be
23 in a deteriorated condition.

24 Did you set up something like a fresh air

1 base there?

2 A. Yes.

3 Q. Who was in charge of that fresh air base?

4 Did you leave anybody there to maintain
5 communication or anything?

6 A. Yes.

7 Q. Who was that, please?

8 A. I left Mark Bolen there as I repaired
9 phone line up to the next fresh air base.

10 Q. Okay. Thank you.

11 So Mr. Bolen stayed there. And how many
12 people went on inby at that point, at that point in
13 time?

14 A. It's really a long point of time between
15 here and here a lot happened. I mean, we had other
16 people, like I say, came in behind us and we moved
17 people up and, like I said, I went up the beltline,
18 I know, all the way to the mother drive. Who was
19 in the track and who was in the other entries, I
20 really could not answer.

21 Q. We appreciate the conditions that you're
22 working under, sir.

23 When is the first time you saw anybody
24 from MSHA or the State in the mine?

1 A. When I pulled on Ellis bench.

2 Q. Okay.

3 A. Johnny Kinder from the State was there.

4 Q. So John was already there. Was the State
5 team already there?

6 A. No.

7 Q. Okay. Just John.

8 Did anybody from the State or MSHA go in
9 with you guys?

10 A. No.

11 Q. When do you recall, roughly, noticing
12 anybody from the State or MSHA in the mine?

13 A. I really could not answer that.

14 Q. Do you recall anybody from the State or
15 MSHA at any time that first night?

16 A. Yes. Eugene worked for the State. I do
17 recall him being with us.

18 Q. Okay. Thank you. Anybody from MSHA?

19 A. No, yes. Mike Hicks, Jerry Cook.

20 Q. Okay. Thank you.

21 When you're inby 78 switch, did you notice
22 any tracks in the rock dust or soot?

23 A. Yes.

24 Q. Did you believe that there might have been

1 survivors when you saw those?

2 A. No.

3 Q. And why did you not believe there may have
4 been survivors?

5 A. Because there were tracks going in and I
6 pretty much knew that Jason and Chris were there
7 and all the tracks going in belonged to them,
8 because --

9 Q. Thank you.

10 Did you take a map in with you?

11 A. First night, no. We had a map the first
12 night, I do remember that, but I did not take one
13 with me, no.

14 Q. When you were pulled back out of the mine,
15 I think you mentioned sometime Monday morning, did
16 you guys have a debriefing when you got out of the
17 mines?

18 A. Yes.

19 Q. Who conducted that, please?

20 A. Command center, MSHA, State and the
21 company.

22 Q. I told you I'm going to jump around a
23 bit. Let's go back to the safety audits.

24 If I understand that there is two, two

1 safety auditing teams that Massey has?

2 A. Yes.

3 Q. And Massey has more than two mine rescue
4 teams, so do all mine rescue teams do safety
5 audits?

6 A. Yes, as far as I know.

7 Q. Okay.

8 A. I don't know about the Cumberland teams, I
9 couldn't answer for.

10 Q. When you guys are doing safety audits, do
11 you tell the mine that you're going to be up there
12 next week or whenever you're going to come?

13 A. Sometimes. It just depends on what the
14 situation is and what occurs.

15 Q. Do you think that the, once you got
16 on-site, do you think that the people underground
17 know that you're on-site? Do you think that
18 information is relayed in the mine?

19 A. Yes.

20 Q. Okay. Thank you.

21 Is there someone in charge of the audit
22 process?

23 A. Yes.

24 Q. Who's that?

1 A. The crew leaders, myself, Robert Asbury,
2 Jeremy McClung.

3 Q. And do you report to someone?

4 A. Yes.

5 Q. As far as the audit function. Who is
6 that?

7 A. Like I said, I have not done any of these
8 since this began, so I really cannot answer that
9 question.

10 Q. As far as April the 5th and immediately
11 prior to that?

12 A. Yes. Robert Asbury.

13 Q. And who did Mr. Asbury report to, do you
14 know?

15 A. They go on into corporate, Elizabeth
16 Chamberlin, I suppose, and whoever.

17 Q. Have you ever met with Ms. Chamberlin and
18 discussed the safety audits with her?

19 A. No.

20 Q. That first night when you guys were in
21 there, what did you think happened that caused this
22 explosion?

23 A. To be honest, it never crossed my mind.

24 Q. Did you have any discussions with anybody

1 about that subject?

2 A. No. The first night we were pretty much
3 just trying to locate people.

4 Q. Are you aware of any discussions that this
5 mine may have had pop offs on the longwall face or
6 inundations near the tail?

7 A. No.

8 Q. Were you aware that this mine had had
9 methane inundations in previous years?

10 A. Yes.

11 Q. How are you aware of that?

12 A. One of the fellows that is on our team
13 worked this particular longwall at this mines.

14 Q. And who was that, please?

15 A. Mark Bolen.

16 Q. Okay. Thank you.

17 Have you ever heard that methane would
18 come out and sound like a jet engine?

19 A. Yes.

20 Q. Or train or something.

21 Did anyone besides Mr. Bolen mention that?

22 A. No.

23 Q. Had you heard that this mine had possibly
24 been having problems with methane a day or so prior

1 to this explosion?

2 A. No.

3 Q. Have you heard that they possibly had been
4 told they either mine coal or come out of the mine,
5 one of the two?

6 A. No. I have never heard anyone in
7 management say that.

8 Q. Okay. Thank you.

9 Have you heard rumors of anything like
10 that?

11 A. No.

12 Q. Okay. Thank you.

13 Are you aware that an audit team was
14 supposed to have gone to UBB on April the 5th?

15 A. What are you calling an audit team?

16 Q. A safety audit team, I guess, Mr. Asbury's
17 team?

18 A. I am aware that a couple of our guys were
19 going there, but not to conduct an audit.

20 Q. What were they going there for?

21 A. They were just going there to help out and
22 if anything they needed help with, but one of those
23 guy's wives was pregnant and they decided not to go
24 there because it's hard to get a ride in and out,

1 so they went to a smaller mines.

2 Q. Do you know what they were having problems
3 with?

4 A. No, I do not. I mean, it's just general
5 violations, nothing, just --

6 Q. So it's more compliance?

7 A. More compliance type issues and you had
8 nothing -- we don't involve ourselves in anything
9 major unless as far as fixing goes, I mean, you
10 know, it's -- but we will go up and try to take
11 care of -- we have a lot of electricians take care
12 of small electrical issues and labeling, you know,
13 stuff like that.

14 Q. And who were those two individuals?

15 A. I know that -- I don't know who all was
16 involved in that, because I was not there. I was
17 in the Mt. Hope station. And I was on vacation
18 that day, so I really --

19 But that's all hearsay, what I told you
20 there. I don't know that to be fact, I just --

21 Q. Okay. Sure. And that's fine.

22 But you mentioned one of the gentlemen's
23 wives was pregnant. Who was that, please?

24 A. I think it was [REDACTED] at the time.

1 Q. Okay. Thank you.

2 Have you heard of any problems with
3 methane on this longwall prior to the explosion?

4 A. No.

5 Q. Are you aware of any ventilation problems?

6 A. No.

7 Q. What did you think of the condition of the
8 rock dust the last time you were in this mine?

9 A. I thought it was good.

10 Q. Did you get off in the intake or return
11 entries?

12 A. No.

13 MR. SHERER: That's all the
14 questions I have got for right now.

15 A. What do you mean by the last time I was in
16 this coal mines?

17 Q. Prior to the explosion, sir.

18 I need all the help I can get.

19 EXAMINATION

20 BY MR. MCATEER:

21 Q. Mr. Aurednik, when was the last time
22 before the, before April 5th that you were in this
23 mine?

24 A. I'd say it was probably a month to a month

1 and a half prior to the explosion.

2 MR. MCCUSKEY: I think he did
3 answer that, but he gave the same answer
4 the first time.

5 MR. MCATEER: Yes, I was trying
6 to find that.

7 Q. And at that time you said, you mentioned
8 looking at the rock dust. And the track entries
9 were dusted well; correct?

10 A. Yes.

11 Q. Did you go into any of the other entries?

12 A. No, I was up -- yes, going up to the face
13 to the longwall, I did travel a couple of other
14 entries and it was dusted well in those entries
15 also.

16 Q. Going back to Eric's question. Do you
17 know where the group had gone since they didn't go
18 to Upper Big Branch, they went to some other
19 alternative place. Do you know?

20 A. No, I do not.

21 Q. But this was not -- to your knowledge,
22 this was not a compliance audit, per say?

23 A. No.

24 Q. Because we heard it was, but just second

1 and thirdhand.

2 A. No, I know that it was not for a matter of
3 fact, because the compliance audit had already been
4 done for the quarter, as far as I know.

5 Q. You'd been on a compliance audit?

6 A. No.

7 Q. No?

8 A. It's not my mines, so I'm not responsible
9 for it.

10 Q. Okay. Okay. But it's Rob's,

11 Mr. Asbury's?

12 A. It was their team.

13 Q. Okay.

14 A. Team one's.

15 Q. Is team one better than team two?

16 A. No, absolutely not.

17 Q. I knew the answer to that.

18 A. It depends on who you ask, I guess.

19 MR. MCCUSKEY: You knew the
20 answer he'd give.

21 MR. MCATEER: I did know that.

22 All right.

23 Q. Any communications that you heard from the
24 command center or were engaged in from the command

1 center on the day of the third, that is 24 hours
2 after the explosion, can you tell me who you talked
3 to or?

4 A. Actually, I cannot remember who I talked
5 to for the first hour to two hours underground, but
6 I can remember when Chris Adkins came onto the
7 phone, it was a big relief in our minds and hearts
8 to have somebody that we could talk to that kind of
9 knew procedures and what was going on.

10 Q. Okay. Okay.

11 A. I can remember when he came in and took
12 over. And that's the only person I can really
13 remember talking to the first night was Mr. Adkins.

14 Q. I'm going to speak for myself and I think
15 the rest of the team, thank you for being on the
16 mine rescue team and making an effort, and the
17 other people that were there, thank you for trying
18 to save these folks.

19 When you first arrived and you met with
20 Mr. Asbury, what did he know at that time?

21 A. I drove straight to the station. I had my
22 personal truck that day and I drove straight to the
23 station. I met him there, because he and I usually
24 do everything like this together. I mean, we've

1 got each others backs, you know. And all he knew
2 at that time is that there had been an explosion,
3 and that's all he told me. And when he called me,
4 he didn't have any idea what had happened. He just
5 knew something had happened. And when I got there
6 he did know there was an explosion, but he had no
7 details or anything else.

8 Like I said, all the other guys that was
9 on the team that was there the day, they were
10 already at the Ellis Portal with the trailers and
11 the equipment, but Rob was waiting for me at the
12 station, because that's where he told me to report
13 to.

14 Q. Sure. Okay.

15 And you didn't have any cell phone
16 contact, so you can't change it.

17 A. Right, no cell phone contact.

18 Q. Do you recall who was with the victims,
19 the first group of victims that you saw when they
20 were bringing them out when you saw them at the six
21 or eight break and you backed out?

22 A. The only thing I can remember about that
23 entire ordeal is that my neighbor was on that
24 mantrip, I remember seeing him, and that Wayne

1 Persinger was driving the mantrip and the rest of
2 the guys I really did not recognize or know. I
3 knew some of them, but I didn't recognize them at
4 the time.

5 Q. Sure.

6 Who's your neighbor?

7 A. Robert Clark.

8 Q. And you said that when you got him out,
9 the ambulance team hadn't, ambulance, Whitesville
10 ambulance hadn't gotten there yet?

11 A. No. I can't remember an ambulance being
12 on-site at all.

13 Q. And was it the Whitesville ambulance that
14 was the first one to get there?

15 A. I think they were the first ones to
16 arrive, yes.

17 Q. Do you remember where you saw Eugene White
18 when you got --

19 A. I think 78 break was the first time I seen
20 Eugene White.

21 Q. And how about Hicks and Cook?

22 A. 78 break.

23 Q. All right. When you ran into Blanchard
24 and Whitehead underground, did they have anything

1 on, SCSRs?

2 A. SCSRs.

3 Q. They were using them or just wearing them?

4 A. At the time they were not using them, they
5 just still had them on. There was no reason at
6 that time to be wearing them.

7 Q. Sure.

8 And did they give you, can you tell us
9 what kind of information they gave you at the time
10 you first ran into them?

11 A. Really about the biggest thing I can
12 remember them saying is that they had seen two
13 victims on the track going to the longwall face and
14 that they had been to the tail of the longwall
15 across the crosscut and up and there was a lot of
16 CO over in there on the tail side. And that's
17 really about all I can remember them ...

18 Q. Would they have taken some readings? Did
19 they give you numbers?

20 A. No, because their Solarises were pegged
21 out.

22 Q. What did you do with Mr. Blanchard and
23 Mr. Whitehead at the time?

24 A. Left them at 78 break. From there I

1 believe they were escorted to the outside as far as
2 I know.

3 Q. Did you go back to 78 break at any time
4 after that?

5 A. Yes.

6 Q. What time was that?

7 A. It was all through the night multiple
8 trips to retrieve phone line in phones and
9 different material, because that was as far as you
10 could go on a mantrip.

11 Q. Blanchard and Whitehead, to your
12 recollection, weren't there?

13 A. No, I do not remember them being there
14 after going back.

15 Q. But when you and Mr. Asbury and Mark Bolen
16 and yourself went up, where did the three of you
17 go? I wasn't sure I followed that correctly.

18 A. I traveled the belt entry. And as far as
19 I can remember, Mark and Rob traveled track entry.
20 And we made it up to the shelter location.

21 By radio, I think Sam McPherson already
22 came in. He was here at the fresh air base and we
23 were communicating by him and we got phone line and
24 moved up to where the shelter location used to be.

1 From there we done the same thing up until
2 the mother drive where we found the first victim.
3 And from there some of our other teammates had
4 already arrived. Actually, I didn't see a lot of
5 these guys because we were up in front doing our
6 own thing and I do know that after we established a
7 fresh air base here at the longwall switch that one
8 team went inby towards the headgate 22 section and
9 my team and I went towards the longwall.

10 Q. And what did your team find?

11 A. We found these four victims outby in the
12 track entry, found the victims at the stage loader.

13 MR. MCCUSKEY: Tell him about

14 what break you were on, if you can.

15 Otherwise, they'll make you mark it on the
16 map.

17 A. It was right around 18, 19 break,
18 somewhere in there when we found the first victims,
19 I believe, 20 break, somewhere in there.

20 And we set up a fresh air base, multiple
21 fresh air bases up through here, maintained
22 communication. It was all a slow process because
23 you had to run new phone line through the entire
24 way. Like I said, I can remember the last fresh

1 air base we set up was right at the face, one break
2 inby the face on the longwall.

3 Shane McPherson was with us. He was an
4 old longwall guy. He's the one that went all the
5 way across the face and found the victims. Like I
6 said, I only went to about shield 80 with him to
7 maintain radio communication. I think right after
8 that time, as far as I can remember, when we got
9 back to this fresh air base, we were told to
10 retreat to the outside.

11 Q. When you and Shane went across, you
12 stopped at 80, you said?

13 A. Yeah, somewhere around 60 to 80 shield.
14 Somewhere in that area. I cannot be a hundred
15 percent sure.

16 Q. Did you see any footprints or anything,
17 anything --

18 A. No.

19 Q. Did he find the victims at the time on the
20 wall?

21 A. Yes.

22 Q. Did he come back out with you and pick you
23 up at 80?

24 A. Yes. Actually, I think I retreated before

1 he -- I was retreating as he was retreating.

2 Q. Okay.

3 A. And I don't think that he went all the way
4 to the tail that night, the first night. I think
5 he only made it to like shield one something and he
6 started encountering high levels of CO and he
7 retreated off.

8 Q. So you guys were then advised to retreat,
9 come outside?

10 A. Yes.

11 Q. When you came outside, did you debrief
12 anybody? Did you debrief anybody when you came
13 outside?

14 A. Did I debrief anybody?

15 Q. Or brief anybody.

16 A. Just the command center.

17 Q. Who was in the group? Do you remember?
18 Adkins?

19 A. I remember Chris Adkins being there,
20 Virgil Brown being there, Elizabeth being there.
21 That's really about all I can remember besides the
22 guys off our team I knew that was there.

23 Q. Anybody from the State?

24 A. Eugene was with us.

1 Q. And I recognize how difficult this
2 recollection business is. I understand that. So
3 as best you can.

4 Did you give them any readings at the
5 time? Did you give them any sort of general, what
6 did you tell them on the debriefing?

7 A. I remember they asked us could we tell
8 what happened and all I could remember was all of
9 us getting together and just telling them, no, that
10 everything was just moved in every direction and
11 that we had encountered CO across the face and
12 longwall. And I can't really remember any numbers.

13 Q. Sure.

14 A. I really can't remember why they pulled us
15 out that first night to be one hundred percent
16 honest with you. I think it was something happened
17 up in this area, if I'm not mistaken.

18 MR. BABINGTON: When you say
19 "this area," you're referring to headgate
20 22?

21 THE WITNESS: Yes. Like I say, I
22 did not go that way. That's a different
23 team that went in that direction. I mean,
24 it was our team, but different guys.

1 Q. From a standpoint of mine rescue, what are
2 your suggestions on how to do it differently the
3 next time or do it the same?

4 A. I thought everything went pretty well on
5 this time. We went and held up and we done what we
6 had to do. We looked into buying some more
7 equipment as far as radio boosters and things like
8 that, because I think that would help next time.

9 Q. Did you have the backup teams with you or
10 there nearby?

11 A. Yeah. We never proceeded (phonetic) any
12 about that backup route.

13 Q. Well, there are times when there's a
14 tension about that, and I understand that, yeah.
15 But in your case, do you think you had enough
16 backup?

17 A. Yes.

18 Q. You'd been in the mines for 15 years.
19 What do you think happened?

20 A. I'm going to leave that to the facts, I
21 guess, because like I said, everything is just --

22 Q. Sure.

23 A. -- everywhere.

24 MR. MCATEER: That's all the

1 questions I have at this time.

2 EXAMINATION

3 BY MR. BABINGTON:

4 Q. I have two quick ones and let's take a
5 short break.

6 Who are the individuals on the number one
7 crew as of April 5th? I think you mentioned Rob
8 Asbury was on that crew.

9 A. Rob was kind of the leader of that crew,
10 but I don't know that he is on that crew as far as
11 the audits go. He was the kind of overseer of all
12 the matters at that time also. As far as people on
13 that crew.

14 Q. I see you don't recall any of the other
15 names of the people on that number one crew.

16 A. Mark Bolen was on that crew.

17 I'm trying to think of who all was not
18 with me. Got so many new guys and such a big
19 turnaround.

20 Q. I understand.

21 A. I think at that time Tommy Dove was on
22 that crew at one time or another. Scott Kingery.

23 Q. Keenrey?

24 A. Kingery, K-i-n-g-e-r-y.

1 That's really about all. I can't say that
2 a hundred percent.

3 Q. What about the number two crew as of April
4 5th?

5 A. Jim Aurednik, James Thomas, Larry
6 Ferguson. My crew has changed, too, a hundred
7 times since then. Mike Alexander. And I had Tommy
8 Dove on my crew at that time. Yeah, Tommy Dove.

9 Q. Has he since moved to number one, is that
10 --

11 A. No. Yes, he has since moved to number
12 one. We've kind of changed the whole way we're
13 doing things now. It's not just number one, number
14 two team. We're actually putting a team at
15 Mammoth, a team in Logan, a team at Mt. Hope and a
16 team at Performance. So we'll have four different
17 teams instead of just the two.

18 MR. BABINGTON: Okay. Let's take
19 a quick five-minute break. Off the
20 record.

21 (Break.)

22 MR. O'BRIEN: I just have one
23 question. And I may have asked, or
24 someone else, and if we did, bear with us.

1 What is your job title?

2 THE WITNESS: Mine rescue.

3 MR. O'BRIEN: Just mine rescue
4 member?

5 THE WITNESS: Mine rescue is my
6 job title. Tier 1.

7 EXAMINATION

8 BY MR. MCATEER:

9 Q. Mr. Aurednik, to clarify, Massey has
10 established prior to April 5th in part of their
11 organization mine rescue group.

12 A. Yes.

13 Q. And that group, as I understand it, serves
14 a function of being prepared to conduct mine rescue
15 efforts, but as well these other instances that you
16 described?

17 A. Yes.

18 Q. That being compliance assistance?

19 A. There's not really a job title to that. I
20 mean, we just go and do S1 safety audits.

21 Q. Safety audits. Okay.

22 A. And try to reduce our violations.

23 Q. And number two, in mine visits, in order
24 to comply with the --

1 A. Correct.

2 Q. -- Miner Act.

3 And then number three, and maybe I'm
4 making this one up, what these fellows on the 5th
5 of April, they were going in to help out, it was
6 intended to help out at Upper Big Branch, but they
7 went someplace else?

8 A. As far as I know, yes.

9 Q. But that wasn't one of these two, wasn't
10 the audit, safety audit, or nor this mine visit?

11 A. No.

12 Q. But it was just to --

13 A. As I finish my audits for the quarter for
14 this mines, I would go back and go over my audits
15 to the most, the mines that seems to be struggling
16 the most and I would go to that mines and try to
17 help out and reduce their numbers of violations.

18 Q. And that's what this --

19 A. That is, yes.

20 Q. And do you remember when the last time
21 this one was audited at UBB?

22 A. No.

23 Q. Because that would be the -- team number
24 one --

1 A. At one time I was stationed at the
2 Performance station on what we called slack days.
3 There wasn't a whole lot going on. Performance is
4 right there in our back door, UBB was, so we would
5 go to UBB because it was closer, it was right
6 there.

7 MR. MCCUSKEY: Davitt, as a
8 clarification, I think he did say that, I
9 remember his testimony earlier was that he
10 believed that the safety audit for the
11 quarter had been performed at Upper Big
12 Branch.

13 THE WITNESS: Yes, I believe it
14 had already been done.

15 MR. MCCUSKEY: Because you asked
16 when it had been done.

17 MR. MCATEER: He said that and I
18 just didn't know whether he knew who did
19 it when it was done.

20 A. No, I would not have, because like I said

21 --

22 Q. But it would have been the alternative
23 team at number one?

24 A. Yes, it would have been the other team,

1 because, obviously, it wasn't my mines.

2 Q. Exactly. Okay.

3 A. It should have been done sometime between
4 January and March, because that's the first
5 quarter. And we try to finish every mines for
6 every quarter.

7 MR. MCATEER: That's it.

8 EXAMINATION

9 BY MR. SHERER:

10 Q. I have got a few clarification questions,
11 Mr. Aurednik. When you were going in, did you have
12 any indication how many miners were missing at that
13 time?

14 A. When I first went in?

15 Q. Uh-huh.

16 A. No, not until I reached 78 break and
17 established communication from there that I had an
18 idea of how many miners were missing.

19 Q. Do you recall what the first estimate was?

20 A. No.

21 Q. Did you have some sort of check-in when
22 you were going in the mines?

23 A. Yes.

24 Q. When you were going in the mines, did you

1 know that there were other people underground at
2 that point in time, particularly Mr. Blanchard and
3 Whitehead?

4 A. Yes.

5 Q. And did Mr. Asbury tell you that?

6 A. I don't think it was Mr. Asbury, but I
7 cannot recall who it was that told me that.

8 Q. Okay. Thank you.

9 You mentioned that you ran into
10 Mr. Blanchard and Whitehead somewhere around 78
11 break initially and they kind of gave you a little
12 briefing of what they had found. Do you know why
13 they had come back out to that point? Did they
14 mention that?

15 A. No, they didn't, but from what I assumed,
16 you know, the CO was pretty much what drove them
17 out.

18 Q. Okay.

19 A. And they were both entirely exhausted.

20 Q. Okay. Sure.

21 You said that you had backup when you went
22 inby 78 break. Who was that backup?

23 A. Shane McPherson and two other people had
24 already arrived to 78 break before we started going

1 inby.

2 Q. And they were mine rescue team members?

3 A. Yes.

4 Q. In your initial expedition inby 78 break,
5 it was just two people, yourself and Mr. Bolen, I
6 think you mentioned.

7 A. Yes.

8 Q. Do you have standard operating procedures
9 or checklists or something for your safety audits
10 that you use?

11 A. No. Federal regulations and state laws.

12 Q. Okay.

13 A. And S1 guidelines. That's pretty much
14 what we used.

15 Q. And you had mentioned that you reported
16 the results of the safety audits to the mine
17 superintendent and president. Do you prepare a
18 written report or how does that work?

19 A. Yes, we prepare a written report and I
20 e-mail them from my computer to the resource group
21 president, vice president, maintenance
22 superintendent, Robert Asbury and Elizabeth
23 Chamberlin.

24 MR. SHERER: That's all the

1 questions I have got. Thank you.

2 EXAMINATION

3 BY MR. MCATEER:

4 Q. Mr. Aurednik, I think what Eric was
5 attempting to ask, is there a form that you have
6 for the safety audit or piece of paper? I mean, I
7 know you follow federal and state regs, but ...

8 A. No.

9 Q. No. Okay.

10 A. I mean, there's a blank form that we use,
11 but there's no guidelines. It's just an Excel form
12 that we made up to type it up on the computer so we
13 can print it out.

14 And a lot of times, you know, I would
15 leave a written copy, we'd handwrite a lot of stuff
16 and leave it to the superintendent or mine foreman
17 at the mines or something before we type it up. It
18 just depends on the situation.

19 Q. UBB wasn't your mine, so you wouldn't have
20 handed that to or given it to --

21 A. No.

22 Q. It would have been given by Mr. Asbury to
23 Mr. Blanchard or to, besides Elizabeth Chamberlin,
24 to Mr. Blanchard or --

1 April 5th.

2 John, do you have anything else?

3 MR. MCCUSKEY: Just a couple of
4 clarifications, if I may.

5 Eric had used the phrase you went
6 back into the mine of your only violation,
7 and I think you meant volition, because
8 you then followed up and said of your own
9 freewill. But if I'm correct, I'd like to
10 make sure --

11 MR. SILKWOOD: You're absolutely
12 correct.

13 MR. MCCUSKEY: You mean
14 volition.

15 MR. SHERER: Violation is just a
16 Fraudulent slip.

17 MR. MCCUSKEY: A Fraudulent or a
18 Freudian slip? Now you made another
19 slip.

20 Anyway. Okay. I want to make
21 sure that was clear.

22 And secondly, I'll ask the
23 witness to actually clarify, but I believe
24 there was an occasion when he was referred

1 to as a compliance officer and I'll ask
2 the witness if you could clarify, because
3 I believe you said yes to that question.
4 Are you an officer?

5 THE WITNESS: No.

6 MR. MCCUSKEY: Of any sort?

7 THE WITNESS: No. Just, like I
8 said, we're just classified as mine rescue
9 workers.

10 MR. MCCUSKEY: Okay. And
11 thirdly, I'd like you to clarify the
12 situation. When you first came into the
13 mine, Jimmy, the first night right after
14 the explosion, I believe you said there
15 was one governmental employee there and I
16 believe you said a Mr. Kinder?

17 THE WITNESS: John Kinder.

18 MR. MCCUSKEY: Now did Mr. Kinder
19 know you were going into the mine?

20 THE WITNESS: Yes.

21 MR. MCCUSKEY: He did. He saw
22 you?

23 THE WITNESS: He told me to be
24 safe and do what we were trained to do.

1 MR. MCCUSKEY: So he made a
2 comment to you. And what was that?

3 THE WITNESS: Just to be safe and
4 do what we were trained to do.

5 MR. MCCUSKEY: Did he make any
6 effort to stop you?

7 THE WITNESS: No.

8 MR. MCCUSKEY: That's all I
9 wanted to know. And that's all I have.

10 MR. MCATEER: No other questions.

11 MR. BABINGTON: Bill, you want
12 to --

13 MR. MCATEER: It's your turn,
14 Bill.

15 MR. TUCKER: Just request the
16 same audits that you provide MSHA.

17 MR. MCATEER: Same here, Eric.

18 MR. TUCKER: And I would like to
19 say that we greatly appreciate the work
20 you do, Jimmy, and don't take for
21 granted. It's greatly appreciated.

22 MR. BABINGTON: And usually we
23 give the witness an opportunity to make a
24 statement at the end. Is there anything

1 you'd like to add?

2 THE WITNESS: No.

3 MR. BABINGTON: Well, if there's
4 nothing else, thank you for coming in, and
5 let's go off the record.

6 MR. MCCUSKEY: Before we go off
7 the record. Even though Bill has already
8 said you're not getting one, am I correct
9 that you would like to have a transcript
10 of this proceeding?

11 THE WITNESS: Yeah.

12 MR. MCCUSKEY: So go ahead and
13 say, yes, I would like a transcript.

14 THE WITNESS: Yes, I would like
15 to have a transcript of this proceeding.

16 (The interview of JIM AUREDNIK
17 concluded at 2:34 p.m.)

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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Lisa Marie Short, a Notary Public and
3 Certified Court Reporter within and for the State
4 aforesaid, duly commissioned and qualified, do
5 hereby certify that the interview of JIM AUREDNIK
6 was duly taken by me and before me at the time and
7 place specified in the caption hereof.

8 I do further certify that said proceedings
9 were correctly taken by me in stenotype notes, that
10 the same were accurately transcribed out in full
11 and true record of the testimony given by said
12 witness.

13 I further certify that I am neither
14 attorney or counsel for, nor related to or employed
15 by, any of the parties to the action in which these
16 proceedings were had, and further I am not a
17 relative or employee of any attorney or counsel
18 employed by the parties hereto or financially
19 interested in the action.

20 My commission expires the 8th day of
September 2018.

21 Given under my hand and seal this 3rd day
of December 2010.

22

23

24

Lisa Marie Short
CCR
Notary Public