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Statement Under Oath of Virgil Brown

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STATEMENT UNDER OATH
OF
VIRGIL BROWN, JR.

taken pursuant to Notice by Alicia R. Brant, 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 Monday, May 24, 2010, beginning at 1:19 p.m.

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

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ATTORNEY FERGUSON:

My name is Dana Ferguson. Today is Monday, May 24th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Rich Stoltz, an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. Also present are people from the State of West Virginia, and I ask that they state their appearance for the record, please.

MR. BECK:

My name is Jim Beck. I work on the independent team.

MR. FARLEY:

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

ATTORNEY FERGUSON:

There are also several members of the investigation team who will be conducting questioning today. All members of the Mine Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep confidential all

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

14 MR. BROWN:

15 I understand.

16 ATTORNEY FERGUSON:

17 Government investigators and specialists
18 have been assigned to investigate the conditions and
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 under Section 103(a) of the Federal Mine
23 Safety and Health Act and the West Virginia Office of
24 Miners' Health, Safety and Training. We appreciate
25 your assistance in this investigation.

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

11 MR. BROWN:

12 No.

13 ATTORNEY FERGUSON:

14 You may have a personal representative
15 present during the taking of this statement and may
16 consult with a representative at any time. Do you
17 have a representative with you today?

18 MR. BROWN:

19 No.

20 ATTORNEY FERGUSON:

21 Your statement is completely voluntary.

22 You may refuse to answer any question and you may
23 terminate your interview at any time or request a
24 break at any time. Since this is not an adversarial
25 proceeding, formal Cross Examination will not be

1 permitted. However, your personal representative may
2 ask clarifying questions as appropriate.

3 The court reporter will record your
4 interview. Please speak loudly and clearly. If you
5 do not understand a question asked, please ask for it
6 to be rephrased. Please answer questions fully and
7 include any information you have learned from someone
8 else.

9 We would like to thank you in advance for
10 your appearance here. We appreciate your assistance
11 in the investigation. Your cooperation is critical in
12 making the nation's mines safer. After we have
13 finished asking questions, you will have an
14 opportunity to make a statement and provide us with
15 any other information you believe to be important. If
16 at any time after the interview you recall any
17 additional information you believe might be useful,
18 please contact Norman Page at the telephone number or
19 e-mail address provided to you. Do you have any
20 questions before we get started?

21 MR. BROWN:

22 No.

23 ATTORNEY FERGUSON:

24 Rich?

25 MR. STOLTZ:

1 Virgil, would you please state your full
2 name and spell your last name, please?

3 MR. BROWN:

4 Virgil ---.

5 MR. STOLTZ:

6 Excuse me. Before we start, I guess
7 we'll swear you in, please.

8 -----
9 VIRGIL BROWN, HAVING FIRST BEEN DULY SWORN, TESTIFIED
10 AS FOLLOWS:

11 -----
12 A. Virgil Forest Brown, Jr. B-R-O-W-N.

13 EXAMINATION

14 BY MR. STOLTZ:

15 Q. Could you please state your address and telephone
16 number?

17 [REDACTED]

18 [REDACTED]

19 Q. Are you appearing here voluntarily today?

20 A. Yes.

21 Q. How long have you worked for MSHA?

22 A. About 24 years.

23 Q. What is your current duty station, Virgil?

24 A. Duty station is right here at the Mine Academy,
25 MEO building.

1 Q. And how long have you worked at that location?

2 A. I've worked at this location for the past 14 or 15
3 years.

4 Q. What is your present position?

5 A. Mine Emergency Unit Specialist.

6 Q. And how long have you worked at that position?

7 A. About 15 years.

8 Q. Who is your current supervisor?

9 A. John Urosek.

10 Q. And could you please tell us some of your mining
11 history and experience?

12 A. I started with Consolidation Coal back in the
13 '60s, 1969. I got on the mine rescue team about '71
14 for Consol. Was a mine foreman and mine
15 manager/foreman. In the '80s I left Consol. I've
16 done about all the occupations there were with them,
17 from track to electrician to longwalls, engineer, too.
18 I've got three engineering degrees, and two of
19 those are in the area of mining, one in safety. I
20 left Consol, went to a couple of small operations,
21 then to contracting and then to MSHA. And I was an
22 electrical specialist for MSHA for several years out
23 of Morgantown, District 3. And then I got this job
24 about 15 years ago, worked for Jesse Cole, then Jeff
25 Kravitz, now John Urosek.

1 Q. Do you have any specialized training or
2 certificates?

3 A. Yes. Several mine foreman certificates, fire boss
4 certificates in three states. I've got electrical
5 certificates in three states, shop firer, explosives,
6 mine rescue, trainer certificates, several others.

7 Q. Okay. Prior to the April 5th accident at Upper
8 Big Branch, had you ever been at that mine prior to
9 that?

10 A. No.

11 Q. When and how were you notified of the April 5th
12 accident?

13 A. I was up in Pittsburgh, at Building 151. We were
14 working on the feeder truck, satellite communication
15 truck and a vehicle --- and the command vehicle. And
16 I received a call, I don't know, around 3:30 or
17 something 'til 4:00 from Link Selfe down here in
18 District 3. He's the ADM down here in District 4.
19 And Link notified me that they had had an event here
20 at Upper Big Branch and that they were in need of
21 assistance, and that Arlington was being notified and
22 asked me where I was. And I told them that I was up
23 in Pittsburgh and asked where some of our team members
24 was, Otis Matthews, Jerry Cook, Mike Hicks, and we got
25 some other team members in District 4.

1 I told him, I said, well, why don't you get them
2 over, I said, because you'll want to, you know, move
3 our team, I said, and get the command vehicle and the
4 team truck and put them on the road. Have them call
5 me when they get to my building here on the Academy
6 property, and I'll tell them what else I need for them
7 to load, I said, and get that stuff started over to
8 the mine site.

9 About --- we started getting the stuff ready up in
10 Pittsburgh. I hooked my SUV to a trailer that I had
11 up there that I was using to haul some equipment and
12 got it ready, and told Shawn Stage to get the feeder
13 truck, his new feeder truck ready, and we were going
14 to have to roll the stuff and get out. And I started
15 calling --- well, and then John Urosek called about
16 five, ten minutes after that and said, listen, you
17 want to activate some people. And I told him I
18 already have, you know, District 4 headed that way,
19 and I started making calls with Leverknight and some
20 of the people up in Pennsylvania and in Morgantown,
21 and some of our other team members through our call
22 list and put them on the road.

23 Q. So I guess you had four MEU people going to the
24 Academy and getting the equipment ---?

25 A. Actually, I think there was only three of them

1 that headed over there. I think Otis was not notified
2 by them. I did find out that Otis wasn't notified, so
3 I had Mike Shumate, Mike Hicks and Jerry Cook. I
4 don't know where the other --- you know, where Otis
5 was at that time. So --- in fact, I got a call from
6 Otis while I was on the road and he asked me what's
7 going on, and I told him. He called me from his
8 house, I guess, that evening while I was on the way,
9 and I said, Otis, get over to the mines. I said, you
10 haven't been notified yet, you know, because I thought
11 District 4 had notified their people. So Otis, I got
12 him on the road, and it was around, I'm saying 5:30 or
13 6:00, when he called me.

14 Q. Do you know what time the vehicles were dispatched
15 from here then, what time they left from the Academy
16 to head to the mine?

17 A. You know, they called me and I'm just thinking it
18 was nearly four o'clock, somewhere around there. The
19 only people that would know that exactly --- and I
20 didn't start taking notes until I got way on down the
21 road. But I would say it was within 30 minutes of me
22 getting the call from Link, because it would take him
23 that long to get over here if they were in their duty
24 stations or wherever they might be. So I'm going to
25 say about four o'clock, and that's just my guess. I

1 don't know what time they called me, but I told them,
2 you know, what to load, the gear bags and dryers and
3 stuff for the equipment.

4 Q. What did --- you said now Mr. Urosek called you
5 and informed you of Upper Big Branch also. What
6 did ---?

7 A. Yes. That was within --- you know, I knew
8 when --- they were notifying the headquarters, I guess
9 the district was. And just as a courtesy, you know,
10 our guys call me because they know that I've over the
11 team members. And I know they needed the command
12 vehicle and the other truck, so John, he called me
13 within --- I'm going to say within 15 or 20 minutes.
14 It had went through the system in headquarters, and of
15 course, John, I don't know who he activated else, but
16 he called me within, I'm going to say 20, 30 minutes
17 of that initial call, within 20 minutes, because I
18 went in my office up in Pittsburgh and started making
19 phone calls before I left.

20 Q. And what time was that then you're estimating when
21 you say within ---?

22 A. I'm saying it was before 4:00.

23 Q. Before 4:00?

24 A. Yeah. It was really pretty quick. I mean, if I
25 got called at 3:30, it wasn't 15, 20 minutes John

1 called me, which I expected that to happen. But
2 usually if I call John back and he's wrapped up in all
3 this, you know, all I do is get his voicemail.

4 Q. What time --- I guess you got material ready then
5 in Pittsburgh ---

6 A. Yes.

7 Q. --- and departed then for Upper Big Branch. What
8 time did you ---?

9 A. I would think that it would have been maybe 4:15
10 or 4:30 when I left Pittsburgh. And like I say, the
11 time goes by when you're trying to make those phone
12 calls. You know what I'm talking about.

13 Q. Yes, I do. What material then did you bring from
14 Pittsburgh?

15 A. A trailer, some apparatus, gear bags for the guys
16 that I called and the stuff for communications.

17 Q. Do you remember what time you arrived at the mine?

18 A. It was around 7:30 p.m., because I went through
19 Charleston, you know, that way, instead of coming down
20 to Beckley --- you know, cutting back towards that way
21 through Charleston.

22 Q. So I guess by the time you arrived at the mine at
23 7:30, the command vehicle and the mine rescue truck
24 was already on site then?

25 A. That's right. And Jerry Cook and Mike Hicks were

1 underground. And I'm not sure who was backing in, but
2 I know Mike and Jerry were, you know, hard at work.

3 Q. Was the command vehicle already operational?

4 A. The command vehicle was sitting there. I don't
5 think we had good sure power on it or whatever, so
6 somebody asked me about it, and I powered it up and
7 put the satellite phone on, which was --- you know,
8 there's one in the vehicle. So I turned it on.

9 Q. Okay. When you arrived at the mine, who did you
10 meet? I guess who was in charge?

11 A. Bob Hardman. I think Link Selfe was in the
12 command. I went up --- I went --- as soon as I hooked
13 that up, you know, I went up there to get briefed in
14 the command, upstairs in the office. I was up there
15 at Big Branch. And I talked to several people there.
16 To be honest with you, everybody was going around, you
17 know --- I mean, they were involved in those guys
18 searching for those --- the victims.

19 Q. Did anyone --- I guess did anyone in particular
20 brief you?

21 BRIEF INTERRUPTION

22 OFF RECORD DISCUSSION

23 BY MR. STOLTZ:

24 Q. Again, we were talking about who briefed you once
25 you arrived. Did any individual or you said you just

1 talked to several people?

2 A. Actually, I looked at the log book, because I
3 always look at the log book to see where they are and
4 look at the maps. And that's where I went, you know,
5 upstairs, at the mine office there, where the command
6 was. And John still wasn't there. Kevin Stricklin
7 was there, but he didn't brief me. I was thinking it
8 was Link Selfe and some other, you know, --- I don't
9 think I disturbed Bob because he was covered up, but
10 it was people at the mine site and it was people in
11 command, but I didn't notice who it was.

12 Q. Okay. I'm going to back you up just for a minute,
13 again back to the telephone call from Mr. Urosek. Do
14 you remember exactly what he said? I mean, Link Selfe
15 called you and notified you that they had problems or
16 had ---?

17 A. Had an event.

18 Q. An event at UBB?

19 A. Yes.

20 Q. Okay. And did John give you any more details?

21 A. John --- yes, John gave me, you know, --- because
22 I asked a little bit more of John, you know. I asked
23 him how many are we going to need, how many he wanted
24 to activate, what he thought had happened. And he
25 said it was a possible ignition, which I didn't ask

1 Link about. So he gave me a little more overview, but
2 --- that we have people missing. And of course, Link
3 --- and there was a --- to be honest with you, the
4 number was wrong, I mean, on the people missing
5 because they kept changing throughout until I still
6 --- I didn't know exactly how many was missing until I
7 got briefed at the mine site. And I don't think that
8 anyone off the property knew exactly until they got it
9 straightened out down there. And I know that's sad to
10 say, but it's true.

11 Q. Okay. When you're saying how many you need and
12 that, you're talking about mine rescue people?

13 A. Mine rescue people. And then I heard different
14 numbers while I was en route, because a couple more
15 calls came in of how many were missing and how many
16 were dead. So I got two or three different numbers
17 for each, and I wasn't sure what to believe until I
18 got there. I knew we had --- you know, if there's
19 just one missing, that's all we need missing, so you
20 know --- that's my thought.

21 Q. Do you remember anything about the briefing at all
22 once you got there? You know you said you thought
23 Link did it, gave you the briefing, but ---.

24 A. I just got --- like I said, I got it off a couple
25 people there. And I'd go back --- if I had a question

1 about something, I'd ask somebody else in command,
2 which I know most of those people. And I even talked
3 to some State people there, Danny Spratt and some
4 people there. I don't know whether Danny was in there
5 or outside. I think Danny was outside. But I talked
6 to some State people and Federal people, and I knew a
7 couple of the mining people, Chris Ptasnik, who was
8 there and is one of the engineers, and he's a benchman
9 for the competition for --- and I'm, you know, for
10 mine rescue. So I knew Chris, who was there, and I
11 asked him some questions, too, so --- and he's at the
12 mine site. So I asked some people at the mine site,
13 too. I mean, you know, they --- just straight-up
14 questions, you know, and --- I said, where do you
15 think they're missing, where do you think this
16 happened at, how many people, where are they at, you
17 know, did you track them with your tracking system?
18 And I found out that, I guess, that was partly
19 messed up and that the communication was damaged, so
20 you know --- we talked about where the refuge chambers
21 were, where they were going to head to, where they
22 were going to --- you know, where they were searching
23 for the victims or the survivors, whichever they might
24 be, you know, where they expected them to be, that we
25 knew that there were some up on 22 Headgate. There

1 was people on the longwall. There was a shift change,
2 so you had people outby the switch outby 78 there,
3 that they got outside, and that there was a couple
4 headed to the hospital, and you know, just the status
5 of what it was when I got there and where our teams
6 were going, trying to find these people.

7 Q. Okay. One more follow-up question to the
8 equipment. The equipment that you sent to UBB
9 basically was the equipment pertaining to the mine
10 rescue teams and the command vehicle; is that correct?

11 A. Yes, and communication.

12 Q. And the communication equipment?

13 A. Yes.

14 Q. Which when you say communication, what are
15 you ---?

16 A. Satellite --- our feeder satellite truck with
17 Shawn Stage, who was standing beside me, working on
18 it, at Pittsburgh. So you know --- so it was those
19 three things, mainly stuff for our team, the command
20 vehicle for the district and investigation or, you
21 know, people in charge and the communication so that
22 we could set up computers and satellite communication
23 because I knew that this area had bad communication.
24 I was told that right up front.

25 Q. Did the communication truck arrive at the same

1 time as what you did at the mine?

2 A. No. No. I was like probably two hours ahead of
3 the communication truck.

4 Q. So you're estimating the communication ---?

5 A. Around 9:00 something.

6 Q. 9:30, 9:00?

7 A. Yes.

8 Q. Between 9:00 and 9:30?

9 A. Yeah. That would have been Shawn Stage. I know
10 he had trouble. It was raining really bad, a
11 lightning storm. When we were coming out of --- when
12 I came through Charleston it was --- I mean, I got on
13 those back roads and it was just black. It's a wonder
14 I didn't lose that trailer somewhere, all those
15 potholes and drop-offs. And then you got down to the
16 mine site and it was sort of hard to find them because
17 there was so many people out there, and they had the
18 roadblocks set up way outby. And then you thought you
19 were at the mine site, and it was not the right mine
20 site, you know, and there was two or three mine sites
21 down through there.

22 But I stopped three times. I stopped at a
23 convenience store to ask them how far --- because I
24 saw some miners, you know, in their reflective outfits
25 in the convenience store, and I figured I was getting

1 pretty close. So I stopped and asked them. I didn't
2 have any cell phone coverage, so I figured I better
3 ask somebody rather than drive by it. So I asked them
4 at that convenience store. They told me. I went that
5 far. I got into a roadblock. I asked them what they
6 were --- how far it was. And I'll be honest with you,
7 they put me on around the traffic, you know, because I
8 had a red light on my vehicle, and they put me on
9 around that. But actually, I --- you know, the next
10 place I pulled in wasn't the mine site. It was across
11 the bridge at another big location that --- and then
12 the next one --- or the third one I went to, the next
13 stop, put me right into the gate.

14 Q. I guess once you arrived and after you received
15 your briefing, could you just walk us through of, I
16 guess, what you did and what was your role during that
17 --- from that time on through the rescue operations?
18 Give us a brief overview and walk us through it.

19 A. After the briefing, I know we had some more team
20 members that arrived. And I don't know, you know,
21 without looking at notes, what their names were or
22 whatever. But I made sure that the next guys got some
23 more apparatus read, that their detectors are ready,
24 that they were briefed. We got maps put up in the
25 truck so I could brief the team. I took a role in the

1 command center because it's our protocol to have an
2 MEU member in the command center so that we can brief
3 our teams and we can have input into the plans and
4 review them with John and with the district and have
5 some input, because our team members are the ones
6 exposed underground. And so we watch out.

7 One of my roles is to watch out and make sure
8 that, you know, the trending is correct, that, you
9 know, there's, you know, that the power has been cut
10 off, things like that, just general stuff for mine
11 rescue to make sure that it's safe as we can make it
12 for our team members, okay, and for the teams that are
13 underground. And then what I did was I went ahead and
14 started a rotation schedule for our people because I
15 saw that this was going to go on more than just that
16 one shift. You know, it wasn't going to be over. So
17 we went into a --- and I made up a schedule for our
18 guys to rotate in. As they came in, I told them what
19 shift they were going to be on, put some of them in
20 the hotel and said, listen, go get your room so you're
21 ready for your dayshift, and so forth. So my role
22 there is to work with --- well, our team leader. But
23 he didn't come. He was down in --- over there
24 somewhere, Chuck Barton, who is our current team
25 leader. We didn't get to bring him in until the

1 following week. So I took his role and my role and,
2 you know, kept our team functioning.
3 What our function is, is similar to the State. We
4 go --- we put a man with each team that's working
5 underground so that they know that they're following a
6 plan. They get briefed with the teams, if we can get
7 that briefing, you know, scheduled in with their
8 shift, or we brief our guys. So that's pretty much
9 --- we decide who's going where on our team. We know
10 our people and what they're better at, because some
11 people are good at electrical and some of them are
12 good at, you know, their little forte. So we left ---
13 we tried to address that and assign our people so that
14 they worked good together and they know what they're
15 doing and they, you know, do a good job.

16 Q. What is the responsibility of a rescue team member
17 on a team? You said you assigned a member to each
18 team, if I heard you right.

19 A. They're really not assigned to the teams, but we
20 travel with each time. Okay? I mean, they may switch
21 teams even.

22 Q. Yeah.

23 A. Okay. What their role is, is that ---?

24 Q. Yeah. What's their role?

25 A. Their role is they take the detection equipment,

1 smoke tubes, backup breathing apparatus, the plan, and
2 try to address the teams that are working, these
3 company teams that are working underground, are
4 following the plan, that they're doing this safe. If
5 there's a communications issue or if there's something
6 that's out of the ordinary, that they make sure that
7 it's called out to the surface. We'll have --- our
8 standard thing is to have one on the surface for each
9 time, one at the fresh air base and one with the team,
10 and so they make sure that the communications is going
11 outside, that the mapping is being done right,
12 whatever the plan calls for. If there's something out
13 of the ordinary that we're wanting to watch for, like
14 a CO or smoke or gases, certain, you know, qualities
15 of gases, then we make them more aware of that. You
16 know, that we weren't inundated with nitrogen, we
17 weren't inundated with CO2 or anything during the
18 initial here, so we were just going on, so they were
19 aware that they should look for heat or smoke and the
20 high CO. And of course, they were looking for the
21 missing miners.

22 Q. I guess who directs --- I guess you, in your
23 position, who directs your activities as you're at the
24 mine site?

25 A. John Urosek and the district. I work for the ---

1 when I'm on the mine site and --- and I take it to
2 Tech Support. We support --- our role is to support
3 whatever the district needs and what headquarters
4 needs at that mine site, whatever that might entail.
5 If it entails us taking samples, setting up geophones
6 for seismic, helping take, you know, urine samples or
7 going underground with apparatus. I mean, that's our
8 prime reason for being there. We're apparatus
9 trained, so we can go where all the teams go, in the
10 front of everything. So we're actually their eyes and
11 ears underground. If we're not doing that role, if
12 there's another job that needs to be done, then we
13 pick that up and then we do that. So we support
14 whatever headquarters and the district needs, and
15 we're directly under John Urosek's guidance.

16 Q. You said you were a team leader. Basically, you
17 took Chuck's job as team leader ---

18 A. Yes.

19 Q. --- also? I guess how many MEU people --- or team
20 members ended up --- MSHA team members ended up being
21 at UBB?

22 A. You mean after it was all over?

23 Q. The total number.

24 A. It was around 24.

25 Q. Twenty-four (24)?

1 A. I don't think that counted John Urosek or me, but
2 about 24 members. We had a lot of them there.
3 Everybody in all the districts but District 9 was
4 called out.

5 Q. I was going to say probably the only people ---.

6 A. Because District 9 had Dugout Canyon going on, so
7 we used District 9 and added two more to those and
8 later had Dugout.

9 Q. Okay. Another event?

10 A. Yeah.

11 Q. Could you tell me then what was the level of
12 cooperation between the company and you all, MSHA, the
13 MEU team?

14 A. I think the cooperation was okay. I think some of
15 the communication could have been better between the
16 company and us. The briefings weren't real good.
17 They gave them down in that shop and they weren't real
18 structured, okay, but they were sufficient. We didn't
19 --- now, our team members are normally given maps of
20 the areas and plan, and we never received maps and
21 plans going underground, not good ones, not written
22 ones, and normally we have maps. We used the maps
23 that were given out for the teams, and that's --- of
24 course, we go right beside the captain, so we're going
25 to be beside the map. Okay. So it's not a big issue.

1 But normally they've got one stuck in their coveralls
2 and another map, and it just wasn't --- I think that
3 was --- if anything was lacking there for our team
4 members to address then, I think the plans and the
5 briefings and the maps were lacking at UBB.

6 Q. Was that the initial or was that ---?

7 A. That was throughout.

8 Q. Throughout?

9 A. It wasn't just the initial. The initial, you
10 expect that. The initial, you expect that, but you
11 don't expect it later on. I think --- in fact, a
12 couple times I went to the State's trailer and talked
13 to some of them about it, and they didn't have much
14 better than we have. I mean, there were some maps,
15 but there were very few maps given out. And usually
16 team members have better maps and there's more given
17 out than just one for the fresh air base and one for
18 the team captain --- or the map man. They didn't give
19 them to the captain. Usually our map man had the map.

20 Q. Well, isn't it fair to say that a map is critical
21 when you're going into an unknown area?

22 A. Yes. But like I say, we stayed with the teams, so
23 you know, we had to use their maps. That was
24 throughout this whole thing. I think probably the
25 State found that same thing out to be true.

1 Q. Who was directing the surface activities during
2 the rescue operation? Who was ---?

3 A. They had several people there. You know, that's
4 done by --- there was three district managers that I
5 saw in the command, Ray McKinney, Bob Hardman and
6 there's another one, yeah, Bob Cornett from up in
7 Three. But those three DMs, they were working
8 together. Actually, poor old Bob Hardman, he --- you
9 could tell he had a load on him. I mean, he was wore
10 out, and rightfully so. That's stressful to deal with
11 what was going on at the mine, trying to figure out
12 where the people were and dealing with headquarters
13 and communication and the State and, you know, but it
14 all comes crashing down on you, and it doesn't take
15 very long for it to be overwhelming. And it was good
16 that they had a couple DMs there.

17 And it was sort of odd to have Kevin Stricklin
18 there that quick, because he happened to be in
19 Charleston, had a flight that ended up there, which I
20 was sort of surprised to see him. I'm thinking, well,
21 --- and that was good, though, because, you know, he
22 did a great job with the families and briefing that
23 media, I mean, so it worked out great.

24 Q. How about for the operators directing surface
25 activities?

1 A. Foster? Geez, I was trying to think. Anyway, he
2 was on the phone, and then you had --- what's that big
3 fellow's name. Well, Blankenship didn't say too much.
4 He said they were going to stay. But you had the
5 other guy that was a mine manager or something, and he
6 was over there. I forget his name now. But they were
7 over the activities, although they had another guy on
8 the phone. Now, you had Harvey Ferrell that came in,
9 and he was deciding which teams were on their
10 rotation, because they ended up with a lot of teams
11 there. So there were several people there. Of
12 course, there was company lawyers there, Elizabeth
13 Chamberlin and some of those people there. And they
14 have more influence than you might think at a disaster
15 site.

16 Q. Okay. How was the mine communication system
17 protected from unofficial use of information?

18 A. They disconnected all the other mine phones that
19 were connected to it. There was one in the
20 engineering office or something. Finally, they
21 disconnected it. It didn't take too long to find
22 those other phones and get them unhooked.

23 Q. When you're saying phones, you're talking ---?

24 A. Mine phones.

25 Q. The mine phones hardwired to underground?

1 A. Yes.

2 Q. Okay.

3 A. Their monitoring system was down. Well, when I
4 went underground it was obvious to see why, because of
5 all the destruction inby the switch up here, where it
6 Y's off outby Headgate --- the Mother Belt. You know,
7 it was just everything tore out. I mean, everything
8 was tore out.

9 Q. So back to the mine phones then. I guess they had
10 a mine phone wired to the command center. And
11 anywhere else that you're aware of?

12 A. They had one in the --- for a short time and I
13 know they finally disconnected it, and I don't know
14 when they did it, but there was one in the engineering
15 office there that was about two doors up from there,
16 and it sat there for a while. I guess it was in the
17 engineering office or a mine foreman's office, because
18 they have a recording barometer in there, in the room
19 where the other phone was.

20 Q. Okay. And you mentioned that there was no cell
21 phone service, I believe?

22 A. No, there was no cell phone service. Their mine
23 --- I mean, the telephones at the mine office were
24 working, but you know --- in fact, Link Selfe I think
25 was in that one office, and he made --- he was getting

1 --- receiving calls from there, along with some other
2 people.

3 Q. Okay. Approximately, how many times were you
4 underground during the rescue and recovery operation?

5 A. I was underground a couple times. Two, I think.
6 Two that I can remember.

7 Q. Okay. Could you --- what day --- do you remember
8 what days or when you traveled?

9 A. They had come out, Jerry and Mike, and I think it
10 was the following day when they finally let us back
11 underground. And we had a plan in place to go up and
12 do another search. They already knew that there was
13 bodies along the trackway here and the belt.

14 Q. When you say ---?

15 A. Between Six North belt, the Mother Belt there and
16 the longwall headgate. Okay. There was some people
17 on the track there. The other manbus had already been
18 outside with those victims and survivors. So this was
19 inby the Six North belt, the Mother Belt.

20 We actually had a plan where we came up to a
21 switch and we were ---.

22 Q. Switch, you're referring to 78 Block?

23 A. Seventy-eight (78) Block.

24 Q. Okay.

25 A. And we had a map, and I signed that map, wherever

1 it is, that we mapped this area. There was two teams
2 that went in. David Leverknight, which is one, I was
3 trying to think, and --- there was David Leverknight
4 and Josh Brady were going to go up --- well, they were
5 inby and they were going to go explore, and we were
6 getting ready to --- no, we were all carrying stuff up
7 here through the cut-through.

8 Q. Where is up here?

9 A. The cut-through near the longwall face or near the
10 headgate. We were carrying supplies and we were going
11 to go set up a fresh air base right out by the
12 cut-through and search the longwall again and up
13 towards 22 Headgate, okay, for the other missing
14 miners. What we did, we got all that stuff and we ---
15 I mean, it was a couple --- about three manbuses full
16 of supplies, curtains, stuff to build with,
17 communication reels, spare apparatus, what have you,
18 there was a lot of stuff, foam packs. I mean, we
19 carried a lot of stuff up through there. And the four
20 teams that carried this stuff up through, which I was
21 with one and Paul Sutherland was with me and a couple
22 more guys up here, and we carried this stuff through
23 here. By the time we carried it up through there, we
24 were whipped.

25 Q. Where did you carry it from?

1 A. We carried it from out here at 78 all the way up
2 to the mouth of the longwall.

3 Q. Did you travel up the Six North belt track or how
4 did you get ---?

5 A. No. No. We went this --- through here.

6 Q. You're saying through the longwall tailgate?

7 A. Longwall tailgate up through ---

8 Q. The crossover?

9 A. --- the crossover in ---.

10 Q. The crossover from the tailgate to the
11 headgate ---

12 A. Right.

13 Q. --- outby the longwall face?

14 A. And then over to the headgate. And there was ---
15 I mean, there was belt. There was cables, pipe, parts
16 of overcasts, stoppings. It was just --- everything
17 was just tore all to pieces up there. I mean, it was
18 hard walking and hard to carry the stuff. We were ---
19 I thought to myself, I said, we get up here, we're
20 going to be whipped before we even start, you know,
21 which we were. But when we got here with all the
22 supplies, they had an excursion with some gas, and we
23 got pulled immediately when we got up there. I
24 was --- set the stuff down, and they said, what are
25 you doing. I said, let's turn around and get out of

1 here. And I know, you know, the State was with us,
2 too, and those four teams. There was four teams of
3 us. And we just turned around and headed back out,
4 went outside.

5 Q. Which way did you travel?

6 A. We traveled the same way back.

7 Q. So you traveled back outside from the longwall
8 face in the Number One Headgate --- Headgate One
9 North?

10 A. Yes. This crossover and back out the --- here at
11 the 78, where the manbus was.

12 Q. Okay. And you said you noticed a lot of stuff,
13 vent controls and stuff?

14 A. Oh, yeah. The first controls that I saw out were
15 at about 36 or 40 Crosscut, which is way outby there,
16 that we had damage to the stopping line. Okay. Now,
17 whether they were partly out --- in fact, when we went
18 in that day, we checked a couple of --- I was the back
19 group, and they were checking a crossover into some
20 seals in front of us, the teams that were in front of
21 us in the manbus, and we checked for the refuge
22 alternatives, okay, which one of them wasn't in back
23 there, 52 or somewhere.

24 Q. Fifty-two (52) Crosscut, ---

25 A. Yeah.

1 Q. --- you checked that?

2 A. It wasn't there.

3 Q. Okay. It wasn't there. And you're ---?

4 A. And there was a cache across from that of SCSRs.

5 Q. And you're referring to the fifth ---?

6 A. Yeah, I guess way back out there. Yeah.

7 Q. And which seals did you go to or ---?

8 A. The other team went to the seals. They went to
9 these.

10 Q. Fifteen (15)?

11 A. I think they hit 15 and there was another set.

12 Q. Fourteen (14)?

13 A. Fourteen (14). And there was another set outby
14 there. But the ones --- they were told to check the
15 seals and we were told to check between our two teams
16 all alternatives and caches that had SCSRs. And they
17 were spread all over the place. I mean, we even saw
18 lunch buckets and stuff and even notes, you know, the
19 first stuff that I saw on the track.

20 Q. And you said back at 52 Crosscut, if I remember,
21 there was a cache of SCSRs that were supposed to be
22 there also?

23 A. There was a cache near there across --- on the one
24 side and the refuge chamber was supposed to have been
25 on the left side of the track. We went through there

1 and walked up and down both sides for four or five
2 crosscuts each way and that refuge alternative, we
3 couldn't find it. So I guess it had been moved.

4 Q. Okay.

5 A. It wasn't there.

6 Q. When you traveled on your first exploration up to
7 the longwall headgate, were you all bare-faced?

8 A. Yes. We were bare-faced with apparatus on our
9 back.

10 Q. Okay. Do you remember anything about the gas
11 concentrations? Do you recall?

12 A. They were within range to not have to wear, five,
13 six parts per million. I think on up here it got
14 higher, but it wasn't where we had to don yet. I
15 think that somebody said that they turned a corner
16 there, and there was --- it started raising, and we
17 got called out about that time. And that was my
18 initial trip in.

19 Q. Okay. And again, coming up the headgate you said
20 you seen a lot of damage also?

21 A. Yes.

22 Q. Okay.

23 A. Yes. In fact, when we were coming up here with
24 those supplies, I had curtain with me and, of course,
25 we had those stretchers and all those body bags and

1 all kinds of stuff and the numbered things to recover.
2 And out of respect, and we were getting by some
3 victims right here on this --- what is that, Five ---
4 on the headgate --- trackway there coming off of the
5 longwall section, where these victims were, and we ---
6 I saw them up ahead of me, and Leverknight and them
7 were in front of me. And I hollered at them on the
8 radio, we had some handheld radios, and they said,
9 listen, why don't we go ahead and cover those guys
10 with some curtain, you know, so that they'd be easy to
11 find and nobody would be looking at them because they
12 had already been mapped or whatever. Somebody had
13 been up there and already had found them on ---.
14 Gerry and Mike were there, okay, from District 4. So
15 we went ahead and cut curtain and they put them over
16 these victims and then we proceeded by them with the
17 other supplies. And I think that was the right thing
18 to do.

19 Q. Okay. And that was your first excursion which
20 happened on the ---?

21 A. Next day.

22 Q. The 6th. April 6th.

23 A. April the 6th. It would have been the next day.

24 Q. Okay. When was the next time you were
25 underground?

1 A. The next time we were underground --- the next
2 time I was underground, we went back to get --- they
3 had already found the rest of them, and they found
4 these up here and we still had some ---. It was a
5 couple days later, and we went underground to retrieve
6 these bodies, and so we had already found the rest of
7 them. They had already been located, but they hadn't
8 been mapped or located --- mapped, because they got
9 pulled out when they found them.

10 Q. When you're saying retrieved the victims, ---

11 A. Yes.

12 Q. --- you're referring to the victims on Headgate
13 One North, ---

14 A. Yes.

15 Q. --- the longwall?

16 A. These victims --- we were sent in to get these
17 victims here at the headgate side of the longwall.
18 The ones on the --- the other one, we located him. So
19 they had already located all the rest of the victims
20 by the time I made my next trip in. And we were going
21 back to get these ones at 85 and 105 Shields, the one
22 at this headgate, the ones along the track. And when
23 I went back, you know, after this, we actually made a
24 way and we mapped this area and took permissible rides
25 up here to 78, battery rides, and I mapped this with a

1 team. And I forget, Bennett was probably with me,
2 Jeff Bennett, with the State.

3 Q. When you're saying mapped this, what are you ---?

4 A. We mapped this area here that we were going to
5 move and that's from 78 up to right here at the belt
6 on the Headgate North, that we were going to carry
7 these guys down to, off of here and over. I cut the
8 belt here. He mapped this area down through here and
9 brought a manbus up here --- or portable battery
10 rides.

11 Q. You're referring --- you mapped this from, I
12 guess, 78 Crosscut inby, up the Tailgate One
13 North, ---

14 A. Yes.

15 Q. --- up and to the crossover?

16 A. Yes. And then we would carry them.

17 Q. Traveled across, okay, the crossover to the
18 Headgate One North, and then from Headgate One North
19 you came inby, toward the longwall?

20 A. Yes. But we had to carry the victims from
21 Headgate One North, right here, on back down to about
22 right in here, where we got those permissible rides.

23 Q. Okay. You said you cut the belt, the conveyor
24 belt, ---

25 A. Conveyor belt.

1 Q. --- that's the longwall conveyor belt, and carried
2 them ---

3 A. Carried them through there.

4 Q. --- through the crossing?

5 A. There was overcasts --- overcasts were out right
6 here, too, and it was amongst that structure.

7 ATTORNEY FERGUSON:

8 Was that a yes or a no?

9 A. That's yes.

10 BY MR. STOLTZ:

11 Q. You carried them from the longwall headgate,
12 crossed the crossover to the Tailgate One North, is
13 that what you --- and to a permissible ride?

14 A. To the ride.

15 Q. And you had permissible rides at that point?

16 A. Yes. What we did, we mapped everything what we
17 moved up to there, to those permissible rides, and we
18 would bring --- carry them down here, put them on
19 those, and they would haul them down and put them on
20 the manbus. So these were already loaded. The ones
21 up here at Headgate One North were already mapped and
22 in body bags when I came back, okay. And Leverknight
23 and Josh Brady had loaded one of the victims right
24 here and --- at the headgate, okay, and I went ahead
25 and switched teams because I knew they were going to

1 have a hard time trying to load these other bodies and
2 map them, and it was not pretty, so I went up there to
3 help Josh and Leverknight load those victims. These
4 had already been previously loaded back here and they
5 were in body bags. We put them in the stretchers, put
6 their stuff with them, and I helped carry a few of
7 those down here. When I saw that that was going good,
8 I left my other team member with those teams, and I
9 went up here to help them on the longwall.

10 Q. Yeah, on the longwall ---.

11 A. Eighty-five (85) and 105, and helped load those
12 victims.

13 Q. Okay.

14 A. Because there had been an issue outside where that
15 someone had agreed or some team had agreed --- in
16 fact, that became an issue outside before we ever went
17 underground who was going to load those bodies. They
18 said --- the company, I guess, had promised some of
19 the teams that were coming to do the recovery work,
20 the rescue work, that there would be a medical
21 examiner to load those bodies. That's what they
22 promised them. Well, that didn't happen right then,
23 and so I volunteered. And one of the teams made a big
24 issue of it in the command when they were getting
25 briefed, and I just volunteered my guys to do it. I

1 said, not a problem. I pointed at our three guys that
2 were in there with me, and I said, we'll go load them.
3 I said, if that be the case, you don't even got a
4 problem. Just hand us the body bags, and we'll get
5 them. And the teams did the mapping. And the State
6 guy helped also up there in loading the bodies. But I
7 knew they needed the help up there when they got up to
8 that. And it was low across that longwall face, so it
9 was bad conditions. And some of those bodies were up
10 under the change of air and, you know, we did whatever
11 we had to do. That was the other time I was
12 underground.

13 Q. Okay. When you said you mapped the area, you're
14 referring to basically you mapped the stuff that you
15 all relocated, moved from its present position to be
16 able to bring in the permissible ride in to transport
17 the victims?

18 A. Down to the track, yes.

19 Q. And that map ---?

20 A. In fact, we even had to move some on the track
21 there to be able to get those permissible rides in by
22 where we had 78 there, a couple crosscuts. We had to
23 move a pipe and some structure and --- I know the
24 State was there with us, too. I thought it was Jeff
25 Bennett, but it might have been somebody else. But we

1 all signed that map, so it's in the ---.

2 Q. Somebody's got the map?

3 A. Yes.

4 Q. Okay. When you said you all signed it, you
5 mean ---?

6 A. Us three, the guy that was doing the mapping on
7 the --- with the map, because it was the only map we
8 had, and me and the State guy.

9 Q. And that guy would have been a mine rescue member
10 from another team?

11 A. Yes.

12 Q. Okay. I'm going to switch gears and just talk a
13 little bit about outside now. Did you have any input
14 in developing the underground rescue and recovery
15 plans? Why I ask, because I know one of the things
16 you all do is supposed to have somebody in the command
17 center to look out for you all. And do you all ---
18 did you all have any input or a chance to have input
19 in those?

20 A. We had some input, but it was very limited. John
21 Urosek had --- you know, he's a team member, as far as
22 I'm concerned. He wears apparatus with us and
23 practices with us. And you know, so John reviewed
24 something and he asked me a couple questions a couple
25 different times about, you know, should we be --- you

1 know, and I forget exactly what they were, but yes, we
2 have some input into it. And I had it through John
3 Urosek and --- you know, when I looked at them, there
4 was only a couple issues. I don't think he added that
5 much to it, but you know, there were some additions to
6 it, but --- some things that came up.

7 One of the things was how we were going to recover
8 the bodies. I know we had some input into that, those
9 plans a little bit. You know, that's where we came up
10 with the powder bags with the maps in them and the
11 flagging and, you know, some baggies to put some stuff
12 in, you know, if you found detectors and what have
13 you. I know there's a couple detectors still laying
14 in a couple places where we picked up some victims,
15 but they had already been bagged, so I didn't bother.
16 One of them is right up here at the headgate, back on
17 that track. We saw it there. But I think, you know,
18 we had some input into the plans.

19 Q. Okay. Did you play any role at all in
20 establishing an atmospheric sampling program for the
21 underground operation?

22 A. You mean from where the samples were being taken?

23 Q. Yeah.

24 A. You know, like over --- yeah, we helped set up
25 some stuff.

1 Q. No. When I say the overall plan, not that you
2 physically helped, but the over ---.

3 A. Yeah. We looked at some stuff with John about
4 where they were going to take remote samples up on 22
5 Headgate and what we were going to do about this area
6 up here that, you know, we weren't getting into. And
7 I think there was some discussion about the Glory Hole
8 up here and where we could get some samples from. And
9 also even beyond that, we had talked about the seismic
10 up there at 22 because we figured that was where
11 somebody --- if they had a chance to get in a refuge
12 alternative, that's where they'd be. In fact, I
13 didn't even know about this refuge alternative up here
14 at the longwall headgate until I was well into it. We
15 went --- you know, before we discovered --- or talked
16 about this one. But then we talked about those
17 cameras to go down the boreholes, to look at those.
18 So yeah, I was in on those discussions because I was
19 there in the command, you know. So if you were in
20 command, it was easy because you were right there
21 sitting.

22 Q. I guess --- well, the operation, we all know, ran
23 from April 5th through April 12th, basically around
24 the clock. To provide the briefing of the teams,
25 which you often do, I mean, did you have one shift and

1 two other people from the mine emergency operation ---
2 did MSHA have briefing responsibility for our team
3 members or ---?

4 A. We had --- I had three --- our team trainers are,
5 you know, our most experienced team members, okay.
6 And we --- they get selected by the unit leader as a
7 trainer. And they are on the off shifts. Usually
8 there's somebody on my shift. But like I say, Chuck
9 wasn't there. Usually I'm on dayshift with Chuck or
10 David Leverknight, who's now a trainer --- or a unit
11 leader. But I had David Leverknight on another shift.
12 I had --- I'm thinking David was on the shift with me,
13 but we kept him underground, so I guess he would have
14 been one. But we had Jerry Cook on another shift, and
15 we had Eddie Sparks on another shift. So you know,
16 they're assigned the other shift so that they're
17 coordinating the surface in a rotation in the command.
18 So you know, Eddie Sparks and Jerry Cook did some,
19 too.

20 Q. Did you --- I guess, were you involved in
21 developing any of the actual exploration plans? Have
22 any input?

23 A. We talked about the only input I had into it was,
24 you know, how the communication was going to go. We
25 were talking about the, you know, supplying repeaters

1 for the teams. And they actually reprogrammed some of
2 their radios all on --- in fact, they reprogrammed all
3 their radios over to talk to our radios and to our
4 repeaters. And there was a couple sets of repeaters
5 on the property that a couple other teams had, you
6 know, brought in to have communication that talks to
7 each other. So we reprogrammed those radios so we'd
8 have communication. And there was some --- quite a
9 bit on the --- you know, coordinating on the body
10 recovery thing and being able to decontaminate and
11 what we'd need to be able to protect ourselves. On
12 the exploration we talked about what things we'd run
13 into, whether it would be smoke, whether it would be
14 CO to worry about. You know, John Urosek, you know,
15 he foresaw by the readings that there was a heaving
16 somewhere or fire, and come to find out we found two.
17 So they ran into hot spots, so --- and one was actual
18 flames and the other one was actually not a hot spot
19 but smoke. But you know, those --- in fact, they
20 found that smoke when they went through this
21 cut-through here, that team. I wasn't underground,
22 but I was outside when that happened, in the command.

23 Q. What cut-through are you referring to, Virgil?

24 A. The cut-through between going across from the
25 longwall headgate to Headgate 22, the new headgate.

1 So they ran into smoke there. In fact, we briefed our
2 teams and --- not only did I brief them, but John came
3 in and he briefed them, too. He said, you need --- we
4 were whispering over there to the side. It was
5 nothing, you know, secret, but he was telling our
6 guys, listen, tell me if you got smoke. You know,
7 tell me if it gets hot, you know. So they gave us
8 some temperature readings a couple times, and I saw
9 some people in the command look like sort of odd,
10 where they come up with that at. And we told our
11 guys, you know, tell us if it gets warm, tell us if
12 you got smoke, because there's something happening
13 then. And of course, he was correct.

14 Q. I guess at any time did the MSHA team members then
15 have to go under apparatus?

16 A. Uh-huh (yes). Yes. Yes. Actually, when Jerry
17 Cook and --- the first day, Jerry and Mike were both
18 under apparatus. They had tried to go up this
19 diagonal going up towards the Glory Hole, and I think
20 they had went under apparatus going up into 22. So
21 that was the apparatus wearing, up in here.

22 Q. And that I concur.

23 A. And actually, it got a little better. It was
24 actually outby here right at first and then it began
25 gradually moving outby.

1 Q. When you say outby here, ---?

2 A. Outby the longwall headgate. Excuse me. But then
3 it gradually got to where you could go further without
4 an apparatus on.

5 Q. Okay. And I imagine then that occurred on the
6 first day, there was numerous days --- attempts later
7 that day where they were under apparatus also?

8 A. Yes. Yes. Almost every time we went searching
9 for bodies, especially up towards 22 Headgate they
10 were under apparatus.

11 Q. Okay. Were the apparatuses then benched onsite,
12 the apparatus?

13 A. Yes. Yes. We bench our apparatus in our truck.
14 Our protocol is that we bench them as soon as we get
15 them on the property and then when our guys walk up on
16 an apparatus that they're assigned or whichever is
17 next in rotation, whether they're assigned or not,
18 then they've got little clip-on notes that tells them
19 what the minimum they've got to check before they take
20 it, before they pick it out of the truck. So before
21 they pick it up they've got to at least do those
22 minimum checks. They might not be a full bench
23 because they had been full benched. Like if they
24 carry in and bring them back, flush the lines out and
25 what have you and take the ice out then they have to

1 do specific things before they can do a new --- if
2 they wear an apparatus fully turn it around.

3 Q. And they're responsible --- the team member is
4 responsible ---?

5 A. Yeah. Every team member is responsible for the
6 apparatus they pick up and take underground. Now, all
7 of us are responsible to get them ready for that. We
8 share that responsibility, but it's his ultimate
9 responsibility for his own.

10 Q. Okay. Again, just --- was there any problems with
11 the apparatuses that you were aware of for our team
12 members?

13 A. No.

14 Q. I have a quick question and this is back to the
15 victims ---.

16 A. There was one person --- you know, just address
17 that, there was a person somewhere, Fred Martin was
18 with him, I believe, or whatever team member it was,
19 that they got overheated or did something but that
20 wasn't one of our apparatus. And I don't think it was
21 a malfunction of the apparatus, I think the guy was
22 stressed.

23 Q. Okay. Do you recall when you examined or was
24 loading the victims or mapping the victims, ever
25 seeing an SCSR deployed by any of the victims?

1 A. No. Those --- the victims that I saw had no time
2 to respond by actuating or donning an SCSR. Everyone
3 that I saw --- the only --- the SCSRs that were
4 deployed, they weren't deployed by the people. Okay.
5 Except for the guy that --- the ones at the manbus way
6 outby that was the survivor. Okay. Those guys did
7 not have time to deploy. If one guy deployed, which I
8 saw a couple that were, they were done by the forces.

9 Q. Okay. You mentioned a little bit about the
10 briefings for the teams and about the lack of maps and
11 that, I mean, how was the overall coordination between
12 your rescue operation and the command center? How was
13 that coordinated?

14 A. It wasn't that bad. I mean, I know it sounded
15 like I was really putting them down, but you know,
16 they had coordination. I think it was really tough
17 the way they did it. I think they should have had,
18 let's say, an area that they closed off in the shop
19 and put a map up instead of having the doors open and
20 hearing that fan running. Okay. So the background
21 noise was really bothersome. All those people milling
22 around out there in that yard at the trackway was
23 distracting. I think that they should have had a
24 certain time so that the teams --- I mean, some --- a
25 couple times we had to go get State guys out of the

1 trailer. A couple of times I'd ask them --- I'd miss
2 them and they'd tell me when they were going to do a
3 briefing. So I think the coordination of when they
4 were going to brief was not good. Although the
5 briefings were adequate. I mean, you know, what
6 little they briefed on. I mean, you know, most of the
7 time we was just going in there to do a search and
8 they knew what area because they'd lay a map out on
9 the manbus out there. Then the teams knew where they
10 were going, and what we did was dropped in with the
11 team, you know, and so did the State.

12 So you know, I think it could have been better. I
13 think the briefings were, if anything, lacked. It was
14 the briefings and the debriefings. And the
15 debriefings weren't much better than the briefings. I
16 mean, they'd call a couple of them up in there and ---
17 into the command and get a few answers, but it wasn't
18 like everybody was there. I mean, we should have had
19 a debriefing with the State, Federal, map man and the
20 team captain. That's who should have been in that
21 debriefing. And sometimes you wouldn't have the
22 State, sometimes the State wouldn't have us. It was
23 like --- I think they could have coordinated that
24 better. And it --- I guess they did the best with
25 --- as tore up as they were.

1 Q. Each time that MSHA, any of you guys went
2 underground, did they carry an apparatus with them?

3 A. Yes. Never did our team members ever go without
4 an apparatus and an SCSR.

5 Q. Okay.

6 A. The reason we take an SCSR is so that if we lay an
7 apparatus down at the fresh air base or somewhere,
8 then we can go and walk off from it and get back to
9 it. It's like if you've got to go carry something up
10 the track from a manbus then we want to have an SCSR
11 or if you have to carry 38 pounds on your back and try
12 to carry that stuff, too, so you know, if a guy needs
13 to go get --- help carry a roll of wire out for
14 communications, and he's within 1,000 foot of his
15 apparatus he can --- we allow that, if they're not
16 donned in the face base. Okay. And that's the reason
17 we carry an SCSR with us and an apparatus.

18 Q. Okay. Back to the briefing and debriefing. What
19 I guess I understand is they didn't establish a set
20 time, they just ---?

21 A. It was whenever they got ready. And I'll tell you
22 what, a lot of times you'd get ready and you thought
23 you were going to go, and then you didn't go. And
24 then it was real aggravating, disappointing, of how
25 long it took to get from the surface to 78, you know.

1 I mean, a lot of times we took --- it was like
2 two-hour turnaround, you know, from --- and to get any
3 supplies or anything that's a long trip.

4 Q. Okay. Did all the personnel assigned to travel
5 into the mine before going underground know what the
6 specific plan was including the restrictions and
7 limitations? Did the whole team know?

8 A. Yeah. Yeah. I think --- I think the team knew.
9 That was spelled out in the written plan. There was a
10 written plan, but it was more generic and then they'd
11 go specific when, you know, when they'd go underground
12 on certain things, where they were going, and they'd
13 have a map and they'd say, well you're going to this
14 area and they'd give a couple of maps out. And then
15 you'd go. And we'd assign a guy to that team,
16 whichever team it was.

17 MR. STOLTZ:

18 Okay. I have some other questions on
19 some of the auxiliary things that were going on but at
20 this time I was going to let Terry and Tim and see if
21 they have any follow-up questions on ---.

22 MR. FARLEY:

23 Of which I have none.

24 MR. STOLTZ:

25 Jim?

1 EXAMINATION

2 BY MR. BECK:

3 Q. Virgil, when you were talking about the three
4 district managers being in a command center, working
5 together and everything ---

6 A. Yes, sir.

7 Q. --- and I think you made mention that Don
8 Blankenship was somewhere off on the side, he didn't
9 say too much. Was Chris Adkins ---?

10 A. Chris Adkins, he's the one I was --- he was making
11 a lot of the calls and that was the guy I was trying
12 to remember. He's a big fellow, Chris Adkins. Chris
13 made --- he was --- as far as I was concerned he was
14 running the company's command, you know, side of the
15 command, Chris Adkins.

16 Q. You made mention that around 36 to 40 Crosscut you
17 noticed some stoppings I think you said knocked out?

18 A. Yeah. It was where I could see out of the manbus
19 and we were riding by there, and I saw you know, some
20 damage, some cracking on a couple and then a couple
21 partially, you know, a few blocks out.

22 Q. Was that the first sign that you noticed ---
23 noticed signs of destruction?

24 A. Yeah. And there was some, you know, a few things
25 in the trackway like bags blown out and just some

1 random stuff. And then as we progressed it got much
2 worse, ---

3 Q. Got worse, okay.

4 A. --- which is what you'd expect.

5 Q. Right. Did you ever notice anything about the
6 roof bolts in your travel? Was there anything
7 peculiar about the plates or pizza pans?

8 A. You know, I didn't try to determine or to figure
9 out where the explosive force is coming from, because
10 at that point, it didn't matter to me.

11 Q. Right.

12 A. Because we were in there for --- our goal was to
13 find the thing. And I did notice some of those but
14 they were in my notes ---

15 Q. It wasn't your priority.

16 A. --- and that wasn't our priority then, because you
17 know, that --- that's going to be an investigation and
18 Cleve Stephen would probably be the best one to ask
19 about that record.

20 Q. And one last question, during your time there at
21 Upper Big Branch, did you ever hear any talk about any
22 Massey people going underground without apparatus
23 right after the explosion?

24 A. I heard a couple comments from one of our team
25 members and I knew that they'd --- and that doesn't

1 surprise me at all. If you had people in there and it
2 was your mine and your friends or your workers, you'd
3 probably go in, too, as far as you could go reasonably
4 without endangering yourself. So that doesn't
5 surprise me at all. It's happened at everyone I've
6 been too. It happened at Kentucky Darby, it happened
7 at Sago, it happened here, I'm sure. And you know
8 what, that's not surprising.

9 Q. Human nature, probably.

10 A. I would go. I'd probably take an apparatus and go
11 farther.

12 MR. BECK:

13 Well, Virgil, I'd like to --- on behalf
14 of the independent team commend you and thank you for
15 your work in this rescue and recovery.

16 A. I appreciate that.

17 RE-EXAMINATION

18 BY MR. STOLTZ:

19 Q. Virgil, before we move on, I guess a couple more
20 follow-up questions. I believe you said that --- if I
21 remember you right, was Elizabeth Chamberlin and other
22 lawyers were onsite and you stated that they had more
23 influence than you'd think. What did you mean by
24 that?

25 A. That's probably a bad comment. Well, you know,

1 when you look --- and I've been to several of these
2 with --- and I've seen Elizabeth when she was in with
3 Consol; okay. And I know that her background goes
4 back into mine rescue, too, because she's had several
5 events that she's learned things from. And she learns
6 how to --- and I'm not saying it's all bad against
7 Elizabeth. She's learned that she has to depend on
8 her teams, on B teams, to get the information, to do
9 the rescue, if they're going to get a rescue. And so
10 that's more or less what I meant, but they do have
11 some input because they got some background, you know,
12 and that's sad to say, but the lawyers get background
13 on mine rescue. But if they stick around long enough
14 and enough of these happen, you'll get experience.
15 And so that's what I meant about Elizabeth. And I
16 don't know whether there's some other lawyers there
17 but I'm sure there were. I just have past experience
18 with her and that's why I said that. But it's true,
19 you know, they know what it takes to get people in.
20 They know it takes many teams. I think the experience
21 they brought is they got a lot more teams and had them
22 on hand and on call. So that's, you know, not such a
23 bad thing.

24 Q. You mentioned on April 6th that you traveled from
25 78 Crosscut up Tailgate One North, so you'd get to the

1 crossover. Did you travel any further inby?

2 A. I got all the way to right here, to the headgate.

3 Q. To the tailgate. No, no, I'm referring to the
4 tailgate.

5 A. No, no. I did not go into ---.

6 Q. You come up ---?

7 A. I come up here and made a crossover at the ---.

8 Q. To the crossover ---?

9 A. To the crossover and straight up north.

10 Q. Okay. Damage, what did you visually see as you
11 traveled from 78 ---?

12 A. I was tripping over everything. I'm telling you
13 it was black and there was stopping blocks, you
14 couldn't tell which way they got blown. I mean, they
15 were all over the place. There was man doors, there
16 was the cables, like say --- I mean, I went up there
17 and I cut the belt so we could get, you know, through
18 there with the supplies. It was like, you know, it
19 was a --- there was a lot of destruction there. They
20 had --- I think it was propagated on down and there
21 was probably a little bit more than methane, I think
22 there was some dust involved in it to propagate it
23 down in there.

24 Q. The amount of destruction you had seen, now, was
25 there a difference between the Tailgate One North area

1 of the crossover or the Headgate One North? I mean,
2 you've been on many of these.

3 A. It looked like more heat over here in the --- off
4 the headgate than there was over in these crossings.
5 It looked like more pressure damage over in this ---
6 over in the area from 78 on up. It looked more like
7 forces, okay. And when you got up here along the
8 Headgate One North, you saw some heat damage.

9 Q. Okay. And then what you were saying was the force
10 was 78 up Tailgate One North and through the
11 crossover?

12 A. Yes.

13 Q. Okay. And then more heat --- yeah, well forces
14 and heat.

15 A. Forces and heat up in the headgate.

16 Q. Okay.

17 A. Because you have --- these guys had their hair
18 burned off of them.

19 Q. Where are you saying these guys are at?

20 A. The ones in One North.

21 Q. Okay. The Headgate One North area?

22 A. Yeah. But the longwall they still had hair.

23 Q. Okay. The victims on the longwall?

24 A. The victims on the longwall, they still had hair.

25 Q. Okay. Did not see flame there?

1 A. Well, they may have saw it but not as much.

2 Q. Okay.

3 A. I'm not going to say they never saw any heat.

4 Q. Okay. I'm going to shift gears on you now,
5 Virgil. I just want to basically --- I know this is
6 probably going to be one of your favorites, the
7 seismic system. I guess --- do you want a little
8 five-minute break?

9 A. Go ahead.

10 OFF RECORD DISCUSSION

11 A. Are you talking about seismic?

12 BY MR. STOLTZ:

13 Q. Yes. I wanted to just talk a little bit about
14 MSHA's seismic system. I guess you know and I know,
15 the seismic system was not deployed at the Upper Big
16 Branch?

17 A. Yeah. That was a day in between I went these two
18 excursions.

19 Q. Who is basically responsible for deploying that
20 unit?

21 A. Jeff Kravitz.

22 Q. And who's responsible for getting it ready?

23 A. John Gibson was there. Tom Fearsack, not Tom
24 Fearsack, Tom Barcam was with John and Ed Chuta was
25 there. I drove the --- we drove those trucks up and

1 we looked over the --- we went up to the site, to the
2 borehole site.

3 Q. When you say we ---?

4 A. I'll say who --- the seismic truck and the
5 generator truck for the seismic. I drove the
6 generator truck, John Gibson drove the seismic truck.

7 Q. When you say drove it, where are you driving it?

8 A. We had it at the mine site. It was already at the
9 mine site because Chuta and Gibson and a contractor
10 brought the trailer. We found a place when we went up
11 --- me and John DeRossi and there was some people went
12 up, a group of people, went up to Headgate 22, up to
13 the place area there, on the surface. And looked over
14 the site where we were going to take the truck to
15 where they had been making a road. And we came back,
16 we found a place for down at the bottom of the hill
17 for the supply truck to be pulled by the contractor.
18 Which is a semi driver. And I led that crew up there
19 and ---.

20 Q. And what day was that first?

21 A. That was in between these two --- the 6th, 5th,
22 6th, 7th --- maybe the 7th. And I'm just guessing.
23 But what we did we took the trucks and dropped those
24 trailers off. It was a day that we had, you know, and
25 I took some team members to go set that system up.

1 And we drove it up there. We set it out. Like I
2 said, I led the way with a generator truck. John was
3 behind me with the seismic truck. When we got up to
4 the site where the borehole was, you know, down and
5 they had surveyed, you know, we parked those trucks,
6 strung cable out. I had some team members with me.
7 They helped set the unit up and that was on the end of
8 dayshift. I let the next shift stay and you know, set
9 those rays out. And they were trained with John and
10 Ed and set the rays out. And there was another
11 engineer came up and said where are you going to need
12 those last holes to be drilled, you know, for putting
13 off the shots so they could hear it underground. And
14 that's the extent that I did with the seismic.

15 Q. Okay.

16 A. We had the power on before I left there.

17 Q. Okay. Well, I'm going to back you up and then
18 walk you back through it again. So if I understand
19 you right, the seismic system was onsite at the mine,
20 it had arrived at some point in time before you drove
21 it up to the boreholes?

22 A. Yes. It was down at the main gate.

23 Q. And it was deployed setting there. Sometime after
24 your excursion underground you said, April 6th, April
25 7th, you assisted in setting up the seismic unit and

1 all these transporting the seismic unit up to ---?

2 A. And hooking it up and powering it up, but we did
3 not complete the installation and all the arrays.

4 They were doing the arrays when I left.

5 Q. Okay. And that was to --- you said --- mentioned
6 a borehole. And that borehole is ---?

7 A. Is at 22 Headgate.

8 Q. Okay.

9 A. And we were near there because that's where we
10 figured that --- the refuge alternative, if anybody
11 was underground they'd be in there and hear, you know,
12 hear that. Now, I know that they did not listen that
13 shift for it because it was not, you know, completely
14 set up. But somewhere in the next 24 to 48 hours I
15 know that they had it operational.

16 Q. Okay. But you left --- when you left there the
17 rays still had to be set up?

18 A. They were being set up when I left.

19 Q. Okay. But the vehicle had power, so if you had to
20 get your rays to it, and then you mentioned you talked
21 to somebody about the drill holes needed for the blast
22 shot?

23 A. Yes.

24 Q. And was that taking place then or is that ---?

25 A. That --- I think we passed a drill, you know, one

1 of the other times I was up there I know I passed a
2 small drill and the guy said we're going to use this
3 other drill. There was like two or three drills on
4 site up there. And I know that the only other thing
5 --- now, I don't know whether it was that same day or
6 after that that I took the readings up off of that
7 fan, but that was like a day or two later I took some
8 readings up there at that borehole off the fan,
9 because they didn't have high range detectors to be
10 able to get the readings. I pulled a few samples for
11 you all. Actually for toxics. And I had some
12 syringes in the back of my truck that day and the CNN
13 caught me on news getting that.

14 Q. Okay. Did --- I guess ---.

15 A. Not only did I think --- I got annual readings on
16 that fan, I don't know whether it was a day or two
17 later, and I got the velocity and air reading and how
18 much was coming out of that pan, the de-gas pan. And
19 pulled some samples. And then they set up --- your
20 all's truck was being set up there for pump. No, it
21 was the district pumps, they were setting the remote
22 up. It wasn't your truck. It was just a remote
23 station.

24 Q. Okay. I'm going to back you up. Do you think
25 that the --- when the seismic truck arrived on site,

1 was that entered into a log sometime? No?

2 A. I have no idea.

3 Q. Okay.

4 A. I know along with the seismic truck the TV proto
5 truck was setting down there, too.

6 Q. The seismic then, you said that the rays were set
7 up the next shift after you left. Do you believe it
8 was ---?

9 A. Probably operational within, you know, 12 hours of
10 that, I would think.

11 Q. After you left for that shift, then you had no
12 further involvement with the seismic installation or
13 monitoring or anything with the seismic ---?

14 A. No. That was initial setup. We helped them set
15 up, and that was that. And I had my team members
16 involved in that. And then some of them helped do the
17 tying on to the --- in fact, when I took those
18 readings, it was me and Andy Sparks walked out there
19 and took those readings.

20 Q. Are you referring to the ---?

21 A. Fan, at the de-gas fans.

22 Q. Samples for the de-gas fan on --- is it the
23 borehole sample, the borehole at 22 Headgate?

24 A. Yeah. That's the section.

25 Q. Do you recall what type of --- you said you

1 measured the velocity and quantity at the fan?

2 A. Yeah. It's in my notes. You all got a copy of
3 them.

4 Q. Do you remember what type or air quality you were
5 getting out of the fan, measures?

6 A. Quality was high CO. And in fact, it was near
7 override. There was a percent or two of methane. And
8 the oxygen was --- it was not that bad. The oxygen
9 content was pretty good.

10 Q. Okay. And that would have been on --- do you
11 remember approximately what date?

12 A. That would have been the day they started that
13 fan, that de-gas fan, because when they started that
14 de-gas fan, they didn't have --- they had nothing but
15 a Solaris and they roped it off, and I know I just
16 happened to be going up there.

17 Q. I guess I'm going to move on quickly from there to
18 the actual discussion about some of the boreholes.
19 Did you have any role in planning the drilling of
20 those boreholes?

21 A. John Urosek had most of that. Him and the
22 district, they were deciding, I think, between him and
23 the district managers and of course the mine.

24 Q. Do you recall any discussions, initial discussions
25 about the boreholes? I mean, you were there, you

1 said, if I recall, fairly early in the process on
2 April 5th. Do you remember any conversation about
3 boreholes or ---?

4 A. I remember a lot of conversations about the Bandy
5 fans and about the readings there. And they were
6 trying to get some trans so that we'd know when to go
7 and when it was safe for us to go underground to do
8 more search for the victims. And I remember somebody
9 --- in fact, I had some in the truck. I had --- there
10 was two or three boreholes that we were monitoring and
11 I had those numbers in the truck and we were trying to
12 --- we were concerned about some of the trans. And
13 every once in a while we had some surge in CO, it
14 wouldn't drop and some methane that we got that pulled
15 us out. Okay. Since we didn't know where the CO was
16 coming from. Anytime there was a methane --- high
17 methane reading, that we, you know, tried to protect
18 our team members. And I guess the worse thing about
19 this is how far it is to get the guys out once there
20 is an excursion of that you knew it was going to be a
21 long time. And there wasn't no use to drop everything
22 and run, I'll tell you that. You know, if you're two
23 miles --- I mean, five miles underground, you're not
24 going to get out in the next ten minutes, you know, it
25 ain't going to happen. Even if you had a ride up

1 there you'd be talking an hour or two, an hour, plus
2 we had to walk. So we had to walk down to the ride
3 and then get everybody together, and you know, of
4 course we were, you know, in lines up through there
5 scattered out. Although, we had communication.

6 Q. Do you recall how long it took these --- to travel
7 from the boreholes to the mine?

8 A. Well, about 40 minutes, 45 minutes to get up to
9 that 22, that's what it took me.

10 Q. Okay.

11 A. Yeah. Anytime I'd send somebody up here they were
12 gone for two hours. In fact, some of our team members
13 complained about it. They said ---.

14 Q. It was a two-hour roundtrip?

15 A. Yeah. Because they they're not ready for ---
16 they're up there doing some work, they're not ready to
17 go underground down here.

18 Q. Yeah.

19 A. Because the face is that far away.

20 Q. Besides that time, you know, a couple trips up
21 there, did you take any more trips --- were you
22 involved with anything else that was going on up there
23 associated with the boreholes?

24 A. I only remember being up there about three --- two
25 or three times.

1 Q. Do you recall ---?

2 A. I did take some team members one time to show them
3 where the borehole was, so that was one trip. And
4 then I had to do some stuff, work up there. Because
5 like I say, we like to keep our guys busy. Time
6 doesn't go very fast if you're standing --- sitting
7 there for eight hours. Once they get their apparatus
8 ready and they got everything ready, we say if you
9 think there's going to be a break for three or four
10 hours, let's get them to do something else. What do
11 you have.

12 Q. Do you recall any discussions on the use of a
13 borehole camera when employed; do you know?

14 A. We discussed borehole cameras at the --- as a
15 matter of fact, they started putting some holes down
16 at the refuge alternatives. That's the only talk that
17 there was about putting the borehole camera down. I
18 don't think they ever did. I know the boreholes were
19 started a couple of them, but I don't know whether
20 they ever got down to put the cameras in, because we
21 got to them before they ever did that.

22 Q. Was there a robot --- MSHA's robot ever used?

23 A. No, it sat there in the trailer. If we could have
24 gotten it, it would have been a great place to use it,
25 if we could have got it up to that cut-through to the

1 22 Headgate. But we couldn't get it there because of
2 all the debris that we had to get over, because it
3 only has --- I think they're down to about 3,000 foot
4 of cable on it, and you know, so we would have
5 physically had to get it here and set it up at the
6 longwall headgate and cut through it. And it would
7 have been useful up there if we could have got it
8 there. And it was onsite ready to go.

9 Q. Okay. And there's a limitation with MSHA's robot?
10 Now, are you saying because of the debris or is it
11 just the physical ---?

12 A. It was physically getting it up there. I think it
13 would have went across a lot of the debris. Now, it
14 wouldn't go across the belt structure and stuff if
15 that was in the way. You know, if there was some man
16 doors or something like that is going to stop it, but
17 you know, cinder block, crib blocks, it would go over
18 that.

19 Q. Did any miners approach you during your time at
20 the mine concerning or regarding anything about the
21 mine conditions at this mine?

22 A. No.

23 Q. Did you write any notes during any part of your
24 involvement in the accident, and if you did, could we
25 get a copy of them?

1 A. You do have a copy of it.

2 Q. We do?

3 A. I gave them to Norman Page

4 Q. Okay.

5 A. I typed them up and gave them to him.

6 ATTORNEY FERGUSON

7 Where are the handwritten ones?

8 A. They're in my office.

9 MR. STOLTZ:

10 Terry ---?

11 A. You can't --- it would be very hard to read mine.

12 I couldn't hardly read my --- that's the reason I
13 wanted to type them over so I could read them.

14 MR. STOLTZ:

15 Let's do a two-minute break.

16 SHORT BREAK TAKEN

17 BY MR. STOLTZ:

18 Q. I guess I wanted to bring you back to where you
19 talked about the back-up maps and plans available for
20 debriefings. Did you get a feel that at that point in
21 time that Massey management involved in --- was
22 involved in the decision not to provide you all with
23 enough plans and maps, or I guess I'm asking, why do
24 you --- you know, why was ---?

25 A. Why did I make a point of that? I just thought

1 you know, I can see when you start out that you don't
2 have a lot because they're scrambling. Okay. But
3 this thing carried on long enough that that shouldn't
4 have been the case. Okay. We should have had ---
5 everybody should have had plans, all the team members.
6 At least a couple per team and the State should have
7 had one for each of their members and we should have
8 had one for each of our members to carry. I guess I
9 could have gotten one and made a copy, but then when
10 they changed that I'd have to make another copy for
11 every one of them. So what I did was briefed them on
12 the latest one before they went underground. And sad
13 but true, they didn't have them for everybody every
14 time. They just went there.

15 I didn't see the State men that we went with had
16 the maps that I expected that they should have, too.
17 You know, I'm not speaking for them, but I know I was
18 with a couple of the State guys and they didn't have
19 them. Only the map man for the company had them and
20 the guys at the fresh air base. And the couple maps
21 outby there was only one of them we went up there and
22 mapped this area outby, so --- you know, I don't think
23 it happened that fast later on that they couldn't have
24 planned a little better. Maybe it was their planning
25 that lacked, not so much the plans but they didn't

1 plan as well as I thought they should have for the
2 areas.

3 Q. I guess ---.

4 A. They're getting larger maps than what they ---?

5 ATTORNEY FERGUSON:

6 Who's they, the company?

7 A. The company. You would think that if they knew
8 what area they were going to they would have been able
9 to hand three or four maps out to each team, you know,
10 for that area. Because they split up. I mean, these
11 guys split up. Everybody is not in a group. You had
12 somebody in an entry and other team members in another
13 air course, if there would have been stoppings there
14 they would have been in another air course, but of
15 course they were gone. But they were in the other
16 entries and you had a map with the captain and a guide
17 map at the fresh air base. And that's what I saw.
18 And I saw that several times.

19 BY MR. STOLTZ:

20 Q. And I guess I'm going to lead you back, because we
21 all know that Massey is a large company. Massey, they
22 had your engineering office as you entered the mine.
23 They also have what they call Route 3 engineering. I
24 guess, we, meaning you and I, have been at disasters
25 where we dealt with small operators where very limited

1 number of maps, and I guess you were expecting that
2 since this is a large operator that they would have
3 had a lot better or more maps available, plans, and
4 better planning? Is that where you're leading us to?
5 A. Exactly. I would have thought that with this big
6 operation with this big of mine, with this much
7 engineering that they had, that they would have been
8 able to have a stack of maps if they --- if you know,
9 not that everybody on the site ought to have a map of
10 every place they're going to, but they should have had
11 them for the teams. If you got a team and you're
12 sending them in somewhere --- if I'm sending you to
13 Tennessee and I don't give you --- and you know, and I
14 give --- there's seven of you going to Tennessee and
15 you got three different cars I would think I'd give
16 you more than two maps. And that's what I'm saying,
17 that if you're going to send somebody somewhere you
18 ought to give them a map to get there and to know how
19 to get out.

20 And you know, not that we didn't know where we was
21 going generally, but you know, if I'm talking about a
22 crosscut there and I've got a number on it, I ought to
23 be able to refer to that on my map even if I'm over at
24 Number One entry and you're at Number Three entry and
25 somebody else is in Two and somebody is at the fresh

1 air base, we ought to be able to say I'm at 85
2 crosscut Number One entry and we ought to be able to
3 see a map there. But I didn't have a map. Let me
4 tell you, I went in there several times --- the two
5 times I went in I never had a map on my person. I was
6 using a map that I was with --- of course that was the
7 captain I'm with, so I'm going to be there with a map,
8 so I don't think it's a big issue, you know. Our guys
9 they get along without it. I mean, they get along
10 because they're going to be there with a map, but I
11 think it's poor planning not to have a plan and a map
12 for everybody that's a key player. And I'm talking
13 the State, Federal, your captain of your team and
14 maybe a map man on the team and the briefing officer.
15 Okay. So I'm thinking, you know, if I'm going in
16 an area and I'm going in this one area, I ought to
17 have a blow-up not just one map showing me, well, I
18 got you from this, you know, 78 Crosscut up to the
19 longwall face. You know, if I've just got a couple of
20 maps of that, that's pretty general. Now, what do you
21 want me to do up there and how am I going to map. The
22 only maps they gave out were the ones in the packets
23 in those powder bags to map those individuals. And
24 that's when they got several maps and they were in
25 those powder bags, the other map of those individuals.

1 And other than that I didn't see small maps to map the
2 place, any blow-up maps.

3 Q. Again, what was the quality of those maps?

4 Basically you just brought up an additional map, the
5 map that you all mapped for the victims in addition to
6 the maps the teams were using. The team map says your
7 analogy to basically an outside party could say it's
8 directions. If you use it for directions getting in
9 and getting out and knowing where you're at.

10 A. Yes. Or let's say I'm going through a
11 cut-through, you know, that's up there towards 22, you
12 would think instead of one big map or two big maps,
13 one for the map man and one for the briefing officer,
14 that you'd have had five or six of those. Not just
15 --- and I'm not saying a big blow-up but at least have
16 this area so that, okay, I'm 12 crosscuts up in here,
17 you know, and I've got to go 22, you know.

18 Q. And you didn't --- you're saying this area, you're
19 talking from ---?

20 A. But they didn't even have those maps, Rich. There
21 were very few of those around.

22 Q. Okay. What did you think of the maps, then, for
23 the actual mapping of the victims? I mean, that's a
24 key, another key, what of the quality of those?

25 A. Actually those maps were a blow-up right at the

1 intersection they were in. They knew where the
2 victims were, and some of those were drawing two or
3 three victims on the same one if they were in close
4 proximity. I know a couple of those were drawn like
5 that. You were so close that you might as well put
6 the two victims on the same map.

7 Q. Were they identifiable? I mean, did they have
8 spad numbers, crosscut numbers on them?

9 A. Well, like --- no, they put they crosscut numbers
10 --- yeah, some of those had spad numbers and crosscut
11 numbers.

12 Q. Some of them?

13 A. A couple of them just had longwall shield numbers.

14 ATTORNEY BABINGTON:

15 Off the record.

16 OFF RECORD DISCUSSION

17 RE-EXAMINATION

18 BY MR. BECK:

19 Q. One last question. The maps that they gave ---
20 Massey gave out, the ones that they gave you guys,
21 were they --- you might have asked this, Rich. Were
22 they accurate? I mean, you didn't find any like
23 missing crosscuts or stoppings that were in places
24 that shouldn't have been there? I mean, how was the
25 accuracy of the ones that they did give out?

1 A. Well, I think it was sort of odd that like they
2 had refuge alternatives supposed to be in an entry and
3 they were at crosscuts and stuff. So I don't think
4 that was as accurate as they should have been. Now,
5 most of the stoppings were going where I was, so you
6 know, that's the thing, but they did have the right
7 --- you know, I mean, like the belt was in the right
8 entry and I think the stoppings that were out were
9 probably, you know, shown right on the map. But at
10 this point, I think that there was a refuge
11 alternative in an entry and it was in a crosscut. Or
12 it was there and it wasn't there. So I think that was
13 not satisfactory.

14 Q. Thank you.

15 RE-EXAMINATION

16 BY MR. STOLTZ:

17 Q. One last one and then I'm done. Do you have
18 anything that you'd like to add that would be relevant
19 to the Upper Big Branch accident?

20 A. There's a couple of things I'd question on. And I
21 question why their tracking didn't show a whole lot
22 better where those people were at the time of the
23 accident. You know, because I think it should have
24 been more accurate than that. So that's pretty much
25 what I said.

1 Q. Anything else?

2 ATTORNEY FERGUSON:

3 On behalf of MSHA and the Office of
4 Miner's Health, Safety and Training, we want to thank
5 you for appearing and answering questions today. Your
6 cooperation is very important to the investigation as
7 we work to determine the cause of the accident. We
8 request that you not discuss your testimony with any
9 person aside from your personal representative.

10 After questioning other witnesses we may
11 call you if we have any follow-up questions that we
12 feel that we need to ask you. If at any time you have
13 additional information regarding the accident that you
14 would like to provide to us, please contact us at the
15 contact information that was previously provided to
16 you.

17 If you wish, you may now go back over any
18 answer you've given during this interview and you may
19 also make any statement that you would like to make at
20 this time. Do you have anything else you would like
21 to add?

22 A. No.

23 ATTORNEY FERGUSON:

24 No. Thank you very much for your
25 cooperation.

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STATEMENT UNDER OATH CONCLUDED AT 3:09 P.M.

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1 STATE OF WEST VIRGINIA)

2)

4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in
8 the foregoing deposition, was duly sworn by me on said
9 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;

12 That the proceeding is herein recorded fully
13 and accurately;

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



22 *Alicia R. Brant*