

STATEMENT UNDER OATH

OF

JERRY COOK, SR.

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 and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, May 26, 2010, beginning at 1:04 p.m.

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

2

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is May
26, 2010. I'm with the Office of the Solicitor,
United States Department of Labor. With me is Clete
Stephan, an accident investigator with the Mine Safety
and Health Administration, an agency of the U.S.
Department of Labor. Also present are several people
from the State of West Virginia. I ask that they
state their appearance for the record.

MR. BECK:

My name is Jim Beck. I work for the
State independent team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY BABINGTON:

There are several members of the
investigation team also present in the room today.
Clete Stephan will be conducting the initial
questioning.

1 All members of the Mine Safety and Health

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

19 Government investigators and specialists

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

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

13 You may have a personal representative
14 present during the taking of the statement and you may
15 consult with the representative at any time. For the
16 record, do you have a representative here today?

17 MR. COOK:

18 No.

19 ATTORNEY BABINGTON:

20 Thank you. Your statement is completely
21 voluntary. You may refuse to answer any question.
22 You may terminate your interview at any time or
23 request a break at any time. Since this is not an
24 adversarial proceeding, formal Cross Examination will
25 not be permitted. However, you may ask clarifying

1 questions as appropriate.

2 A court reporter will record your

3 interview. Please speak loudly and clearly. If you

4 do not understand a question asked, please ask the

5 interviewer to rephrase. Please answer each question

6 as fully as you can, including any information you may

7 have learned from someone else.

8 I'd like to thank you in advance for your

9 appearance here. We appreciate your assistance in

10 this investigation. Your cooperation is critical to

11 making the nation's mines safer.

12 After we've finished asking questions,

13 you'll have an opportunity to make a statement,

14 provide any other information that you believe to be

15 important. If at any time after the interview you

16 recall any additional information that you believe

17 might be useful, please contact Norman Page at the

18 contact information previously provided to you.

19 -----

20 JERRY COOK, SR., HAVING FIRST BEEN DULY SWORN,

21 TESTIFIED AS FOLLOWS:

22 -----

23 EXAMINATION

24 BY MR. STEPHAN:

25 Q. Jerry, thanks again for coming out today.

1 A. Yes, sir.

2 Q. Could you please state your full name and spell
3 your last name for the record?

4 A. My name is Gerald L. Cook, Senior, C-O-O-K.

5 Q. Thank you. Would you please state your home
6 address and telephone number?

7 

9 Q. Are you appearing here today voluntarily?

10 A. Yes.

11 Q. Are you currently employed by MSHA?

12 A. Yes.

13 Q. How long have you worked for MSHA?

14 A. Thirty-two (32) years.

15 Q. Where is your current duty station?

16 A. Pineville Field Office in District 4.

17 OFF RECORD DISCUSSION

18 A. Pineville Field Office, District 4.

19 BY MR. STEPHAN:

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

21 A. This time around, three-and-a-half years.

22 Q. And when you say this time around, you're implying
23 there's other times?

24 A. Yes.

25 Q. Will you tell us about those?

1 A. I started --- I started my career in Summersville.
2 I worked there for 13 years, transferred to Pineville
3 in '91, worked there until 2005. Went to Mount Hope
4 for --- until December 2006. Took a supervisor's job
5 in Pineville, went back to Pineville in December of
6 2006. And I've been there since.

7 Q. Okay. Thanks. Prior to working for MSHA, did you
8 have any mining experience?

9 A. Yes, I worked for Consolidated Coal Company at
10 Lin-Co Mine in Oceana, and I worked for Semet-Solvay
11 in Welch.

12 Q. What is your present position?

13 A. I'm a supervisor in the field office.

14 Q. And how long have you been in that position?

15 A. Three-and-a-half years.

16 Q. And who is your supervisor?

17 A. Luther Marrs. He's the assistant district manager
18 for District 4.

19 Q. How long have you been a member of MSHA's mine
20 emergency unit?

21 A. Twelve (12) and a half years, I think. I started
22 in '98, so it's been about 12 years ---.

23 Q. Do you have any specialized training or
24 certifications?

25 A. I'm a certified foreman for the State of West

1 Virginia and the only specialized training I have is
2 mine rescue.

3 Q. Okay. I have another question here about your
4 general mining experience, but is there anything in
5 addition to what you've told us so far?

6 A. No, no.

7 Q. Okay. Thanks. Just turning your thoughts to the
8 April 5th accident at Upper Big Branch, how were you
9 notified of the accident?

10 A. We were having a staff meeting in our field office
11 that day and we received a --- myself and Jules
12 Gautier, which is the other supervisor in the field
13 office, received a call from Luther Marrs. He
14 informed us that we'd had an accident or something
15 that happened at Upper Big Branch and we had 28 miners
16 missing. And he called us approximately four o'clock
17 that evening, 4:00 p.m.

18 Q. And after you got word of the accident, then, like
19 what did you do?

20 A. I was later called. We talked back and forth and
21 I asked Mr. Marrs if he wanted me to go to the mines
22 as part of the mine rescue operations. He called me
23 back and said, I want you to head to the mine Academy,
24 meet Mike Hicks and Mike Shumate and proceed to the
25 Big Branch Mines.

1 I left the field office at approximately 4:30
2 p.m., traveled to the Academy. We probably left the
3 Academy between 5:30 and 6:00 and traveled to Upper
4 Big Branch Mines. I drove the team truck and Mike
5 Hicks drove the command vehicle. And Mike Shumate
6 returned to his duty station, which was Mount Hope
7 Field Office, to pick up his government vehicle to
8 take to the mine site. And we met Mike at the mine
9 site. We probably arrived at the mine site at
10 approximately 7:00 p.m. that evening.

11 Q. Who did you report to when you arrived that night?

12 A. We got there. There was a lot of confusion going
13 on and I asked and I went straight to the command
14 center to let 'em know that we'd arrived there. I
15 talked to Link Selfe, which is another ADM for the
16 District 4, and told Link that we had arrived.

17 And at that time Link proceeded to tell me that he
18 wanted one guy to go under inside the mines with an
19 apparatus and we would be accompanied by Fred Wills.
20 And I told Link at that time that there would be two
21 of us going underground to the mine rescue, one to
22 work inby, one for backup, and if he wanted to send
23 Fred, he could send Fred.

24 At that point in time he told me to get me and
25 somebody else. I told him I was going underground, I

1 could take one more person. So at that time we
2 decided to take --- it'd be myself and Mike Hicks
3 would go underground. And Mike Shumate would remain
4 on the surface and set up our training --- I mean our
5 team truck when he got a chance to --- for us to make
6 room for us to put our team truck up.

7 So at that point in time he said, go ahead, get
8 ready to go underground. So I returned to the team
9 truck, informed Mike Hicks that him and myself would
10 be going underground and for Mike to try to set up our
11 vehicle. At that time, Mike Shumate benched the
12 apparatuses for Mike --- Mike Hicks and myself while
13 we got ready to go underground.

14 Q. Is Mike Shumate trained as an MEU member?

15 A. Yes, he is. He's a MEU person.

16 Q. Is Mike Hicks trained as an MEU person?

17 A. Yes, he is.

18 Q. And you said Fred --- I forgot his last name.

19 A. Fred Wills is a supervisor out of the Mount Carbon
20 Field Office for District 4.

21 Q. Is Fred trained as an MEU member?

22 A. No, he's not trained as an MEU member. No.

23 Q. Okay. Did you actually go in the command center?

24 A. I went in the command center.

25 Q. And, like, who was in there when you went in, if

1 you can recall?

2 A. To tell you the truth, I didn't really look. I
3 just went in and Link was there and Link met me. I
4 couldn't tell you who was in --- there was a lot of
5 people in the command center. I couldn't tell you who
6 was there. I didn't see Mr. Hardman, the district
7 manager. I didn't see him. I wasn't really looking
8 for anybody, just talked to Link and told Link we was
9 available, and I just communicated with Link.

10 Q. Link was your focus, though, when you went in?

11 A. Yes.

12 Q. Do you know who was in charge at the mine site for
13 the company when you arrived?

14 A. No, I don't.

15 Q. Do you know who was in charge at the mine site for
16 the State when you arrived?

17 A. No, I don't.

18 Q. And the same question for MSHA. Do you know who
19 was in charge for MSHA?

20 A. At that point in time, I did not. I just --- I
21 seen Link and I knew Link was there. He was the ADM,
22 so I don't know if --- I didn't know who else was
23 there with him.

24 Q. What surface activities were actually occurring
25 when you arrived?

1 A. There were quite a few mine rescue teams arriving
2 about the same time we were. They were congested,
3 trying to find places to park, get set up. I just
4 know there was a lot of people busy doing everything
5 up there, trying to get ready to go underground. And
6 like I said, once they told us, I just proceeded over
7 and got dressed and Mike benched our apparatuses and
8 we proceeded to go to a briefing before we went
9 underground. That was held by Mr. Hardman.

10 Q. Were you aware of anyone underground at the time
11 that you arrived at the mine?

12 A. No, I wasn't. I wasn't informed of anybody. At
13 the time I arrived at the mines, I was not.

14 Q. Do you know anything about what underground
15 activities were occurring at the time that you arrived
16 at the mine?

17 A. No.

18 Q. Okay. Was Link the only one that directed your
19 activities when you first arrived at the mine?

20 A. That's the only one I talked to. Link --- Link
21 informed me what we --- for us to get ready, that we'd
22 be traveling in for the mine rescue teams.

23 Q. Maybe you already mentioned this time, but I'm
24 looking for when a decision was made for you and other
25 MEU team members to go underground for rescue efforts.

1 A. It was a few minutes after we arrived. Like I
2 said, we got to the mine site, it seems like about
3 7:00. And I just went straight to --- after we got
4 there I found out and I went straight to the command
5 center, so it's probably going to be about 7:15, 7:20
6 that I talked to Link and he informed us to get ready
7 to go underground.

8 Q. Now, you actually did go and get ready to go
9 underground?

10 A. Yes.

11 Q. Did you actually travel underground during the
12 rescue?

13 A. Yes.

14 Q. How many different times did you go underground?

15 A. I went under the first night, on the 5th.

16 Q. Did you go under any other time?

17 A. No.

18 Q. Just one time?

19 A. Just one time.

20 Q. Could you tell us what equipment, like including
21 gas detectors, you personally carried underground?

22 A. Well, when we went in that first night, when we
23 went in that night, all --- all we took was a ---
24 detector, multiple gas detector with us, and our
25 apparatus. That's the only thing we took extra that

1 night.

2 Q. And what gases does the multi-detector test?

3 A. It does low C, CH₄, high CH₄, oxygen and carbon
4 monoxide.

5 Q. Who was the MEU supervisor on that shift?

6 A. I'm one of the trainers, so I don't know at that
7 point in time if you consider me the supervisor. At
8 that time we didn't have one of --- we didn't have our
9 team leader and we didn't have Virgil. I was a
10 trainer on the team, so I'm assuming I was the top one
11 at that time when we got there. And that's why I made
12 the decision for me, myself and somebody else to go
13 underground and informed Link what we was going to do.

14 Q. Did you take an apparatus with you when you went
15 underground?

16 A. Yes.

17 Q. How much of the work that you performed
18 underground was completed under apparatus?

19 A. I didn't ever don my apparatus that night. Never
20 did have to go under apparatus. The area that I
21 traveled, which was up on the longwall, we was in
22 fresh air the entire time we was there. I'm not
23 saying --- I mean, we never had over 50 parts per
24 million of CO.

25 Q. Were all team members' breathing apparatuses

1 benched and ready for use?

2 A. Yes.

3 Q. Where were they benched?

4 A. In our team truck. We had it parked in the middle
5 of the road, but Mike --- our team truck's set up that
6 we can bench anything we want to in our truck. We can
7 bench our apparatuses right in the truck. So at that
8 point in time, Mike Shumate benched the apparatuses
9 for myself and Mike Hicks at the mine site.

10 Q. Now, I asked you if you ever went under apparatus,
11 and you said no. But was there anybody on your team
12 or underground that you seen with apparatus on?

13 A. No. Not with the guys that was with me when we
14 went to the longwall. We never did don the apparatus.

15 Q. Did you ever become aware of any problems
16 associated with any apparatus?

17 A. No.

18 Q. Okay. So the reason that they didn't put them on
19 wasn't associate with a problem?

20 A. No, no.

21 Q. Okay. What was the purpose for your trip
22 underground?

23 A. Our briefing, which was held by Mr. Robert
24 Hardman, district manager for District 4, and he
25 informed us at that time that we had nine people

1 accounted for. I can't remember exactly what nine he
2 --- he never did basically explain to us what nine
3 people were accounted for.

4 He said we have 19 people unaccounted for at this
5 time. And he said, we have a fire boss, nine miners
6 that are located on 22 Headgate and six miners on the
7 longwall crew. And the other four, I don't know what
8 they were supposed to be or who they were supposed to
9 be, but he said that we had 19 unaccounted for.

10 And after we had --- that's basically what the
11 briefing was. And he also told us we had some high
12 concentrations of CO that didn't come out the fan,
13 informed us what we had to encounter in the mines.
14 But as far as what we was after, we was after trying
15 to find the 19 missing miners.

16 Q. Now, there's a couple maps in front of me here and
17 in front of you, too. And there's some markers over
18 there. And I'm just going to ask you if you'd please
19 describe this time that you went underground and, you
20 know, where you entered and how you proceeded
21 underground. And if you need a marker to map, to mark
22 on the map, that's fine, but if you don't mind?

23 A. This mines has three ways you can get into the
24 mines. You've got the North Portals, the South
25 Portals and the Ellis Portal, which is over here

1 (indicating). We went in, we proceeded in the North
2 Portals. We traveled the track from the North Portals
3 up to the Ellis, what we call the Ellis Switch, which
4 is located in this area here that is --- I can't. I
5 don't know if it's adjacent to the parallel ---.
6 That's where we traveled into the mines.

7 Q. Okay. When you say you traveled into the mines,
8 did you walk or did you ---?

9 A. No, we traveled on battery mantrips. When we went
10 underground, there was Mike Hicks, myself and two mine
11 rescue teams. At that point in time I don't know what
12 teams they were. I know they just had --- we had two
13 teams that was going underground with us. After we
14 got inside, I think we had a --- I think there was an
15 Eastern Kentucky Massey team with us and they was
16 another Massey team. I can't offhand recall the name
17 of it.

18 And still at this time we didn't know we had a
19 mine rescue ---. I didn't know that they had a mine
20 rescue team underground. I think when we got ready to
21 go under, we was informed that they had the Massey
22 team from --- I think it's the Southern Massey team
23 that was underground at this time, which is based out
24 of the Beckley area. They were already underground.
25 But we didn't know that until we got ready to go

1 underground. They said that we had one team already
2 underground.

3 Q. Well, when you initially traveled underground, was
4 there more than one manbus that was making that run?

5 A. It was two manbuses.

6 Q. And that's where all these team members were?

7 A. Yes, we had two manbuses going under. One had one
8 team, the other one had the other team. And like I
9 said, we proceeded to go from the North Portals and we
10 come up to the Ellis switch. And then we took the
11 Ellis Switch and went out to what's labeled as the
12 Number Four North belt, that area back in toward the
13 --- back in toward the --- along the North --- Five
14 North belt, Number 78, thereabouts where we had a
15 fresh air base set up, where they had a fresh air ---
16 where the Massey team had a fresh air base set up.

17 Q. Did you guys have to move anything off the track
18 in order for the trip to get that far?

19 A. No, we didn't.

20 Q. Where did you actually see the first sign of
21 damage?

22 A. You know, Mike had --- Mike had started ---. Mike
23 was sitting on the side of the bus that if you're
24 looking at the bus, he's sitting on the left side of
25 the bus, I'm sitting on the right side of the bus.

1 And Mike's starting to notice some damaged stoppings
2 along our trip up to the Break 78. And he asked me,
3 he said, Jerry, are you seeing any --- is your
4 stoppings intact over there?

5 And I said, yeah, I'm seeing stoppings. And he
6 says, well, I'm not seeing all the stoppings. He
7 said, I've got a stopping out at --- I think he had
8 one that was out at 37, Break 37, which would've been
9 here (indicating), Break 43, which would've been
10 there. Another one I can't remember exactly where at.
11 But he had, like, two or three damaged stoppings out.

12 And then we got up to approximately in the 50s
13 somewhere, and as we entered that area, the
14 environment smell changed. And one of the guys that
15 was sitting beside me from the mine rescue team, he
16 said, what's that smell? And I said that's your
17 explosion results. I said, that's what you get from
18 an explosion. I said we've had an explosion.

19 He said, I've never smelled that before. And I
20 said --- and about that time we started noticing self-
21 rescuers had been put on, mining hats laying on the
22 mine floor, a lot of debris throwed everywhere and it
23 started getting soot. You could see soot everywhere
24 on the ribs and stuff where it started to get black in
25 color and real dark black in color.

1 And then we was in that until we got to Break 78.

2 And when we got to Break 78, the reason we couldn't go
3 any farther, there was debris all over the track that
4 had it blocked at that point.

5 OFF RECORD DISCUSSION

6 A. Had it blocked from travel at that point. And
7 when we arrived there, that's where we arrived. And
8 like I said, the fresh air base they said was 78 Break
9 set up. And we proceeded to the fresh air base from
10 the mantrip.

11 BY MR. STEPHAN:

12 Q. So at that time, you got out of the mantrip.
13 You're just kind of assembling at the fresh air base
14 and making some plans for what, who was going in and
15 who's going to back up? And can you explain some of
16 that ---?

17 A. We arrived at the fresh air base. Mike was behind
18 me. I got to the fresh air base first and I noticed
19 this gentleman. At that time I didn't know who it
20 was. I just know it was a guy in the mine. He was on
21 the phone, I'm assuming with the command center,
22 because he was talking to 'em. And he's the only one
23 in the fresh air base.

24 And I asked a question. I said, where's your ---
25 you got a mine rescue team in here? And he says,

1 yeah. And I said, well, how many guys you got in
2 here? He says, I've got six or seven. I said, where
3 are they at? He said, well, they're inby. And I
4 said, where's the backup? He said, I'm the backup. I
5 said, you're the backup?

6 And I seen two apparatuses setting in the fresh
7 air base. And I said, where's the backup for these
8 guys? I said, what are they doing? He said, they're
9 in there doing --- they're inby. And I said, you
10 don't even know where they're at? He said, they're
11 inby.

12 At that point, another guy showed up and, again, I
13 don't know who this guy was. I've worked with the
14 Massey mine rescue team. Neither one of these two
15 guys is on the Massey mine rescue team.

16 Q. Where did the second guy come from, inby or outby?

17 A. He come back --- he come from inby. He come back
18 walking down the track inby.

19 Q. Did he have apparatus with him?

20 A. No. No, he did not. And at that point in time,
21 somebody said --- some of the guys at the fresh air
22 base must've known him and called him Jason. And
23 again, at that time I didn't know who Jason was. I
24 didn't know who was on the phone.

25 And at that time I said, look, let me tell you

1 something. I said, the way we going to work this is
2 we're going to have backup at the fresh air base and
3 we're going to go inby and explore, but we're going to
4 have backup at the fresh air base. And he said, well,
5 they're up there moving the fresh air base up.

6 And I said --- then I seen another guy come out at
7 that time. I can't --- I don't even know who it was
8 again. I don't know his name. And we had brought
9 communication wire in with us. And I told the guy, I
10 said, well, this is the way it's going to work. And
11 he said, well, the command center wants us to go and
12 do this and do that. He said, they want us to go inby
13 and start looking. And I said, well, I'm going to
14 tell you, we go inby and we're going to look, but
15 we're going to have backup at the fresh air base. And
16 he said, that's not what the command center wants.
17 And I said, well, that's what we're going to do.

18 And this Jason goes over and gets on the phone.

19 And at that point in time he tells me, he said, the
20 command center wants to talk to you. And I said, I
21 ain't got time to talk to command center. I'm going
22 to take these guys and we're going to set up a fresh
23 air base and we're going to look for these men. I
24 said, I'm not wasting my time talking to command
25 center at this time.

1 And I proceeded with ten or eleven guys. We
2 extended our communications up to almost the Mother
3 Belt, which is located on this map at approximately
4 Break 101 on the Six North belt. And we proceeded to
5 take our command center up to there. I mean, our
6 fresh air base. We established communications with
7 the command center at that point in time.

8 Then we --- at that time we also met three members
9 of the Massey team that were in the mines already.
10 They were up around the Mother Drive, which is, like I
11 said, like, it's located Break 101.

12 Q. Well, let's, let's go back real quick to this
13 first fresh air base at 78.

14 A. Uh-huh (yes).

15 Q. Did you ever come upon the names of the guy that
16 was on the phone when you first got there and this
17 Jason that was there?

18 A. After it was --- after a while when I ---. I
19 didn't still know who this guy was until when we was
20 going back to our --- after we'd finished our shift
21 and we was going back to Beckley that night. And I
22 was traveling with Mike Hicks. And Mike at that time,
23 he knew these guys because this was his mines when he
24 was a --- he's a supervisor in the Mount Hope Field
25 Office. And he had this mines last year, and he told

1 me at that time, he said, that's Chris Blanchard was
2 the guy that was on the phone, which is the president
3 of Performance. And the Jason was Jason Whitehead,
4 who was the vice-president of the --- Performance,
5 neither one on the mine rescue team.

6 Q. Did you ever see Chris Blanchard inby that fresh
7 air base?

8 A. When I left the fresh air base, Chris Blanchard
9 was there.

10 Q. At the fresh air base?

11 A. At the fresh air base.

12 Q. So you never seen him inby the base?

13 A. I never seen him inby the fresh air base, but I
14 didn't know that he went inby the fresh air base until
15 I was in the debriefing in the command center on April
16 6th. And he explained to the --- in the debriefing
17 that he and Jason had made it up to the --- within two
18 breaks of the tail of the longwall because they run
19 into 499 parts of CO. And they were on the headgate
20 side and they run into 499 parts of CO on the headgate
21 side.

22 And still at that time I did not know that they
23 weren't on mine rescue, because if you have an
24 apparatus on, what's 500, 499 parts of CO ---. You
25 got an apparatus that can protect you from that. I

1 didn't know they didn't have an apparatus. I just
2 assumed the two apparatuses sitting in the fresh air
3 base was theirs, but they weren't. They was two of
4 the team members'.

5 Q. Okay. Do you know, like, about what time it is
6 that you actually arrived at that fresh air base, that
7 first one at Crosscut 78?

8 A. Clete, I don't really ---. Like I said, we
9 started in about eight o'clock and they roughly said
10 it took almost an --- I guess 45 minutes to an hour to
11 get in underground. I never did put a clock on it, so
12 I'm assuming it was between 8:30 and 9:00 when we got
13 to this fresh air base.

14 Q. So you didn't make any stops along the way?

15 A. No, we didn't. We went in and we had clear road
16 all the way to the fresh air base.

17 Q. So you were saying that you and your team assisted
18 in moving the fresh air base inby about a thousand
19 feet up to where the Mother Belt begins?

20 A. In that area, yes, sir.

21 Q. Okay.

22 A. I think we was probably at a break or so outby the
23 Mother Belt, because we looked inby and they was three
24 or four of the team members located in that area that
25 --- on the Massey team that was already underground.

1 And we proceeded up to them and talked with them. And
2 they --- at that point in time I said, we have 12 ---
3 we could have 12 mine rescue team members here. We
4 can have six go inby and six wait at the fresh air
5 base. And I said we can --- if you want to go both
6 directions, we can send three toward the longwall and
7 three toward the other section. And they said, no,
8 we're going to the longwall. And I said, if you're
9 going to the longwall, I'm going to the longwall.

10 So at that point in time, they was six of us that
11 advanced up to the longwall. That was myself, Danny
12 Cook, which is a State inspector, and four team
13 members from the Massey team, Rob Asbury, Shane
14 McPherson, Mark Bolen and Jim --- I can't think of
15 Jim's last name, Rednick or Rivnick or something. We
16 proceeded inby to the longwall and we left six people
17 at the fresh air base.

18 Q. What route did you take to get from that fresh air
19 base to the longwall?

20 A. We started up the --- I guess this is what's
21 called the Mother Belt from the longwall. It'd be the
22 Headgate One North beltline.

23 Q. Unbold this, please.

24 A. This was labeled Headgate One North beltline.

25 [REDACTED]s the beltline we traveled to the longwall.

1 Q. So you stayed on the belt entry all the way to the
2 face?

3 A. No, sir. When we started up, we started up the
4 belt entry. We run into a lot of debris in the belt
5 entry. They was airlock doors, they were waterlines,
6 pipe, everything in through that, in that area. And
7 we went up so far in this (indicating) belt entry.
8 Then we actually got out of the belt and we kept two
9 --- we kept two people in the belt entry. And two of
10 us got out of the belt entry and proceeded actually up
11 the ---. If you look on it, this would be Number
12 Three entry on this One North area.

13 And we proceeded up there and the other guys
14 proceeded up the belt entry. Two of them stayed in
15 the belt entry for communications, because we had
16 dropped one guy --- we had dropped Mark of somewhere
17 along here (indicating), so he could communicate back
18 to the fresh air base. And we kept two guys in the
19 this belt entry to communicate back to him.

20 And at that point in time, we sort of spread out
21 and myself and Jim ended up in the Number Four entry,
22 which is a neutral entry, traveling up the ---. And
23 we had Danny and --- must've had Danny and Shane and
24 Rob was in the --- heading out of the belt entry.

25 We proceeded up the entry until we --- I don't

1 know what crosscut it was. We was looking for
2 everything. And I happened to look across the entry
3 over toward the belt entry, the track entry, which is
4 the Number Two entry. And I seen some reflective
5 material, so Jim and myself proceeded to that area.
6 And at that time we encountered three of the victims
7 laying in that area. There was a track --- I'll call
8 it a track, but it was a Cat bolter, bolter on Cats.
9 It was located in a crosscut, like between Two and
10 Three entry.

11 And we walked around it and we had one victim was
12 laying in front of the bolter, between the track and
13 the bolter. At that time, we looked on his --- we
14 tried to identify him. What we did have was a ---
15 what we did have was the tracking device that they use
16 in the mines. We took the number off the tracking
17 device to try to identify him. At that time we didn't
18 know, we just wrote the number down.

19 And we had one guy on the end of --- laying across
20 the track, and one guy in between the track entry and
21 the belt entry, laying on some gob, laying on his
22 back. And on his shirt he had the word --- had the
23 name [REDACTED] wrote on it. We checked the victim on the
24 track [REDACTED] and we found his ID tag, and his name was [REDACTED]
25 [REDACTED] I believe what it was.

1 And I happened to look outby the track entry and
2 seen reflective material again and walked down and
3 found another victim that was a break outby where
4 these guys were located at, laying in the middle of
5 the track. At that time I tried to find
6 identification on him, and I couldn't find anything,
7 so we never was able to identify that person.

8 Q. So you're talking about four victims that you find
9 in or near the track entry?

10 A. Yes.

11 Q. And do you know like specifically what crosscut
12 they were in or ---?

13 A. No, sir, I really couldn't even --- couldn't even
14 really tell you that. We had --- it seemed like we
15 had a spad number, but I can't really remember what
16 the spad number was. Can I look?

17 Q. Sure.

18 A. I wouldn't ---. I'd just be guessing. I don't
19 really remember what break it is. It seems like we
20 --- sit here and study a minute. Just from what I had
21 to walk when I left them to get to the stage loader
22 area, I'm saying it's around 18 or 19 Break that we
23 found them.

24 Q. Now, Jerry, I know it would be a guess, but I'd
25 still like for you to mark on the map, if you could,

1 approximately where those people were found.

2 A. Okay. At this (indicating) bottom right we had
3 this --- the track bolter was --- the Cat bolter was
4 here. I had one victim here. We had one victim on
5 the track here. We had one victim here and we had one
6 victim here. That's the four victims we found first.

7 Q. Okay. So the location that you're marking is in
8 the Headgate One North entries.

9 A. Yes.

10 Q. And we're somewhere between Crosscut 17 and 18?

11 A. Yes, sir.

12 Q. Okay. And we're also around the track entry.
13 You're in or, you know, within 20 feet of the track
14 entry?

15 A. Yes, sir.

16 Q. Okay.

17 ATTORNEY BABINGTON:

18 And, Jerry, do you mind drawing a circle
19 around that whole area just so that it's a little more
20 noticeable, ---

21 A. Okay.

22 ATTORNEY BABINGTON:

23 --- looking at the map later?

24 A. And that's where these four --- that's the four
25 victims we had, we found there.

1 ATTORNEY BABINGTON:

2 Thank you, Jerry.

3 A. After we found the four victims, I'd say as ---
4 the rest of the team come over and we tried to get us
5 a spad number and everything else. And it was a
6 little high there. And I don't know if there --- I
7 can't remember. We had a spad, but I can't remember
8 the number of the spad. We, again, decided to ---
9 they went back over in the belt entry --- I mean, one
10 of --- some of them went back in the belt entry. I
11 can't remember. I started up the track entry myself.
12 And I traveled up the track entry. I encountered
13 the manbus for the section at that location. It
14 seemed like it was about two or three breaks inby this
15 location. And I noticed on this manbus that we had
16 two or three self-rescuers that had been deployed,
17 after the fact, after the event, because they had no
18 soot, nothing on 'em. They were fresh.
19 And then I looked down. I seen tracks in the rock
20 dust over the --- where the soot had got overtop the
21 rock dust and they --- you could tell somebody had
22 walked through there, fresh. So I was never told that
23 anybody was up in that area, so I had to assume that
24 we might've had somebody survive this, so I started
25 looking for a survivor.

1 And the tracks --- I followed the tracks. They
2 led to the belt entry. They led back over to the
3 Number Three entry. And I told the guys on the team,
4 I said, what's going on? I said, we got tracks here.
5 Somebody's been here after the events happened. I
6 said, have we got somebody in here? Nobody told me
7 anything.

8 I don't know if the --- I don't know if the guys
9 knew that somebody was up in that area. I know now
10 that they knew that they had found these three guys
11 here previously, before we got there. I was not told
12 this. I had assumed that what I'd seen, of course, we
13 was the first ones in that area. Nobody told me
14 they'd been to the longwall.

15 And so I was trying to find these guys. I
16 thought, hey, we --- and at this time I'm seeing self-
17 rescuers that were in like storage, storage units and
18 on the mantrips thrown everywhere. I mean, they was
19 all over the entry. They was laying everywhere, self-
20 rescuers everywhere. But I did notice we had two or
21 three that had been deployed on the mantrip.

22 I proceeded to go on inby. And that point in time
23 I found the life shelter in a crosscut between Two and
24 Three entry.

25 BY MR. STEPHAN:

1 Q. I'd like to ask you if you'd mark on here again,
2 maybe in another color, where you found the mantrip.

3 A. Again, this is an estimate. I don't know exactly
4 if that longwall was located here (indicating) or if
5 that longwall was here.

6 Q. Okay. And you're talking about ---.

7 A. I know this --- I know this says, this says 3-1-
8 10. I don't know if they advanced down here, but that
9 shelter was two breaks outby this face, so if that's
10 the fact, then that shelter was located in this
11 crosscut here.

12 Q. And would you do the circle thing with that, too,
13 so we can find that?

14 A. The shelter that we found?

15 Q. In red you're designating where the shelter was
16 that you found?

17 A. Yes, sir.

18 Q. Okay. And in blue is where you've designated
19 where the victims were, an approximate location?

20 A. Yes, yes, sir

21 Q. And then you talked about a manbus being in here,
22 too.

23 A. The manbus.

24 Q. Maybe you'd like to mark that in green. Here's a
25 green pen here, too.

1 A. Again, this is just from what I can remember.
2 That manbus, I'm thinking, was in this location here
3 somewhere. These victims were nowhere near the
4 manbus. Okay.

5 Q. Was that manbus on the track?

6 A. Yes, it was.

7 ATTORNEY BABINGTON:

8 Quick clarifying question, hearing that.

9 And you placed the red dot, which indicates what,
10 again?

11 A. The life shelter.

12 ATTORNEY BABINGTON:

13 Okay. The life shelter. And you placed
14 that two breaks outby the longwall face?

15 A. The longwall face, according to this map.

16 ATTORNEY BABINGTON:

17 According to this map. So you have it
18 marked at 25 Break right now, but if we were to tell
19 you that the longwall had reached Break 24, you
20 would've placed it at Break 22?

21 A. Yes.

22 ATTORNEY BABINGTON:

23 Okay. Would you then have then placed
24 the manbus further outby as well?

25 A. It would've been back. Everything would've been

1 moved back. Yes, sir.

2 BY MR. STEPHAN:

3 Q. So the last thing that you told me about that you
4 had come upon was this refuge chamber, this life
5 chamber. Could you, you know, proceed from there?

6 A. At this time, we had dropped some people off. And
7 I think Danny Cook was in the belt entry, and I was in
8 the track entry, proceeding toward the longwall face
9 area. And Danny, at that time --- again, when I got
10 up close to the headgate, I noticed, again, I found
11 tracks on the bottom. I traced the tracks, again,
12 over into these other --- because I --- at that time I
13 was unaware that they had already been in this area.

14 And I'm tracing tracks down, and then the tracks
15 actually come back over and toward the headgate area.
16 And I told Danny, I said, Danny, these tracks are
17 leading me back over to you. I said, is that guy you
18 found this guy that's walking around in here? But
19 when we found him, he wasn't the one making the track,
20 I don't ---. He definitely didn't make the tracks.

21 And he was hard to find. He was laying --- it was
22 muddy and wet in that condition, that area there. And
23 when I come around, Danny told me, he said, I've got
24 another victim here. So I come around the corner and
25 he said, right here he is. And I walked back to him.

1 He was hard to see because he was so black, but he was
2 laying in the stage loader area. His boots were
3 blowed off his feet. They were, in fact, inby him. I
4 can't remember if he had --- I don't think he had his
5 hard hat on at that time.

6 And we proceeded to go back --- once me and Danny
7 found the victim, we proceeded to go back down to
8 where the other guys' mine rescue team were standing
9 --- waiting at. They were in the belt entry two or
10 three breaks outby. At that time, I proceeded to go
11 back with Rob Asbury and Shane McPherson and we
12 traveled back up to the headgate area, and I showed
13 them where the victim was at. Again, they tried to
14 get a name. I don't think they did ever get a name
15 off the victim.

16 And Rob and Shane proceeded to go down. I kept
17 --- I kept on the headgate to keep the communications
18 up and they proceeded to go down the longwall face.
19 And they radioed back to me that they'd found two more
20 victims at shield, I think Number 85 that were blowed
21 up underneath the pan line. They were hard to find,
22 but they found 'em. And then they found four more
23 victims between Shields 102 and 105 or 6. I can't
24 remember. They had four victims laying in that area.
25 They, at that time, knew one of 'em. [REDACTED] was a

1 good friend of him. He recognized him, but [REDACTED]
2 I think his name was [REDACTED] or they called him [REDACTED]
3 or some --- his last name was [REDACTED], I think. He
4 knew that victim there. And at that time they run
5 into 70 parts of CO and 2 percent of methane, and then
6 they retreated back out to where we was at.

7 About that time is when they told us to retreat
8 out. We had found everything we could up there. We'd
9 found the victims. We think --- we thought we found
10 all the victims, because when we went underground, we
11 was informed that we only had to find six more victims
12 up on the longwall. And, in fact, we found 11. Three
13 had been already found, but we found eight instead of
14 six, so we assumed at that time we'd found everybody.

15 When they found the six --- they thought they'd
16 found everybody that needed to be found, when, in
17 fact, we had one victim that was at the head station.
18 He was at the headgate area. All three of us were
19 part of the --- we couldn't recognize him. [REDACTED]

and had debris on top of him
21 and we could ---.

22 OFF RECORD DISCUSSION

23 A. Debris. He had the debris blowed up on him, and
24 we couldn't --- we couldn't see him. We was probably
25 --- we was right there but we just never did find him.

1 But we thought we'd found everybody. I mean, we found
2 more than what we was supposed to found. They told us
3 we had six more victims. We found eight, so ---. And
4 at that time we proceeded on back out and made our way
5 back out to the fresh air base which was located, then
6 again, at the Mother Belt.

7 BY MR. STEPHAN:

8 Q. Did you yourself travel along the face at all?

9 A. I did. I went down to about shield number eight
10 or ten, and then they told me they was retreating out,
11 so I just come back out.

12 Q. Okay.

13 A. I started down the --- down there to get --- keep
14 the communications up, but then they told me they was
15 on their way back out, so I just proceeded to go back
16 to the stage loader and ---.

17 Q. In these headgate entries, did you yourself ever
18 go inby the face?

19 A. Yes, I did. I did. When I followed the tracks,
20 they led me up about a break or two inby where the
21 face was at. Which break, I don't know. I didn't
22 have a map. Shane had a map, but Shane had it with
23 him and the conditions in there were real humid, real
24 hot. And we was all sweating, I mean bad. Some of
25 the marks he made on the map probably couldn't be

1 legible now. I mean, he just --- just so much heat
2 and humidity in that area.

3 But the only thing I did notice when we was up in
4 this (indicating) headgate area, we had --- like I
5 said, the highest CO reading I had was 45 parts to ---
6 the oxygen content in that area was 20.6 or better. I
7 mean --- and no methane at that location, but they was
8 something in the air that definitely irritated every
9 one of us, irritated our skin, our eyes.

10 And when I first felt that, I thought --- I looked
11 down because I thought maybe I was in really high
12 concentrations of CO. Our CO wasn't up. I don't know
13 what it was, but it really was irritating to us. And
14 it only was up around that headgate. We'd come back
15 outby, we wouldn't have this problem.

16 Q. So you didn't have any irritations with your eyes,
17 your nose or throat, anywhere else in your whole entry
18 into the mine except for while you were in that area?

19 A. In that area.

20 Q. Around the stage loader and the headgate?

21 A. Yes.

22 Q. Okay.

23 A. And like I said, at that point in time I went up
24 in here (indicating) and looked around a little bit
25 before we come back up this last time, me and Danny.

1 We just looked around in the old track, the track
2 entry and the neutral entry and above for about a
3 break or so to try to see if we could find any ---
4 anybody else or anything.

5 ATTORNEY BABINGTON:

6 To clarify, you were pointing to the area
7 along the Headgate One North inby the face of the
8 longwall?

9 A. Yes, sir.

10 ATTORNEY BABINGTON:

11 Okay. And one other thing. Do you mind
12 marking where, you know, the approximate location of
13 where you found that fifth victim?

14 WITNESS COMPLIES

15 A. Right there.

16 ATTORNEY BABINGTON:

17 So it was right at the ---?

18 A. Stage loader.

19 ATTORNEY BABINGTON:

20 Okay. Thank you.

21 A. He was right beside the stage loader.

22 BY MR. STEPHAN:

23 Q. Now, when you say the fifth victim, you're talking
24 like there were four?

25 A. Four on the track.

1 Q. Four at this track location.

2 A. And then the fifth victim we found was at the
3 stage loader. Then we found --- they found six along
4 the longwall face.

5 Q. Which one of those is the guy that you said was
6 blown up in there and debris was overtop of him?

7 A. This victim we never did find. He was right there
8 at the stage loader. [REDACTED]

That's where he was at.

10 So I mean we was right there at it. I'd say we was
11 right there at him. We just never did see him. I
12 mean, we looked and we never did see the victim. And
13 he was the --- I think he was the last victim out of
14 all of them that was found.

15 And they just, they just happened to ---. One of
16 the guys --- in fact, it was with me the first night
17 --- was the one that found him that fast. And they
18 was found. And he just happened to be in the right
19 place and he just happened to look over and seen the
20 guy. It looked like the imprint of a body and he got
21 looking --- he said he looked down the side of the
22 shield and there the victim was.

23 MR. STEPHAN:

24 It might be a good place to take a break.

25 ATTORNEY BABINGTON:

1 Yeah. Yeah, let's take a five-minute
2 break.

3 MR. STEPHAN:

4 Okay.

5 SHORT BREAK TAKEN

6 ATTORNEY BABINGTON:

7 All right. Let's go back on.

8 BY MR. STEPHAN:

9 Q. Just backing way up at the beginning, I just
10 wondered, have you ever been at the Upper Big Branch
11 Mine prior to the April 5th accident?

12 A. Yes, I have.

13 Q. Could you tell us when and why?

14 A. I was --- when I went to ---. I took a job as a
15 health specialist in the Mount Hope District Office
16 and we had --- I had been up in this mines back in
17 2005 time frame, somewhere in there, after July of
18 2005. I'd went to this mines. We had some problems
19 on some dust, and I'd went to this mines to --- as a
20 health specialist to see what the problem was.

21 I was trying to think where I was at in this
22 mines, but ---. It was on the longwall, and I don't
23 know if it --- which one of these panels it was on ---
24 it was at, because like five years ago. I can't
25 remember exactly where I was at in this mine at that

1 time. But it was on an active longwall, while I was
2 there.

3 Q. Did you have any difficulties with any of the mine
4 personnel during that particular time?

5 A. No, I didn't.

6 Q. Did you know who these other fellows, Jason
7 Whitehead at the time, or Chris Blanchard?

8 A. No. I don't think they were in that capacity at
9 that time, because they don't --- their names don't
10 really ring a bell to me.

11 Q. Okay.

12 A. The superintendent was Wendell --- I can't even
13 think of Wendell's last name. I had met like a mine
14 foreman, Benny Pressley. I went to school with Benny.
15 I knew Benny. He worked at the mines at that time,
16 but that's about all I can remember of when I was
17 there.

18 Q. And this map that you've placed some markings that
19 located these victims, you said that there was a Cat
20 miner bolter in that particular area.

21 A. Yes.

22 Q. And I'm just wondering if there's room on that map
23 to mark where that location is? Maybe if you mark
24 that in red so it doesn't mix in with that one.

25 WITNESS COMPLIES

1 A. This (indicating) is a Cat bolter. It's on cats,
2 and this bolter was sitting in this area right there.
3 And this victim, I call this victim Number One, he was
4 in front of the Cat bolter between the Cat bolter and
5 the track is where he was at.

6 ATTORNEY BABINGTON:

7 And just to ---.

8 A. And that track bolter was in this area right here,
9 in this crosscut.

10 ATTORNEY BABINGTON:

11 Okay. Just to clarify, you made a red
12 square within that blue circle that originally
13 surrounded the first four victims you found?

14 A. Yes, sir.

15 ATTORNEY BABINGTON:

16 Okay.

17 BY MR. STEPHAN:

18 Q. You talked about contact from the command center.
19 And I was wondering if you knew who in the command
20 center was actually trying to make contact with the
21 teams underground?

22 A. Clete, once I --- once I went in the fresh ---
23 inby the fresh air base, I had no contact with the
24 command center until I went out and attended the
25 debriefing at the end of the shift. The person that

1 had contact with the command center would've been Mike
2 Hicks. He actually called the command center to tell
3 them what was going on and how the teams were ---.

4 This is information that Mike gave me on our way back
5 from the mine site that night.

6 We talked about what we'd encountered. And Mike

7 said that when he come up to the fresh air base, the
8 first fresh air base that's supposed to have been
9 located at Break 78, and then when the new fresh air
10 base was made, he traveled to it. And at that time he
11 called the command center and told the command center,
12 he said, I've got five people with me and there's
13 nobody at the fresh air base, and we got 15 mine
14 rescue people inby and we don't have backup.

15 And he then called the command center, talked to
16 Chris Adkins. Told Chris Adkins that we didn't --- we
17 weren't following procedures. We need --- we need to
18 have backup at the fresh air base. He was told at
19 that time we do not. We're not going to follow mine
20 rescue procedures, we're going to find the victims.
21 We need to proceed inby the fresh air base and find
22 the victims.

23 And at that point in time, Mike requested to talk
24 to Bob Hardman, and Mike was informed by Mr. Hardman
25 the same thing, that we were proceeding by the fresh

1 air base and find the victims.

2 Q. Which one of those fresh air bases was Mike at?

3 He was at the 22 Mother Belt?

4 A. He was at the one at the --- next to the Mother
5 Belt.

6 Q. Okay. Thinking about that first time when you
7 came to the fresh air base at 78, you said something
8 about someone went over to the phone and made a call,
9 and when they got off the phone, they basically said
10 that the command center wanted to talk to you.

11 A. Yes, Jason Whitehead ---. When I told Chris --- I
12 didn't talk --- I didn't personally talk to Jason. I
13 talked to Chris and told Chris we will have backup to
14 fresh air base and we'll do the procedures on how
15 we're going to do mine rescue. And at that point,
16 Jason walked down and he said, well, they want us to
17 go, they want us to go into the --- and find the
18 victims. And I said, well, we're going to do that,
19 but we're going to do it by the --- what we're
20 supposed to. We're supposed to have backup and we're
21 going to have backup.

22 And Jason at that time went over and got on the
23 phone. That's when Jason was on the phone with the
24 command center and had it in his hands and said the
25 command center wants to talk to you. And I told him I

1 did not want to talk to the command center.

2 Q. So Jason didn't identify who was on the phone on
3 the other end for the command ---?

4 A. He just --- no, he just said the command center
5 wants to talk to you.

6 Q. And the Chris that you're talking about is
7 Blanchard, not Adkins?

8 A. Chris Blanchard.

9 Q. Blanchard, okay. Well, when is, like, the last
10 time that you actually seen Chris Blanchard
11 underground in all of this?

12 A. When I left the --- the last time I seen Christ
13 Blanchard and Jason Whitehead is when I left the fresh
14 air base at 78.

15 Q. To come out?

16 A. To go inby.

17 Q. To go in.

18 A. When I advanced inby the fresh air base at 78 to
19 set up the new fresh air base, that's the last time I
20 seen Chris Blanchard.

21 Q. Well, were they inby your location when you headed
22 in?

23 A. No, they were back --- at that time they were both
24 back at the fresh air base of 78.

25 Q. So then you proceeded into the ---

1 A. Fresh air base ---

2 Q. --- fresh air base?

3 A. --- near the Mother Belt.

4 Q. And they were behind you at that time?

5 A. Yes.

6 Q. And you don't know where they went after that?

7 A. No, sir.

8 Q. Or how they went inby or how they got back outby?

9 A. No, sir. I don't have anything --- the next time
10 I seen Chris Blanchard was in the debriefing.

11 Q. At the times when you did see Blanchard or
12 Whitehead, did they have SCSRs on them, with them?

13 A. Clete, I can't even really tell you that. I'm not
14 going to sit here and tell you they didn't have them.
15 I'm not going to make that statement because I don't
16 really --- I wasn't really even concentrating ---. I
17 just know I was talking to a person. I didn't look to
18 see what he had. I know they was two apparatuses
19 sitting there. I didn't look to see if he had a self-
20 rescuer on. I was a little upset when I got there and
21 seen what they was doing, and I really wasn't
22 concentrating on looking what he was wearing.

23 Q. Uh-huh (yes). Concerning these footprints that
24 you had seen, when you went inby, you think you're the
25 first persons to get in there and you see these

1 footprints. Did you ever realize whose footprints
2 they were or where they came from?

3 A. I didn't realize who made them footprints until
4 the debriefing. And then I realized it was Jason
5 Whitehead and Chris Blanchard, probably made them
6 prints in the --- marked the tracks up there, because
7 they ---. In the debriefing, Jason didn't --- Jason
8 wasn't in the debriefing, but Chris was, and Chris
9 said that they --- so when I assumed, they, that meant
10 Chris Blanchard and Jason. I don't know who they was.

11 When they got within two breaks of the tail of the
12 longwall, they run into 499 parts, so at that time I
13 couldn't comprehend why he didn't proceed on by with
14 an apparatus. I didn't know he wasn't --- didn't have
15 an apparatus at that point in time. After I sat and
16 thought about it, that's when I realized that he
17 wasn't in the apparatus --- he was in the air ---.

18 Q. Well, when you talk about them being two breaks,
19 within two breaks of the tailgate, ---

20 A. Yes, sir?

21 Q. --- do you know if they traveled inby in those
22 tailgate entries or if they went across the longwall?

23 A. They didn't get there. What they stated in the
24 debriefing, they come up this (indicating) way h
25 se they talked about all the destruction on these

1 overcasts.

2 Q. When you say, this way, you mean through the
3 tailgate entries?

4 A. Through the tailgate entries. When they traveled
5 up the tailgate entries, they had talked about the
6 destruction on these overcasts, these doors and all
7 that. They explained some destruction in this area
8 here, so that's the procedure they said they went.

9 Q. Yeah. And when you talk about these doors, you're
10 talking about --- like these ones that are around
11 Crosscut 34 or 33 ---

12 A. Yes, on this ---.

13 Q. --- in the tailgate entry?

14 A. In the tailgate entry.

15 Q. Okay.

16 A. I think they did say something about they come
17 across this (indicating) area here.

18 Q. The connecting entries between ---.

19 A. They connect Headgate One North and Tailgate One
20 North ---

21 Q. Okay.

22 A. --- which probably had been like recovery entries
23 for the longwall. They come across the recovery
24 entries to get over in this (indicating) area. Then
25 they proceeded inby up to the tailgate entry and tried

1 to get to the tailgate.

2 Q. Could you just go over again real quick, like
3 while you're exploring inby the fresh air base, how
4 you maintained communications with the fresh air base?

5 A. Like I said, we traveled --- we had the fresh air
6 base there so we could communicate back to the Mother
7 Belt, where we was stationed at. And we traveled up
8 the belt entry so we'd have a direct line with them.
9 And we dropped --- Mark was dropped off somewhere in
10 through here (indicating) and we proceeded up in, a
11 little farther up this Headgate Number One North belt.

12 And eventually we dropped one more person off to
13 be at communications. And like I said, when we ended
14 up at the headgate, they was Shane and Rob and myself
15 there, communicating back to Jim and Danny, and they
16 were communicating back to Mark.

17 Q. Okay.

18 A. Because I didn't know at that time that Mark had
19 nobody to communicate back to the fresh air base
20 because, they'd already left. But we had
21 communication with the other team.

22 Q. And before you even went underground, did you know
23 what the specific plan was regarding like restrictions
24 or limitations or anything like that?

25 A. There was nothing ever discussed on a plan. The

1 only ---. Like I said, the briefing included --- I
2 mean the briefing was just basically what had
3 happened, what we probably would encounter and that we
4 were looking for 19 missing miners. And that's
5 basically all that was gave to us before we left to
6 enter. They provided some maps, but I personally
7 didn't have a map.

8 Q. Now, you talked about footprints indicating that
9 someone had been there before you. And I'm just
10 wondering if you noticed anything like moved
11 equipment, changed evidence, disturbed victims,
12 anything like that?

13 A. No, sir. I didn't see anything like that. All
14 --- like I said, the only thing I seen that was
15 disturbed was down in the point, some self-rescuers.
16 That's the only thing I seen that was actually --- I
17 can't say that anything else was moved or anything.
18 It just looked like they put the self-rescuers on and
19 just was up there looking for something. And that's
20 the extent of it. I don't think anything, from what I
21 seen on the headgate side, indicated that they'd moved
22 anything.

23 Q. Were there any specific levels of oxygen or
24 methane or CO that required special action on the part
25 of the underground team?

1 A. Not on our location, no.

2 Q. What levels would require you to don your
3 apparatus?

4 A. Fifty (50) parts of CO, oxygen down below 19.5
5 percent, and we had better than that on both of them.
6 We had less than 50 parts and more than 19-and-a-half
7 percent oxygen.

8 Q. This question is --- how was the rescue operation
9 coordinated between the command center and the mine
10 rescue personnel?

11 A. I didn't really talk to command center. I can't
12 really answer that question because I just --- I mean,
13 I didn't have --- personally talk to command center.
14 And when I left the fresh air base, I had an
15 understanding with myself and the team that they --- I
16 would have backup. Now, as far as me talking to
17 command center and saying that --- the command center
18 telling us not to have backup, that was never done to
19 me. I never did receive that information.

20 Q. Basically, you're communicating from your location
21 back to the fresh air base?

22 A. Yes, sir.

23 Q. The fresh air base is communicating with outside,
24 command center?

25 A. Yes, sir. Yes, sir.

1 Q. Has there been a time when you were underground
2 that the fresh air base relayed instructions to you
3 from the command center?

4 A. No.

5 Q. Or were they just all one-way communications out
6 of the mines?

7 A. No, I was never --- we was never told anything.
8 When we come back to the fresh air base after we'd
9 found the last six victims up here and we thought we'd
10 found everybody, we come out. At that point in time I
11 heard the command center --- when they got their
12 readings that they had up on the 22 Headgate where
13 Mike Hicks was at, when he encountered the high
14 concentrations of CO and the 8 percent methane, they
15 withdrew the people out of the mines at that time.

16 Q. Who made that decision?

17 A. Command center. They did make that decision.
18 Command center withdrew the teams at that time.

19 Q. So basically when you're underground and you're
20 inby the fresh air base, you guys are making calls for
21 yourself because you see the conditions and are
22 deciding which way to go; is that correct?

23 A. We do. Inby the fresh air base it's where we're a
24 team that goes up there and whatever we encounter, we
25 call back to the fresh air base and they relay the

1 information to the command center. And if the command
2 center wants to pull us out, they'll tell us to
3 retreat and pull out. But, again, we don't --- as a
4 team, if we deem that it's unsafe for us, we'll pull
5 ourself out. We don't have to wait on command center
6 to do that for us.

7 Q. How long, about, did this first exploration of
8 yours take? Well, it's your one and only exploration.

9 A. Yes. Like I said, we went underground at
10 approximately 8:00 p.m. We returned to the surface,
11 maybe, I'm thinking 3:30 a.m. on April the 6th, so our
12 time underground was probably seven to seven-and-a-
13 half hours on this first trip.

14 Q. How many members are on this team altogether?

15 A. Generally, a mine rescue team consists of five
16 mine rescue apparatus wearers that goes inby the fresh
17 air base. Of course they can be accompanied by a
18 Federal team member and a State team member. But we
19 have had eight people go inby as long as we got eight
20 people to back us up. There's not really a set limit
21 on what can go inby, as long as we got enough backup
22 people to cover what's inby. And at this point in
23 time we didn't ever have this, when we done this.

24 This operation here, we never had --- because when

25 I come back out the longwall and come back to the

1 fresh air base that was established near the Mother
2 Drive, they was --- I know they was only six of us
3 went in there, but they was probably ten or twelve of
4 us that come out. Now, where these other guys was at,
5 I cannot tell you. I just know we was here
6 (indicating).

7 Where these other guys was at I have no idea. I
8 don't know what they done. And when I sit here and
9 watch the teams --- the guys come out from this 22
10 Headgate, they was probably 30 people come out of that
11 area. And when I got back to the fresh air base, I
12 thing there was two people sitting at the fresh air
13 base. So we had approximately 40 to 50 --- probably
14 40 people inby with no backup.

15 Q. How were people who entered and exited the mine
16 tracked?

17 A. They had somebody that wrote down our names. I
18 know they asked our names before I went underground,
19 and we told them that myself and Mike Hicks were from
20 MSHA. I think they got --- they wrote on just a
21 notepad who went underground when we went under.

22 Now, I don't know if they had everything like that
23 when we --- when we would come back outside. I know
24 when we come back outside, they asked for us to wait
25 and get our names taken off. And I walked over and I

1 told them who I was and they marked my name off the
2 list, so they had a list of who was underground. And
3 they marked my name off when I went back to our team
4 truck.

5 Q. Did you ever hear about any limits on the number
6 of people that were allowed into the mine at a time?

7 A. No, sir.

8 Q. Now, while you were in the mine anywhere, did you
9 notice any significant floor heaving?

10 A. I didn't. I didn't notice any. Of course there
11 was so much debris everywhere, we was walking over
12 debris, climbing over top of it and everything else,
13 but I didn't really even ever notice any in the areas
14 that I was at.

15 Q. Did you notice any major cracking in the ribs or
16 the roof?

17 A. No, sir, I didn't notice.

18 Q. What was the highest methane reading that you
19 detected at any time while you were underground?

20 A. I think that the highest we had was like two-
21 tenths on this. Two-tenths was the highest I ever had
22 on my detector.

23 Q. Did you ever notice any smoke in the mine
24 atmosphere?

25 A. No, I didn't. I didn't even --- I did not observe

1 any smoke.

2 Q. Any haze?

3 A. Some haze, not --- it was a little haze, but not
4 any that looked like smoke. It was just a little ---
5 it was just like a little foggy or whatever you want
6 to call it. I mean, it just --- the air, we didn't
7 have air movement in that area, very little, if any,
8 air movement at all.

9 Q. Did you come across anything that was hot or
10 burning or flames or embers?

11 A. No, sir. We didn't but from what Mike Hicks
12 explained to me, they did find a small fire inby this
13 Mother Drive three or four breaks between the track
14 entry and the crosscut. I'm saying that this
15 (indicating) is the track entry. I don't know which
16 one of these is a track entry. If I'm looking at Six
17 North belt, we have five entries. We have four
18 entries, the track entry. Then in between Four and
19 Five entry, they found a crib block or something on
20 fire.

21 And Bill Tucker from the State mine rescue ---.

22 They had nothing to put it out with, but they took the
23 cooler out of the BG4 apparatus which was --- has the
24 ice in it. The ice had melted and they put the water
25 and the melted ice onto the crib block to put the fire

1 out. And I do know they was about four breaks inby
2 this Mother Drive, but Mike Hicks can tell you, if you
3 talk to Mike or ---. Mike can --- he knows exactly
4 where it was at. He was there, I think, when they
5 found it.

6 Q. Are you aware of anybody on the team who may have
7 energized or deenergized any circuits?

8 A. No.

9 Q. How low did the oxygen get at any time while you
10 were in there?

11 A. Like I said, the lowest I ever had on my detector
12 was probably around 20.5 or 20.6. For all --- most
13 part we had good air where we was at.

14 Q. Now, you did mention that you didn't have a lot of
15 air flow. And I'm just wondering if you could tell me
16 a little bit about the ventilation and what you felt
17 with respect to ventilation?

18 A. I just never --- when we was up in here
19 (indicating) and I was on this face up in here, I
20 really didn't feel a whole lot of air movement then.
21 I mean, not any major air movement. But in these
22 areas back out in here, outby the headgate in that
23 North One --- Headgate One North, I just didn't really
24 find a whole lot of air movement anywhere. I didn't
25 feel it.

1 Q. Was there a briefing and debriefing at the
2 beginning and end of each shift?

3 A. They were. Like I said, I only attended one
4 briefing and one debriefing, but I was in some other
5 briefings before the other team members went under.
6 We did have --- every time that we had team members go
7 under, we would have a briefing.

8 Q. And who was briefing them?

9 A. That depended. We had different people do it. I
10 can't think of who done it, but we usually had
11 somebody --- I think the lawyer, Elizabeth, she gave
12 one briefing before they went underground. I believe
13 I attended one with her. After the first night, I
14 wasn't allowed back in the mines, after the first
15 night.

16 Q. Tell us a little bit about that.

17 A. I have no idea, but I know that Mike Hicks and
18 myself were took to the side on Wednesday after this
19 --- this happened on Monday. Wednesday they --- our
20 trainer, one of the trainers, one of the MEO people,
21 Mike, I mean Virgil Brown, talked to Mike Hicks and
22 myself and informed us where we was not allowed to
23 work together and we'd be on different shifts and not
24 allowed to go underground. I had no idea why. I just
25 know that we was not allowed to go underground and we

1 couldn't be on the same shift together.

2 Q. And you never went underground after that?

3 A. No.

4 Q. Did Mike ever go underground after that?

5 A. No.

6 Q. And you never worked with Mike again on the same
7 shift?

8 A. No.

9 Q. And did you work other shifts there?

10 A. Yes.

11 Q. And Mike did, too?

12 A. Yes, but not together.

13 Q. Okay. During this entire Upper Big Branch
14 experience, did you write any notes?

15 A. Yes, I did. The first night that I went under
16 there, Mike and myself wrote some notes. And I don't
17 have them with me. I've got them at --- I think
18 they're at the office. I can try to find them and
19 locate them for you, but at this time I don't have
20 them with me.

21 Q. So you're willing to give us a copy?

22 A. Yes, I'm willing to give you what I got.

23 Q. Okay. Thank you. Of these areas that you were
24 through underground, where was the greatest damage
25 from pressure?

1 A. Clete, they had a lot of damage in this
2 (indicating) one. A lot of stuff was in this belt
3 entry up on One North Belt, headgate belt. It seemed
4 like to me I seen a lot of destruction up in there.
5 The other places were just debris throwed (phonetic)
6 around, but the belt was moved quite a bit from side
7 to side in this belt entry. We traveled the belt
8 entry. The belt one time would be blown up against
9 the solid coal. Next time it would be blowed
10 (phonetic) over to the other rib.

11 That's why we had to crawl across a lot of
12 material to try to --- that's one of the reasons I
13 went out and got into the other entry, because it's so
14 hard to travel through the belt entry. But we did
15 have some guys go through the belt entry.

16 ATTORNEY BABINGTON:

17 Sorry. Just to clarify, you're talking
18 about the belt on the Headgate One North?

19 A. Yes.

20 ATTORNEY BABINGTON:

21 Okay.

22 BY MR. STEPHAN:

23 Q. Thinking about from that fresh air base at 78,
24 inby, can you tell us about the ventilation controls?
25 Were they all blown out or some of them blown out

1 or ---?

2 A. I never seen any --- from the time we left here
3 (indicating), like I said, when I was going through
4 here, I didn't look to make sure everything was in.
5 We just strung it up here, but I don't remember seeing
6 any controls in, up on the headgate side. I don't
7 ever remember seeing stoppings anywhere. I don't ---
8 this shows doors in this Number Two entry. There was
9 no doors there. We had doors that was --- it shows
10 doors here. We had doors that was laying in the belt
11 entry, these airlock doors.

12 Overcast, I don't remember overcast. I don't
13 remember seeing any doors on the track entry. I don't
14 really --- you got stoppings between the belt entry
15 and track entry. I don't remember ever seeing any of
16 the stoppings between the belt and track entries open.

17 Q. Can you tell me anything about flame damage or
18 heating or melting that you might've seen?

19 A. I didn't never --- I didn't really see a whole lot
20 of melting. Like I said, something had to --- I don't
21 know what we encountered up on the headgate that
22 irritated us so bad, but I don't know what would cause
23 that. But there was some little things that might've
24 melted, but I didn't really see a lot of --- I seen a
25 lot of soot, is what I seen, and it was really, really

1 black. I mean, it was dark black where you couldn't
2 hardly --- that's just, but it's just hard to find the
3 victims because of it being so black.

4 Q. Did any miners approach you during the time you
5 were at the mine site with concerns regarding unsafe
6 mining conditions?

7 A. The night of the --- the Monday night that we was
8 in there, and I was in there with the mine rescue team
9 from Massey, I talked to some of the members and they
10 were, you know, quite upset what happened. But a
11 couple of them said that they was planning on even
12 that day --- Massey has a mine rescue team that
13 basically that's their job as a mine rescue team.
14 While they're not doing mine rescue work or a contest
15 or participating in training, they are like safety
16 auditors that goes through the mines and audits their
17 mines. And two or three of the guys had planned on
18 coming to this longwall that day. And something told
19 them not to go there and they went somewhere else.
20 And I guess it really bothered them a lot, because
21 they might've been there when it happened.

22 And one of the guys told me that they'd had
23 problems on this longwall. And I asked him, what are
24 you talking about? He says, they have problems when
25 this longwall cuts out on the tail. They'll hit

1 pockets of methane. And he says, sometimes they'll
2 sound like a big jet engine taking off or they'll
3 sound like a big train. He says, at that point in
4 time they leave the tail and go back to the head,
5 readjust the ventilation controls and put more air up
6 at the tail and take it away, and they go back to
7 mining.

8 So this night we found them, these victims were
9 not at the shearer where it cut out on the tail. They
10 were --- I think they have 176 shields on that face.
11 They were down to 100 and --- they were all the way
12 down to 85 to 106, so they were leaving off the face
13 for some reason. It might've been quitting time. I
14 have no idea, but I was told that they worked 12-hour
15 production shifts on this longwall. So did we have a
16 problem? I don't know. That's what was told to me.

17 I know a day or two before this, they had had high
18 concentrations on the longwall. And I think they
19 missed a day's work up there because of the methane on
20 that longwall. I've heard that.

21 And I also heard that --- again, this was at the
22 mines. I can't remember what day I heard it and who
23 told me, but I heard they had problems with the
24 methane that day and they called outside and they
25 said, we have high methane. And they was instructed,

1 you can either quit or mine coal. You can come
2 outside or mine coal. So they undoubtedly elected to
3 run coal.

4 This is hearsay. I mean, I can't tell you ---.

5 This is what I've been told. And that's pretty
6 disturbing, to me and anybody else, that you'd be
7 ordered, to say --- you have a choice. You can come
8 outside or run coal when you've got methane on the
9 longwall. If I was the person that done that, I
10 couldn't have --- I wouldn't have a good conscience.

11 Q. Thanks. Do you have anything else that you'd like
12 to add that may be relevant to the investigation?

13 A. No, sir.

14 EXAMINATION

15 BY MR. FARLEY:

16 Q. A couple questions. Mr. Cook, the Massey mine
17 rescue team, that member who you had the --- with whom
18 you had the conversation regarding the incidence where
19 they would cut out of the tailgate and encounter a
20 pocket of methane, do you recall who this person was?

21 A. Yes, I do.

22 Q. Who was that with?

23 A. Jim --- well, I can't think of his last name,
24 Rednick or something. He's on the Massey mine rescue
25 team. His first name is Jim.

1 Q. Reznick?

2 A. Something like that, Rednick or Red ---.

3 Q. Rednick, something like --- is Redneck his
4 nickname?

5 A. They called him Redneck. I call him, I call him a
6 lot of times Redneck. They call him Redneck.

7 Q. It starts with an R, ---

8 A. Yeah.

9 Q. --- whether it be Reznick or something like that.

10 A. Yeah. Yeah. Yes, sir.

11 Q. Okay. Now, the other issues that you refer to as
12 hearsay, do you have any sources you can identify?

13 A. No, Terry. I don't remember who told me that,
14 Terry. I just heard that. I don't know where I heard
15 that at.

16 Q. Okay.

17 A. I didn't hear it once. I've heard it a couple
18 times.

19 MR. FARLEY:

20 Okay. Okay. I don't think I have
21 anything else.

22 MR. BECK:

23 Just a couple.

24 EXAMINATION

25 BY MR. BECK:

1 Q. Jerry, did anybody make it to the shearer machine
2 itself?

3 A. Not with us. We did not at that time make it to
4 the shearer. Not on the shift that I was in there.

5 Q. And you wouldn't know if Chris Blanchard or Jason
6 Whitehead had been up there?

7 A. No, sir, I would not.

8 Q. I just wanted to clarify a couple things. When
9 you and Mike Hicks were at the fresh air base at 98
10 and Mike talked to the command center; right?

11 A. Yes, sir.

12 Q. He told the command center there were at least 15
13 mine rescue people inby and no backup?

14 A. I wasn't at the fresh air base with Mike at that
15 time. I was one of the people inby. Mike come up
16 behind me, and when he got there, he told the fresh
17 air ---. He called the command center and said, I've
18 got five people with me and there's 15 people inby, we
19 don't have enough coverage. And at that time that's
20 when they told him that ---.

21 Q. And Chris Adkins told him to --- we're going inby
22 to get people?

23 A. Yes.

24 Q. And then Bob Hardman told him the same thing?

25 [REDACTED]s.

1 Q. Okay. And at one point --- I think you said that
2 at one point, I don't remember where it was, but there
3 were up to 40 people inby with no backups at all?

4 A. Yes, sir. That's when I come back out. When I
5 come back out the longwall, after we found the victims
6 and we thought we'd found everybody, we come back and
7 at that point in time they were telling them to come
8 out because what conditions we --- they had found up
9 on this 22 Headgate. I know they was probably ten or
10 twelve people come back out when we did.

11 I know we only went in with six, but I don't know
12 where the other people come from. And then I set
13 there at the fresh air base at the Mother Belt and
14 observed guys coming back out from the headgate
15 section area. And they were --- probably 30 people
16 come out of there, just my estimation.

17 Q. And no backups?

18 A. Backups were on the way in. There was no backups
19 at the fresh air base.

20 Q. No backups at the fresh air base?

21 A. Yes, sir.

22 Q. Okay. And then you said that Virgil Brown told
23 you and Mike Hicks after that night you weren't
24 allowed to go underground? You couldn't work on the
25 same shift together?

1 A. Yes, sir.

2 Q. Did he tell you why or did you ask why?

3 A. Yes, we asked why. And he basically didn't really
4 --- they just ---. I think Virgil was trying to take
5 the credit for not letting us go to --- he said that
6 we went through enough and we didn't need to go
7 through anymore at the mines.

8 I thought that was a lot of bull. I'm a mine
9 rescue person. That's what I do. You don't stop me
10 from doing what I do. And I just never did believe
11 that that was the reason why we didn't go back
12 underground. I never did find out why we didn't ---
13 we wasn't allowed. I never had found that out, but I
14 know that we weren't allowed to go back under.

15 Q. Do you have any personal --- I mean, do you have
16 any reasons in your head why?

17 A. I think because we run our mouth, and we done what
18 we did when we was in there. That's my opinion. And
19 I think Mike would probably --- if you ever talk to
20 Mike, Mike will probably tell you that that's ---
21 probably what we did when we was under there. You
22 know, we don't need to be --- you know, it's bad
23 enough to try to find 29 people, you don't need to
24 have 40 more to look for.

25 You don't need to have people run in there ---

1 anybody could've done anything in that mine that they
2 wanted to. They could've controlled --- they could've
3 changed controls or anything. We just had a major
4 explosion. They could've --- they could've killed
5 every one of us. At that time, we was expendable that
6 night --- that's my opinion --- at no cost to get to
7 these people. They didn't care what they did with us.
8 That's my opinion.

9 Q. All right. And you said you had some notes at
10 home that you were going to give a copy to ---.

11 A. I've got notes. We wrote notes that night. I've
12 got some pads. I'll have to look through 'em, if I
13 can find them. I can't remember where I put 'em at,
14 but I know Mike and I wrote some notes that night on
15 what went on.

16 MR. BECK:

17 Matt, I'd like to request a copy of those
18 notes on the record for the independent team.

19 ATTORNEY BABINGTON:

20 We'll share those when we get a copy from
21 the witness.

22 MR. BECK:

23 Thank you, Jerry. Appreciate it.

24 A. You're welcome.

25 ATTORNEY BABINGTON:

1 Okay. Anybody else?

2 MR. FARLEY:

3 No, sir.

4 ATTORNEY BABINGTON:

5 Just a note. We have one map that was
6 marked up, the Ellis Portal map, and we'll label that
7 as Cook One.

8 (Cook's Exhibit One marked for
9 identification.)

10 ATTORNEY BABINGTON:

11 That map will be part of the record. On
12 behalf of MSHA and the Office of Miners' Health,
13 Safety and Training, I want to thank you for appearing
14 and answering questions today. Your cooperation is
15 very important in the investigation as we work to
16 determine the cause of the accident. We request that
17 you not discuss your testimony with any person aside
18 from your personal representative.

19 After questioning other witnesses, we may
20 call you if we have any follow-up questions. If at
21 any time you have additional information regarding the
22 accident that you'd like to provide to us, please
23 contact us at the contact information previously
24 provided. If you wish, you may now go back over any
25 answer you've given during this interview. You may

1 also make any statement that you'd like to make at
2 this time.

3 A. The only thing I --- you know, what was told to
4 me, what the command center told --- referred to Mike
5 was secondhand. It was Mike telling me the
6 information. I personally never talked to command
7 center. I just want to note that at this whole time I
8 never did communicate with the command center at all,
9 any at all.

10 ATTORNEY BABINGTON:

11 Okay. Thank you and I want to thank you
12 again for your cooperation in this matter.

13 * * * * *

14 STATEMENT UNDER OATH CONCLUDED AT 2:40 P.M.

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1 STATE OF WEST VIRGINIA)

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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.

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Alicia R. Brant

