IN THE MATTER OF:

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

The interview of JAMES GUMP taken upon oral examination, pursuant to notice and pursuant to the Federal Rules of Civil Procedure, before Shawn M. Holt, Professional Reporter and Notary Public in and for the State of West Virginia, Tuesday, December 7, 2010, at the National Mine Health & Safety Academy, 1301 Airport Road, Beaver, West Virginia.

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MS. FERGUSON: My name is Dana Ferguson.

Today is December 7th, 2010.

I'm with the Office of the Solicitor, U.S. Department of Labor.

With me is Jerry Vance, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor.

Also present are several people from the State of West Virginia. I ask that they state their appearance for the record at this time.

MR. KOERBER: Koerber, Assistant Attorney General, assigned to represent the West Virginia Office of Miners' Health, Safety & Training.

MR. O'BRIEN: John O'Brien with the West Virginia Office of Miners' Health, Safety & Training.

MS. FERGUSON: 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 information that's gathered from each witness who provides a
statement until the witness statements are
officially released.

MSHA and the State of West Virginia shall
keep this information confidential so that other
ongoing enforcement activities are not prejudiced
or jeopardized by premature release of
information. This confidentiality requirement
shall not include investigation team members from
sharing information with each other or with other
the law enforcement officials.

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

You may have a personal attorney present
during the taking of this statement or another
personal representative if MSHA's permitted it and
may consult with your attorney or representative at
any time. Since this is not an adversarial proceeding, formal cross examination will not be permitted; however, you or your personal legal representative may ask clarifying questions as appropriate.

Your identity in the content of this conversation will be made public at the conclusion of the interview process and may be included in the public report of the accident unless you request that your identity remain confidential or your information would otherwise jeopardize a potential criminal investigation. If you request us to keep your identity confidential, we will do so to the extent permitted by law. That means that if a judge orders us to reveal your name or if another law requires us to reveal your name or if we need to reveal your name for some other law enforcement purposes, we may need to do so.

Also, there may be a need to use the information you provide to us or other information we may ask you to provide in the future in other investigations into and hearings about the explosion.

Do you understand?
MR. GUMP: Yes.

MS. FERGUSON: Do you have any questions?

MR. GUMP: Is -- is -- this is an investigation of the -- of the accident or is this part of the criminal investigation?

MS. FERGUSON: This is the civil investigation of the accident.

MR. GUMP: Okay.

MS. FERGUSON: MSHA is a civil law enforcement agency.

After the investigation is complete, MSHA will issue a public report detailing the nature and causes of the fatalities in the hope that greater awareness about the causes of accidents can reduce their occurrence in the future. Information obtained through witness interviews is frequently included in these reports.

Since we will be interviewing other individuals, we request that you not discuss your testimony with any person aside from a personal attorney or representative.

A court reporter will record your interview. Please speak loudly and clearly. If you do not understand a question asked, please ask
for it to be rephrased. Please answer each
question as fully as you can including any
information you have learned from someone else.

I would like to also remind you, Mr. Gump,
that you need to respond with yes or no, with
verbal responses and don't nod your head or use
hand signals because the court reporter can't take
down that information clearly on the record.

MR. GUMP: All right.

MS. FERGUSON: We would like to thank you
in advance for your appearance here. We appreciate
your assistance in this investigation. Your
cooperation is critical in making the nation's
mines safer.

After we have finished asking questions,
you will have an opportunity to make a statement or
provide us with any other information you believe
to be important. If at any time after the
interview you recall any additional information you
believe might be useful, please contact or have
your representative contact Norman Page, who's the
Chief Accident Investigator with MSHA.

Do you have any preliminary comments
before we swear the witness?
MR. KOERBER: No, but just for the record, Bill Tucker, Lead Investigator with the West Virginia Miners' Health, Safety & Training, has came to the table.

MS. FERGUSON: Hey, Bill.

MR. TUCKER: How you all doing?

MS. FERGUSON: Do you have any questions, Mr. Gump?

MR. GUMP: Not at this time, no.

MS. FERGUSON: If you'll swear the witness, please.

JAMES GUMP, DEPONENT, SWORN

EXAMINATION

BY MR. VANCE:

Q. Jim, we appreciate your being here and I'm glad you made it here safely with the road conditions as they are.

We'll start off with a little background questions, a few background questions.

Could you state your full name and spell your last name, please?

A. James Gump, G-u-m-p.

Q. Could you state your home address and telephone number?
A.

Q. Are you appearing here today voluntary?
A. Yes.

Q. Has anyone made any promises to you for giving the statements or offered you any rewards in exchange for making your statements?
A. No.

Q. Has anyone threatened you or warned you to provide this statement?
A. No.

Q. Has anyone from the company or persons representing the company talked to you concerning the explosion?
A. No.

Q. Did you receive any direction on how to give your testimony today?
A. No.

Q. Did the company representatives -- did any company representatives suggest that you contact them after the interview?
A. Now, by company do you mean --
Q. UBB.
A. No.
Q. Do you have any mining certifications?
A. Yes, sir.

Q. Could you tell me what they are?
A. I'm a certified miner in West Virginia, certified mine foreman, certified instructor underground and surface, certified to teach continuing education for the State of West Virginia mine foremen. I have a dust sampling card, probably something else, but I can't recall just now.

Q. Are you presently employed?
A. Yes, sir.

Q. Who with?
A. David Stanley Consultants.

Q. Where are they located?
A. Our corporate office is at 100 Village Drive, Suite 300, Fairmont, West Virginia.

Q. Do you have any other offices in this area?
A. Yes, we have an office at George Street in Beckley.

Q. George Street, okay. What's your present job title?
A. Director of Operations and Safety.
Q. Could you give us some background of your mining experience?

A. I started as an apprentice miner in 1975 and for the next 28 years was a rank and file worker for a few years and then in management as a face foreman, shift foreman, general mine supervisor, those type things.

Q. Did your company provide employees to work at UBB on April 5th and prior to?

A. Yes.

Q. Do you recall any of the names that worked there?

A. Yes. Obviously Joshua Napper, Pauline Davis. I can't really recall right now any — the name of any others.

Q. Did you do the hiring of the employees?

A. No, sir.

Q. Who did?

A. Our regional manager, Beth Straton.

Q. Beth Straton, and she is located where?

A. At the Beckley office.

Q. At the Beckley office? The boys that you hired to work at UBB, were they mostly experienced miners or inexperienced miners?
A. Mostly inexperienced.

Q. Could you explain the process between Dave Stanley Consultants and Massey concerning contract employees that you provide for them?

A. We -- we provide them with contract labor, both short-term and long-term. Their -- their day-to-day instruction is -- supervision is by Massey supervisors.

Q. Do you know if 30 CFR Part 48 regulations concerning hiring new employed inexperienced miners?

A. I'm not sure I understand the question.

Q. Do you know the regulations concerning 30 CFR Part 48.6 Regulation -- 48.5, excuse me, Regulation of hiring newly employed inexperienced miners?

A. Well, that -- I mean, they have to have initial training. Once they go to the job site -- considering that -- that they're going to be there for more than five days, they have to have experienced miner training before they start working.

Q. Do you know what the training consists of for inexperienced miners?
A. For inexperienced miners?

Q. Uh-huh.

A. Yes. I mean, I can't give you every specific topic, but --

Q. General.

A. -- they're listed in -- in Part 48 and in our training plan as to what specific topics will be taught.

Q. Do you know what the regulations is for experienced miners training, 48.6?

A. Experienced miners when they go to work at a new location are required to have experienced miner training before they start working.

Q. Do you know what is of part of that experienced miner training, what it consists of?

A. Yes. There -- I believe the number is 12 parts, introduction to work environment, roof control plans, ventilation plans, emergency escape procedures, transportation and communication. I can't recall all of them right now, but I mean, they're listed.

Q. What training did your employees receive prior to employment with Dave Stanley Consultants?

A. Prior to employment with us?
Q. Uh-huh.
A. West Virginia 80 hour training.

Q. What is Dave Stanley's policy to insure that mining experience or training of miners that you hire? How do you insure that they are trained?
A. They have to have an apprentice card issued by the State of West Virginia.

Q. Experienced miners, how do you know that they are experienced miners?
A. They produce a copy of their miner's card.

Q. Do you contact any former employees or -- if they're experienced miners to insure that they are?
A. To insure that they are experienced miners?

Q. Yeah.
A. No. I mean, we -- we have their miner's card and a copy of their photo ID to make sure they are who they say they are.

Q. You get a miner's certificate -- they provide you have a miner's certificate from the State of West Virginia, correct?
A. Correct.

Q. If they're out-of-state miners, how do you
know that they are that, employed -- experienced miners?

   A. If they're out of state?

   Q. Yeah, if they come from out of state to work for you in this state?

   A. I don't know that I've come across that. I mean, that -- you know, they.

   Q. If they would come from Ohio or somewhere like that for employment here and say that they're an experienced miners, how do you confirm that?

   A. Well, if they have documentation from -- from an agency in their state and then depending on what state they're from, you would look at -- at how West Virginia views the training in another state, whether they -- they accept that or whether they would have to have West Virginia training. You know, I guess it would just depend on which state that they were coming from.

   Q. Do you review the employee's documentation or does someone else do that when they come to you from employment?

   A. Our regional managers review the documentation.

   Q. Reviews the documentation. Did you have
an agreement with UBB concerning who was responsible to provide training for your employees at UBB?

A. I'm sorry, ask that again.

Q. Do you have an -- did you have an agreement or do you have an agreement with UBB of the training that -- of the employees that you provided for them?

A. No.

Q. Who done the training for your employees?

A. The experienced miner training was done by Massey.

Q. By Massey?

A. Uh-huh.

Q. They -- they do all the training, part of the training or --

A. All of the training.

Q. They done all the training, okay. Who pays for the training of the employees?

A. Massey.

Q. Massey, okay. Are you an MSHA approved instructor?

A. Yes, sir.

Q. How did you become an approved instructor?
A. I took a class that you taught.

Q. Okay. So a three day instructor's class?

A. Uh-huh.

Q. Okay. Did you conduct either a newly
employee inexperienced miner training or
experienced miner training for employees that are
employed at UBB on or before April 5th?

A. Yes. Let me qualify that, not for Massey, for my company. I did not -- I did not train
them. I mean, the training was -- was the same, but I did not sign any documentation with an MSHA
number for Massey saying I did their training.

Q. Did anyone else from your company conduct
training for your employees?

A. Yes.

Q. Who was that?

A. Norman Lester.

Q. Norman Lester? Did you ever observe
this -- this person conducting experienced miner
training?

A. Yes.

Q. How often?

A. Twice best I can recollect.

Q. Where was the training conducted at?
A. At the Marfork Training Facility for Massey.

Q. Did you use or provide an outline to your other instructors to conduct inexperienced miner training?

A. No.

Q. Was the training consistent with each group of employees that you hired?

A. Yes.

Q. It was consistent?

A. Uh-huh.

Q. What training material did you use to conduct this training?

A. As far as training material, I used the regulation. What we did was in addition to Massey providing experienced miner training, we also went there and did some I guess you'd call it the company initial training where we not only talked about parts of -- of MSHA's experienced miner training requirements, but also about our -- our -- what we expected of the employee, you know, showing up on time, working safe, following instructions, accident reporting, those sort of things.

As far as any -- using anything actual, I
never used anything actual because when you look at things like roof control plans, ventilation plans, those are specific to each mine and those are taught by Massey. What I did during my training was talk about theory, letting these people know what a roof control plan was, that every mine was required to have one, what had to be in that roof control plan or ventilation plan. The fact that they had the right to look at those plans at any time they asked, that they had to be reviewed every six months and how that review process worked, that you know, MSHA and the State would look at what kind of ventilation or roof control problems that they had or violations and see if they needed to make adjustments to their plan so that it could be approved in that upcoming six months.

Spent a good deal of time during that training talking about accident prevention, hazard recognition and used those based on my experience and based on accident reports throughout our company that come back that we use to -- use the misfortune of one to hopefully help everyone else. So again, our training was more theory than actual here's what they do at UBB or somewhere else
because we don't have that.

Q. You don't -- you didn't have no roof control plans, ventilation plans or anything from UBB to go over or review?

A. No, no, that -- because they did that.

Q. What was the actual length of the time of session -- of each session of your training people?

A. Forty-five minutes to an hour.

Q. Forty-five minutes to an hour, okay. So you -- you -- you're stating that training was not mine specific to a mines or UBB?

A. Correct.

Q. Okay. How many employees do you usually train in a session?

A. Oh, that depends. It might be two or three, it might be 10.

Q. Two or three, 10. When you do this training for these sessions for eight, 10 people, do some of the mines go to other mines than UBB -- assigned to other mines instead of UBB?

A. Oh, yes. Yes.

Q. You don't go over -- there's no plans for them or amendments for those companies either, other mines? Do you go over any of their plans or
is it the same generic training for all?

    A. It's the same generic thing and they get
their mine specific experienced miner training at
each mine site.

    Q. What other training does your employees
receive from Massey before they report to the
mines?

    A. I can't answer that.

    Q. Have you ever observed them doing any
other training at Marfork Training Center before
your people are assigned to mines?

    A. Nothing other than experienced miner
training, no.

    Q. No what?

    A. Nothing other than the experienced and the
experience -- the experienced miner training from
Massey's standpoint is kind of done in two parts.
Some of it is done at the Marfork Training Facility
which includes self-rescue devices that are the
same everywhere and then as these employees are
sent to the specific mine where they're going to
go, then they get the specific roof control plan,
ventilation plan, transportation and communication,
all those things that are specific to that mine.
Q. At the trainings that they received at Marfork Training Center, who usually provided that training for your employees?
   A. The Massey training?
   Q. Yeah.
   A. Jackie Stover.
   Q. Jackie Stover? He didn't have like you that -- correct me if I'm wrong, you stated that he don't have none of the specific plans there or like escapeway maps or things like that?
   A. Not for every mine, no.
   Q. Does he ever go over them for any particular mines especially UBB when he done that training?
   A. I can't answer that.
   Q. You can't answer that? When you provided this training to your employees, did or your instructors fill out 5000-23's indicating that you had provided them training?
   A. Yes.
   Q. Are the mine specific plans and amendments to the plans or escapeway maps and other specific mine material available for you to conduct this training?
A. I don't know.

Q. You don't know? Has anybody ever offered you to provide you with plans, mine maps, amendments to the plans, conduct training for your people?

A. So that I could conduct the training?

Q. Yes. Yeah.

A. No.

Q. Did they ever provide you with amendments to your ventilation plans or roof control plans when the changes are made to go over with your people?

A. No.

Q. Who does that?

A. They do.

Q. How do you know that they are getting these changes to the plans and amendments?

A. I don't. I personally do not.

Q. Did you or have any of your mine management observed experienced miner training completed at the mines before your employees are assigned work duties?

A. I -- I went through the experienced mining training myself.
Q. You went through it. Have you observed your employees receiving this training at the mines?

A. Yes.

Q. How often?

A. Well, half a dozen times probably.

Q. What was the latest you did prior to April the 5th?

A. I don't know. I mean, probably better than a year.

Q. Better than a year prior to April 5th?

A. Yeah.

Q. Did you or your company provide task training to your employees?

A. No.

Q. Who does?

A. The mine.

Q. Have you or any of your management people observed task training being conducted at the mines for your employees?

A. Yes.

Q. When was this and how often?

A. I observed task training on two or three occasions about four years ago when we first
started working with -- down in this area with
Massey Energy.

Q. You haven't observed none of your training
for your employees since four years ago at UBB?
A. I don't think so, no.

Q. What's your company's policy to insure
that your employees received the required training
at the mines before they are assigned work duties?
A. Ask me that again.

Q. How do you insure that your miners -- your
people are getting the required training at the
mines?
A. It's the mine's responsibility to do that.

Q. So it's the mines responsibility, but
they're your employees so you check on to see to
make your employees gets the proper training?
A. They have documentation that says they
have the training, yes.

Q. Do they provide you -- you that training,
that copy of that documentation that they get at
the mines?
A. Most of the time, yes.

Q. Who provides that documentation to you?
A. Somebody from their safety department will
fax us copies.

Q. Fax you copies, okay?
A. (Nods head.)

Q. Do they fax you copies of their task training records?
A. No.

Q. So do you have any way of knowing that they are tasked trained on -- on the jobs that they do?
A. No.

Q. How often has any of your other mine management -- or your management people at Dave Stanley Consultants or instructors have they went underground at UBB?
A. At UBB?
Q. Yeah.
A. I've been underground there half a dozen times.

Q. Have any other management people from Dave Stanley been underground?
A. Not to my knowledge, no.

Q. Are you familiar with the S1 and P2 programs at Massey?
A. Vaguely. Safety one, production second,
yes.

Q. Can you explain it to us?

A. Not in great detail other than that's -- that's their -- the basis of it. Safety's first in every task, production --

Q. Has Massey ever provided you with any manuals for their S1 or P2 programs to cover with your people?

A. No.

Q. Have you observed any training being -- of your people concerning the S1 or P2 programs?

A. Yes.

Q. When was the last time you observed that?

A. A couple of months ago I guess.

Q. A couple of months ago? Did they provide that with guidelines or anything like that on their training?

A. I believe they provide them with a handbook, but I'm -- but I'm not -- I'm not absolutely certain about that.

Q. You're not absolutely certain? Okay. In reviewing the records, Norman Lester conducted training for your people, correct?

A. Uh-huh.
MS. FERGUSON: Was that a yes?

THE WITNESS: Oh, yes, I'm sorry.

BY MR. VANCE:

Q. When you hire an instructor to do training for your people, how do you insure that he's approved to do experienced miner training, inexperienced miner training or annual refresher training?

A. You know, could I -- could I make a statement at this point?

MS. FERGUSON: Sure.

THE WITNESS: I was contacted and asked if I would willingly be involved in an interview down here concerning the disaster at UBB, okay?

MS. FERGUSON: Yes.

THE WITNESS: So far it appears to me that what this questioning is is questioning my company and what we do and how we insure everything is done. I kind of feel like I've been brought here on false pretenses.

MS. FERGUSON: Okay. Maybe we should go off the record and talk about this a little.

(Break.)

BY MR. VANCE:
Q. In your refresher training, do you provide that to your employees or did Massey provide that to the employees?

A. Our inexperienced miners, as you know, they're required to have experienced miner training and then that starts their clock ticking for annual refresher and whenever Massey does annual refresher, they just put our people right in with them.

Q. Put them in with their classes.

A. Now, as far as experienced miners, Massey's requirement is that before they take a guy that's an experienced miner from us, that he'll have an up to date annual refresher in which case, we do that before we send him which is not worth anything.

Q. That's my next question. What's the purpose of it?

A. Well, the purpose is is because the safety people at Massey said, yeah, we understand what you're showing us in the law, but it's not required, but we're not going to hire them if you don't give it to them. So I -- we give them a -- again, we give them a generic annual refresher
because there's nothing to refresh them on as far
as a mine specific because they haven't been
working there so -- but yeah, in those rare
instances we do that.

Q. When Massey -- when Massey does that
training, have you observed some of their annual
refresher training?

A. No.

Q. What's the average length of employment
for individuals at Dave Stanley Consultants?

A. I'm going to guess and say five, six
months --

Q. Five or six months?

A. -- but now that -- I mean --

Q. Are they usually hired by Massey as
members at UBB or other mines?

A. Some are, yeah.

Q. What is the rate between Dave Stanley
Consultant and Massey with UBB wishes to hire one
of your employees?

A. Well, we kind of have -- we don't have any
written contract, but we kind of have -- I mean, we
have a written contract with the company, but in
that contract there is nothing that states how long
an employee will work for us. We have a
gentlemen's agreement that they'll work -- work
them under us for -- for 90 days minimum so that we
can recoup our -- our costs and then they'll --
they'll pull them in and offer them a membership in
the company.

Q. How do they usually pick the guys they
hire, by their -- how they work or how often they
work or --

A. How does Massey do it?

Q. Yeah.

A. I don't know.

Q. You don't have no idea? Okay. Okay. How
are the instructions given at the mine -- to your
employees at the mines by Massey?

A. How?

Q. How are the instructions given? Are they
give by you or Massey of what's going on at the
mines?

A. Oh, no, Massey. They get their day-to-day
instruction from Massey management.

Q. So they get the directions of the
mining -- of the mining work directly from Massey?

A. That's correct.
Q. Does your company reprimand your employees or does Massey?

A. We do.

Q. How does that coordinate between you and Massey?

A. They will discuss -- well, like in the area of absenteeism, our regional manager keeps track of that and we handle that. If Massey has a problem, they'll contact the regional manager and depending on what the problem is, it may be counseling or maybe a warning slip. It's just depending on what it is.

Q. Do you have -- do you have some kind of procedures in place for discipline of your people if -- like warnings?

A. We have an employee handbook that we give each employee that states our company policies. We also have an employee safety handbook that we give each employee when they start to work for us that -- that generally say that here -- here are our rules and regulations and they go along with the company rule and regulations where you're being assigned along with State and Federal regulations to insure that -- that we promote a safe workplace
Q. Accidents, reporting accidents of your employees, who does that? Do you report that to MSHA or does Massey report that?

A. I do.

Q. How do you report these accidents, by the mines or by the employee or the company or --

A. You mean the -- I use the mine ID number.

Q. You use the mine ID number?

A. Yeah, and our -- and our MSHA ID. So it will have the mine ID plus -- and the contractor ID.

Q. I'd like to ask you, could you provide us with any accident reports that happened between April 5th, 2008 and April 5th, 2005 of accidents that occurred with your employees at UBB?

MS. FERGUSON: You mean 2010?

Q. 2010, sorry.

A. Yeah, give me that date range again.

Q. Between April 5th, 2008 --

A. April 5 --

Q. -- and April 5th, 2010?

A. -- 2008, okay.

MR. TUCKER: Just for the record, if you
don’t mind if you could provide the State with a copy of those too.

THE WITNESS: Yeah. I mean, how do -- how do I get those to you? Can I fax them to you or Email them to you or --

MS. FERGUSON: You can Email a PDF to -- to you.

MR. VANCE: Email them to me.

MS. FERGUSON: If that's the easiest way to do it.

MR. VANCE: Scan 'em and Email 'em.

MR. KOERBER: Here's the Email for Bill Tucker.

THE WITNESS: Okay.

MR. VANCE: You can Email them to me. My Email address is --

THE WITNESS: Email Jerry Vance.

MR. VANCE: It's vance.jerry@dol.gov

THE WITNESS: Okay.

BY MR. VANCE:

Q. A couple more questions here. Who -- who provides the SCSR self rescuer units for your employees?

A. The company.
Q. The company does?
A. Uh-huh.

Q. Okay.

MS. FERGUSON: By the company, you mean the mining company?


BY MR. VANCE:

Q. What other mines or areas do you provide employees to the mining industry? You provide other mining companies in this area or other areas of the country?
A. Alliance, Peabody, Consol, Rhino Eastern. I'm sure there are other, I just can't think of it right now.

Q. Do you -- do you in your opinion believe that your employees was getting the required ventilation plans or roof control plans, amendments to the plans at the mines?
A. Yes. I don't have any reason to believe that they weren't.

Q. Do you have any reason to know that they did?
A. Well, I don't have any physical document
to say that they did, but I will say that my
observations of the training at Massey generally
speaking is as good or better of -- than -- than
the other companies that I work with.

Q. Could you -- can you explain on that a
little bit better, the specifics?

A. Well, I mean, like the self rescuer
training. You know, I've -- I've observed self
rescuer training done for Massey many, many times
and it's a very thorough training. I have happened
to be down there on occasions when they're doing
expectations training and they have their trailer
there and they put people through smoke and . . .

Q. Have you ever had occasions to observe the
training on their ventilation plans or amendments
to the plans?

A. Only -- only when -- when we first started
working down here and I attended all of the
training myself to satisfy myself that it was
quality training for our employees and that was
at -- and that was at UBB.

Q. That was at UBB?

A. Yes.

MR. VANCE: I don't have any other
questions right now.

EXAMINATION

BY MR. O'BRIEN:

Q. Mr. Gump, again, I appreciate you coming by today and helping us out. Bear with me, I probably will jump around and I may repeat a question inadvertently, okay?

First question, your current job that you described, did you do the same duties -- did you have the same duties on April 5th of this year?

A. Yes.

Q. Other than providing employment or workers for the coal mines, does your company provide any other services to the mining industry or anybody else?

A. Training.

Q. Do you provide just strictly underground employees or do you also provide surface employees?

A. No, we have both.

Q. Both? Okay.

A. Yes.

Q. Does David -- David Stanley Consultants teach any 40 and/or 80 hour classes themselves?

A. There -- yes, we have a retired miner
that -- that trains in the evenings, does training, yes.

Q. Now, do your employees come from those --
get their training from this fellow or both, outside?

A. It could be him or it could be any
other -- any other certified training company.

Q. Does David Stanley Consultants provide any
other type of certification classes like mine
foreman or --

A. No.

Q. How do you obtain workers? Do you -- do
you publicize or people just know to put in
applications or how does that work?

A. We advertise sometimes, sometimes it's
word of mouth. As we all know the mining
industry's a pretty small industry and it's -- a
lot of times it's Uncle John's nephew and so and
so's son and so -- but we do both.

Q. An inexperienced or apprentice miner,
let's put it that way, inexperienced miner that's
employed by David Stanley Consultants gets their
six months and 108 days in worked and they want to
become an experienced miner, they need an
experienced miner's document --

A. Uh-huh.

Q. -- now who verifies that time that they have six months and 108 days, is it David Stanley Consultants or is it the mine where they work?

A. We do.

Q. You do? How do you verify that time? How do you know they got that time?

A. Through their time sheets, you know, through their pay records. You know, we keep track of shifts and hours and, you know, six months.

Q. Who is James W. Hayhurst?

A. He's the president and managing partner of the company.

MR. O'BRIEN: That's all we have at this moment. Thank you.

EXAMINATION

BY MR. VANCE:

Q. You stated earlier what your job title -- job description is, could you re -- reemphasize what you said your job title is and job description?

A. My job title is Director of Operations. I run the day-to-day operations of the company and
also handle all safety issues. My job was previously Safety Director and I was elevated to Director of Operations and I'm still the Safety Director too.

MS. FERGUSON: Welcome to 2010.

Q. How many regional managers do you have?
A. Six.

Q. Six? Are they all located in this area or different?
A. Beckley. I have one at our corporate office in Fairmont. We have one in Northern Cambria, Pennsylvania; St. Clairsville, Ohio; Madisonville, Kentucky; Evansville, Indiana; Harrisburg, Illinois.

EXAMINATION

BY MR. O'BRIEN:

Q. I have one more. If a new apprentice miner is hired by David Stanley and goes to work as a red hat or an apprentice miner at a coal mines and works four to five months and leaves for whatever reason, what protections are in place to allow that this apprentice miner gets his documented work experience towards his experienced miner certification?
A. They call us and we get it ready for them. If they don't work for us any -- you know say a guy works for us three months and because -- in addition to what we do at places like Massey, we also do jobs for other contractors where they'll need additional labor. So we may have guys that work for a, you know, a drilling company and then they -- you know, or maybe a mine just needs some additional manpower to timber an airway or something, and we'll have them there six weeks and then they don't need them anymore and we put them over here, and then somebody offers them a job and they go and they work there three months, and they call us and say, hey, I've got three months down here and I think I have three months with you, I think I need a document so we get it ready and mail it to them.

Q. You mail the experienced --

A. Sure.

Q. Have you ever had an employee call you with a safety complaint at UBB?

A. No.

MS. FERGUSON: For any other Massey mine?

THE WITNESS: No.
MS. FERGUSON: Anything else?

Mr. Gump, on behalf of MSHA and the Office of Miners' Health Safety and Training we want to thank you for appearing and answering our questions today. The cooperation is very important to the investigation as we work to determine the cause of this accident.

We request that you not discuss your testimony with any person aside from a personal representative or attorney. After questioning other witnesses, we may call you if we have any follow-up questions. If at any time you have additional information regarding the accident that you would like to provide to us, please contact Norm Page.

If you wish, you may now go back over any answer or make any statements you would like to make.

THE WITNESS: No, I -- I just -- I just hope my being willing and helpful doesn't come back to bite me.

MS. FERGUSON: Fair enough. Thank you very much for your cooperation. Off the record.

(This concludes the interview of James
Gump.)
STATE OF WEST VIRGINIA, To wit:

I, Shawn M. Holt, a Notary Public and a Professional Reporter within and for the State aforesaid, duly commissioned and do hereby certify that the interview of JAMES GUMP was duly taken by me and before me at the time and place specified in the caption hereof.

I do further certify that said proceedings were correctly taken by me in stenotype notes, that the same were accurately transcribed out in full and a true Record of the testimony given by said witness.

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

My commission expires the 18th day of August, 2016.

Given under my hand this 7th day of November, 2010.

______________________________
Shawn M. Holt
Court Reporter