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Transcript of the Testimony of Jerome Keith Stone

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Case:

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STATEMENT UNDER OATH
OF
JEROME KEITH STONE

taken pursuant to Notice by Brett Steele, 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, Friday, May 14, 2010, beginning at 10:33 a.m.

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A P P E A R A N C E S

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A P P E A R A N C E S (cont'd)

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I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	7 - 11
5	WITNESS: JEROME KEITH STONE	
6	EXAMINATION	
7	By Mr. Page	11 - 57
8	EXAMINATION	
9	By Mr. Farley	58 - 63
10	EXAMINATION	
11	By Ms. Monforton	63 - 65
12	RE-EXAMINATION	
13	By Mr. Page	65 - 67
14	RE-EXAMINATION	
15	By Mr. Farley	67 - 68
16	RE-EXAMINATION	
17	By Ms. Monforton	68 - 73
18	RE-EXAMINATION	
19	By Mr. Page	73 - 75
20	RE-EXAMINATION	
21	By Mr. Farley	75 - 76
22	RE-EXAMINATION	
23	BY Ms. Monforton	76 - 77
24		
25		

I N D E X (cont.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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19
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22
23
24
25

CLOSING STATEMENT

By Attorney Wilson

77 - 78

CERTIFICATE

79

1		EXHIBIT PAGE	
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P R O C E E D I N G S

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ATTORNEY WILSON:

Good morning, Mr. Stone. My name's Bob
Wilson. I'm with the Office of the Solicitor, United
State Department of Labor. With me is Norman Page,
lead accident investigator with the Mine Safety and
Health Administration. Also present are several
individuals with the State of West Virginia, and I
would ask that they state their appearance for the
record. Celeste?

MS. MONFORTON:

Celeste Monforton, with Davitt McAteer's
independent investigation.

MR. FARLEY:

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

MR. TUCKER:

Bill Tucker with the Office of Miners'
Health, Safety and Training.

ATTORNEY WILSON:

There are also several other members of
the investigation teams present in the room. All
members of the Mine Safety and Health Administration
Accident Investigation Team and all members of the

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

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

1 investigation.

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

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

16 MR. STONE:

17 Yes.

18 ATTORNEY WILSON:

19 All right. And would the representative
20 please identify herself?

21 MS. CRAWFORD:

22 Reba Crawford.

23 ATTORNEY WILSON:

24 Thank you. Mr. Stone, you may refuse to
25 answer any question and you may request a break at any

1 time. This is not an adversarial proceeding. Formal
2 Cross Examination will not be permitted, however, your
3 representative may ask follow-up, clarifying questions
4 as appropriate. A court reporter will record the
5 interview. Please speak loudly and clearly. If you
6 do not understand the question, please ask that the
7 question be rephrased. Please answer each question as
8 fully as you can, including any information that you
9 may have learned from another source. I would like to
10 thank you in advance for your appearance here today.
11 We appreciate your assistance in the investigation.
12 Your cooperation is critical to making the nation's
13 mines safer.

14 After we have finished asking questions,
15 you will have an opportunity to make a statement and
16 provide us with any other information that you believe
17 may be important to the investigation. If at any time
18 after the interview you recall additional information
19 that you believe to be important, please contact
20 Norman Page at the telephone number that is provided
21 to you on the cover letter that I'll give to you at
22 this time. Mr. Page's phone number is on the second
23 page. At this time I'll ask that the court reporter
24 swear in the witness.

25 -----

1 JEROME KEITH STONE, HAVING FIRST BEEN DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 -----

4 ATTORNEY WILSON:

5 All right. Norm.

6 EXAMINATION

7 BY MR. PAGE:

8 Q. What do you go by?

9 A. Keith.

10 Q. Keith?

11 A. Yes, sir.

12 Q. Okay. I just want to note when we --- when I
13 start asking you questions which one to call you.

14 Okay?

15 A. Keith.

16 Q. You won't get mad if I mess up; right?

17 A. No, sir.

18 Q. All right. You're a big boy. Keith, would you
19 care to state your full name and spell your last name,
20 please?

21 A. Jerome Keith Stone, S-T-O-N-E.

22 Q. Could you state your mailing address and your
23 telephone number?

24 A. [REDACTED]

[REDACTED]

1 Q. Are you appearing here today voluntarily?

2 A. Yes, sir.

3 Q. Okay. How long have you worked with the Mine
4 Safety and Health Administration?

5 A. Two years.

6 Q. Two years?

7 A. Yes, sir.

8 Q. How long have you had your AR card?

9 A. April. Let's see. I got the card in April.

10 Q. Approximately.

11 A. So it would be ---

12 Q. Oh, you got ---?

13 A. --- a year. Well, yeah, April would have been a
14 year.

15 Q. Okay. Where's your current duty station?

16 A. Mount Hope.

17 Q. And have you worked there the entire time?

18 A. Yes, sir.

19 Q. Okay. What's your position?

20 A. CMI.

21 Q. That's coal miner inspector?

22 A. Yes, sir.

23 Q. Okay. And have you been in this position the
24 entire time?

25 A. Yes, sir.

1 Q. Okay. Who's your current supervisor?

2 A. Thomas Moore.

3 Q. Give me a little bit of --- give me a little bit
4 of background history of your mining experiences.

5 A. I worked seven years with Massey. I started in
6 1997, I think. Several different mines, held seven
7 different positions, mostly as equipment operator.
8 Left Massey in '03, went to Patriot Coal and spent
9 there from 2003 to 2008, when I accepted this job.

10 Q. Why did you leave and go to Patriot?

11 A. Less hours worked, more time with my kids, more
12 time with my family.

13 Q. Okay.

14 A. That's a big thing.

15 Q. Okay. What's your responsibilities as a CMI?

16 A. To ensure the health and safety of all the miners.

17 Q. Okay. Prior to going to the mines, do you review
18 the plans, the mine file book or ---?

19 A. Yeah, before you go the first initial day,
20 usually, yes.

21 Q. Okay. Tell me just a little bit about that.

22 A. As far as the mine file goes, it consists of all
23 the plans, the roof control, ventilation, try to
24 review anything to have any revisions, proposals they
25 have submitted, make copies of anything. There's

1 special attention areas in the UMF file and in the new
2 plans, accidents. It's just got a whole info ---
3 whole bunch of information about the mines itself.

4 Q. What about if the mines is on a D sequence, does
5 it ---

6 A. Yes, sir.

7 Q. --- have that in there?

8 A. Yes, sir.

9 Q. Do you review the mine map when you review the
10 mine file?

11 A. Yeah. I try to, yes.

12 Q. Okay. What about underlays and overlays?

13 A. No, sir. No, I've never looked at the overlay,
14 underlay.

15 Q. Okay. They also have those at the mines, too;
16 don't they, ---

17 A. Yes, sir.

18 Q. --- when you go to the mines?

19 A. Yeah.

20 Q. Okay. Are you assigned to the Upper Big Branch
21 Mines this quarter?

22 A. No, sir.

23 Q. Okay. Have you ever been assigned to that mine?

24 A. Yes, sir.

25 Q. When was that?

1 A. Last quarter.

2 Q. You were assigned one quarter or was you assigned
3 two quarters?

4 A. Just one quarter.

5 Q. One quarter?

6 A. Yeah.

7 Q. Okay. Did you ---? Was anyone else assigned to
8 assist you or ---?

9 A. Yes, sir. Perry Brown was --- I was the lead
10 investigator --- or lead inspector and Perry Brown was
11 sent to help.

12 Q. Okay. How do y'all do that?

13 A. Actually, the supervisor at the time just kind of
14 split the mines at a certain place.

15 Q. Okay. So you kind of divide the mines up and one
16 of you make a certain point outby or ---

17 A. Yeah.

18 Q. --- exit the mines and the other one makes the
19 other half?

20 A. Correct. Yes, sir.

21 Q. Okay. So you made the mines ---? Do y'all change
22 every quarter?

23 A. Usually, yes.

24 Q. Okay. Was this mines on a D sequence when you
25 started?

1 A. Yes, sir.

2 Q. Okay. When was the first time that you inspected
3 this mine or the first day? Can you recall?

4 A. I'm thinking it was January, January 7th, 2010 was
5 my first day at the mine.

6 Q. Did you ever go help any at this mines, a quarter
7 prior to or anything?

8 A. Never went underground. I did some surface stuff,
9 records postings outside ---

10 Q. Okay.

11 A. --- maybe the quarter before. I can't actually
12 recall.

13 Q. Are you a GS12?

14 A. Yes, sir.

15 Q. The boy that assisted you, is he a GS12?

16 A. Yes, sir.

17 Q. Can you tell me a little bit --- kind of walk me
18 through that first day at the mines?

19 A. As I recall, arrived at the start of the shift.
20 Prior to the start of the shift, met with the
21 superintendent. The mine foreman wasn't there yet.

22 Q. I got your --- three months of your life right
23 here.

24 A. Met with Everett Hager, the superintendent, and
25 informed him that I was starting an EO1 inspection and

1 that I would like to have a safety meeting with the
2 men prior to the start of the shift because I wanted
3 to ride to the section immediately behind as close as
4 possible with the crew. Mr. Hager had no objections
5 to that.

6 Q. Which one? Which section was you going to?

7 A. They called it the Number One section, which was
8 actually this --- they called it Headgate 22. It's
9 MMU-029.

10 Q. Okay. But on the map it's labeled as Headgate 22?

11 A. Yes, sir.

12 Q. Go ahead, I just ---. Just go ahead and
13 start ---.

14 A. Had the ---. Once I got dressed, I had the safety
15 meeting with not just the Headgate 22 section guys,
16 but they also had some fire bosses and outby
17 electrician stationed on that side of the mines, ---

18 Q. Uh-huh (yes).

19 A. --- and they was all part of the safety talk. And
20 then after that, rode the mantrip in with the crew to
21 the section. Arrived on the section, made the
22 faces ---.

23 Q. And that's ---

24 A. Headgate 22.

25 Q. --- Headgate 22?

1 A. Yes, sir.

2 Q. So where did you go in? Which portal did you go
3 in?

4 A. The Ellis Portal on the map.

5 Q. Okay.

6 A. Arrived on the section, made the --- walked up to
7 the faces, made the faces with the section foreman,
8 Dean Jones.

9 Q. Did you ---? When you were riding in the mantrip,
10 was it a covered mantrip?

11 A. Yes, sir.

12 Q. Did everything appear to be okay or did you see
13 anything, any violations or anything on your way in?

14 A. No, sir, I didn't notice nothing on the way in.

15 Q. Okay. But you was on --- you was on a covered
16 mantrip?

17 A. Yes, sir.

18 Q. Okay.

19 A. Arrived on the section. They had the --- the
20 third shift had made a belt movement and the belt
21 mover was running late. The actual conveyor belt
22 system wasn't but probably --- I forget how long.

23 Q. Approximately how far was the section up in there
24 when --- your first day at the mines going to this
25 section? Do you have any idea? Do you have a spad

1 number in your notes?

2 A. Yes, sir, I have --- in my notes I have the
3 section belt head to tail. The tail was located at
4 spad 24324, which would be in the Number One entry and
5 it would be a total of about five breaks long.

6 Q. Okay.

7 A. Walked from the tail to the back of the take-up,
8 or to the head, returned back to the section.

9 Q. Did you observe anything in that area?

10 A. No.

11 Q. Any violations?

12 A. No.

13 Q. I know you observed a lot, but ---

14 A. No, sir, I didn't ---.

15 Q. --- any violations?

16 A. No.

17 Q. Could you tell us a little bit about that section
18 so everyone understands? That being the headgate
19 entry.

20 A. Yes, sir.

21 Q. Which entry is the belt in?

22 A. The belt was in Number One. The intake primary is
23 Number Two, the return entry would be Number Three.

24 Q. Okay. That's not your normal ---?

25 A. No, sir, it's not a normal sequence, but I've seen

1 --- most of it is intake one, belt two, return three.
2 It's a unique system.

3 Q. Well, longwalls are a little different, different
4 systems. Okay. Just pick it up from there and tell
5 us a little bit about what you ran into or what you
6 observed up on the section. Walk us through it.

7 A. Made the faces with the foreman, walked the belt,
8 went back to the section, looked at the section power
9 center, checking IDs, identification on the breakers,
10 cat heads. Prior to them getting the belt move ready,
11 did dust parameter checks on the equipment with the
12 men, just checking sprays, water pressure, vacuum
13 reading on the bolters, dust boxes, to that nature.

14 Q. So you made it in, but then you arrived across the
15 face and started checking some of the ---?

16 A. Yes, sir. Yeah.

17 Q. I'm assuming that's what ---?

18 A. Yes, sir.

19 Q. Okay. Did you run into any violations or any
20 conditions that you had to cite?

21 A. Not in the immediate face. I didn't observe any
22 citations in the immediate face.

23 Q. Okay.

24 A. After that started walking down the --- back down
25 the primary escapeway, which was their travelway ---

1 Q. Uh-huh (yes).

2 A. --- back and forth to the section.

3 Q. Which entry is it?

4 A. That would be the Number Two entry.

5 Q. Okay.

6 A. At the --- map of the section, had a rescue
7 chamber.

8 Q. Where's that located on the map, approximately?

9 On the map, or your notes. I mean, you can tell us,
10 but ---.

11 A. I thought I put a spad in there. Rescue chamber
12 was located approximately right in this area
13 (indicating), which would have been right around spad
14 24121.

15 Q. Okay. So you gave us a spad number, so I ought to
16 locate it for everyone.

17 A. Okay. Actually, no, that would be wrong. 24126
18 would have been ---

19 Q. Okay.

20 A. --- where it was located. While examining the
21 rescue chamber, a piece of brattice cloth was hung in
22 the crosscut on --- I guess it would be outby that
23 rescue chamber, noticed air flow was wrong in
24 that ---.

25 Q. What do you mean by wrong?

1 A. Air flow wasn't flowing in the direction as shown
2 on the map.

3 Q. The approved map?

4 A. Yes, sir. Air flow, according to the map, should
5 have been coming in inby toward the face.

6 Q. Okay.

7 A. Air was going outby.

8 Q. So the intake air that was going to the 22 Section
9 was not going in its proper course or ---?

10 A. Yes, sir. Yes, sir.

11 Q. How did they get air up on the section?

12 A. They actually had --- they was using it as their
13 primary escapeway.

14 Q. Uh-huh (yes).

15 A. Actually, their intake air fed from outside up an
16 adjacent panel on 5 North belt, up 6 North belt around
17 what they call the Glory Hole and out I believe that
18 was Old North Knight and then down to the section.

19 That was just a split of air to make their
20 shortest route of travel to the surface in case of an
21 emergency.

22 Q. Okay. So where was it reversed?

23 A. It would have been from right there at the split,
24 which would have been right there at the rescue
25 chamber, down ---. I think they called that the

1 crossover.

2 Q. Okay.

3 A. And then it went down toward the mouth of the
4 longwall and met with the longwall's intake.

5 Q. Okay. So that air was supposed to be coming up
6 that way, ---

7 A. Yes, sir.

8 Q. --- towards 22 Section, but it had reversed from
9 --- from the crossover down to where it entered the
10 longwall ---

11 A. Yes, sir.

12 Q. --- intake?

13 A. Yes, sir.

14 Q. Okay. So ---?

15 A. Upon finding that, I asked --- Terry Moore was the
16 mine foreman who was traveling with me that day. And
17 I asked him, you know, what's this? And he nodded
18 yeah. I said, what do you mean yeah? He said, I
19 know. I said, what do you mean you know? I know.
20 And I said, well, Terry, you know, with your --- you
21 got your primary escapeway backwards, you can't
22 have ---.

23 Q. And this entry was primary --- the shortest route?

24 A. Yes, sir.

25 Q. The other intake up there was feeding the section,

1 but yet it was longer, as far as 75380?

2 A. Yes, sir. It was a longer travel to the surface.

3 Q. Sure.

4 A. That was what they --- they installed that just
5 for escapeway purposes.

6 Q. That's why you felt like it ---?

7 A. Yeah. I mean, that was their escapeway.

8 Q. Yeah.

9 A. That was the place --- in an event of an emergency
10 that's where ---

11 Q. Quickest way to get out.

12 A. --- all men are trained to go to.

13 Q. Okay.

14 A. And there --- it was backwards.

15 Q. Okay.

16 A. Informed Mr. Moore to withdraw the men from the
17 section.

18 Q. Is that the citation or the --- whatever that is?
19 You're going to have to explain it to me.

20 A. This was a ---.

21 Q. Is that it?

22 A. Yes, sir. This is the D2 order issued.

23 Q. Okay.

24 ATTORNEY WILSON:

25 Just for the record. What's the number

1 of the order?

2 A. 8087709

3 BY MR. PAGE:

4 Q. And you --- you made that a D ---?

5 A. D2 order, yes, sir. I withdrew the miners from
6 the face.

7 Q. What did you close?

8 A. From ---. I closed the section from the --- shut
9 the immediate section down ---

10 Q. Okay.

11 A. --- because their men did not have a safe access
12 to the surface in the event of an ---

13 Q. Okay.

14 A. --- emergency.

15 Q. Then what did the company say?

16 A. Mr. Moore --- upon questioning Mr. Moore about it,
17 he stated that he knew the condition. He stated it
18 existed for at least three weeks when he took the mine
19 foreman's job. He informed me that he had mentioned
20 it to the superintendent.

21 Q. Who is?

22 A. Everett Hager.

23 Q. Okay.

24 A. And he was told not to worry about it.

25 Q. Is all that in your notes?

1 A. Yes, sir. My notes --- in my notes, I had one
2 question. Terry Moore, mine foreman, who said he knew
3 of condition and that he asked Everett Hager,
4 superintendent, about it and he was told not to worry
5 about it.

6 Q. Okay.

7 A. Check the air flow with a smoke tube ---

8 Q. Uh-huh (yes).

9 A. --- in the presence of Mr. Moore just to show that
10 air was reversed, air was going the wrong --- wrong
11 direction. At that time Mr. Moore went and removed
12 the men from the face and the power ---. Once the men
13 got to the chamber, Mr. Moore and the section foreman
14 was trying to see what they was going to do to correct
15 the hazard found. When the men arrived, I started
16 talking to the men and they had expressed concerns
17 over this condition themselves.

18 Q. The men did to you?

19 A. Yes, but they had also mentioned it to the
20 management ---

21 Q. Were they ---?

22 A. --- personnel.

23 Q. Were they ---? When they talked to you, was
24 management standing with you or was you just alone
25 with the men?

1 A. I'm not sure.

2 Q. Okay.

3 A. I'm not sure.

4 Q. Okay. That's fine.

5 A. Questioned them about the condition. They said
6 they had mentioned it a couple weeks prior to some
7 management officials and they was told it was fine,
8 not to worry about it. I asked them who they --- who
9 they questioned. The names they give me was Chris
10 Blanchard, who is the president of the company, and
11 Jamie Ferguson, who was the vice president of the
12 company at that time.

13 Q. Okay. How long did ---? You didn't give
14 abatement time.

15 A. No, sir.

16 Q. How long did it take them to fix it?

17 A. I issued the order at 0940 and lifted the order at
18 12:30.

19 Q. What did they do to fix it?

20 A. They had opened --- they actually had a regulator
21 in this intake and a regulator in this one
22 (indicating), and they just fooled with it about ---.
23 The bleeder fan was pulling too hard for this air.

24 Q. Where's that at, when you talk about the
25 regulator? Just give us a spad number and that'll

1 keep it ---.

2 A. Roughly 2041.

3 Q. They opened --- they opened that regulator up?

4 A. Yes, sir, they opened that regulator up.

5 Q. Or did they close that one?

6 A. That would have been the one they opened.

7 Q. Okay.

8 A. And ---.

9 Q. They closed the other regulator that ---?

10 A. Let's see.

11 Q. Okay.

12 A. Let's see. Let's see.

13 Q. So basically they just adjusted two regulators?

14 A. Yeah, they adjusted --- they adjusted the
15 regulators to control the air pressure ---

16 Q. Okay.

17 A. --- and ---.

18 Q. But they were down approximately, what, four
19 hours?

20 A. Almost three hours total.

21 Q. Three hours?

22 A. Yes, sir.

23 Q. Okay. The company, did anyone say anything to you
24 or how did they take it?

25 A. Upon finding that the order had been issued and

1 the section was withdrawn, Mr. Blanchard did call the
2 mine phone and ask to speak with me.

3 Q. Yes.

4 A. I did speak with Mr. Blanchard on the telephone.

5 Q. Yes.

6 A. He asked, what was the problem? I informed him of
7 the condition I found. He stated it was still fresh
8 air, still intake air. I informed him that, you know,
9 if something was to happen in that air course ---

10 Q. Sure.

11 A. --- and the men use that air course to go out ---
12 all three entries off of that section went outby.
13 They had no fresh air coming through the face.

14 Q. Uh-huh (yes).

15 A. He --- he said okay. I don't know if Chris --- I
16 don't know if Mr. Blanchard was outside or
17 underground ---

18 Q. Right.

19 A. --- when I spoke with him.

20 Q. He was on a mine phone, just ---?

21 A. Yes, sir, it was just a regular mine phone.

22 Q. Okay. Then you abated it three hours later?

23 A. Yes, sir.

24 Q. And the men --- the men went back to work?

25 A. Yes, sir. I went --- went back up, checked the

1 air, make sure air was flowing right, everything was
2 correct. I then lifted the order and allowed the men
3 to go back to work.

4 Q. Okay. That particular day, did you run into any
5 other citations or orders that you needed to issue?

6 A. Yes, sir, I did. After --- once the men --- or
7 once the order was lifted and the men was allowed to
8 go back to work, Mr. Moore and myself walked the
9 return off to the section down to an overcast at the
10 longwall belt, which is located ---. I can't really
11 see a spad.

12 Q. Yeah, give us a spad, if you don't care.

13 A. I'm going to say 22621, one break inby that.

14 Q. One break inby spad number ---.

15 A. Actually, I have it --- have it located in my
16 notes, but it would be referring to on the belt.
17 22626 is the spad number, and it was --- one and a
18 half breaks outby that is the overcast. So it would
19 be this one right here (indicating), at the mouth of
20 the longwall.

21 Q. Okay.

22 A. We walk return from the section down to that
23 point, come out of the return into the ---.

24 Q. So you stopped your travel in the return then?

25 A. Yes, sir. I was going to return to the surface.

1 Once I stepped out of the overcast, I noticed air
2 going toward --- they had the --- that overcast also
3 was a regulator from belt air to ---.

4 Q. So you stepped out of the return into ---?

5 A. A neutral air course.

6 Q. In the belt entry?

7 A. Yes, sir.

8 Q. Which is considered intake air, but what direction
9 is that air supposed to travel?

10 A. According to their map, that air would have been
11 outby, going outby.

12 Q. Okay.

13 A. That air --- that air flow had reversed. They had
14 return air coming out of the regulator at the overcast
15 going up the longwall belt to the longwall face.

16 Q. So you had ---? See if I'm getting this right.

17 I'm not trying to answer your question. I just want
18 to make sure I understand it. Okay?

19 A. Okay.

20 Q. So when you walked that return there, and you
21 stepped out into the belt entry, the regulator,
22 instead of the belt air coming into the return, the
23 return air was coming into the belt?

24 A. Correct. Yes, sir.

25 Q. And that air was going in the wrong --- even the

1 air in the belt entry was traveling the wrong
2 direction, ---

3 A. Yes, sir.

4 Q. --- towards the face versus ---

5 A. Outby.

6 Q. --- outby?

7 A. Yes, sir.

8 Q. So what did you issue?

9 A. I then issued another D2 order, told Mr. Moore to
10 remove --- shut the belt off and remove the men from
11 the longwall face.

12 Q. What'd he say?

13 A. They have the two-way radios.

14 Q. Yeah.

15 A. He immediately tried to holler on one of the
16 radios, but he shut the belt off immediately and was
17 trying to get ahold of the men. He had walked inby a
18 couple breaks to a phone while I was gathering my
19 notes. I took a --- used my handheld Solaris to see
20 if methane ---

21 Q. Uh-huh (yes).

22 A. --- or any other gases was arriving to the face.

23 I did detect .1 CH₄ methane on my handheld Solaris.

24 By that time Mr. Moore had got ahold of the

25 superintendent, Mr. Hager, who was still up toward 1

1 section. He said that --- Mr. Hager said to give him
2 a couple minutes, he knew what the problem was.

3 Q. Is that it?

4 A. Yes, sir. Yeah, this is the ---

5 Q. The notes were behind you, ---

6 A. --- D2 order.

7 Q. --- if you need to refresh ---. Okay. So you
8 pulled --- issued a 2D?

9 A. Yes, sir.

10 Q. And it lasted six hours?

11 A. Yes, sir.

12 Q. On ventilation?

13 A. Yes, sir.

14 Q. Okay.

15 A. Mr. Moore had got ahold of Mr. Hager. Mr. Hager
16 was still up toward the Headgate 22 area somewhere.
17 Mr. Hager --- or Mr. Moore come back to me and said,
18 Mr. Hager said to give him just a minute, he'd have
19 the problem fixed. I informed him I wasn't waiting,
20 that when I conducted --- when I completed my notes
21 and my evaluation and men withdrew from the section,
22 that that was it. I wasn't waiting on ---.

23 Q. You was leaving, is that what you ---?

24 A. Yeah. I mean, I wasn't going to sit and wait on
25 them to correct it so I could terminate the order.

1 Mr. Moore continued toward me talking, letting me know
2 that Mr. Hager was on his way to fix it. I was still
3 at the overcast doing my notes.

4 Q. Did anyone call you this time, from the company?

5 A. No, sir. No, sir, I never heard from nobody.

6 When Mr. Moore arrived to where I was at, at the
7 overcast, he said, well, the air's going right now. I
8 checked it with my ---. Airflow had returned back to
9 --- as shown on the approved map.

10 Q. Sure.

11 A. Asked him what they done. He said he would check
12 and said that they had closed the door over on the ---
13 it would have been the O2 section, which was this area
14 here (indicating).

15 Q. That is just outby the longwall ---

16 A. Just outby the --- yes, sir.

17 Q. --- on the map?

18 A. Yes, sir. And it took a total of four minutes
19 from the time that I observed the condition 'til the
20 time that they corrected it.

21 Q. So that area is adjacent to the Number Six north
22 belt?

23 A. Yes, sir.

24 Q. Okay.

25 A. Once airflow returned, I told Mr. Moore.

1 Q. Okay.

2 A. You know, he said that they closed the door. He
3 didn't know who, he didn't know what or where, but he
4 said somebody had closed the door.

5 Q. So I'm assuming it's one of those doors on the ---
6 double doors on the belt line or something?

7 A. He never --- he never stated what kind of door, if
8 it was a man door or what. After that, Mr. --- Mr.
9 Moore and myself returned to the surface on that day.

10 Q. Okay. So the first day at the mine you assigned
11 --- issued 2D orders?

12 A. Yes, sir.

13 Q. Okay. So did you issue any more Ds during your
14 inspection?

15 A. Yes, sir.

16 Q. Okay. Well, do you have any idea what they are?

17 A. I'm almost positive one of 'em was ventilation.
18 Had one more ventilation order on Headgate 22 section
19 also.

20 Q. What's that for?

21 A. They didn't have the required cfm in the last open
22 crosscut.

23 Q. So that's the --- Headgate 22?

24 A. Yes, sir.

25 Q. Were they running coal?

1 A. No, sir, it was the midnight shift.

2 Q. Okay.

3 A. I had entered --- entered the section with the
4 midnight crew.

5 Q. Okay.

6 A. Evening shift had just ceased production and was
7 returning to the face.

8 Q. So did it appear that the evening shift had been
9 running coal?

10 A. Yes, sir, evening shift had been running coal that
11 day.

12 Q. So you think they were running coal with not
13 enough air?

14 A. It was hard not to justify that from the time they
15 had left the section to the time I had arrived.

16 Q. A lot of times you can tell by the way the shuttle
17 cars and things have been traveling.

18 A. Yeah. The time --- the time frame was less than a
19 hour, they had done nothing.

20 Q. Did you come in with that crew?

21 A. I rode in with the electricians.

22 Q. So ---

23 A. The ---.

24 Q. --- is that crew, the evening shift, no one else
25 had been up on the section?

1 A. No, sir.

2 Q. So what you found was the way they left it?

3 A. Yes, sir. That was one of the orders I had
4 issued. I also issued a D2 on roof control on another
5 part of the mine, another section, which was the ---
6 the barrier section.

7 Q. So that was on the north, south side or whatever?

8 A. Yes, sir. That would have been on another part of
9 the mines, but also that was the only D2 or D orders I
10 issued. I issued a D order.

11 Q. What's a D order?

12 A. It's a failure to abate the citation.

13 Q. Because you're saying they didn't make any effort
14 or what?

15 A. That's the way I assumed it.

16 Q. Did they make any effort or did they not make
17 enough effort?

18 A. They didn't make --- they made no apparent effort.

19 Q. It makes it easier ---?

20 A. On the longwall mother drive belt, ---

21 Q. Uh-huh (yes).

22 A. --- another inspector had issued a citation at
23 that location ---

24 Q. Uh-huh (yes).

25 A. --- for accumulation of some coal --- fine ---.

1 Q. You know, through this whole quarter here, what
2 kind of clean-up program do you --- do they have?

3 Good, poor?

4 A. I issued just a few accumulation and failure
5 to ---.

6 Q. So they got a --- they do regular rock dusting?

7 A. Yes, sir.

8 Q. What about the ventilation? Did you ever make it
9 to the tailgate, the new tailgate entry? Did you make
10 any of that area?

11 A. Yes, sir. They had ---.

12 Q. Where was it located, when you started?

13 A. The tailpiece for that belt was actually located
14 at 24539 ---

15 Q. Okay.

16 A. --- or I'm sorry, 24502, where the tailpiece was
17 at the day I arrived on that section.

18 Q. How did that section look? Did they have plenty
19 air?

20 A. Yes, sir. Yes, sir. Had --- I can't recall, ---

21 Q. I mean, ---

22 A. --- but it was ---.

23 Q. --- but what'd the plan called for, 20, 18?

24 A. I couldn't tell you what the plan called for
25 without looking at it, ---

1 Q. Okay.

2 A. --- but I'm almost positive they had like 70-some
3 thousand.

4 Q. Okay. The early one, you wrote the citation on
5 1/22 for only having 7,000 ---?

6 A. Yes, sir, it had 7,000 the day I issued the order.

7 Q. What did they have coming up the intake? You have
8 no idea?

9 A. Not right offhand. I don't know if I have it in
10 my notes for that day. I'm sure I do.

11 Q. I was just wondering what they had available or
12 were they just not --- did they have enough available
13 or did they not use it properly or was it not enough
14 air? Was it real shorthanded on the air?

15 A. At the time that one was issued, the section
16 wasn't drove as deep as it is now.

17 Q. Sure.

18 A. They probably had --- they did have enough at the
19 map. I think when I took my reading they had plenty.
20 They just had a lot of leakage, I guess, to their ---

21 Q. Okay.

22 A. --- stopping.

23 Q. That's what I wanted to know. I just wanted to
24 know if the mines were short on air or if they just
25 was not using it properly.

1 A. No, it wasn't short on air.

2 Q. The air in the mines, they just --- they had a
3 hard time getting it in the right place ---

4 A. Yes, sir.

5 Q. --- is what you're saying?

6 A. Yes, sir.

7 Q. Okay. What about the longwall? Did you ever make
8 it?

9 A. Yes, sir, I made it on a --- my first trip to the
10 longwall was on a Saturday.

11 Q. Uh-huh (yes).

12 A. I can't recall the date. I made the longwall
13 face. Didn't issue no citations that day.

14 Q. Had plenty of air on the longwall?

15 A. Yes, sir.

16 Q. Have everything --- it looked like everything was
17 in good shape, then, if you didn't issue any?

18 A. Correct.

19 Q. That job was --- if somebody issued two Ds the
20 first day they came ---. Making sure I got things in
21 order. Did you travel any of the longwall entries or
22 any of the areas back towards the Bandy fan?

23 A. Yes, sir, I traveled the isolated return on the
24 tailgate side.

25 Q. Number One entry in this parallel ---

1 parallel ---?

2 A. Yes, sir.

3 Q. That's isolated all the way?

4 A. All the way back to --- back to the --- back of
5 the longwall to the connection point between the head
6 and tail. Then it goes to a common air flow.

7 Q. Okay.

8 A. Also made ---.

9 Q. What about the other entries, did you travel
10 those?

11 A. No, sir, not from the --- not from the longwall
12 face inby. Them entries are just air flow, nobody
13 travels there.

14 Q. Okay.

15 A. They are EPd at the longwall face, air flows
16 checked.

17 Q. The entries Two through --- over to the
18 longwall ---

19 A. Yes, sir.

20 Q. --- gob, ---

21 A. Yes, sir.

22 Q. --- has evaluation points is what you're saying?

23 A. Yeah.

24 Q. And no one travels those?

25 A. Correct.

1 Q. Okay. I take it we're at ---?

2 A. On the back end also.

3 Q. It's the setup rooms?

4 A. Yes, sir.

5 Q. Or inby the setup rooms?

6 A. Right here (indicating).

7 Q. That's inby the setup ---?

8 A. Yes, sir, inby.

9 Q. Okay. What about the headgate ---

10 A. The headgate ---

11 Q. --- entrance?

12 A. --- was the same --- same thing, nobody traveled
13 it.

14 Q. Yeah?

15 A. It was checked at the headgate, ---

16 Q. Okay.

17 A. --- air flow, and then it was also checked at the
18 back end.

19 Q. When you say back end, just ---?

20 A. Inby the setup rooms.

21 Q. Just inby the setup rooms or inby the connector
22 from the ---? These are the setup rooms?

23 A. Yes.

24 Q. That's where the longwall started?

25 A. The regulators are listed as right here. They was

1 actually --- when I checked the regulators, ---

2 Q. Yes.

3 A. --- they was ---. It would have been ---. I
4 can't --- I can't recall exactly without looking at
5 the map I had.

6 Q. Okay. So they were located ---

7 A. Inby.

8 Q. --- inby the setup rooms, but not inby the return
9 connector?

10 A. Correct.

11 Q. Okay. Don't let me put words in your mouth.

12 A. No, you're ---.

13 Q. I'm just trying to make it a little bit easier and
14 speed it up just along on some things as far as ---

15 A. Yeah.

16 Q. --- what the ---. So the longwall gob, the
17 headgate and the entries adjacent to the longwall,
18 except for the return entry, is --- was all evaluated
19 with EPs?

20 A. Correct.

21 Q. And you traveled the One split to the fan?

22 A. Yes, sir.

23 Q. Okay. Do you know why they didn't travel any of
24 that?

25 A. The headgate?

1 Q. Yeah.

2 A. It had been --- a citation was issued under not
3 having a travelable return. I don't know if it was
4 --- can't recall if it was issued due to whatever, but
5 they didn't have a travelable return due to
6 conditions.

7 Q. In this --- in the headgate entrance?

8 A. Number Three entry.

9 Q. How far was the longwall when you started the
10 inspection?

11 A. It would have been in this area (indicating).

12 Q. So you're saying according to the map, ---

13 A. According to the map.

14 Q. --- it would be in the January --- where it's
15 marked on the map, January the 10th, the first time?

16 A. Yes, sir.

17 Q. Somewheres in that ---?

18 A. Yeah.

19 Q. That makes sense. You started January the 6th,
20 so ---?

21 A. Yes, sir.

22 Q. Okay. Anything else about the longwall, air flow
23 there? Find any methane ---

24 A. Not that I recall.

25 Q. --- at any of these evaluation points or anything?

1 A. Yes, sir. The evaluation points had some methane
2 flow. I can look at my notes. Sorry.

3 Q. But what's the highest methane readings you got,
4 do you recall?

5 A. The best I recall .35, maybe .45, roughly.

6 Q. You're right. Okay. So that's reason --- there's
7 no reason looking it up, because you're --- you're on
8 target. So you never made that section? You wasn't
9 --- when you started the longwall it already was down
10 here. So you never made this on advance ---

11 A. Yeah.

12 Q. --- when they drove those sections up there?

13 A. Correct.

14 Q. Okay. All right. When you wrote citations and
15 things, did the company argue with you? Did they take
16 pictures or did --- and did they take notes?

17 A. Never seen nobody take any notes. Never seen any
18 pictures ---

19 Q. Okay.

20 A. --- taken at this mine. They never argued about a
21 citation. They may argue the gravity, persons
22 affected. Never had somebody argue a citation wasn't
23 a citation.

24 Q. When they --- when they discussed it with you or
25 argued with you, were they professional or did any of

1 'em get upset or anything like that?

2 A. No, I never had nobody upset. I mean, they was
3 very professional ---

4 Q. Okay.

5 A. --- in every way.

6 Q. That's good. When you got outside, did you have
7 to --- did they ask you to go over these things again
8 or did the people that traveled with you handle it
9 all?

10 A. Most of the time whoever was traveling with me was
11 the person I explained ---

12 Q. Okay.

13 A. --- the citation to, but I always made sure I
14 talked ---. I tried to talk to the superintendent ---

15 Q. Okay.

16 A. --- or the mine manager ---

17 Q. Okay.

18 A. --- at the time.

19 Q. When you got outside?

20 A. When I got outside, just to let 'em know what I
21 had found that day.

22 Q. And they were --- they were okay with ---?

23 A. Yeah.

24 Q. I mean, ---

25 A. Yeah.

1 Q. --- to a reason ---? I mean, you can understand
2 someone asking questions?

3 A. Right.

4 Q. As long as they do it right. Did you run into any
5 water issues in this mine?

6 A. Water?

7 Q. Yeah. Accumulations of water when you was making
8 a ---?

9 A. Yeah, I issued a citation in the Glory Hole
10 area ---

11 Q. Uh-huh (yes).

12 A. --- in the intake. I don't know if I have that.

13 Q. Did you issue --- did you find any methane up in
14 that area?

15 A. No, sir, I did not.

16 Q. Okay. That's the only place you really had a
17 water issue?

18 A. That's the only one I recall.

19 Q. What about down there where the elevation and ---
20 down towards the fan? They got a pump?

21 A. Yes, sir, they do have a pump.

22 Q. Pumps to the surface?

23 A. Yes, sir. They only have really --- you only have
24 one entry to travel, which is the Number One entry and
25 the ---

1 Q. Okay.

2 A. --- panel going to the fan, ---

3 Q. Yeah.

4 A. --- due to water. And all that bleeds --- all
5 that water runs and stacks in that one area in the
6 pump ---. They have air pumps established.

7 Q. Is that --- did they have that fixed to where ---
8 did they have that more or less trenched to where the
9 water run in that entry or does it spread out and then
10 come over ---

11 A. I'm not sure.

12 Q. --- into other entries?

13 A. I'm not sure.

14 Q. Okay. But the Number One entry's the one you
15 traveled?

16 A. Yes, sir.

17 Q. Okay.

18 A. And I believe that was ---. I don't recall
19 anymore.

20 Q. Did you ever make that area up in the 8 --- what's
21 that called, 8 North or ---?

22 A. Yes, sir, I did travel this area.

23 Q. Did you ever find any methane up there, water or
24 anything?

25 A. They had water in One entry, ---

1 Q. Uh-huh (yes).

2 A. --- but it wasn't untravelable or impassable.

3 Just a little bit of water. Methane, I think, was .1,

4 .2, maybe, in that area. Nothing --- nothing

5 extensive.

6 Q. What do you think the methane came from? I mean,

7 you never did find a lot?

8 A. I'm not sure.

9 Q. You think it came out of the coal, the roof or the
10 floor?

11 A. I assume the face area.

12 Q. Okay. What kind of conditions were at the top ---
13 was the top?

14 A. The best I recall, the top was --- the top was in
15 decent condition. I didn't ---.

16 Q. What about on these other sections, where you
17 had ---?

18 A. I don't recall any --- any problems. I don't
19 think I issued anything on ---

20 Q. Okay.

21 A. --- anything.

22 Q. The last time that you was on the longwall, where
23 was it located at?

24 A. I believe it was --- the 11th was the last time I
25 was actually on the longwall ---

1 Q. Uh-huh (yes).

2 A. --- face area and it was between --- around the 55
3 Break.

4 Q. Okay. So you was almost in the crossovers?

5 A. Yeah, I was close. Yeah.

6 Q. The top and everything looked good then, the air?

7 A. Yes, sir. Well, no, I was there --- the last time
8 I was there was to terminate an order issued in the
9 tailgate for air flow.

10 Q. Who issued that?

11 A. Mr. Keith Sigmon.

12 Q. Okay. And where was --- where was the location
13 that he issued the violation?

14 A. It would have been from the tailgate section of
15 the longwall ---

16 Q. Uh-huh (yes).

17 A. --- to the --- to the mouth. Air flow was ---

18 Q. Reversed?

19 A. --- reversed.

20 Q. What they'd do to fix that? So the air is
21 supposed to be going in the direction to the Bandy
22 fan?

23 A. Yes, sir. Correct.

24 Q. And it was going where?

25 A. Detected outby, yes, sir.

1 Q. Towards ---?

2 A. The surface.

3 Q. Where would that air go, if --- going back that
4 way? Where would it end up, in the belt entry or ---?

5 A. It's hard to tell.

6 Q. Okay.

7 A. But in order to correct the order, ---

8 Q. Uh-huh (yes).

9 A. --- the regulator that's shown on this map at the
10 mouth of the longwall tailgate ---

11 Q. Yeah.

12 A. --- was not installed and that was one of the
13 contributing factors to the air reversal. It was not
14 letting air feed the tailgate.

15 Q. They didn't have a regulator ---

16 A. No.

17 Q. --- with this ---?

18 A. Yeah, the regulator that's shown on this map
19 wasn't in. There was a stopping.

20 Q. So they ---? Okay. They removed the stopping in
21 front of the overcast located at --- where is that
22 located?

23 A. It's at the --- just outby 22421 spad.

24 Q. And they'd put a regulator and took the stopping
25 out?

1 A. Yes, sir, and ---.

2 Q. I know what they did, but that's what ---.

3 A. And they had to isolate this entry.

4 Q. And this was a --- this was a D?

5 A. Yes, sir. D2 order.

6 Q. How long were they down on that?

7 A. Two-and-a-half days, two days.

8 Q. It took 'em two-and-a-half days to knock the stop
9 and build a regulator?

10 A. Yeah. They was ---.

11 Q. I mean, ---.

12 A. We had ---.

13 Q. I mean, you got back when they called you or ---?

14 A. Well, we went back three times to terminate
15 the ---. This was the third time because the day I
16 lifted the order, that had been the third time that
17 somebody had been there to lift it.

18 Q. And it took them that long to fix it?

19 A. Yes, sir.

20 Q. Wow.

21 A. That was the last --- that was the last revision
22 they had ---. They knocked the stoppings --- or
23 knocked --- put the regulator in place and the
24 stopping the first time. Air flow was close, but it
25 still wanted to come outby ---

1 Q. Okay.

2 A. --- couldn't lift it. Mr. Sigmon went back the
3 second time.

4 Q. Okay.

5 A. He couldn't lift it. The third time the revision
6 they had sent in, this is what it showed and it
7 corrected.

8 Q. So I know of three --- probably three or four
9 ventilation violations, but the mines has a lot
10 of ---. The fan makes a lot of air; right?

11 A. Yes, sir.

12 Q. So we had problems with how they were using their
13 air or that's ---?

14 A. Yeah, pretty much, I guess, yeah.

15 Q. Okay. I mean, you just --- you just made 'em
16 comply with their plans?

17 A. Yes, sir.

18 Q. That's what you're --- part of your job. That's
19 right. Okay. Did you have any issues with the
20 sections over on the --- with ventilation or anything,
21 the barrier section or anything like that?

22 A. I had a --- I didn't have one but I knowed another
23 inspector had issued --- or she had a problem down
24 there on the barrier section.

25 Q. Okay.

1 A. I did have a concern and then I --- when I was
2 there and she was the inspector that went the next day
3 to look at it.

4 Q. Right.

5 A. It wasn't, I guess, what we found.

6 Q. Okay. During your time making this mine, did the
7 ventilation department or the technical division come
8 over and assist or ---?

9 A. From MSHA?

10 Q. Yeah.

11 A. Yes, sir. I think it was Mark Snyder. Mark --- I
12 think three specialists, ventilation specialists
13 traveled to the mines with me that day. My
14 supervisor, Mr. Moore, traveled with me that day also.
15 And that was --- that was the day that the D2 order
16 was issued on the tailgate ---.

17 Q. Okay. So can you give us just a little bit of a
18 description of how --- how you guys divided up and
19 kind of what was done to check the ventilation? Which
20 sounds like you had a pretty good group.

21 A. We just decided with --- actually, I guess just
22 four inspectors and the supervisor, ---

23 Q. Uh-huh (yes).

24 A. --- one would go to each section ---

25 Q. Okay.

1 A. --- and then one person would stay outby.

2 Q. Okay.

3 A. Then there wasn't really --- it was just, well,
4 I'll go here, I'll go here. Nobody ---.

5 Q. Okay.

6 A. It wasn't a ---.

7 Q. But everyone was on a section taking air readings
8 and things?

9 A. Yes, sir.

10 Q. Okay. Did the district --- I guess when you guys
11 talked about going nowhere with --- you know, were
12 they concerned about the ventilation or how it was set
13 up or ---?

14 A. I'm not sure I'm understanding what you're asking.

15 Q. Well, I'm not asking it very good. It's not your
16 fault. Okay? Did y'all have any discussions about
17 the ventilation system?

18 A. Yes, sir, with the ventilation department several
19 times.

20 Q. I'm assuming that would have been the reason they
21 came over and gave you some assistance, ---

22 A. Yes, sir.

23 Q. --- to check it out, which is their job.

24 A. You know, several times after a few orders ---

25 Q. Sure.

1 A. --- the ventilation supervisor had some questions.

2 Q. Is he --- is he the one that kind of sets that
3 up?

4 A. Yeah, he set this up.

5 Q. Does your supervisor talk with him or does the ADM
6 or who does it?

7 A. I'm not sure how it is. I know Mr. Mackowiak kind
8 of ---.

9 Q. Joe?

10 A. Yes.

11 Q. That's good.

12 A. He set this up.

13 Q. That's good. Did you have any other issues or
14 anything like that, that you had any concerns about
15 with this mine?

16 A. No. The biggest concern was always ventilation.
17 I mean, I don't know if --- that was my biggest
18 concern.

19 Q. Right.

20 A. You know, the first day --- I don't know if the
21 first day set the tone for that, you know, issuing the
22 two.

23 Q. Well, that's definitely going to get your
24 attention.

25 A. And then, you know, you do it another time and

1 then ---

2 Q. Sure.

3 A. --- a couple other inspectors issue it, so it's
4 just a recurring thing, you know, and it's hard to
5 stay on top of.

6 Q. Yeah. You know, it sounds like you did a pretty
7 good job. I mean, you issued several orders and you
8 were checking a lot --- different locations, like it
9 was in more than one location where you was finding
10 it.

11 A. Right.

12 Q. And it looks like they have clean air. I guess I
13 have a hard time taking two-and-a-half days to get
14 air, you know, a thousand feet, you know.

15 A. Yes, sir.

16 Q. That's not your fault. I mean, you guys did what
17 you're supposed to do. Anything else that you'd like
18 to add or anything or have any questions before we
19 turn it over or break or whatever?

20 A. No, I don't --- I don't have anything.

21 MR. PAGE:

22 Okay. It sounds like you issued some
23 pretty strong papers and stuff and I'm sure that the
24 time frame that you've been with the agency and your
25 first day at the mines, issuing two Ds, that's pretty

1 good, from your standpoint. Not good that you had to
2 do it. Okay.

3 ATTORNEY WILSON:

4 Keith, are you good? Do you want to take
5 a break or do you want to keep going? It's up to you.

6 A. I'm fine.

7 ATTORNEY WILSON:

8 Okay.

9 EXAMINATION

10 BY MR. FARLEY:

11 Q. Keith, bear with me on this question, so I can ask
12 it as efficiently as possible.

13 A. Okay.

14 Q. During your inspections at UBB, when you began
15 January and you've been there each month; correct?

16 A. Yeah, to March.

17 Q. Okay. Now, if I understood you correctly, you've
18 traveled the longwall face?

19 A. Yes, sir.

20 Q. You've traveled the longwall tailgate entries down
21 to the area where the D2 order was issued on March
22 9th; is that correct?

23 A. Yes, sir.

24 Q. Okay. You also traveled on 22 Headgate section?

25 A. Yes, sir.

1 Q. Twenty-two (22) Tailgate section?

2 A. Yes, sir.

3 Q. You were in the section known as 8 North?

4 A. Yes, sir.

5 Q. Okay. You were in the area of the Glory Hole?

6 A. Yes, sir.

7 Q. And you were in the area from the longwall face,
8 which goes north and cuts through the so called
9 crossover entries?

10 A. Yes, sir.

11 Q. At any time during your inspections in all those
12 areas, did you observe any evidence of floor heaving,
13 and if so, where?

14 A. The only place I recall any floor heaving is in
15 this isolated return over on the tailgate side of the
16 longwall.

17 Q. Okay. Can you pinpoint that for us?

18 A. I can't tell you exactly where. I know it's --- I
19 want to say somewhere between what's 60 Break, maybe.
20 I can't tell you exactly for sure. I know it's in
21 that entry and it doesn't exist for a very long
22 period. It's just a short period of ---

23 Q. Okay.

24 A. --- 15, 20 breaks, maybe.

25 Q. Okay. Are there cracks --- are there cracks in

1 the door ---?

2 A. Yes, sir.

3 Q. Are they easily visible?

4 A. Yeah.

5 Q. Okay. Did you hear or --- any air flow from it at
6 any time?

7 A. No, sir.

8 Q. Do you recall approximately when you were in that
9 area?

10 A. I'd have to look at my notes to be exact. Maybe
11 the middle to the end of January, I suppose.

12 Q. Okay. Some of your citations have the notes ---.

13 A. Oh, okay.

14 Q. Some of the orders do.

15 A. I'm wanting to say around the 20th of January, I
16 believe, ---

17 Q. Okay.

18 A. --- is the day I actually made that airway.

19 Q. All right.

20 A. And then I was also in there again when the ---
21 the order was issued on the tailgate would have been
22 in March, because I traveled back to the EPs.

23 Q. That would have been March 9th?

24 A. Ninth through the 11th somewhere.

25 Q. Okay. All right. Whenever you passed through

1 the area known as the crossover, ---

2 A. Okay.

3 Q. --- the map would seem to indicate here that
4 there's a pretty good size roof fall, and you can see
5 the spads better than I can, running from
6 approximately two crosscuts in what would be the
7 Number Three entry as you're heading north?

8 A. Yes, sir.

9 Q. Okay. Were you in that area and did you see the
10 roof fall at any time?

11 A. No, sir.

12 Q. Okay.

13 A. I never did see the roof fall.

14 Q. Okay. All right. You also indicated, as we
15 established, that you visited the 8 North section?

16 A. Yes, sir.

17 Q. Now, on the way to the 8 North section there's a
18 gas well up there, ---

19 A. Yes, sir.

20 Q. --- before you turn left to go to the faces. Were
21 you in the vicinity of where that gas well is located
22 any time?

23 A. I would have been in the neutral entries, which
24 would have been the Three and Four entries coming up
25 this panel, ---

1 Q. Okay.

2 A. --- so, yes.

3 Q. Okay. I assumed --- did you have your methane
4 detector operating at the time?

5 A. Yes, sir, I sure did.

6 Q. Now, was there any indication of any ---

7 A. No, sir, nothing ---

8 Q. --- gas?

9 A. --- to alarm me with.

10 Q. Okay. Now, if I followed your statement
11 correctly, you've only been with MSHA a couple years
12 now and you did not visit the UBB Mine last year; is
13 that correct?

14 A. Yes, sir.

15 Q. Okay. During your inspections there this year,
16 and particularly with any conversations you had with
17 any of the employees, have you ever heard anybody
18 refer to any methane feeders coming from the floor,
19 the mine floor, at any time?

20 A. No, sir.

21 Q. Okay. During your travels in the UBB Mine this
22 year, have you experienced any sensation of your eyes
23 burning at any time, particularly around any of the
24 conveyor belts?

25 A. Not that I recall, no.

1 Q. Okay. During your conversations with any of the
2 UBB people, particularly the management people, did
3 anyone ever mention the possibility of there being an
4 underlying coal seam approximately 10 to 30 feet down?

5 A. No, sir.

6 MR. FARLEY:

7 Okay.

8 EXAMINATION

9 BY MS. MONFORTON:

10 Q. Mr. Stone, thank you for the very good information
11 you've been providing. I wonder if you would talk a
12 little bit about the safety meeting you had in January
13 when you first went to the mine. What are the kind of
14 things that you would talk about with the miners?

15 A. I can't recall because I just wrote down a few
16 things. Most of 'em was pretty much the same, unless
17 there's a certain specific thing like now to talk
18 about mostly the shifts, let 'em know to follow their
19 roof and ventilation plans, know their escapeways,
20 examine the workplace areas, looking out for each
21 other, co-workers, things of that nature.

22 Q. And how long would a talk like that take?

23 A. Anywhere between 15 to 20 minutes, maybe, average.

24 Q. And what are the procedures, generally, for you to
25 talk to miners as you do in your inspection? How does

1 that work? If they don't have an authorized
2 representative, how do you get feedback from the
3 miners?

4 A. It's hard as far as maybe problems concerning to
5 the mine, you know, but as far as just talking and
6 asking them how things is going --- if they have any
7 problems, it's fairly simple. I mean, everybody's
8 very cooperative. They talk. Nobody's ever said, I
9 don't want to talk about it, so pretty good, actually.

10 Q. And how do you make notations in your --- in your
11 inspector notes about those conversations?

12 A. I don't usually, unless it's something pertaining
13 to a hazard or a risk. You know, if it's just, hey
14 how's everything going today? Any problems? No. I
15 don't document it.

16 Q. So would --- part of your training as learning how
17 to do the job and all that, when they talk about
18 miners have a right to accompany the mine inspector
19 and all that, do they talk at all about --- in the
20 training about documenting how many miners you spoke
21 to or ---?

22 A. I don't recall. I can't recall.

23 Q. Okay. I have just one other question. So you had
24 your AR card for about a year?

25 A. Yes, ma'am.

1 Q. And so you did this first time at Upper Big Branch
2 and you issued two D2 orders?

3 A. Yes, ma'am.

4 Q. Had you ever had an experience previously where it
5 was your first time at the mine and you had to issue D
6 orders; at any other mine?

7 A. As an AR, yes, which would have been Logan's Fort
8 Mine for Elk Run.

9 MS. MONFORTON:

10 I think that's all. I have no more
11 questions.

12 ATTORNEY WILSON:

13 All right. Let's go off the record.

14 OFF RECORD DISCUSSION

15 ATTORNEY WILSON:

16 Okay. We're back on record.

17 RE-EXAMINATION

18 BY MR. PAGE:

19 Q. Okay. Keith, I got two or three questions and I'm
20 sure everyone else has a few questions to ask you.
21 When you made this area back behind the longwall, ---

22 A. Yes, sir.

23 Q. --- did they have any pumps back there with the
24 exception of the turbine pump at the new fan?

25 A. Yes, sir, they had the air pumps, I think four or

1 five air pumps.

2 Q. Any electrical pumps?

3 A. No.

4 Q. No electrical pumps, everything ---?

5 A. Not that I observed.

6 Q. Okay. That's all you can answer. So it was an
7 air pump. The longwall face, when you traveled it,
8 what kind of condition was the face? Taking a lot of
9 pressure? Was there water, ribs popping off from in
10 the face?

11 A. No, actually the conditions was pretty good. They
12 was cutting a little bit of rock ---

13 Q. Okay.

14 A. --- to get the height toward the coal, but no
15 water, ---

16 Q. Okay.

17 A. --- nothing bad.

18 Q. So no water coming through the top, no water
19 coming out of the coal and ---

20 A. Not that I ---.

21 Q. --- the bottom wasn't hooving or anything like
22 that?

23 A. I didn't observe none, no, sir.

24 Q. Okay. On their cleanup, you said the cleanup was
25 pretty good. Do you know exactly how the cleanup

1 worked? Did they --- did they do it on third shift or
2 did they rock dust on --- yeah. Can you tell me a
3 little bit about it?

4 A. They rock dusted just about any time, as far as
5 rock dusting goes. I seen them pull the duster on a
6 day shift, I've seen 'em do it on hoot owl.

7 Q. Okay. Did they have people cleaning the belts at
8 all times, every shift, or how'd they do that?

9 A. When I was --- they did have belt men.

10 Q. Okay.

11 A. And when I walked the belts, I did see people
12 cleaning on the belts, so, yes.

13 MR. PAGE:

14 Okay.

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. A couple things. Now, you were obviously in the
18 longwall tailgate entries where the D2 orders issued
19 on March 9th; correct?

20 A. Yes, sir.

21 Q. Were you in there after March 9th to the 11th?

22 A. Yes, sir. I wasn't in here the 9th. Another
23 inspector issued that order and I didn't go there that
24 day.

25 Q. Okay.

1 A. I was there --- which would have been the 10th and
2 11th.

3 Q. Okay. Have you been there since?

4 A. Don't recall.

5 Q. Okay. In preparation for the panel mining out,
6 did you happen to notice any equipment or supplies in
7 that area down there at the mouth of the longwall and
8 the tailgate entries, anything at all?

9 A. No, sir, just the power boxes, ---

10 Q. Okay.

11 A. --- which would have been outby.

12 Q. Okay. Also in your travels through the tailgate
13 entries here, any possibility that there could be ---
14 could have been some obstructions in there at any
15 time?

16 A. Considering falls, is that what you're saying?

17 Q. Yes, yes.

18 A. Yes, sir. I mean ---.

19 Q. Did you see anything or any evidence of anything?

20 A. No, sir.

21 MR. FARLEY:

22 Okay.

23 RE-EXAMINATION

24 BY MS. MONFORTON:

25 Q. Mr. Stone, you talked about prior to coming to

1 MSHA you had a lot of experience. You worked at both
2 Massey Mines and the Patriot Coal Mine. Can you talk
3 a little bit about what you --- kind of what your
4 experiences were at the Massey Mines and then when you
5 went to Patriot Coal?

6 A. Yes, ma'am. I started out at Massey, like most
7 guys, general laborer. Then I went to equipment
8 operators, run all sorts of equipment. Worked at
9 several different mines for Massey.

10 Q. Did you ever work at Upper Big Branch?

11 A. No, ma'am, I did not. Most of my time was
12 equipment operator. I spent about a year as a foreman
13 for Massey, then went back to the equipment. And then
14 when I went to Patriot, equipment operator, and then
15 the last couple years was electrician.

16 Q. And then how would you describe the operations at
17 Massey versus Patriot, when you switched companies?

18 A. Operations is pretty much the same as far as the
19 mining concept goes.

20 Q. Okay. What about kind of attitude for safety or
21 correcting problems?

22 A. Yeah, it's different, you know. Many mines you do
23 have a little more of a voice and expression. You had
24 the same voice at a non-union mine, they just don't
25 use it, I guess. I mean, I never did.

1 Q. Uh-huh (yes).

2 A. As far as I can speak for myself, I did feel
3 better because I had backing, but I was never asked to
4 do anything unsafe for either place, ---

5 Q. Okay.

6 A. --- so as far as that goes, I can't really defer
7 between the two there.

8 Q. Thank you. When you talked about your --- in your
9 traveling with Mr. Moore and you noticed this problem
10 with the reverse --- the air going in the wrong
11 direction, ---

12 A. Yes, ma'am.

13 Q. --- can you repeat again what he said when you
14 kind of got into the area and noticed a problem there?

15 A. About him knowing?

16 Q. Uh-huh (yes).

17 A. He just stated that he knew about it. He knew
18 about it for a couple weeks and that he had made it
19 known to his boss and he was told not to worry about
20 it.

21 Q. What does --- what did that tell you about what
22 was going on at this mine?

23 A. I mean, he --- in a roundabout way he was saying
24 he's got a boss just like I have a boss, everybody's
25 got bosses, and he was just doing what he was told.

1 Q. In your years of being a coal mine inspector, have
2 you been to other mines where you saw this type of
3 problem before with air flowing in the wrong
4 direction?

5 A. I don't recall citing it as often or if at any,
6 any other mines I've been to, so ---.

7 Q. Had you ever experienced it when you were a miner?

8 A. You know, no.

9 Q. No?

10 A. I can't --- I can't recall ever noticing it.

11 Q. So this was --- how ---? This was an unusual ---
12 when you felt the air or experienced this, what went
13 through your mind?

14 A. Well, when I noticed it and seen it, you know,
15 that's just --- it's out of place. You know, you look
16 at stuff, you study stuff, you notice it. You notice
17 it's out of place so then it just starts going through
18 your mind, what's --- okay, if something goes wrong,
19 what's going to happen?

20 Q. Right.

21 A. You start --- you start clicking it. You know,
22 just what's going to happen? If something's goes
23 wrong, can these men get out? What's going to cause
24 it?

25 Q. Right. And then you said when the men started to

1 move toward the refuge chamber because they were
2 getting pulled out of the area, they commented to you
3 about this?

4 A. Yes, ma'am.

5 Q. And what was that? What were they saying to you?

6 A. They was just --- you know, they was expressing
7 the same concern I did over the air flow being
8 backwards in their escapeway.

9 Q. And I'm trying to get a sense of what goes on in a
10 mine that allows that to happen, allows clearly a
11 situation that has potential very serious
12 consequences. How can the system be changed so that,
13 you know, that situation doesn't occur?

14 A. How can what system?

15 Q. Is it something different? Do the miners need
16 more control or authority? You know, you said the
17 situation with Mr. Moore knew had been going on for
18 three weeks?

19 A. Yes, ma'am.

20 Q. So what --- what could change --- I'm not talking
21 necessarily anything that is in the statute now. I
22 mean, how do we --- what can be done so that when a
23 very serious situation like this comes up, what do we
24 need to make that so that that is just not acceptable?

25 A. Well, I mean, it's not acceptable at any time.

1 Q. But they were doing it for three --- at least
2 three weeks; right?

3 A. And there's nothing that --- you know, they got to
4 take enough initiative theirselves. If they don't take
5 the initiative, it's useless. But them ---
6 management personnel, they have --- they have the same
7 duty I do, to protect them guys, ---

8 Q. Uh-huh (yes).

9 A. --- in my opinion. And they do. They're there to
10 protect them guys, to give them a safe working
11 environment, but if no initiative is taken from
12 there, then the men don't have it. So you get what
13 I'm saying?

14 Q. I get what you're saying.

15 A. So, you know, if there's no initiative, the only
16 way it can be corrected is if we correct it.

17 Q. And you can't be there all the time?

18 A. Yes, ma'am.

19 MS. MONFORTON:

20 Right. Thank you very much.

21 RE-EXAMINATION

22 BY MR. PAGE:

23 Q. To follow up ---. To follow up on that question,
24 which is a very good question. Now, mine management
25 has the responsibility to make sure things are right,

1 but also, could they not have called in a complaint,
2 the men?

3 A. Yes, sir.

4 Q. Anonymous complaint?

5 A. Yes, sir.

6 Q. And it would have been investigated?

7 A. Yes, sir. And that's one of the things I tell
8 them in the safety meeting, if they have any
9 problems, ---

10 Q. Okay.

11 A. --- you know, they can come to me.

12 Q. That was a good question. And that was --- I just
13 want to make sure that everyone knew --- that those
14 men could call a complaint in also?

15 A. Yes, sir.

16 Q. And one more question and I think Terry's got
17 some. Did you ever write any violations on the
18 mandooors or anything like that, being left open or the
19 construction of 'em, or being damaged or anything like
20 that?

21 A. I don't recall anything off the top of my head.

22 Q. I don't remember seeing any citations that you
23 issued on that, but ---.

24 A. I did issue on the other side, on the south
25 side, ---

1 Q. Uh-huh (yes).

2 A. --- on a stopping, a block out, ---

3 Q. Okay.

4 A. --- a stopping, ---

5 Q. Okay.

6 A. --- but I can't really recall.

7 MR. WATKINS:

8 Okay.

9 MR. FARLEY:

10 Just one.

11 A. Okay.

12 RE-EXAMINATION

13 BY MR. FARLEY:

14 Q. I asked you previously if when you visited the
15 longwall tailgate entries down here at the mouth of
16 the longwall if there was any equipment there ---

17 A. Right.

18 Q. --- in preparation for retrieval and you indicated
19 there was some power boxes down there; ---

20 A. Yes, sir.

21 Q. --- is that right? Were they energized? What was
22 their --- what was that setup?

23 A. The day I made this?

24 Q. Uh-huh (yes).

25 A. No. I didn't notice then.

1 Q. Okay.

2 A. Prior to me being in this area, ---

3 Q. Uh-huh (yes).

4 A. --- they did have power boxes stationed where old
5 belt head --- old belt KVAs was, ---

6 Q. Uh-huh (yes).

7 A. --- but power was removed from them boxes. Never
8 noticed anything with any power on it.

9 MR. FARLEY:

10 Okay. Thank you.

11 MS. MONFORTON:

12 Just one for follow-up.

13 A. Okay.

14 RE-EXAMINATION

15 BY MS. MONFORTON:

16 Q. Trying to get my head around --- so Mr. Moore knew
17 this problem was going on for three weeks. What would
18 be the rationale for not fixing it? Like what was
19 stopping them from fixing the problem?

20 A. Who knows?

21 Q. Do you have any --- you worked in the mine for a
22 while. Why wouldn't a company fix the problem?

23 A. It may create a problem elsewhere. Maybe they
24 didn't really see a hazard in it. Maybe --- I mean,
25 it's a ---. Who knows?

1 Q. But their ventilation problem required --- the
2 ventilation plan was the way the mine was supposed to
3 be running; right?

4 A. Yes, ma'am.

5 Q. And so they knew they had a problem there, they
6 weren't following their ventilation plan?

7 A. Yes, ma'am.

8 Q. So just in your opinion, what would be their
9 motivation for deviating from their plan? What did
10 they have to gain from deviating from their plan?

11 A. Who knows?

12 MS. MONFORTON:

13 Okay. Thanks.

14 ATTORNEY WILSON:

15 Okay. All right. Mr. Stone, on behalf
16 of MSHA and the Office of Miners' Health, Safety and
17 Training, I want to thank you for appearing and
18 answering questions today. Your cooperation is very
19 important as we work to determine the cause of the
20 accident. We require that you not discuss your
21 testimony with any person aside from your personal
22 representative. After questioning other witnesses, we
23 may call you if we have any follow-up questions that
24 we feel that we need to ask you. If at any time you
25 feel that you have additional information that you

1 would like to provide to the investigation, please
2 contact Norman at the phone number that was provided.

3 At this time, if you wish, you may now go
4 back over any answer to clarify anything that you
5 stated or if you would like to just make a general
6 statement, you have that opportunity at this time.

7 A. I have nothing.

8 ATTORNEY WILSON:

9 Okay. Then, again, thank you for your
10 cooperation in this matter and we're off.

11

12 * * * * *

13 STATEMENT UNDER OATH CONCLUDED AT 12:03 P.M.

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CERTIFICATE

I, Brett Steele, a Notary Public in and for
the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Brett Steele