

1 **WEST VIRGINIA MINE HEALTH & SAFETY ADMINISTRATION**

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6 **IN RE:**

7 **THE INVESTIGATION OF THE**
8 **APRIL 5, 2010, MINE EXPLOSION**
9 **AT THE UPPER BIG BRANCH MINE**

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13 **The interview of HUGHIE ELBERT STOVER taken**
14 **upon oral examination, pursuant to notice and**
15 **pursuant to the Federal Rules of Civil Procedure,**
16 **before Nichelle N. Drake, Professional Reporter and**
17 **Notary Public in and for the State of West**
18 **Virginia, Tuesday, November 30, 2010, at the**
19 **National Mine Health & Safety Academy, 1301 Airport**
20 **Road, Beaver, West Virginia.**

21
22 **JOHNNY JACKSON & ASSOCIATES, INC.**
23 **606 Virginia Street, East**
24 **Charleston, WV 25301**
 (304) 346-8340

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APPEARANCES

**WEST VIRGINIA OFFICE OF MINERS' HEALTH
SAFETY & TRAINING**

Barry L. Koerber, Assistant Attorney General
John O'Brien, Safety Instructor
1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425

MINE SAFETY & HEALTH ADMINISTRATION

Timothy Watkins, Esquire
100 Faye Ramsey Lane
Pikeville, KY 41501
(606) 432-0943

U.S. DEPARTMENT OF LABOR

Office of the Solicitor
Matthew N. Babington, Esquire
1100 Wilson Boulevard, East
22nd Floor
Arlington, VA 22209
(202) 693-9359

GOVERNOR'S INDEPENDENT INVESTIGATION PANEL

J. Davitt McAteer, Esquire
Wheeling Jesuit University
316 Washington Avenue
Wheeling, WV 26003
(304) 243-2513

On behalf of Performance Coal Company:

ALLEN, GUTHRIE & THOMAS, PLLC

Eric L. Silkwood, Esquire
500 Lee Street, East
Suite 800
Charleston, WV 25301
(304) 720-4293

1 On behalf of Hughie Elbert Stover:

2 SHUMAN, McCUSKEY & SLICER, PLLC
3 Christopher J. Sears, Esquire
4 1411 Virginia Street, East
Suite 200
Charleston, WV 25301
(304) 345-1400

5 Also Present:
6 Norman Page

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1 HUGHIE ELBERT STOVER, DEPONENT, SWORN

2 MR. KOERBER: Sir, would you please state
3 your full name for the record and spell your last
4 name.

5 THE WITNESS: Hughie, H-U-G-H-I-E; middle
6 name, Elbert; last name, Stover, S-T-O-V-E-R.

7 MR. KOERBER: And, sir, would you please
8 state your address and telephone number.

9 THE WITNESS: My address is [REDACTED],
10 [REDACTED]. My phone number is
11 [REDACTED].

12 MR. KOERBER: Sir, prior to the interview,
13 I introduced myself, but I want to introduce myself
14 for the record. My name is Barry Koerber. I'm an
15 assistant attorney general assigned to the West
16 Virginia Office of Miners' Health Safety & Training
17 accident investigation team, and I would ask that
18 the other individuals here at the interview table
19 identify themselves.

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

23 MR. WATKINS: I'm Tim Watkins and I'm with
24 MSHA.

1 MR. BABINGTON: Matt Babington, I'm an
2 attorney with the Department of Labor.

3 MR. McATEER: I'm Davitt McAteer and I'm
4 with the Governor's Independent Review Panel.

5 MR. KOERBER: Mr. Stover, do you have an
6 attorney with you here today?

7 THE WITNESS: Yes, sir.

8 MR. KOERBER: And, sir, would you identify
9 yourself?

10 MR. SEARS: Chris Sears.

11 MR. KOERBER: And Mr. Stover is your
12 client?

13 MR. SEARS: He is.

14 MR. KOERBER: And I also notice that we
15 have another attorney sitting at the table. I
16 would ask that he identify himself, his firm and
17 his client.

18 MR. SILKWOOD: Eric Silkwood with Allen,
19 Guthrie & Thomas here on behalf of Performance Coal
20 Company.

21 MR. KOERBER: And we have one additional
22 person in the room. I'd ask that he identify
23 himself.

24 MR. PAGE: Norman Page, MSHA.

1 MR. KOERBER: Mr. Stover, the court
2 reporter, the contract that we have with the court
3 reporter's agency, the firm, is that they will make
4 the transcripts up with a three-day turnaround so
5 to speak. So the transcript of today's interview
6 should be ready Friday morning. If you would like
7 to read the transcript and on an errata sheet make
8 any corrections that you find that was made during
9 the course of the transcription, you are welcome to
10 do so. To do that and you alone or you and your
11 attorney can -- can schedule an appointment with
12 Johnny Jackson & Associates. They're in
13 Charleston, West Virginia. In a moment, I'm going
14 to give you their business card; but any time
15 Friday or after, if you would like to read your
16 transcript, you just call and make an appointment.
17 You can go to their office in Charleston. They
18 will provide you with a conference room where you
19 will have privacy, you and/or your attorney. You
20 will have the opportunity to read that transcript,
21 make any corrections on an errata sheet that you
22 deem appropriate and submit that back at the end of
23 however long it takes you to do it. You will not
24 be allowed to take a copy with you. That would be

1 the only restriction.

2 I would also like to let you know that if
3 for any reason whatsoever you need to take a break,
4 just say so and we'll take a break.

5 THE WITNESS: Yes, sir.

6 MR. KOERBER: We would request that you
7 not discuss what is said in here today with anybody
8 other than your attorney just for purposes of
9 trying to protect the integrity of the interview
10 process and the investigation.

11 I'd ask Mr. Babington -- I think he wants
12 to identify a letter that he's going to give to you
13 to do so now.

14 MR. BABINGTON: Mr. Stover, this is a
15 letter explaining some of the background of this
16 interview. On that, you find contact information
17 both from the mine academy and to reach Norman
18 Page, who is our chief accident investigator. If
19 you have any information you want to provide in the
20 future, your counsel can contact us through that
21 information.

22 MR. KOERBER: Mr. Stover, you're appearing
23 here today as a result of receiving a subpoena; is
24 that correct?

1 THE WITNESS: Yes, sir.

2 MR. KOERBER: This is a copy of that
3 subpoena. Would you take a look at it and confirm
4 that.

5 THE WITNESS: Yes, sir, that's correct.

6 MR. KOERBER: Okay. I'd like this to be
7 marked as Exhibit 1 or A, and it would be Stover
8 Exhibit 1 or A.

9 MR. SEARS: Can I see a copy of that --

10 MR. KOERBER: Sure.

11 MR. SEARS: -- after it's been marked.

12 (Exhibit No. 1 marked for
13 identification.)

14 MR. KOERBER: This is a document you have
15 not seen, but this is the affidavit of service from
16 a process servicer showing that he on the 20th day
17 of November personally serviced [REDACTED], who
18 is your wife, at the address here. Okay?

19 THE WITNESS: Yes, sir.

20 MR. KOERBER: I would like this to be
21 Stover 2 or B or whatever it's supposed to be.

22 (Exhibit No. 2 marked for
23 identification.)

24 MR. KOERBER: Sir, I also want to give you

1 a little bit of contact information as well. I'm
2 sure your attorney will go over this with you or
3 has probably already gone over this with you.

4 West Virginia Code 22A-1-22 protects
5 miners from discrimination for participating in
6 interviews such as this. Should you find or
7 believe that you have been discriminated against
8 because of participating in this interview, I'm
9 going to give you a memorandum containing the
10 address of the Board of Appeals, which is the
11 agency statutorily charged with hearing
12 discrimination cases. If you believe that you were
13 discriminated against, you can contact this board
14 and file a complaint. I would caution you, though,
15 that the statute of limitations is 30 days from the
16 day of the discriminatory event. So if you believe
17 something has happened, you need to act quickly.

18 I'm also going to give you a business card
19 for Mr. Bill Tucker. Mr. Tucker is our lead
20 accident investigator and interviewer. Should you
21 think of anything after you leave today that you
22 would like to share with the West Virginia Office
23 of Miners' Health Safety & Training, please contact
24 Mr. Bill Tucker.

1 And also as I told you earlier, I'm going
2 to give you a card for Johnny Jackson & Associates
3 containing their address and telephone number where
4 you would go; and call on Friday or after if you
5 would like to arrange a time to go into their
6 office and read the transcript. Okay?

7 THE WITNESS: Yes, sir.

8 MR. KOERBER: Sir, one thing we're
9 mentioning to everybody we interview and we've
10 interviewed quite a few people is that there may be
11 a point where we have to re-interview certain
12 people; and if that happens, we may re-call you.
13 But if that happens, we'll notify you in the future
14 probably by another subpoena; but I just want you
15 to be aware of that.

16 THE WITNESS: Yes, sir.

17 MR. KOERBER: At this time, I'll turn the
18 interview over to John O'Brien of the State to
19 begin the interview. Thank you.

20 EXAMINATION

21 BY MR. O'BRIEN:

22 Q. Mr. Stover, first of all, I would like to
23 thank you for attending today, helping us out on
24 this investigation. First of all, are you a
miner? Do you have any miner certifications?

1 A. No, sir.

2 Q. What is your job title?

3 A. Chief security at Performance Coal
4 Company.

5 Q. At Performance Coal Company. If you
6 would, give us a little bit of a brief history of
7 your employment background.

8 A. I was with Raleigh County Sheriff's
9 Department '77 to '83. I went to work with Elk Run
10 Coal Company as security for about 14 or 15 years.
11 I left Elk Run, went back into law enforcement. I
12 was with Mabscott PD, assistant chief, for about a
13 year. And then in 1999, January of '99, I was
14 hired as chief security for Performance Coal
15 Company. I come back to Massey in 1999 and been
16 with Performance since 1999.

17 Q. And who is your employer? Is it Massey or
18 Performance or --

19 A. Well, Performance is a company within
20 Massey Energy.

21 Q. So you work directly for Performance?

22 A. Yes.

23 Q. Okay. And just a clarification, you were
24 chief security on April 5th of this year at the

1 time of the explosion?

2 A. Yes, sir.

3 Q. If you would, explain some of your job
4 duties as chief of security.

5 A. I make sure all posts -- I have security
6 officers for all the posts. I make IDs for our
7 members. If there's an accident on the property,
8 vehicle accident, fender bender, stuff like that, I
9 investigate that. If we have a theft on our
10 property, I do the internal investigation for the
11 theft and turn it over to the county or state or
12 whoever is called to handle that investigation. I
13 monitor speed on company property, enforce company
14 rules and regulations and policies and stuff like
15 that.

16 Q. Okay. And who is your supervisor? Who do
17 you report to?

18 A. President of the company.

19 Q. Who is?

20 A. Now Jamie Ferguson. At the time of the
21 accident, it was Chris Blanchard. I'm sorry. I
22 forgot his name.

23 MR. McATEER: How soon we forget.

24 Q. And who all reports directly to you?

1 A. All security personnel, all in-house
2 security personnel.

3 Q. And do you have contractors --

4 A. Yes.

5 Q. -- as personnel?

6 A. Sorry. Yes, sir.

7 Q. And do they report to you or someone else?

8 A. Contract security has ranking personnel,
9 sergeants and a site supervisor they handle too;
10 and I deal with the site supervisor.

11 Q. Okay. And who would that contractor be?

12 A. SGS.

13 Q. SGS?

14 A. Yes.

15 Q. And where are they based out of?

16 A. Cross Lanes, I believe.

17 Q. Cross Lanes. Okay. The security people
18 that work for you or the contractors, what were
19 their primary responsibilities?

20 A. They work the gates and they log everybody
21 in and out. If there's no one in the main office
22 at Performance, all the phones are switched over to
23 the main gate at Performance and they handle all
24 incoming phone calls when there's no one in the

1 office.

2 Q. Does any of the personnel patrol the
3 property or are all of them located at the security
4 building?

5 A. I have one rover on a regular basis. We
6 have rovers out at the site.

7 Q. And how many security buildings or offices
8 or where these people work out of, how many do you
9 have, how many guard buildings?

10 A. At Performance we have two. We had one at
11 the Performance main office that goes up to Upper
12 Big Branch, and then we have one at what we call
13 Big Branch -- might be called Big Branch Unice
14 portal. It's the mine office or mine between
15 Performance and Marfork.

16 Q. If I understand you, you say they check
17 everyone in that goes by the security building.

18 A. All non-Massey members, yes, sir.

19 Q. All non-Massey members?

20 A. Yes, sir.

21 Q. How do they distinguish between Massey
22 members and non-Massey members?

23 A. All Massey members have an ID. After you
24 work the gate a while, they learn people.

1 Q. Okay. Non-Massey members, so they log
2 those in. Is it a manual log, a computer log?

3 A. It's a -- it's manual but we put it into a
4 computer also.

5 Q. Okay. And how long do you keep those
6 records?

7 A. A year or two.

8 Q. Would it be possible to get a copy of
9 those records for, say, the month of April of this
10 year?

11 A. Yes, sir.

12 MR. SEARS: Are you asking that he produce
13 those records or are you asking --

14 MR. O'BRIEN: Yes, we would like to have a
15 copy of the record.

16 MR. SEARS: I don't know. Are you the
17 records custodian for Performance as to those
18 records or is that someone else?

19 THE WITNESS: Yes, I'm responsible.

20 MR. SEARS: We can probably get those
21 then. What are they again? They're the records
22 logging in non-Massey members?

23 MR. O'BRIEN: Of anyone entering the
24 Massey property -- any logs of anyone entering the

1 Massey property for the month of April --

2 THE WITNESS: Would that be --

3 MR. O'BRIEN: -- of Performance.

4 THE WITNESS: -- would that be the
5 visitors log you asked for before?

6 MR. O'BRIEN: Yes, and any other logs that
7 you may have if you logged in anyone else other
8 than visitors.

9 MR. SEARS: Is there a specific time
10 period or just any that they have?

11 MR. O'BRIEN: April of this year, April of
12 2010, April 1st through the end of April.

13 MR. SILKWOOD: Through the end of the
14 month?

15 MR. O'BRIEN: Yes.

16 MR. SILKWOOD: Because we produced the
17 5th and the 4th as part of production previously.

18 THE WITNESS: I thought I made copies, but
19 yes, sir, I'd be glad to.

20 BY MR. O'BRIEN:

21 Q. Do you have video monitoring at these
22 stations or anywhere else on the property?

23 A. Yes, sir.

24 Q. How long do you keep those?

1 A. The new cameras, which is digital, depends
2 on the activity. I think they start rolling over
3 in three or four weeks. The older type, which is
4 on VCR, the rotating camera, we keep that for one
5 month at a time.

6 Q. What did you have at the time of the
7 explosion April 5th?

8 A. We had the VCR type at Performance.

9 Q. Do you have a copy of those videos for the
10 time period around April 5th of this year?

11 A. I don't think so.

12 Q. Did anyone patrol --

13 MR. SILKWOOD: I just want to clarify. He
14 probably doesn't have them because he has provided
15 them to us and I think we already copied those and
16 gave a copy to MSHA.

17 MR. BABINGTON: I think -- I think on the
18 5th they were produced.

19 MR. SILKWOOD: The VCRs were produced.

20 MR. BABINGTON: Is there one that you were
21 looking for?

22 MR. O'BRIEN: I was looking for the 3rd,
23 4th, 5th, Easter weekend through the 5th.

24 MR. BABINGTON: I will have to check what

1 you all gave us.

2 MR. SILKWOOD: I think it was the 5th, 24
3 hours back. I'm not sure how far back it goes.

4 MR. O'BRIEN: If we have those -- if you
5 have those and we don't have them, I would like to
6 have a copy of those.

7 MR. McATEER: Could we make the request a
8 little more formal to go back and look at? We
9 would like them from the 1st through the 5th.
10 That's the VCRs for all the video cameras at the
11 main entrance at the Unice portal or any other
12 portal. Okay.

13 MR. KOERBER: Are there cameras at both
14 the UBB mine portal and Unice portal?

15 THE WITNESS: Yes, sir.

16 BY MR. O'BRIEN:

17 Q. Did anyone patrol the mine property the
18 weekend of Easter weekend, say, April 3rd, 4th,
19 5th? Did you have a rover that weekend?

20 A. Yes, sir.

21 Q. Do you know of anyone who worked that
22 weekend by chance? Would you have any knowledge of
23 anyone working that weekend at UBB?

24 A. You mean miners working?

1 Q. Miners or any Massey members.

2 A. I don't know.

3 Q. How did you find out about the explosion
4 on April 5th?

5 A. I was at the Clear Fork mine site, which
6 is the old Rowland mines at Clear Creek. I was up
7 there talking to security, and the security officer
8 at the UBB Performance gate called the security
9 officer working Clear Fork on the radio; and I was
10 sitting there with him, and he was looking for Paul
11 McCombs, which was one of our engineers. He needed
12 to get a message to him to call -- I think it was
13 to call Massey Coal Services, but I'm not -- to
14 make a phone call. And we tried to raise him on
15 the radio. We could not raise Paul McCombs, so I
16 hollered back on the radio and asked if this was
17 important or just somebody wanting to chitchat; and
18 he said he thinks it's important.

19 So I started to look for him in my
20 vehicle, driving around on the property. He
21 hollered back on the radio and told me to disregard
22 it, he got in touch with him. I'm assuming by
23 telephone.

24 I drove to my house, which is not very far

1 from Clear Fork mine site. I called Dave and asked
2 him what was going on. He said, "I don't know."
3 He said, "They just called down here to the mines
4 wanting us to get in touch with Paul McCombs."

5 I said, "Well, if you find out what's
6 going on, call me." I said, "They asked for
7 security?"

8 He said, "No, they haven't."

9 I said, "Okay." I said, "If you find out,
10 call me back."

11 A few minutes later, Mike Bays called.
12 Mike Bays was chief security at Marfork. He said,
13 "What's going on at Performance?"

14 I said, "I don't know. I'm going to find
15 out."

16 He said, "I'm going up there. I was sent
17 up there to find out what was going on."

18 So I left the house. When I got to
19 Performance gate, they told me there had been an
20 accident up there. That's when I found out about
21 it.

22 Q. And about what time did Mike Bays call
23 you?

24 A. I do not remember.

1 Q. Do you remember what time you arrived at
2 UBB Performance?

3 A. No, sir.

4 Q. Once you arrived, what did you do after
5 that?

6 A. I went to the Big Branch gate. We call it
7 Big Branch. Some people call it Big Branch Unice
8 portal. We call it Big Branch. People started
9 coming and going. I think the state police showed
10 up, asked what could they do, where should they
11 go. I said, "You probably need some guys right
12 here."

13 And it got very hectic after that. And we
14 started calling in extra security to put them on
15 each gate to help with the flow. It was just real
16 hectic that day.

17 Q. What was your role or roles during the
18 rescue and initial rescue and then recovery
19 operation?

20 A. I had no responsibility. That was all
21 handled by the coal mines and you all and state
22 police was up there.

23 Q. Is there some sort of emergency
24 contingency plan? Was there an emergency

1 contingency plan in place at UBB on April 5th? Is
2 there some sort of record or manual, something
3 written down saying, okay, in case of an emergency
4 this is what we'll do?

5 A. Yes, sir.

6 Q. Okay. How did that go -- How did the
7 operation go? Did it go toward -- along with the
8 manual or was it just -- Explain a little bit --
9 Strike that.

10 Has there been any changes in this
11 contingency plan since April 5th?

12 A. Not to my knowledge.

13 Q. The plan that I'm speaking of, does it
14 have a name? Do you have like -- Is it called an
15 emergency contingency plan or do you have any --
16 Does it have any formal name --

17 A. Yes, sir.

18 Q. -- procedures or --

19 A. Yes, sir, it does have a name. I do not
20 remember what the name of it is.

21 Q. Is it site specific for Performance or is
22 it Massey wide security?

23 A. Site specific for Performance Coal.

24 MR. O'BRIEN: That's all I have right

1 now. Thank you.

2 EXAMINATION

3 BY MR. WATKINS:

4 Q. Good morning.

5 A. Good morning, sir.

6 Q. I've got some follow-up questions here,
7 but I'm going to jump around a little bit. Some of
8 these you may have answered, and I didn't get them
9 so I apologize.

10 How many people report to you did you say?

11 A. Number wise?

12 Q. Yeah, number wise.

13 A. I have five in-house security officers
14 which work for Performance. And contractors, it
15 all depends. Like on the holiday weekends, I'll
16 have more security out but probably six or seven.

17 Q. Okay.

18 A. That's just an estimate.

19 Q. And you provide coverage 24 hours a day?

20 A. 24/7 at the gates, yes sir.

21 Q. 24/7. Just at Performance or is there
22 other -- Just at UBB or do you have other mines
23 that you are responsible for?

24 A. I have other mines.

1 Q. What would those be?

2 A. I am responsible for Goals and Ed White
3 and Clear Fork Coal Company up the -- where the old
4 Rowland mine is. It's a new operation we opened up
5 up there.

6 Q. So the number you gave me --

7 A. Is just for Performance.

8 Q. That's what I wanted to get.

9 I think John mentioned earlier -- You had
10 a discussion here about the video cameras at UBB.
11 Do you know where those are actually located, what
12 areas they're actually shooting on, what areas
13 they're looking at?

14 A. At the mines or at the gate?

15 Q. At the mines.

16 A. I have just four or five cameras inside
17 the warehouse itself. There's one on the outside
18 aiming towards the doors of the warehouse rebuild
19 shop or whatever they call it.

20 Q. Do you have any pointing out towards the
21 portals or anything like that or the openings of
22 the mine?

23 A. Yes, sir.

24 Q. Okay. And do you have them at what we

1 call the Ellis side as well?

2 A. Yes, sir.

3 Q. And I think you mentioned also that after
4 hours all the phone calls, outside phone calls,
5 come to the guard shack.

6 A. Yes, sir.

7 Q. How is that phone system set up? Can you
8 still call directly to the mines without going to
9 the guard shack or anytime you call -- Can I get
10 ahold of somebody who is sitting up in the mine
11 office without going through the guard shack?

12 A. Yes, sir.

13 Q. So you wouldn't necessarily get all
14 incoming calls. You would just get the ones
15 that -- If someone calls the local number then --

16 A. Yes, if they dial 1761, it rings. That's
17 the main number. Like my private number is 3506.
18 If you dial 3506, it will come straight to my
19 office.

20 Q. Okay. Other than the responsibilities and
21 duties that you laid out as far as providing --
22 monitoring people coming in the guard shack and the
23 speed and all that stuff, do you have any other
24 responsibilities, personal responsibilities or

1 anything like that or other assignments that you
2 have?

3 A. Personally --

4 THE COURT REPORTER: I'm sorry. I didn't
5 hear you.

6 THE WITNESS: I'm trying to think.

7 Personally --

8 Q. I guess as a group you're assigned to do
9 these duties, you know; but do you personally have
10 any duties that's outside of that?

11 A. I provide security for Mr. Blankenship on
12 certain occasions.

13 Q. Personal security, is that what you're
14 referring to?

15 A. Well, it's like when we have operators'
16 meetings, board meetings, I provide security at
17 those meetings.

18 Q. Okay. And I don't know if John asked you;
19 but once you were notified of the accident you said
20 you were at a different location. Where was that
21 at again?

22 A. Clear Fork.

23 Q. How long does it usually take to get from
24 Clear Fork to UBB?

1 A. 25 minutes.

2 Q. Okay. So once you got -- In those 25
3 minutes, you traveled to UBB. I think you reported
4 that you reported to Mr. Blanchard. Did Chris give
5 you any instructions as to what he would need you
6 to do at UBB once you got there?

7 MR. SEARS: First of all, for
8 clarification, I think he indicated that he stopped
9 at his home before he went to Performance; so I
10 don't know --

11 MR. WATKINS: Okay.

12 MR. SEARS: -- if it would have been
13 longer than 25 minutes.

14 MR. WATKINS: Okay.

15 A. I did not report to Mr. Blanchard that
16 day. The question was, if I remember right, was
17 who do I answer to.

18 Q. Yes, it was. Once you got to UBB, after
19 you stopped at your home, once you got to UBB, did
20 anyone, Mr. Blanchard or anyone, give you
21 instructions once you got to UBB?

22 A. No, sir.

23 Q. Any duties or responsibilities that they
24 wanted you to do?

1 to go ahead.

2 MR. McATEER: Sure.

3 EXAMINATION

4 BY MR. McATEER:

5 Q. Mr. Stover, thank you again for coming.
6 I've been up at the mines a couple of times; so
7 maybe I could ask some questions to clarify where
8 these things are, the locations. The video
9 cameras, you said -- Tell me where the video
10 cameras are located. Once I arrive, make the turn
11 off 3, come across the bridge, where are the
12 cameras?

13 A. When you turn off Route 3 onto the
14 bridge --

15 Q. Right.

16 A. -- there's one camera right there.

17 Q. Okay.

18 A. And then when you get up to the mine
19 office --

20 Q. How about the guard shack? Turn right --

21 A. Right.

22 Q. You cross the bridge and then turn right.

23 A. That's where the monitor is, but what the
24 security is looking at is the bridge.

1 Q. Okay. Okay. Where is that camera
2 located, on the building?

3 A. It's just as you turn right off the bridge
4 towards the security building.

5 Q. Right.

6 A. It's mounted on that pole right there.

7 Q. Okay. And then now it goes through the
8 gates.

9 A. Go all the way down up to the mines.

10 Q. Is there a camera then?

11 A. No.

12 Q. Now, I come up to the mines and I'm -- The
13 parking lot is here on the left-hand side. There's
14 parking on the right-hand side.

15 A. Right. If you go around back where all
16 the emergency crews were set up --

17 Q. Right.

18 A. -- and temporary ward was set up --

19 Q. Right.

20 A. -- if you look towards the main office,
21 you have these open bays where the equipment is
22 parked and all that.

23 Q. Yeah. Yeah. Okay.

24 A. If you go inside there, there's our

1 warehouse.

2 Q. Sure.

3 A. 90 percent of the cameras are inside the
4 warehouse, and there is one camera on the outside.

5 Q. Where is that one on the outside, just
6 generally?

7 A. If you look -- If you go upstairs in
8 Mr. Clay's office and look straight out the window,
9 there's a power pole --

10 Q. Okay.

11 A. -- and it's mounted on that power pole.

12 Q. Okay. Okay.

13 A. It shoots. It aims towards the doors of
14 the warehouse.

15 Q. Okay. Because the warehouse is where you
16 keep the copper?

17 A. It's where we try to keep it.

18 Q. And that's the problem.

19 A. Then we have two cameras I think on the
20 same pole --

21 Q. Okay.

22 A. -- shooting towards both portals.

23 Q. Okay. So that would be right. North and
24 south. All right. I've got that wrong. I think

1 this way is north and south.

2 Okay. All right. So if I go into -- If I
3 would go up today and go through the gates and go
4 up to the -- and park, go into the changing area, I
5 would be picked up by one of these two cameras
6 before I got to that; and then I would be picked up
7 again when I went towards the portal --

8 A. If -- Your diagram. That one camera on
9 the outside that shoots -- that aims towards the
10 building, if you come out of the warehouse --

11 Q. Right.

12 A. -- you're on camera.

13 Q. Okay.

14 A. If you're inside the warehouse getting
15 whatever, then you're on camera.

16 Q. Okay. And then if I go -- You know where
17 you load up on the man trips?

18 A. Yes, sir.

19 Q. Are you on camera then?

20 A. Inside the building?

21 Q. Either inside or just outside.

22 A. Just outside, a little bit of the camera
23 will pick you up.

24 Q. Okay. And then if I go towards the

1 portal?

2 A. Yes, sir.

3 Q. So you would see anybody coming in and out
4 of the portal?

5 A. Yes, sir.

6 Q. And that would be on record?

7 A. Yes, sir.

8 MR. McATEER: We're requesting that from
9 day -- the 1st of April to 5th of April to have a
10 copy of these video cameras, the disks, the VCRs
11 for these cameras. I just want to make sure
12 there's no confusion because I had confusion on my
13 part.

14 MR. SILKWOOD: He can explain it or I can
15 explain it. Those cameras, the cameras up at the
16 portal, at the Ellis portal and at the -- up at the
17 mine office UBB, run on -- they're not
18 VCR. They're --

19 THE WITNESS: Digital.

20 MR. SILKWOOD: -- digital from the
21 security system.

22 MR. SEARS: And just a matter for
23 clarification, you keep on saying the VCRs or
24 something. You want the actual recordings, the

1 tapes --

2 MR. McATEER: Yeah, exactly.

3 MR. SEARS: -- or the digital files.

4 MR. McATEER: Yes. I'm sorry. You're
5 correct to point out I'm challenged.

6 BY MR. McATEER:

7 Q. Okay. Let's go to these cameras. They're
8 digital?

9 A. Yes, sir.

10 Q. Okay. And is there a record from those
11 for the 1st through the 5th of April?

12 A. Be more specific. Which cameras so I
13 won't give you a wrong answer.

14 Q. Any camera that is at this location,
15 starting from Route 3 all the way through to the
16 entrance at the portal.

17 A. Okay. The camera that was in place at the
18 time of the accident --

19 Q. Right.

20 A. -- you all have copies of everything, of
21 the original.

22 Q. Okay. As I understood your answer or your
23 suggestion, we have the 5th. I'm asking for the
24 1st through the 5th with these cameras.

1 MR. SILKWOOD: Okay. I think we can go
2 back and clarify, but I think everything from the
3 5th back to the beginning of April that we have has
4 been produced.

5 MR. McATEER: Okay.

6 MR. SILKWOOD: The VCRs, I think we only
7 had the 5th and then the digital security went back
8 I think a little bit further.

9 MR. McATEER: Okay.

10 MR. SILKWOOD: And we put that on a 500
11 gig external drive and gave one to the state and
12 one to MSHA --

13 MR. McATEER: Okay.

14 MR. SILKWOOD: -- within a few weeks of
15 the explosion.

16 MR. McATEER: Okay. I will tell you that
17 it is possible that we even have that; but the
18 volume of stuff that we have, I haven't seen it.
19 We've been going through that as fast as we can.
20 Thank you. I will check on that and be sure to get
21 back to you on that.

22 BY MR. McATEER:

23 Q. Okay. Now, let's go back to Route 3. Is
24 there any other security system that you have?

1 When I go up there, those fellows stop me and I
2 sign and take a hazard test, hazard training. They
3 did their job. You should be proud. I don't have
4 a problem with that. Is there anything else that
5 you have and had on the 1st through the 5th of
6 April?

7 A. I don't know what you're asking for.

8 Q. Well, paper records, et cetera.

9 A. You mean check-in and check-out logs?

10 Q. Yes.

11 A. Yes, sir. We have the regular visitors
12 log --

13 Q. Okay.

14 A. -- of anybody and everybody, and then we
15 have logs called inspectors log.

16 Q. What are the inspectors logs?

17 A. It's a log by itself. We log in and log
18 out all inspectors, federal, state.

19 Q. And do you keep that --

20 A. Yes, sir.

21 Q. -- record?

22 Can we get copies of that for the
23 preceding three months from January 1st through
24 April 5th?

1 MR. McATEER: I directed it to him; but,
2 Eric, can you --

3 MR. SILKWOOD: (Nods head.)

4 MR. McATEER: Okay.

5 MR. BABINGTON: Sorry. Is that a yes?

6 MR. SILKWOOD: Yes. Sorry.

7 BY MR. McATEER:

8 Q. The security people, either contractors or
9 your employees, Massey employees, Performance
10 employees, do you instruct them when they come on,
11 when you hire a new guy, give them training?

12 A. Yes.

13 Q. Okay.

14 A. Any new security officer, be it a
15 contractor and/or a member, trains two shifts,
16 which is 24 hours, at the gate with a security
17 officer.

18 Q. Okay. With an experienced security
19 officer?

20 A. Yes, sir.

21 Q. And are there any specific instructions?
22 For example, you don't -- I'm not picking on you.
23 I'm just dealing with human nature. You don't stop
24 Chris Blanchard when he comes in. If you don't

1 know him --

2 A. If you don't know him, you stop him --

3 Q. Okay.

4 A. -- check his ID and check and make sure
5 he's been hazard trained.

6 Q. Okay.

7 A. Yes, sir, we do that.

8 Q. And how about any specific instructions
9 for visitors?

10 A. One thing that is hammered in our head,
11 you do not ask inspectors where they're going and
12 you do not call the mines. You do not notify no
13 one when inspectors come on that property. In
14 fact, that is in our SOP, that you do not notify no
15 one.

16 Q. Can we get a copy of that SOP?

17 A. I'm sure we all have a copy.

18 MR. SILKWOOD: It's probably in -- That
19 was one of the specific requests. I think that's
20 probably in the packet of stuff that you have not
21 gotten through yet.

22 A. I know you all don't believe this; but as
23 long as I've been with Massey, that's always been
24 the rule.

1 Q. I understand that. I also note human
2 nature when I drive by a policeman and someone's
3 coming the other way. I needn't say anymore.

4 Now, you -- you have visitors logs and
5 inspectors logs. Is there any other logs?

6 A. I have duty logs. They will log down any
7 significant thing that happens through the day.
8 When outpost checks in, they log that down.

9 MR. McATEER: Okay. And, Eric, I
10 apologize. Would that be in the packet of
11 materials you think?

12 MR. SILKWOOD: I'm not certain on that
13 one. I can check.

14 MR. McATEER: We'll make a request now for
15 that.

16 BY MR. McATEER:

17 Q. And so we've got one, two, three, duty
18 logs, inspector logs and visitor logs. Any other
19 logs?

20 A. Key logs, anybody that checks the keys out
21 through the office --

22 Q. Okay.

23 A. -- or something like that.

24 MR. BABINGTON: I'm sorry, Davitt. Did

1 you give a date for the duty logs?

2 MR. McATEER: Duty logs, I'm only
3 interested in the period of January 1st through
4 April 5th is principally what I'm interested in. I
5 did not. Thank you. And I would make a similar
6 request for the key log, and the key log dates I
7 would ask for are the 1st of April through the 5th
8 of April.

9 BY MR. McATEER:

10 Q. Mr. Stover, are there any other records
11 that were kept?

12 A. Visitors logs, duty logs, that's about it.

13 Q. Key logs?

14 A. Key logs.

15 Q. Okay. Go back if you can to the 3rd of
16 April, which is Easter, that Easter weekend. Did
17 you work that weekend?

18 A. I don't remember.

19 Q. Did you have Easter dinner?

20 A. I don't remember.

21 Q. You better. Your wife will have your
22 head. Let me try to help you with that because,
23 you know, it's kind of important for us. It's kind
24 of important for us to try to get to that issue.

1 April -- Let's see. I had it before. Here it is.

2 Okay. April -- The holiday, the Easter
3 Holiday is on Sunday the 4th of April.

4 A. Yes, sir.

5 Q. And this is the first time that
6 Performance had been closed for some period of
7 time, right?

8 A. If you say so. I don't --

9 Q. You're security but let me put it another
10 way. Is this the first time that they've been
11 closed for a period of time?

12 A. I don't remember.

13 Q. Okay. Did you take any specific
14 precautions on Friday the 2nd with regard to the
15 people going into the mine over the closed period
16 of time?

17 A. Going into the mine?

18 Q. Yes.

19 A. No, sir, I have nothing to do with that.

20 Q. Your people didn't spread rock dust?

21 A. No, sir, we don't do that.

22 Q. Who does that?

23 A. The coal miners.

24 Q. Right. But are you made aware of it, that

1 it's been done?

2 A. It's supposed to be done. Sometimes it
3 is. Sometimes it's not.

4 Q. Okay. But if you're watching for copper
5 theft, that would be good for you to know to
6 coordinate with those people, right?

7 A. Well, that's the reason we ask that it be
8 done. Sometimes it's done. Sometimes it's not.

9 Q. Sure. But let's go back to Sunday the
10 5th. What time did you traditionally have Easter
11 dinner, traditionally? And if your wife reads this
12 testimony and you don't come up with the right
13 answer.

14 A. I don't know.

15 Q. Okay. Did you go to the mine on the 5th
16 or the 4th?

17 A. I don't remember.

18 Q. Did you go to the mine on the 3rd?

19 A. Is that a Friday?

20 Q. That's a Saturday.

21 A. If you're asking for a yes or no, I cannot
22 answer that because I don't remember.

23 Q. Okay. Did you go to the mine on Friday
24 the 2nd?

1 A. Yes.

2 Q. How do you remember that?

3 A. Because I work Monday through Friday every
4 week.

5 Q. Okay. What time were you at the mine on
6 the 2nd?

7 A. Do you mean the mine mine or the mine
8 office?

9 Q. The mine, security in the mine office.

10 A. I usually get in between 5:30 and 6:00
11 every morning.

12 Q. Okay. And what time do you leave roughly?

13 A. 2:30, 3:00, 3:30, all depends if anything
14 was going on or not.

15 Q. And you live just up the road?

16 A. I live about 20 miles from Performance.

17 Q. That's on Route 3?

18 A. Secondary Route 1.

19 Q. Where is that? If I'm coming down Route
20 3, I'm trying to think of where that is.

21 A. Before you get to Whitesville, there's a
22 One Stop Shop --

23 Q. Oh, sure.

24 A. -- store. You turn right --

1 Q. Okay.

2 A. -- on that blacktop road. That's Clear
3 Fork, Secondary Route 1.

4 Q. So you're down towards Danville in that
5 direction?

6 A. No, sir.

7 Q. Whitesville is back out -- If you're
8 coming out towards that way rather than going back
9 to Beckley on 3.

10 A. Okay. When you leave Performance --

11 Q. Right.

12 A. -- you turn left like you're going to
13 Whitesville.

14 Q. Okay.

15 A. Before you get to Whitesville, you turn
16 right up Clear Fork Road. That runs you up to the
17 old Rowland --

18 Q. Okay.

19 A. -- Clear Creek, Dorothy, Ameagle,
20 Colcord --

21 Q. Oh, sure.

22 A. -- up that way.

23 Q. So from your house to the mine takes you
24 how long?

1 A. 20, 25 minutes.

2 Q. Okay. Now, when -- On the day of the
3 accident, when Mike -- What's his last name?

4 A. Bays.

5 Q. Mike Bays called you, what did he say?

6 A. He -- I can't remember word for word --

7 Q. Sure.

8 A. -- wanted to know what was going on at
9 Performance. I told him I didn't know. I was
10 waiting to find out myself. He said, "I'm being
11 sent over to find out what's going on."

12 Q. Did he say by whom?

13 A. If he did, I don't remember.

14 Q. Okay.

15 A. And I said, "Okay," you know.

16 Q. It's a little odd to have somebody else
17 go, isn't it or no?

18 A. Yes. So after we got off the phone, I
19 thought, you know, I better go over and see what's
20 going on because I had not received a call.

21 Q. You hadn't got a call?

22 A. No.

23 Q. You're head of security for UBB. He gets
24 a call. He's head of security for someplace else.

1 A. Marfork.

2 Q. Marfork. That is a little odd. I'm
3 trying to remember the name of an individual who
4 was over at Marfork who went over there. It'll
5 come to me or maybe in a break I'll ask that.

6 Did you hear from Chris Blanchard?

7 A. No, sir.

8 Q. Did you hear from Jason Whitehead?

9 A. No, sir.

10 Q. So from the time Mike called you, you
11 didn't hear anybody or hear from anybody?

12 A. No, sir.

13 Q. Did you have a cell phone?

14 A. Yes.

15 Q. Does it work?

16 A. No, sir.

17 Q. All right. And so you jump in your truck,
18 car, get in it, go over to the mine. Where did you
19 park, at the office?

20 A. No. When I first went there, I went
21 straight to the main gate.

22 Q. Okay.

23 A. They told me something bad at the mines
24 happened.

1 Q. Who was there?

2 A. Tommy Wingo, one of my security officers.

3 Q. Wingo?

4 A. Wingo. Yes, sir.

5 Q. Okay. And what did he say?

6 A. He told me something bad happened at Big
7 Branch, so I left and drove right down to the Big
8 Branch gate.

9 Q. Okay. And who was there? Is that the
10 gate I go through when I get off of 3?

11 A. Right there by the tunnel where the belt
12 line goes across.

13 Q. Yes.

14 A. Right there.

15 Q. Okay. And who was at that gate?

16 A. I think it was Officer John August. I'm
17 not 100 percent sure on that.

18 Q. Is he a contractor or is he --

19 A. A contractor, yes, sir.

20 Q. Okay. And what did John tell you?

21 A. I think -- I don't remember word for word,
22 just said there was an accident.

23 Q. Did he say I've been called by somebody?

24 A. I don't remember. After that, it became

1 very hectic.

2 Q. Chaotic?

3 A. Chaotic, yes.

4 Q. So you drove from the gate up to the mine
5 office?

6 A. I don't remember going up to the -- I
7 don't remember actually going to the mine.

8 Q. So you stayed at the gate?

9 A. Yes.

10 Q. Did you see Mike Bias there?

11 A. Mike Bays.

12 Q. Bays.

13 A. Yes, he showed up.

14 Q. Did he go to the mine?

15 A. Not that I know of.

16 Q. So you guys stayed down at that --

17 A. Right, we started calling in people and
18 trying to get everything covered as far as getting
19 security. And, you know, we was in contact with
20 state police. They was with us trying to figure
21 out where the reporters was going to be, where this
22 is going to be and --

23 Q. Okay. Had you seen Chris Adkins there?

24 A. At that time?

1 Q. Right.

2 A. No, sir.

3 Q. Had you heard of any helicopters coming
4 in?

5 A. I do not remember.

6 Q. Would you people see helicopters if they
7 came in? They must have to.

8 A. It depends on where they land at.

9 Q. Yeah. But if they land up at the
10 office -- Is that where they typically land? Where
11 do they typically land? Let me ask that question.

12 A. Marfork.

13 Q. They do?

14 A. Yes, Marfork has a landing pad.

15 Q. Okay.

16 A. Performance don't.

17 Q. Did any helicopters land at Performance
18 that day?

19 A. I do not remember.

20 Q. Did you see any helicopters up there?

21 A. I do not remember.

22 Q. Did you see any helicopters at Marfork?

23 A. I don't think I was at Marfork that day.

24 Q. Okay. So if Adkins and Chamberlain come

1 over, they would have come to Marfork typically.

2 A. If they flew in, yes, sir, they would
3 have.

4 Q. Can you land anything at Performance, at
5 the Upper Big Branch? I don't know where you would
6 put it.

7 A. Well, I'm thinking no place I can recall.

8 Q. You can't put it in the yard. Only other
9 place would be only down by the guard shack, but
10 there's no place down there.

11 MR. SEARS: I'm just going to object to
12 the form of the question.

13 MR. McATEER: I'm sorry.

14 MR. SEARS: That's fine.

15 MR. McATEER: You're right.

16 That's a lawyer's -- He saying you're
17 asking -- you're concluding, you're making
18 conclusions and he's right.

19 BY MR. McATEER:

20 Q. But in your experience, Massey helicopters
21 coming to the Upper Big Branch mine typically land
22 at Marfork and the people are driven over?

23 A. Yes, sir.

24 Q. Okay. Now, you're there for a couple days

1 now. At what point do you get instructions from
2 Massey's supervisors?

3 A. I don't.

4 Q. And then at what point does Mr. Blanchard
5 or Mr. Blankenship arrive?

6 A. I do not remember what time. It was
7 sometime through the night.

8 Q. How did he come in?

9 A. That, I don't know. When I seen him, he
10 was in a company vehicle being chauffeured around,
11 being driven around rather.

12 Q. And you were where at the time?

13 A. At the Big Branch gate, Unice portal.

14 Q. And I hate to do this. That's the one I
15 use? That's the one that's by the belt --

16 A. Belt, yes, sir.

17 MR. SILKWOOD: Davitt, I hate to
18 interrupt. I just want to make sure you guys are
19 on the same page.

20 MR. WATKINS: I don't think --

21 MR. SILKWOOD: I don't think you are. I
22 think the one you use is the main gate.

23 MR. McATEER: Which is Upper Big Branch.

24 MR. SILKWOOD: Upper Big Branch. I think

1 the one he calls Unice is the Ellis --

2 MR. WATKINS: Ellis portal.

3 MR. SILKWOOD: I don't know if you would
4 have used that one.

5 MR. McATEER: No, I used that once; but
6 the normal one I used is the -- up by the conveyer
7 belt, but it's just down and it's the -- it's the
8 Upper Big Branch entrance.

9 MR. SILKWOOD: I think the conveyer belt
10 he's talking about is the belt that goes --

11 THE WITNESS: Goes across the road.

12 MR. SILKWOOD: -- and goes across Marfork
13 way up above the road, the first entrance that you
14 probably go pass; and then you make the right on
15 the bridge and then a right into the --

16 MR. McATEER: Right.

17 MR. SILKWOOD: -- that's the main gate --

18 MR. McATEER: Okay.

19 MR. SILKWOOD: You would probably
20 typically use --

21 MR. McATEER: The main gate.

22 MR. BABINGTON: Your diagram showed that
23 was the main gate.

24 BY MR. McATEER:

1 Q. Okay. So if my questions are at the main
2 gate, were you at the main gate then?

3 A. No, I was at Big Branch --

4 Q. Big Branch.

5 A. -- Ellis portal.

6 MR. WATKINS: Ellis.

7 Q. And did Mr. Blankenship come to that
8 portal?

9 A. Yes, sir.

10 Q. Now, explain if you would what your
11 responsibilities are and how do you provide
12 security service to Mr. Blankenship?

13 A. We -- Are we talking about at the
14 meetings?

15 Q. Yeah. Like he was at the Greenbrier. Did
16 you go down to the Greenbrier last week?

17 A. Yes, sir.

18 Q. How was it?

19 A. It's not bad.

20 Q. What do you do for that security?

21 MR. SEARS: Are you talking about in
22 general or as it relates to this accident?

23 MR. McATEER: I'm talking about in
24 general. I want to find out what kind of security

1 relationship there is, and then I'll ask about the
2 accident second.

3 BY MR. McATEER:

4 Q. First of all, could you describe what --
5 how you provide security for Mr. Blankenship?

6 A. Well, usually, I'm down in the area where
7 the meeting is going to be and where breakfast is.
8 I go down and check it all out beforehand; and
9 everybody, the board directors they come down and
10 start eating. Then Mr. B comes down. And just out
11 in the area of the hallway and the rooms while the
12 meeting is going on --

13 Q. Is this part of your duties as an employee
14 of Massey or is this additional or different or
15 separate?

16 A. It's just Massey security.

17 Q. Okay. So there's not a different pay
18 division or anything like that?

19 A. No, sir.

20 Q. Okay. Now, let's go back to the accident,
21 the date of the accident. On the 5th, did you
22 provide any security for Mr. Blankenship?

23 A. No, sir.

24 Q. Did you speak to him?

1 A. No, sir.

2 Q. Okay. How long was Mr. Blankenship there?

3 A. I cannot answer that. I don't know. What
4 I know is he was coming off across the bridge from
5 Unice portal going towards the main office.

6 Q. Okay. Was anybody else providing
7 security?

8 A. He was with a chief of security out of
9 Kentucky.

10 Q. So the chiefs of security from the various
11 mines, do they provide -- different times provide
12 security for Mr. Blankenship?

13 A. I cannot answer that yes or no.

14 Q. Okay.

15 A. All the board meetings, operator meetings,
16 I go and Mike Bays goes. Every now and then, we
17 will have extra security chiefs come up to assist
18 us. Not very often.

19 Q. Okay. Who was the security chief out of
20 Kentucky? Do you remember?

21 A. I think his name is Herald May.

22 Q. Okay.

23 A. Nickname, we call him Bucky. I think
24 that's his God given name, Herald.

1 Q. If I can ask you a few more questions.
2 I've been fine with your answers. Just a couple
3 more questions.

4 When the call came asking about
5 Mr. McCombs, was there any reason given why they
6 needed Mr. McCombs?

7 A. Not to my knowledge.

8 Q. Okay. Did you take the call?

9 A. No, sir.

10 Q. Who took the call with you? You were with
11 somebody.

12 A. Tommy Wingo, which is a security worker at
13 the main gate, called Clear Fork security on the
14 radio; and I was right there with him.

15 Q. Who would be Clear Fork security at that
16 point?

17 A. I do not recall who was on duty at that
18 time.

19 Q. Okay.

20 A. I was sitting in my vehicle. He was
21 standing by the door, so I just answered Tommy on
22 the radio.

23 Q. Sure. Okay. Let me go back to the
24 emergency contingency plan. Is this a book?

1 A. Yes.

2 Q. What color is it?

3 A. I don't know. I don't remember.

4 Q. Is it blue or white?

5 A. You're asking me to guess. I don't
6 remember.

7 MR. McATEER: Okay. Eric, can we get a
8 copy of that if we don't have that already?

9 MR. SILKWOOD: Yes.

10 MR. KOERBER: What was it?

11 MR. McATEER: I'm asking for the emergency
12 contingency plan at Upper Big Branch mines in
13 effect on the April 5, 2010.

14 Q. Is there any log kept by your security
15 people of Massey associates, employees, officials
16 entering the mines on non-production days? Do they
17 jot down --

18 A. Probably not if you're a Massey member and
19 have an ID or we know you to be a Massey member.

20 Q. Okay. Do you know if there were any logs
21 kept of anybody entering, leaving the -- other than
22 the two I said before, anybody entering or leaving
23 the property at the Upper Big Branch mine in either
24 portal, whichever, on the 1st through the 5th,

1 particularly on the 2nd, 3rd and 4th? That's
2 Friday, Saturday, Sunday.

3 A. I don't recall.

4 Q. You do not recall or you do not know of
5 any?

6 A. I do not know of any.

7 Q. Okay.

8 A. We would have to go back and look at the
9 logs.

10 Q. Okay. How would those be kept?

11 A. I have them in boxes in the office.

12 MR. McATEER: Okay. We would make a
13 request to look at those boxes, if we don't already
14 have them, of any other notations of any Massey
15 employees, supervisor, hourly, whatever, that
16 entered or left the property April 1st through
17 April 5th through that portal connected to Upper
18 Big Branch mine where the accident occurred.

19 THE WITNESS: For this year, they are in
20 filing cabinets in my office.

21 MR. McATEER: Okay.

22 THE WITNESS: This year, I mean.

23 MR. McATEER: Okay.

24 THE WITNESS: I don't want you to ask for

1 a box and there's no box.

2 MR. McATEER: Boxes and/or filing
3 cabinets.

4 MR. KOERBER: April 1 to April 5th.

5 MR. McATEER: April 1 to April 5th. I'm
6 just thinking if the security guard is sitting
7 there and would just jot it down.

8 BY MR. McATEER:

9 Q. Does your security system have any
10 connection to the tagging system that's in place at
11 the Upper Big Branch mines?

12 A. No, sir.

13 Q. You said that there was a main number,
14 telephone number, that bypassed the security guard
15 and that's 1761 or did I miss -- I wasn't certain
16 if I got you. 1761 is the main number --

17 A. Yes.

18 Q. -- that goes to the office?

19 A. Yes, sir.

20 Q. But if no one is at the office, it rings
21 at the security office?

22 A. Yes, sir, that's correct.

23 Q. And then there's another direct number
24 that goes to the main office.

1 A. I do not know how many numbers go --

2 Q. Directly?

3 A. -- directly, but there's -- certain
4 offices have a certain direct line. My direct line
5 is 3506.

6 Q. Right. Now, you said your office is up
7 there -- Where is your office?

8 A. Do you know where the main Performance
9 office is? Just as you cross the bridge --

10 Q. Yeah.

11 A. -- you turn left, there's a blue building.

12 Q. Right, the blue one.

13 A. Yes, sir, that's where my office is.

14 Q. Is that where Route 3 engineering is as
15 well?

16 A. Yes.

17 Q. Same floor?

18 A. There's only one floor.

19 Q. Okay.

20 A. Two buildings but one floor.

21 Q. So that would be -- You know McCombs then?

22 A. Paul?

23 Q. Yes.

24 A. Yes.

1 Q. No one -- You testified that no one called
2 you from security, from Massey management, in the
3 hours and days following the disaster. Did you
4 call anybody? Did you call --

5 A. No, sir.

6 Q. -- and say here's what -- I mean I
7 recognize it's absolute chaos and you're just
8 trying to do what you can do. Did you direct --
9 Were you in charge of -- on the Massey side making
10 the decision of who went and who came out?

11 A. What do you mean who went?

12 Q. Who went into the mine, who came out. If
13 I had arrived and I'm there and I said, "I'm kind
14 of an important guy" and you say, "I don't know you
15 from Jack, hit the road, hit the bricks."

16 A. If I did not know you from Jack, we would
17 call up to the office and talk to the mine
18 superintendent or whoever was up there.

19 Q. Who was up there that you may have had
20 communications with?

21 A. I don't remember. That would have been
22 assigned to my officers working the gate. I was
23 not at the gate, per se, inside taking phone calls
24 or checking people in.

1 Q. Okay. And when did you finally go home,
2 leave the mine? This happened on Monday, 3:00.

3 A. Wednesday afternoon or Thursday.

4 Q. Did you ever see Chris Adkins at the mine?

5 A. Yes, sir.

6 Q. I'm sorry. After the explosion on the day
7 on -- the day of or after the explosion.

8 A. After the explosion, yes.

9 Q. And when was that?

10 A. I do not remember. I cannot tell you what
11 day it was.

12 Q. Sure. Is there any other significant
13 thing that you think we should know about that
14 might help us understand what went on here?

15 A. No, sir.

16 Q. Okay.

17 A. Security has nothing to do with the
18 mines. I wish I could help you but unfortunately.

19 MR. McATEER: I have no further questions
20 at this time.

21 MR. O'BRIEN: I have just a few follow-up
22 questions.

23 EXAMINATION

24 BY MR. O'BRIEN:

1 Q. Did I understand you to say that you were
2 aware of the practice of rock dusting in the portal
3 areas during the --

4 A. I said security has requested --

5 Q. Uh-huh.

6 A. -- just like he said you can track -- you
7 can tell somebody has been in and out of the
8 mines. Sometimes they do it. Sometimes they
9 don't.

10 Q. When did this practice or when was this
11 request set forth?

12 A. Years ago.

13 Q. Years ago.

14 Okay. What's the purpose of the two
15 logs? You've got one for visitors and one for
16 inspectors. What's the purpose of two separate
17 logs?

18 A. I don't know. It's always been that way.

19 Let me turn this off.

20 Q. And finally is there -- If I wanted to go
21 to the UBB mine without being monitored or checked
22 in, is there any back roads, routes, paths that I
23 could take to get to the mine?

24 A. Yes, sir. There's -- You can come up the

1 railroad tracks, Birchton Curve, the railroad
2 tracks crosses the road right before you go up to
3 UBB, just four-wheel paths all through the
4 mountains.

5 Q. Just foot paths or four-wheeling paths,
6 nothing like, say, a car or a truck or an SUV could
7 travel on?

8 A. No, without being marked because if you
9 have to -- If you come off of Progress, you would
10 have to go through Elk Run security to get up on
11 Progress. Now, you can come -- go up to Progress
12 and come down one of the old roads that way, but
13 you still have to go through Elk Run security to
14 get through Progress.

15 MR. O'BRIEN: That's all I have. Thank
16 you.

17 MR. WATKINS: I have just a couple.

18 EXAMINATION

19 BY MR. WATKINS:

20 Q. You mentioned about the media and family.
21 You had conversations with the police about where
22 the media and families were going to be located.
23 Where were the media and families located?

24 A. The media was -- ended up being at the

1 Marshall school, and the family members were at our
2 safety building. I think now it's called Route 3
3 Rescue Team, but it's our safety building on our
4 property.

5 MR. McATEER: At Marfork?

6 THE WITNESS: Performance.

7 MR. McATEER: Which building is that?

8 THE WITNESS: If you go across the
9 bridge --

10 MR. McATEER: Right.

11 THE WITNESS: -- turn left, go all the way
12 up to the end -- all the way up to the end of the
13 fence, which is where we have our mining rescue --

14 MR. McATEER: Okay.

15 THE WITNESS: -- building up there. Used
16 to be just strictly Route 3 or -- excuse me --
17 Performance safety building.

18 BY MR. WATKINS:

19 Q. And who made the decision to locate the
20 entities where they did?

21 A. I don't know. I know it was messed up for
22 a while because I was talking to state police
23 because they wanted to know where to send these
24 people. I do not remember which trooper it was.

1 He come down -- drove back down where I was at. He
2 said, "This is what we're doing." I don't know who
3 got permission to use the school or nothing like
4 that; but he said, "All the news people will go to
5 the school and the family people will go to the
6 safety building." That way we keep everybody
7 separate and keep the news crew from the families.

8 Q. It's been a while since I looked at any
9 mining plans; but on the mine emergency response
10 plan that the company has, I was thinking there was
11 a designation made in that plan where these
12 entities were to be located. Are you familiar with
13 that at all?

14 A. It's in our -- I don't recall exactly
15 where it's supposed to be at.

16 Q. Okay. So you don't know if they ended up
17 being where they were supposed to be at in the
18 emergency response plan or not?

19 A. No, sir, I do not remember.

20 Q. Okay. Okay. I think John may have asked
21 you a question as far as -- may have been Davitt.
22 It doesn't matter. As far as notification when
23 inspectors arrived on the property, I think it was
24 your response that it's Massey's policy that you

1 don't notify, you don't call ahead of time when
2 inspectors are there.

3 A. Yes, sir.

4 Q. And you said that's in your SOP, which
5 Davitt asked for.

6 A. Yes, sir.

7 Q. Is there any other instructions that
8 you've been given in that regard? Is there -- Did
9 you receive any letter or notification from anybody
10 saying not to do this, e-mails saying --

11 A. Let me make sure I understand. Are you
12 asking me if I have been instructed in any way,
13 shape or form to not enforce that rule?

14 Q. No. Either way, either to or not to.

15 A. Yes, it's in our SOP.

16 Q. Other than the SOP, is there any other
17 notification that you've been given to either
18 enforce it or not to enforce it, either way?

19 A. The part to enforce it, yes, that come
20 from upstairs.

21 Q. Upstairs being?

22 A. Upper management, Massey Coal Services.

23 Q. Okay. Is that a verbal notification or
24 written notification?

1 A. It was in writing.

2 Q. Okay.

3 A. If I may elaborate. When I --

4 MR. SEARS: Come here.

5 MR. McATEER: I'll ask him.

6 MR. WATKINS: I'll save that for you,

7 Davitt. You can have that.

8 MR. McATEER: Okay.

9 Q. The other question I've got is when he
10 asked you about the helicopter landing. Is there a
11 surface job above UBB?

12 A. Yes.

13 Q. And what's the name of that job?

14 A. Progress.

15 Q. Would it be possible for a helicopter to
16 land at Progress and just transport somebody down
17 to UBB from there?

18 A. Yes, sir.

19 Q. But you don't know if that happened the
20 night of the accident?

21 A. No, sir.

22 MR. WATKINS: Go ahead, Davitt.

23 EXAMINATION

24 BY MR. McATEER:

1 Q. Could you elaborate. Just -- I can go
2 through the question specifically. You received
3 information from Massey Coal Services with regard
4 to notification issues and with regard to other
5 instructions vis-a-vis inspectors on the property.
6 Can you tell me what those have been.

7 A. It says when inspectors come on the
8 property you do not call the mines. You do not
9 notify no one.

10 Q. And that's in writing?

11 A. Yes, sir.

12 Q. Can we get a copy of that?

13 A. Yes, sir, as far as I'm concerned.

14 MR. SEARS: Is that something that you're
15 the records custodian of, of those types of
16 communications? Would that --

17 THE WITNESS: Yes, because it was sent.

18 MR. SEARS: No, that's something sent to
19 you. Where it originated from, are you associated
20 with the point of origination in Massey?

21 MR. McATEER: Chris, I'll ask Eric if
22 Performance Coal Company would produce the
23 documents in question.

24 MR. KOERBER: What is it called again?

1 MR. McATEER: It is a notification to
2 security not to notify mine management when an
3 inspector, either federal, state, is on the
4 property.

5 BY MR. McATEER:

6 Q. Are there any other related instructions
7 with regard to inspectors? Any other instructions
8 with regard to inspectors?

9 A. That's it. When inspectors come on the
10 job, we do not call the mines, do not notify.

11 Q. There's no reference as to timing or any
12 other -- you know, jotting down the time or is that
13 kept in the log?

14 A. Yes, sir. In the log book, it will have
15 the inspector's name, the organization he's with,
16 MSHA, state, whatever, time in and time out.

17 Q. And does the inspector sign this?

18 A. No, sir.

19 Q. Okay. And you're responsible for more
20 than one mine. Is such a log book kept at the
21 other mines you're responsible for?

22 A. Yes, sir.

23 Q. Is it kept at other Massey mines to your
24 knowledge?

1 A. To my knowledge, yes, sir, but I --

2 Q. Okay. Let me go back to the Elk Run
3 security. To get through Progress, you would have
4 gone through Elk Run security.

5 A. Yes, sir.

6 Q. Is there any -- Does Elk Run security have
7 video cameras, slash, digital cameras?

8 A. I do not know.

9 Q. Okay. Do they keep records to your
10 knowledge like the other -- like you did at UBB?

11 A. If you're asking for a yes or no answer, I
12 do not know.

13 Q. Okay. Don't know. Now, let me ask you
14 about security at the Bandytown fan. Is there any
15 security at the Bandytown fan, you know, the pumps
16 up there --

17 A. I think that's what we call -- security
18 calls West Fork fan. Yes, we have security at the
19 nighttime up there.

20 Q. West Fork fan?

21 A. Yes, sir.

22 Q. What kind of security do you have up
23 there?

24 A. At the site itself I have motion detectors

1 inside the fence, inside the building. If somebody
2 would break in the door, it will notify Performance
3 security by telephone and radio.

4 Q. And how is that notification
5 accomplished? A little man in the phone? Sorry.

6 A. I'm not that smart. I couldn't tell you.
7 The security system --

8 Q. The security system --

9 A. We put it in; and when it goes off, it
10 automatically dials out on the phone and calls out
11 on the radio.

12 Q. And would you have any record of any calls
13 or any other indications of persons being at that
14 location from the time of April 1st to April the
15 5th --

16 A. No, sir.

17 Q. -- in your security log?

18 A. That security system has just come on line
19 maybe this month.

20 Q. Okay. That would be November or October?

21 A. Yes, sir.

22 Q. Let me take you back to April 1st through
23 the 5th. What security was at Bandytown or at West
24 Fork fan?

1 A. I do not remember.

2 Q. Well, you replaced what was there with
3 what's now there. What did you take out?

4 A. Well, the only thing I can recollect for
5 sure is having security of the nighttime.

6 Q. Security at nighttime. And what would
7 that consist of?

8 A. A guy down at the bottom of the hill in a
9 vehicle.

10 Q. Okay. And does that person keep any logs
11 or anything or report to you?

12 A. No, they just check in every hour with
13 security at the Performance main gate.

14 Q. And would that be kept in a log?

15 A. Yes.

16 Q. What's this log called?

17 A. Called a duty log.

18 MR. McATEER: Eric, from the 1st to the
19 5th, I would like to see the duty logs, please,
20 from --

21 MR. SILKWOOD: I think that was one of the
22 ones that --

23 MR. McATEER: I just want to make sure
24 Bandytown was in that.

1 Q. -- has a place for them.

2 A. -- has the date, officer's name --

3 Q. I've got you.

4 A. -- the time they checked in.

5 MR. McATEER: Okay. That's all the
6 questions I have right now.

7 MR. BABINGTON: I just have a quick
8 follow-up on the notification.

9 EXAMINATION

10 BY MR. BABINGTON:

11 Q. What form -- We're talking about the
12 notification relating to giving notice of
13 inspectors on mine property. What form was that
14 notification in? Was it a memorandum, a letter?

15 A. I think it was a memo.

16 Q. A memo. Was the memo addressed just to
17 you or was it just addressed to Performance or all
18 Massey mines?

19 A. I don't remember.

20 EXAMINATION

21 BY MR. O'BRIEN:

22 Q. Were there video cameras at the Bandytown
23 fan on April 5th?

24 A. Bandytown fan, not to my knowledge.

1 Q. Are there any there now that you know of?

2 A. Cameras, no.

3 MR. McATEER: Can we take five because I
4 need to consult for a second before we let him go,
5 please.

6 MR. KOERBER: Yes.

7 (Off the record.)

8 MR. McATEER: I just have a couple of
9 questions.

10 EXAMINATION

11 BY MR. McATEER:

12 Q. What happens to the logs, inspector logs,
13 logs that are kept of inspectors? Who reviews
14 those? What do you do with them?

15 A. I keep them.

16 Q. Do you provide that information to
17 management at any point?

18 A. No.

19 Q. How do you -- Does management come down
20 and review them at any time?

21 A. No.

22 Q. What do you keep them for?

23 Do you know Joannah Bowles?

24 A. Yes.

1 Q. Did JoanaH come over that day, the day of
2 the disaster?

3 A. I do not remember.

4 Q. Did you speak to JoanaH?

5 A. I don't remember.

6 Q. And did Mike Bias?

7 A. Bays.

8 Q. Bays, I'm sorry. Did he say JoanaH had
9 spoken with him?

10 A. I don't remember.

11 MR. McATEER: I have no other questions.

12 MR. KOERBER: Okay. Just one statement on
13 the record before we go off the record. On behalf
14 of West Virginia Office of Miners' Health Safety &
15 Training, I would also like to formally request
16 copies of all items that Mr. McAteer has requested
17 throughout the interview, which includes any video
18 or digital recording of any camera located at any
19 location at UBB, be it the UBB coal portal or the
20 Ellis portal or any of the security guard gates or
21 shacks or buildings at any portal or any of the
22 holes connected around those portals for the time
23 period April 1, 2010, through the entire day April
24 5, 2010; key logs from April 1, 2010, through

1 April -- through the entire day of April 5, 2010;
2 all duty logs for any area of the mine from January
3 1, 2010, through the entire day of April 5, 2010;
4 all visitor and inspector logs at all portals in
5 April -- from January 1, 2010, to April -- through
6 the entire day of April 5, 2010; the emergency
7 contingency plan and/or the emergency response
8 plan, whatever the name of that is, whatever the
9 correct name of that document that Mr. McAteer
10 inquired about earlier that was in effect as of
11 April 5, 2010; any notations, notes or any other
12 form of documentation that any security personnel
13 may have made of any Massey person, be that an
14 employee, member, what have you, who entered or
15 left either portal from April 1, 2010, to
16 April 5 -- through the entire day of April 5, 2010;
17 copy of any notification to security or other
18 people not to notify Massey management when
19 inspectors were on private property. I would make
20 that a formal request.

21 MR. BABINGTON: I think there is one you
22 left out, which is the SOP.

23 MR. KOERBER: I'm sorry. And the standard
24 operating procedures as Mr. Stover referred to

1 during his -- his discussion here today.

2 MR. SEARS: And just as a matter of
3 clarification, I don't believe there is any
4 testimony by Mr. Stover that he possessed any of
5 this information or documentation in his own right
6 other than being an employee of Performance; and,
7 therefore, I would like it to be clear that that
8 would be a request that's directed to Eric here
9 rather than me as far as production goes.

10 Okay. Also I have a clarifying question
11 for Mr. Stover if anybody doesn't have anything
12 else.

13 EXAMINATION

14 BY MR. SEARS:

15 Q. Mr. Stover, during the Board's questioning
16 of you, there were times when the questioner made
17 comments that were not necessarily in the form of a
18 question to which there was no response required
19 from you; but, nonetheless, you provided no
20 response and provided no comment in response to
21 that. Is it fair to assume that we're not to take
22 your silence or non-response to such commentary as
23 an adoption or ratification of a comment that was
24 made?

1 A. Correct.

2 MR. SEARS: Okay. Thank you.

3 MR. KOERBER: Any other questions? Any
4 other items from any of the attorneys?

5 Let's go off the record.

6 For the record, today is November 30,
7 2010; and we'll go off the record now.

8 (Off the record.)

9 MR. KOERBER: We're back on the record,
10 and Mr. Babington would like to make a
11 clarification as well.

12 MR. BABINGTON: Just to be clear, with all
13 of those items that Mr. Koerber listed that are
14 being requested by the state and the governor's
15 team, MSHA is also making that same request of
16 Performance Coal Company.

17 (The interview of HUGHIE ELBERT STOVER was
18 concluded.)

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24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Nichelle N. Drake, a Notary Public and
3 Professional Reporter within and for the State
4 aforesaid, duly commissioned and qualified, do
5 hereby certify that the interview of HUGHIE ELBERT
6 STOVER was duly taken by me and before me at the
7 time and place specified in the caption hereof.

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

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

20 My commission expires the 19th day of July,
21 2019.

21 Given under my hand and seal this 1st day of
22 December 2010.

22 _____
23 Nichelle N. Drake
24 Professional Reporter
Notary Public