

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

INSPECTION IN LOCO

20 MARCH 2013

PAGES 1 TO 73



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INSPECTION IN LOCO

1 [INSPECTION ON 20 MARCH 2013]

2 CHAIRPERSON: The parties, if they wish
3 to show us things at the places we are, must please do so.
4 When someone speaks, he or she must please give his or her
5 name for the transcribers, and also please check with the
6 contractors who are here that you're close enough to the
7 microphone so what you're saying will be audibly recorded.
8 If when we're finished, or as we go along, if there's a
9 place which any party thinks is important which we're not
10 being taken to but we're walking in the vicinity of, please
11 say so, so that we can then go to that place as well. So
12 you all understand. Thank you. Mr -

13 MR WESLEY: Judge, I think the easiest,
14 we can go across the field, or we can stick to the road. I
15 have no preference.

16 CHAIRPERSON: Well you must tell us
17 what's your preference.

18 MR WESLEY: Let us stick to the road to
19 begin with. We can go down to the stop street and turn
20 right along the dirt road, then we turn towards -

21 CHAIRPERSON: Well, you've got to walk at
22 the front.

23 MR WESLEY: Alright, is everybody here?
24 Can you all hear me?

25 CHAIRPERSON: I think we announce that

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1 this is the commencement of the proceedings of the Marikana
2 Commission on an inspection *in loco* here near the Karee
3 Hostel at the spot near the railway line where General
4 Mpembe addressed a group of strikers who were coming back
5 from the Karee Mine.

6 MR WESLEY: Right, thank you. I've asked
7 General Mpembe to indicate the spots where he stood and
8 where the crowd was in relation to where we're standing
9 now. If he could, it's more or less to the south here. If
10 the people could just part here to the south, just open up
11 a passage on the road.

12 MR MPOFU: I also have one or two of the
13 people who were in the march -

14 CHAIRPERSON: Would it be helpful to get
15 our bearings, because it's overcast, we can't see the sun
16 properly. Show us where south is, north is, west is, and
17 east.

18 MR WESLEY: South is approximately that
19 way.

20 CHAIRPERSON: On the other side of the
21 rail, on the Karee side of the railway line?

22 MR WESLEY: The other side of the railway
23 line, Karee side. North then of course is on the opposite
24 side. East -

25 CHAIRPERSON: That's west. That's west.

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1 MR WESLEY: Yes. West would be down - I
2 said north is that way. West is down that way. You can
3 see -

4 CHAIRPERSON: That's towards the -

5 MR WESLEY: The bridge.

6 CHAIRPERSON: Karee 4, I take it.

7 MR WESLEY: Yes, no, that's the bridge.

8 CHAIRPERSON: The railway line runs from
9 west to east?

10 MR WESLEY: That's right, down here. If
11 everybody will also just take notice, on some of the video
12 footage you see a group of miners on the day by a bridge.
13 That is the bridge which is over there that you can see,
14 and then east of course is in that direction, the direction
15 that we've come from. General?

16 SPEAKER: If I maybe say, General Mpembe
17 was standing here. He was standing here.

18 CHAIRPERSON: General Mpembe?

19 SPEAKER: Yes, he was standing here.

20 CHAIRPERSON: And where were the
21 strikers?

22 SPEAKER: He was standing here.

23 CHAIRPERSON: So they were sitting
24 basically there, and the general was here?

25 SPEAKER: I was here, and then the police

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1 were on the other side -

2 CHAIRPERSON: And your member on the
3 other side of the railway line?

4 SPEAKER: There was also another one the
5 other side. There was also another one here. There was
6 also another here.

7 CHAIRPERSON: Sorry, am I correct, there
8 were three Nyalas? There were three Nyalas, were there?

9 SPEAKER: Yes.

10 CHAIRPERSON: One to the east -

11 SPEAKER: To the west.

12 CHAIRPERSON: The other way, to the west
13 of where the people were sitting on this track here.

14 SPEAKER: Yes.

15 CHAIRPERSON: And then you say north of
16 where they were, or in the field there was another Nyala.
17 Is that right?

18 SPEAKER: No, not on the field, it was
19 somewhere here, and there was a policeman -

20 CHAIRPERSON: "Somewhere here," you mean
21 on the other side of this undergrowth?

22 SPEAKER: Just after the tree, yes.

23 CHAIRPERSON: Other side of the tree.

24 SPEAKER: And the policeman was next to
25 the big stone here that was -

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1 CHAIRPERSON: Yes, I understand we're
2 going to be shown the stone in a moment, so we can look at
3 that.

4 SPEAKER: Okay, and then there was also -

5 CHAIRPERSON: And there was another Nyala
6 where?

7 SPEAKER: Another Nyala on, at the back,
8 at my back here.

9 SPEAKER: At the crossroad?

10 SPEAKER: Not at the crossroad, here,
11 just -

12 CHAIRPERSON: More or less where the car
13 is?

14 SPEAKER: Yes, mostly where the car is.

15 CHAIRPERSON: That's to say east of the
16 area where we now are.

17 SPEAKER: That's right, and then I was
18 communicating with them. There were policemen standing on
19 the other side until there.

20 CHAIRPERSON: Ja, there's a kind of a
21 ridge there on the other side of the railway line.

22 SPEAKER: Yes, and then -

23 SPEAKER: Judge, Baloyi is one of the
24 police officers who was standing on that side.

25 CHAIRPERSON: Yes, Lieutenant Baloyi.

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1 SPEAKER: Yes.

2 CHAIRPERSON: He's a lieutenant.

3 SPEAKER: The injured -

4 CHAIRPERSON: Yes, yes, he's a

5 lieutenant. His rank, he was a lieutenant?

6 SPEAKER: Lieutenant Baloyi, he was among

7 those police officers who were observing General Mpembe

8 addressing the protesters.

9 CHAIRPERSON: Yes, we got that on video,

10 anyway.

11 SPEAKER: Yes.

12 MR WESLEY: As a point of reference can I

13 just mention, we are more or less adjacent to this pole,

14 the electric pylon on the other side of the railway line.

15 It's a reference which you could use if you're looking at

16 videos or photographs. That's a good reference.

17 SPEAKER: The pole and this gap is

18 between the trees.

19 CHAIRPERSON: That's [inaudible] the

20 number.

21 SPEAKER: Yes, [inaudible] number,

22 8033900 I think.

23 CHAIRPERSON: Is it 80 - let me see.

24 803, and then below that it looks like 3900.

25 MR WESLEY: General, could I just ask you

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1 then, and Dali, your witness as well, the miners are here,
2 how do they move? When they get up and move, could you
3 just indicate where do they move to?

4 MR MPOFU: They took this gap.

5 CHAIRPERSON: This gap opposite where
6 we're standing?

7 SPEAKER: Yes, yes.

8 SPEAKER: Yes, immediately when they
9 stood up and they went in a crouching position, they moved
10 through this gap. It is when I started to count so that
11 they should disperse or they should hand over the weapons
12 to me, and they moved, and when they moved then there was
13 another policeman here who came here who tried to stop
14 them, and then that policeman I said to him he should allow
15 them because we are going to escort them.

16 CHAIRPERSON: Yes, you understand you're
17 not here to give evidence, but you are here to identify
18 places you will mention in your evidence. So you can say
19 this happened here, and when you talk about this and
20 explain people went through a gap, this is the gap, you
21 know. But basically you're here pointing out places with a
22 view to illustrating in advance the evidence you're going
23 to give.

24 MR WESLEY: Okay, could we just open up
25 then over here just so that everybody can have a look at

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1 the gap then we can get that on film. Dali, could you
2 please - he hasn't given his name for the record. Could
3 you just put his name on the record, your witness?

4 MR MPOFU: Okay, this is Simphiwe Booi
5 who is one of the witnesses. They're both on our list.
6 Booi is on our list, and Xolani Nzuza. They were both in
7 the group.

8 CHAIRPERSON: I think you should spell
9 their names for the benefit of the transcriber.

10 MR MPOFU: Okay, Simphiwe, S-I-M-P-H-I-W-
11 E, surname Booi, B-O-O-I, and the other witness is Xolani,
12 X-O-L-A-N-I, Nzuza, N-Z-U-Z-A. They're both on our witness
13 list for the next batch, and they were both part of the
14 group of 100 or 200, and Mr Nzuza had an exchange, or at
15 least had a discussion with the general in one of the video
16 clips.

17 CHAIRPERSON: So he's one of the people
18 depicted on the video, speaking on behalf of the group?

19 MR MPOFU: Yes, saying [African
20 language].

21 MR WESLEY: Sorry, Dali, can you just
22 repeat it, because I don't know if everyone behind us has
23 heard anything you said.

24 MR MPOFU: No, that's fine. We were just
25 identifying the witnesses, the key people who are

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1 testifying about this are the general, who was introduced
2 earlier, and two of our witnesses. We were just putting
3 their names on the record.

4 CHAIRPERSON: And you've explained one of
5 them was a gentleman who is depicted on the video, saying
6 "We're not fighting."

7 MR MPOFU: Yes.

8 CHAIRPERSON: That is the other point
9 that was made.

10 MR MPOFU: Yes.

11 MR WESLEY: If we just move a bit north
12 now, this way, into the field, I want to point out
13 something which is just behind us here.

14 SPEAKER: Did you point out the rock that
15 we actually see -

16 MR WESLEY: Oh, okay.

17 CHAIRPERSON: Isn't there a rock we've
18 got to see?

19 MR WESLEY: Ja, it's over here. I just
20 want the people back and clear - sorry, I just want to
21 clear here.

22 CHAIRPERSON: You're obstructing
23 something they want to show us.

24 MR MPOFU: The man, he was still pointing
25 something out.

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1 CHAIRPERSON: Alright, please be quiet.

2 Mr Wesley is going to say something.

3 MR WESLEY: On some of the video footage
4 you see a crowd moving through some bushes and you see a
5 large rock. This is the rock that's depicted in the video.
6 Correct? Okay, that way.

7 SPEAKER: Do you want me -

8 MR WESLEY: Yes please, if you want to,
9 now but then just get the camera. Somebody wants to point
10 something out. Commissioner, somebody wants to point
11 something out.

12 SPEAKER: I wanted us to point out the
13 spot where Baloyi was standing when this group of
14 protesters moved towards that direction.

15 CHAIRPERSON: Are we going to walk past
16 there?

17 SPEAKER: No, no, no, it's just here. Is
18 it possible if Lieutenant Baloyi could point out the spot
19 where he's -

20 MR MPOFU: If he can just stand there.

21 CHAIRPERSON: Just stand there and raise
22 your hand.

23 SPEAKER: Stand there where you observed
24 the group of protesters moving towards this direction.

25 CHAIRPERSON: Who's going to speak?

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1 MR MPOFU: This gentleman with the hand
2 up.

3 MR WESLEY: Okay.

4 LT BALOYI: Lieutenant Shulumo Baloyi.

5 MR WESLEY: Sorry, could you just say
6 that again, please?

7 LT BALOYI: Lieutenant Shulumo Baloyi.

8 CHAIRPERSON: - [inaudible] side of the
9 gap about halfway between the two, near the railway line
10 and, ja, and three on the other side. It was more or less
11 in the middle of the [inaudible].

12 LT BALOYI: Yes.

13 SPEAKER: Point out the exact spot where
14 you were standing.

15 LT BALOYI: I was standing here.

16 SPEAKER: He was standing here, when he
17 observed the group of protesters moving towards this
18 direction. He was standing here. Okay, you can move.

19 CHAIRPERSON: Can we get the camera here
20 [inaudible]?

21 MR WESLEY: Sorry General, would you just
22 [inaudible] this when the camera is ready?

23 GEN MPEMBE: There was a policeman next
24 to this rock here that was standing here and looking at the
25 protesters.

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1 CHAIRPERSON: It's about a metre north of
2 the rock that was previously pointed out to us. Is that
3 correct?

4 GEN MPEMBE: Yes.

5 CHAIRPERSON: On the eastern side of the
6 gap.

7 SPEAKER: Where were you [inaudible]?

8 LT BALOYI: I was standing on this side,
9 so that we were going to then to follow them.

10 MR WESLEY: Everybody move into the field
11 now.

12 MR MPOFU: Judge, what Charles and I are
13 doing is, unless if there's a disagreement between the two
14 witnesses and the general, then they'll take us through the
15 route, but so far it looks like there's agreement that this
16 is the direction that they took. So far we are fine.

17 CHAIRPERSON: May I ask a question
18 relevant for what you're talking about? Is it possible to
19 indicate to us in what direction the koppie is? In other
20 words, if one were going from here to the koppie, which
21 direction one would go if one was going in a straight line.

22 MR WESLEY: A straight line?

23 MR MPOFU: This way, Judge.

24 SPEAKER: He says you go to [inaudible]
25 and you pass through those cars.

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1 MR MPOFU: Line crossing through the
2 cars.

3 SPEAKER: Yes.

4 MR WESLEY: General?

5 MR MPOFU: Nkaneng, it's the same as the
6 koppie. Nkaneng is just behind the koppie.

7 MR WESLEY: Alright.

8 MR MPOFU: Okay, then lead us. That way.

9 SPEAKER: Dali and General, this is not
10 the exact route. We have to go more that way.

11 MR MPOFU: He's saying it's more?

12 SPEAKER: That way, yes. I don't know if
13 that's north or -

14 CHAIRPERSON: More, slightly to the west?

15 SPEAKER: Okay, to the west. General,
16 there.

17 MR MPOFU: Okay, they say this way,
18 General say this way.

19 SPEAKER: Ja.

20 MR MPOFU: It doesn't matter now.

21 GEN MPEMBE: I just want to explain.
22 When they arrive there, then they turned this way.

23 MR MPOFU: Oh, I see.

24 GEN MPEMBE: Yes. They didn't turn here.
25 They turned there to those stones, then they turned to that

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1 direction.

2 MR MPOFU: So General, you're saying they
3 didn't take this gap, they took this gap?

4 GEN MPEMBE: They move, yes, and there is
5 a dam here, they move on the left-hand side of that dam.

6 CHAIRPERSON: I understand we're going to
7 see the dam. So there's a line of trees almost going
8 northwards and in between - sorry, two lines of trees going
9 northwards with a gap in between them and what you're
10 saying is they walked along the gap between the two line of
11 trees?

12 GEN MPEMBE: And then they suddenly turn.

13 CHAIRPERSON: There's a point that you
14 will show us later where you say they turned towards east.

15 MR MPOFU: Okay, and they say they took
16 this gap. So I don't know, we can't resolve this one, but
17 let's just put it on the record. Okay -

18 MR WESLEY: Why don't we just mention the
19 position of the overhead lines, because that's something
20 we'll probably be able to -

21 CHAIRPERSON: Yes, that's a good point.
22 Do they say they turned to the easterly direction, more or
23 less at a spot where the overhead lines are to be seen, and
24 whereas the General says, as I understand it, that they
25 turned to the east further down?

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1 SPEAKER: Yes.

2 CHAIRPERSON: And possibly someone can
3 measure the distance between the place where they say they
4 turned and the place the General says they turned.

5 MR WESLEY: Okay, shall we follow the
6 route that the General takes, because we can, if we do that
7 we'll have yours in eyesight to the right-hand side, your
8 route. General, if you can more or less -

9 CHAIRPERSON: Is there where the old dam
10 is, the old dam is -

11 MR WESLEY: No, the damn is, when we get
12 a bit further north, that direction, I'll show you where
13 the old dam is. It's to the right.

14 CHAIRPERSON: It's not here?

15 MR WESLEY: No, no, it's not here yet.
16 General, if you could take us more or less where they
17 turned then.

18 MR MPOFU: They are saying - I think this
19 is where the difference is clearer. They say it was the
20 police that took this gap, they took that gap. That's what
21 they say, but I don't think anything turns on it.

22 SPEAKER: Ja, no, nothing turns on that.

23 MR MPOFU: Ja.

24 CHAIRPERSON: I see. So there are some
25 rocks here on the right-hand side of the gap they were

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1 proceeding down, and there are some trees in the vicinity.

2 They say they went -

3 MR MPOFU: To the east of the -

4 CHAIRPERSON: Eastwards, immediately
5 south of these rocks, whereas the police say they did say
6 immediately north of the rocks [inaudible].

7 MR MPOFU: Yes.

8 CHAIRPERSON: I don't propose spending a
9 week of evidence on resolving that.

10 MR MPOFU: No.

11 MR WESLEY: Judge, could we just go to
12 the General? He wants -

13 CHAIRPERSON: Quiet, please. General,
14 you want to show us something. What do you want to show
15 us?

16 GEN MPEMBE: And when they were here,
17 that group, the majority turned this way and then few of
18 them moved along these trees and then they took this
19 direction.

20 CHAIRPERSON: The General says that when
21 the group came to about here, the majority went at that
22 gap, the most northerly gap between the trees, and some of
23 them, however, went in the same direction, that's to say
24 the same easterly direction, but south of, immediately
25 south of these trees [inaudible]. Is that correct?

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1 GEN MPEMBE: Yes.

2 CHAIRPERSON: Right, yes [inaudible] -

3 SPEAKER: Can the General walk the route

4 of where the majority went?

5 GEN MPEMBE: Okay.

6 SPEAKER: We'll follow you.

7 MR MPOFU: Where's the Judge? Judge -

8 CHAIRPERSON: Okay, what do we want to

9 see now?

10 MR MPOFU: No, I think - no, we just

11 wanted to use this spot, because it shows what we said

12 earlier, that nothing really turns on that because now

13 where we are the General and the witnesses agree that this

14 is - so their roads have now converged again.

15 CHAIRPERSON: Are they still proceeding

16 northwards, or they're slightly north-eastwards?

17 MR MPOFU: Okay, he says if they went

18 straight they'll be behind the cars. So it's more north-

19 east.

20 MR PRETORIUS: Judge, can I just check,

21 that is the direction of the koppie. You can see the

22 smelters there on your right-hand side.

23 MR MPOFU: Yes.

24 MR PRETORIUS: Just right, ja, behind

25 that tree. That is the direction of the koppie.

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1 CHAIRPERSON: I see. So if you're
2 turning in the direction of the koppie -

3 MR PRETORIUS: Ja.

4 CHAIRPERSON: If you want to turn at a
5 point to go in the direction of the koppie, that's the
6 direction that you'd go?

7 MR PRETORIUS: That's right. This is the
8 direction of the koppie.

9 MR MPOFU: Which tree - sorry, Frikkie,
10 are you talking about this tree?

11 MR PRETORIUS: This big tree.

12 MR MPOFU: Okay, good. Alright.

13 MR PRETORIUS: You can see the smelter
14 there.

15 CHAIRPERSON: Yes, I understand.

16 MR PRETORIUS: Do you see there?

17 MR MPOFU: Okay.

18 MR WESLEY: Can I just point out one
19 thing here for everybody to see. You're going to need to
20 reference it in the aerial photographs. If you look here
21 to the east, you're going to see a small, it looks like an
22 earthen embankment. That is the western side of a dry dam.
23 It's rectangular in shape and it lies, the length is in the
24 easterly direction. So take note of that now.

25 CHAIRPERSON: We're walking towards that

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1 now.

2 MR WESLEY: We're going to walk this way,
3 Judge. You'll see it on your right-hand side. Later on I
4 propose that we do go and actually stand on the wall.

5 CHAIRPERSON: So we're now walking north-
6 easterly in the direction they walked -

7 MR WESLEY: That's correct, Judge.

8 CHAIRPERSON: And they would say on their
9 way to the koppie.

10 MR WESLEY: On the way [inaudible].

11 CHAIRPERSON: We're stopping here.

12 Please come back. We're stopping here. Something is going
13 to be pointed out to us.

14 MR WESLEY: Frikkie?

15 MR PRETORIUS: You can see the smelters
16 there. Do you see the smelters? The koppie is just left-
17 hand side of that.

18 MR WESLEY: Yes, you see a tall chimney
19 over there on the horizon.

20 MR PRETORIUS: That's right, ja.

21 MR WESLEY: You're saying the koppie is
22 just to the left -

23 MR PRETORIUS: Just to the left.

24 MR WESLEY: - of that tall chimney?

25 MR PRETORIUS: More or less the same

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1 direction, but just left of that.

2 CHAIRPERSON: And there are some bushes -
3 is that the bushy hill which we can see straight pointing
4 that way? Can you see some, looks like trees and bushes?

5 MR PRETORIUS: Ja.

6 CHAIRPERSON: Is that the bushy hill
7 which is scene 2, or is scene 2 further on?

8 MR PRETORIUS: No, no, no, no, you can't
9 see scene 2 from here.

10 CHAIRPERSON: I see. Okay.

11 MR PRETORIUS: Not at all.

12 MR WESLEY: Is that because of the
13 curvature of the -

14 MR PRETORIUS: Ja.

15 MR WESLEY: Okay.

16 CHAIRPERSON: Can you get the chimney in
17 your picture? And can you, when you got the chimney, make
18 sure you've got that embankment that we were told about,
19 which is apparently the side of this dry damn, which is
20 also a reference point.

21 Everybody here? General here, Mr Mpofu, all the
22 important people. Alright, what do you want to show us
23 here? Who, and who wants to show it?

24 SPEAKER: Yes, it's Lieutenant Baloyi.

25 CHAIRPERSON: Yes, I see.

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1 SPEAKER: Then he was inside the Nyala
2 when the protesters, they were moving towards this
3 direction.

4 CHAIRPERSON: Yes.

5 SPEAKER: Then he was inside the Nyala.
6 The Nyala then followed the protesters from that direction
7 towards this direction. They were following the protesters
8 behind and he was inside the Nyala, yes. Yes, and so -

9 CHAIRPERSON: And did the Nyala stop at
10 any point?

11 LT BALOYI: No, I don't remember.

12 SPEAKER: It turned?

13 LT BALOYI: We only turned.

14 SPEAKER: You said it turned? Exactly
15 where? You know? Can you point out where it turned?

16 CHAIRPERSON: Can you point out to us
17 roughly where, more or less where it turned? I know it's
18 difficult, but you know, approximation.

19 LT BALOYI: I think it's still further up
20 there, but I cannot exactly say where.

21 CHAIRPERSON: No, I understand.

22 MR MPOFU: Okay, they say this is the
23 spot at which they were deviating, or turning towards more
24 to the right, in other words towards the pillar that we
25 were shown. Then what -

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1 CHAIRPERSON: The chimney?

2 MR MPOFU: Yes, the chimney. But it's

3 not a sharp turn.

4 CHAIRPERSON: No, no, I understand.

5 Possibly at some point someone can measure the various

6 distances.

7 MR MPOFU: Yes.

8 CHAIRPERSON: And they can be reflected

9 on a Google map or something.

10 MR MPOFU: Ja, we should have had Michael

11 -

12 CHAIRPERSON: Anyway.

13 SPEAKER: Another thing, Judge, if I can

14 point -

15 CHAIRPERSON: Yes.

16 SPEAKER: Baloyi, when they were busy

17 following the protesters, it was one Nyala and he could

18 observe other two Nyalas moving from that direction towards

19 this while he was inside the Nyala following the

20 protesters. That was his observation.

21 SPEAKER: Here on the field? Or on the

22 road? On the road?

23 CHAIRPERSON: On the road.

24 SPEAKER: On the road.

25 CHAIRPERSON: On the road to the -

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1 MR MPOFU: Which runs along the railway
2 line.

3 CHAIRPERSON: Yes, it would be to the
4 east - no, no, by this time they were coming along this
5 way, they'd be travelling in a northerly direction, to the
6 east of where we are, but on the road. There's a gravel
7 road.

8 MR MPOFU: Yes.

9 SPEAKER: And inside that Nyala there was
10 Lepaaku and Monene.

11 CHAIRPERSON: Who was there?

12 SPEAKER: Lepaaku and Monene, the two
13 police officers who were killed, yes. No, the Nyala that
14 was following the protesters, not the Nyalas that he
15 observed while he was inside -

16 CHAIRPERSON: In the one he was in?

17 MR MPOFU: In his direction.

18 SPEAKER: Yes.

19 CHAIRPERSON: Was he a passenger or
20 driver?

21 MR WESLEY: Passenger.

22 SPEAKER: He was a passenger.

23 CHAIRPERSON: And the two others with
24 him, his driver and his further passenger -

25 SPEAKER: Yes.

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1 MR MPOFU: In his Nyala.

2 CHAIRPERSON: - are the deceased?

3 SPEAKER: Yes.

4 CHAIRPERSON: The deceased policemen. Is
5 that correct?

6 MR WESLEY: Two other passengers in the
7 Nyala, yes.

8 CHAIRPERSON: The other one was the
9 driver.

10 SPEAKER: General wants to say something.

11 CHAIRPERSON: Alright, General.

12 MR WESLEY: Let's hear what the General
13 says.

14 CHAIRPERSON: General, sorry.

15 GEN MPEMBE: It was only one, the one
16 that was with Lieutenant Baloyi, only one died, is one of
17 the deceased, but not two deceased in that - yes.

18 CHAIRPERSON: So one deceased and one
19 injured policemen and Lieutenant Baloyi were in that Nyala
20 you're talking about.

21 GEN MPEMBE: And the other one died.

22 CHAIRPERSON: Yes, yes, I understand.
23 One deceased and one injured.

24 GEN MPEMBE: Yes, that's right.

25 CHAIRPERSON: In that Nyala, and there

INSPECTION IN LOCO

1 were two other Nyalas apparently going in a northerly
2 direction, east to where we are, up -

3 MR MPOFU: They were following -

4 MR WESLEY: [Inaudible] where we are,
5 going east.

6 CHAIRPERSON: Well, I understood we were
7 walking this way, but apparently south is more or less -
8 it's actually sort of -

9 MR WESLEY: Can I just orientate people?

10 CHAIRPERSON: Let's get it right.

11 MR WESLEY: I've got a - if we all are
12 willing to trust Blackberry, I've got a compass. My
13 compass indicates north is in the direction, that's K4
14 Shaft over there. That is roughly north.

15 CHAIRPERSON: I see, okay.

16 MR WESLEY: West of course is then to my
17 left-hand side. I'm facing north. West is to my left,
18 east is to my right, and south will be behind me.

19 CHAIRPERSON: So it sounds as if some of
20 the directions we got earlier were not strictly speaking
21 correct.

22 MR WESLEY: Yes.

23 MR MPOFU: We're now travelling north-
24 east according to that.

25 MR WESLEY: Yes, and if I can point out -

INSPECTION IN LOCO

1 CHAIRPERSON: - the Nyala movement.

2 GEN MPEMBE: It was straight in the road.

3 MR WESLEY: So it was driving east on the

4 road.

5 GEN MPEMBE: The road that we used, the

6 Nyala, Judge, drove the same road.

7 MR MPOFU: Along the road?

8 GEN MPEMBE: Along that road, yes.

9 SPEAKER: And that road runs east to

10 west.

11 GEN MPEMBE: The road that we went -

12 CHAIRPERSON: So they'll be travelling in

13 an easterly direction.

14 SPEAKER: Yes.

15 CHAIRPERSON: From west to east.

16 SPEAKER: Yes.

17 MR MPOFU: Along the railway line,

18 General?

19 GEN MPEMBE: Yes.

20 MR WESLEY: And if I can just point out

21 then that this is the north-south axis, we're more or less

22 parallel to the road that you can see to the right where

23 all the vehicles are parked. That means that road is more

24 or less north-south, and then the road that we were on

25 earlier where the General and, the encounter happened, that

INSPECTION IN LOCO

1 runs parallel to the railway line, that will be east-west.

2 CHAIRPERSON: Yes, we were told that when
3 we were at the railway line.

4 MR WESLEY: Ja.

5 MR MPOFU: Right, so the cars are parked
6 north-south, and the railway line is east-west, okay, good.

7 CHAIRPERSON: The two Nyalas were going -

8 MR MPOFU: West to the east.

9 MR WESLEY: From, ja, the west to the
10 east.

11 CHAIRPERSON: West to east, parallel with
12 the railway line in fact at that stage.

13 MR MPOFU: Yes.

14 CHAIRPERSON: And the strikers were also
15 moving then, if -

16 MR MPOFU: North.

17 CHAIRPERSON: How would you describe it?
18 North-east? South-west, north-east?

19 SPEAKER: North-east.

20 MR WESLEY: South-west, north-east.

21 CHAIRPERSON: South-west to north-east.

22 MR WESLEY: Ja, okay. Can I ask you now
23 also, just cast your eye at the dam on the right-hand side,
24 you can see the dam wall, just for [inaudible]. Okay,
25 there's one other thing I want to point out. If everybody

INSPECTION IN LOCO

1 can have a look over there to the right, you'll see two -
2 okay, you'll see where Frikkie Pretorius is standing and
3 indicating, the other gentleman, if you look at aerial
4 photographs you'll see that there is a path that runs
5 through the field. They are standing on the path. That
6 path more or less you'll see on the aerial photographs runs
7 to the corner of this field, but you'll be able to judge
8 that for yourself. But that's where the path is.

9 GEN MPEMBE: It's around this spot - that
10 is Lieutenant Baloyi - while he was inside the Nyala with
11 the other police officers, then they passed on the left-
12 hand side of the protesters in this area.

13 CHAIRPERSON: The Nyala -

14 GEN MPEMBE: Yes, they passed the
15 protesters.

16 CHAIRPERSON: Passed the protesters. In
17 other words -

18 MR MPOFU: They were no longer following
19 them. They -

20 GEN MPEMBE: Yes, yes, they passed now -

21 CHAIRPERSON: Now firstly parallel with
22 them, and then eventually went past them?

23 GEN MPEMBE: Yes, we went past them.

24 SPEAKER: - went to their left, to the
25 left of them -

INSPECTION IN LOCO

1 GEN MPEMBE: On the left-hand side of the
2 protesters. So in other words, the protesters were in this
3 -

4 CHAIRPERSON: They were on the right.

5 MR MPOFU: It's the other way around.

6 What [inaudible] is saying were the protesters to the right
7 of the Nyala?

8 GEN MPEMBE: Yes, they were - yes, on the
9 right-hand side of the Nyala. This is around this area.

10 CHAIRPERSON: And it's a place opposite
11 the embankment of the dam?

12 GEN MPEMBE: Yes.

13 SPEAKER: Judge, could we clarify on
14 which, by pointing on which side were the protesters and on
15 which side were the Nyala? They're all heading in that
16 direction.

17 CHAIRPERSON: Where is the Nyala and
18 where is the protesters?

19 GEN MPEMBE: The Nyala was on the left-
20 hand side, the participants were on the right-hand side.

21 SPEAKER: - just as well that side, and
22 the Nyala was on this side.

23 MR MPOFU: They were passing the Nyala on
24 the right.

25 SPEAKER: Whatever is right or left,

INSPECTION IN LOCO

1 because it depends which way you're facing.

2 MR WESLEY: Can I ask it maybe this way,
3 we are protesters. Where is the Nyala?

4 GEN MPEMBE: The Nyala, the participants
5 is this side, the Nyala is on the -

6 CHAIRPERSON: Ja, so we're the
7 participants, then you say the Nyala is on the -

8 GEN MPEMBE: Is here.

9 CHAIRPERSON: - the northern side. You
10 show left or right, you don't know which way you're facing,
11 that's way if this is a shipping case it will be easier if
12 we talk about port and starboard, we wouldn't have a
13 problem.

14 SPEAKER: Then probably we should be -

15 CHAIRPERSON: The Nyala was effectively
16 on the port side of the -

17 SPEAKER: Ja, it makes sense.

18 CHAIRPERSON: - of the strikers, and the
19 strikers were on the starboard side of the Nyala.

20 SPEAKER: Absolutely clear.

21 CHAIRPERSON: Is that right?

22 GEN MPEMBE: Yes.

23 CHAIRPERSON: Okay.

24 MR WESLEY: Okay, 100 metres? 200
25 metres? Dali? 200 metres?

INSPECTION IN LOCO

1 MR MPOFU: Onwards, ja. Okay, I just
2 want to record that one of the witnesses says something
3 contrary to the lieutenant, that he says that the Nyalas
4 were always behind them, but they accept that there were
5 policemen on foot who were walking on the left-hand side,
6 but they say the Nyalas were certainly always pushing them.

7 CHAIRPERSON: Which is the witness who
8 says that?

9 MR MPOFU: That's Booi.

10 SPEAKER: If the Nyala ever pass them,
11 did the Nyala pass them at any point in time, and if so,
12 what side does he say it passed them?

13 INTERPRETER: The only Nyalas he saw, was
14 the one, they were the ones that were moving from the west
15 to the east and then driving towards them, but he doesn't
16 remember ever seeing Nyalas on the left-hand side. That's
17 what he says.

18 CHAIRPERSON: Right, and he didn't see an
19 Nyala passing them on the port side, as it were, as they
20 were proceeding?

21 MR BOOI: Yes.

22 MR MPOFU: And what both witnesses are
23 certainly saying is that the Nyalas were always behind
24 them.

25 INTERPRETER: What he said was that all

INSPECTION IN LOCO

1 the time the Nyalas were behind them, but there were police
2 officers on foot who were on the left-hand side -

3 CHAIRPERSON: Yes, yes, [inaudible].

4 INTERPRETER: Yes.

5 CHAIRPERSON: Okay, fine.

6 MR WESLEY: 200 metres.

7 MR MPOFU: Alright, okay. We're
8 following you.

9 SPEAKER: I was saying, I was saying,
10 with the people grouped around you like this, we won't,
11 watching this thing afterwards we won't have any visual
12 perspective, and so what I was saying is, when people start
13 moving you can just remain for a few seconds for visual
14 perspective, just to, you know, like this, with everything
15 clear and then you catch up. You know, or something like
16 that, because there's just no -

17 SPEAKER: We'd like to just, we'd like to
18 walk through just by ourselves.

19 SPEAKER: Ja. Ja.

20 SPEAKER: Ja, what we wanted to ask is
21 not with the video, we can give it separately, just
22 afterwards we go to every scene again, take a picture of
23 everything again, a video, and then we can always give you
24 still images of the -

25 SPEAKER: Okay, okay.

INSPECTION IN LOCO

1 SPEAKER: But we don't want to do it with
2 all the people in the video -

3 SPEAKER: Yes, it's crazy.

4 SPEAKER: It's going to be - ja, and now
5 every time we have to shoulder through to get to the
6 [inaudible] and then they talk and we miss something.

7 SPEAKER: Ja, okay.

8 SPEAKER: So you might have, what we
9 should do, we should arrange with Charles, Charles Wesley,
10 to come here with you.

11 SPEAKER: Okay, ja.

12 SPEAKER: Every point, and [inaudible].
13 What we will do after is -

14 SPEAKER: Afterwards.

15 SPEAKER: And you want to do something
16 again and then it's fine, you can just give [inaudible] and
17 all that.

18 CHAIRPERSON: Is the place here?

19 SPEAKER: Yes, around here.

20 CHAIRPERSON: Yes?

21 GEN MPEMBE: Yes, Judge, Baloyi wanted to
22 point out -

23 CHAIRPERSON: What does he want to point
24 out?

25 GEN MPEMBE: - what happened around here.

INSPECTION IN LOCO

1 CHAIRPERSON: Yes.

2 GEN MPEMBE: Yes, you can do it.

3 LT BALOYI: Somewhere here, I'm not sure
4 about the area, but somewhere here the Nyala turned to the
5 right, facing southern direction. That's where we tried to
6 stop the -

7 CHAIRPERSON: Now where were you in
8 relation, at that stage - I know you're not giving evidence
9 here but just for purposes of identifying the spot, where
10 was the Nyala in relation to the moving column of -

11 LT BALOYI: We want past -

12 CHAIRPERSON: You went past them?

13 LT BALOYI: We went past there -

14 CHAIRPERSON: You were actually getting
15 in front of them?

16 LT BALOYI: Yes.

17 SPEAKER: So you turned right in front of
18 them, in front of the group?

19 CHAIRPERSON: Right, you hear that, Lt
20 Baloyi says at more or less the spot where we are now
21 standing the Nyala went past the group, ahead of them, and
22 turned to the right in front of them. Do I get that
23 correctly? I take it, in the light of what Mr Mpofu has
24 told us, that his clients don't necessarily agree with
25 that. Where is Mr Mpofu?

INSPECTION IN LOCO

1 SPEAKER: Mr Mpofu's clients said there
2 was no Nyala at all behind them, so -

3 SPEAKER: Let me just bring one of the
4 witnesses -

5 CHAIRPERSON: No, let's get this
6 specifically recorded, one [inaudible].

7 GEN MPEMBE: Judge, I must point out that
8 Lieutenant Baloyi is not sure exactly where in this area,
9 you know -

10 CHAIRPERSON: He did say he wasn't sure
11 it was here. It was more or less in this vicinity. I mean
12 that's what he says.

13 LT BALOYI: Yes.

14 CHAIRPERSON: Is Mr Mpofu coming back?

15 SPEAKER: Ja, there he is.

16 SPEAKER: I think General Mpembe will
17 give us a slightly different perspective.

18 CHAIRPERSON: Alright, we will get him
19 [inaudible]. Dali, Lieutenant Baloyi says somewhere in
20 this vicinity the Nyala actually passed the column of
21 moving strikers, turned to the right in front of them. In
22 the light of what you've told us earlier it may be that
23 your clients don't agree with that, and we understand that
24 General Mpembe may also have a slightly different version,
25 but let's get it all on record while [inaudible].

INSPECTION IN LOCO

1 MR MPOFU: He confirms the incident, but
2 he says it didn't happen here. Further on, yes.

3 CHAIRPERSON: He being?

4 MR MPOFU: Nzuza, the second witness,
5 yes.

6 SPEAKER: And Baloyi doesn't say it was
7 here, he says in this vicinity.

8 CHAIRPERSON: Yes, somewhere around here.

9 MR MPOFU: So it looks like we are
10 [inaudible].

11 SPEAKER: Ja.

12 INTERPRETER: Okay, he says that Nyala he
13 was talking about that moved towards the direction, one
14 police officer then alighted from it.

15 CHAIRPERSON: Well that's evidence we'll
16 deal with later, but the -

17 MR MPOFU: It's just the spot where it
18 happened.

19 CHAIRPERSON: The spot, and then I
20 understand the General may have a slightly different angle.
21 General, do you wish -

22 GEN MPEMBE: I agree with him.

23 CHAIRPERSON: With whom do you agree?

24 GEN MPEMBE: Ja, I agree with him, with
25 Mr Nzuza, yes, but the Nyala didn't go in front of the

INSPECTION IN LOCO

1 protesters. It was, it turned, but while the protesters
2 are still on the right-hand side.

3 CHAIRPERSON: I see, so it changed
4 direction, it turn to the right, changing direction, going
5 towards them, but didn't actually get in front of them. Is
6 that what you're saying?

7 GEN MPEMBE: No, it didn't become in
8 front of the protesters.

9 CHAIRPERSON: [Inaudible] what you said.

10 GEN MPEMBE: That's right.

11 SPEAKER: Another thing, Baloyi, it seems
12 he agrees with General Mpembe, is that -

13 CHAIRPERSON: Well, he says that the
14 Nyala didn't actually go in front of the group but turned
15 to the right and went towards them. Is that right? But it
16 didn't actually go in front of them. Is that what you say?
17 Okay.

18 MR MPOFU: The crucial thing for this is
19 whether it happened here or further on, as Mr Nzuza is
20 saying. Yes, it was further on, so at least further on.

21 CHAIRPERSON: [Inaudible] Baloyi is not
22 sure it's here, it's somewhere around here.

23 SPEAKER: He's not sure. It's somewhere
24 around here.

25 SPEAKER: Mr Mpofo, where does Mr Nzuza

INSPECTION IN LOCO

1 say the Nyala came from? Because he said there was no
2 Nyala on the left-hand side of the group, so where did the
3 Nyala come from?

4 MR MPOFU: Ja, he says it's the same one
5 that he said was following them there. When it got to that
6 spot, wherever it is, it accelerated a bit and then came
7 towards them.

8 CHAIRPERSON: In other words it caught up
9 with them, it didn't exactly pass them?

10 MR MPOFU: Yes, ja.

11 MR WESLEY: Dali [inaudible] here?

12 MR MPOFU: Okay, once again they're
13 saying the shooting and the teargas and all that, this is
14 more or less the general place and we've just picked this
15 up, I don't know what it is. It might be a spent -

16 SPEAKER: General Mpembe?

17 CHAIRPERSON: What's that?

18 MR MPOFU: We've asked the General.

19 MR WESLEY: I don't know, it looks like a
20 piece of a torch to me. Just a piece of a torch.

21 MR MPOFU: Okay.

22 GEN MPEMBE: I don't know that.

23 MR MPOFU: You don't know, okay. I don't
24 know, they say the shooting started around here. General,
25 agreed?

INSPECTION IN LOCO

1 SPEAKER: What, where -

2 MR MPOFU: That the shooting commotion
3 started in this vicinity. They don't know the exact spot
4 obviously, but they're saying around here, the teargas -

5 GEN MPEMBE: Next to those police
6 officials where they were standing here.

7 MR MPOFU: Which ones? Okay.

8 GEN MPEMBE: There is a footpath there.

9 MR MPOFU: The uniform policemen? Yes.

10 GEN MPEMBE: You see that uniform
11 policemen there?

12 MR MPOFU: Ja.

13 GEN MPEMBE: The footpath, and then the
14 shooting happened that side while -

15 CHAIRPERSON: [Inaudible] the footpath?

16 GEN MPEMBE: Yes. It, on that footpath
17 the shooting happened from that Nyala of Lieutenant-Colonel
18 Baloyi, that Nyala which I did explain there that was
19 moving there. Then those other Nyalas, they were -

20 MR MPOFU: [Inaudible]

21 GEN MPEMBE: Okay.

22 MR MPOFU: And the other hippos? You
23 were saying, General? Other hippos were?

24 GEN MPEMBE: Maybe I will be able to
25 point out, Judge, when I'm there.

INSPECTION IN LOCO

1 CHAIRPERSON: Yes.

2 GEN MPEMBE: Yes.

3 MR MPOFU: This seems to be the vicinity.

4 I mean nobody is going to be able to put the actual spot,

5 but they say in this vicinity, first shots were fired

6 there. In other words, just before that little path.

7 CHAIRPERSON: Shots were fired from the

8 Nyala, or from the policemen [inaudible].

9 MR MPOFU: He says the first thing that

10 happened was the teargas from the helicopter, and then

11 shortly thereafter two shots were fired in his direction.

12 CHAIRPERSON: We haven't heard anything

13 about a helicopter. There was a helicopter [inaudible] -

14 MR MPOFU: Oh yes, and there was also a

15 helicopter, General?

16 INTERPRETER: He says there was.

17 GEN MPEMBE: The first teargas was from

18 the Nyalas and then it was followed by a stun grenade and

19 then when there was still, what is it? Because the wind

20 was moving towards the police, then while there was still

21 that police, and then that's where then the commotion

22 started when the protesters turned against the police.

23 That's when then there were, the helicopter started now to

24 throw the -

25 CHAIRPERSON: Teargas or stun grenade?

INSPECTION IN LOCO

1 GEN MPEMBE: Threw the stun grenade.

2 MR MPOFU: There's consensus that the

3 [inaudible] -

4 GEN MPEMBE: No, he threw the stun

5 grenade.

6 CHAIRPERSON: A stun grenade.

7 MR MPOFU: There's consensus that the

8 first one was a teargas shot, but whether it came from the

9 helicopter or from the Nyala is -

10 GEN MPEMBE: And another crucial

11 evidence, Lieutenant Baloyi -

12 CHAIRPERSON: [Inaudible] what does he

13 say?

14 GEN MPEMBE: He's the first police

15 officer who alighted from that Nyala, before the firing -

16 CHAIRPERSON: So he alighted from the

17 Nyala -

18 GEN MPEMBE: Before the firing of teargas

19 and stun grenade.

20 CHAIRPERSON: I see. So he alighted with

21 teargas first -

22 GEN MPEMBE: Before -

23 CHAIRPERSON: Then fired teargas, or a

24 stun grenade first?

25 GEN MPEMBE: Then teargas and stun

INSPECTION IN LOCO

1 grenade were fired after he alighted from that Nyala.

2 CHAIRPERSON: [Inaudible]

3 GEN MPEMBE: Yes.

4 CHAIRPERSON: Okay, you got that? Okay,
5 round about here -

6 MR MPOFU: There's a question.

7 LT BALOYI: Yes, round about here.

8 MR MPOFU: Question, Mr Malindi, you -

9 MR MALINDI SC: Judge, it's Malindi here.

10 I just want to know from which direction of the protesters
11 was the first teargas and the first stun grenade fired.

12 CHAIRPERSON: I see, you want that
13 [inaudible]?

14 MR MALINDI SC: Yes.

15 CHAIRPERSON: [Inaudible]

16 GEN MPEMBE: Judge, the shooting of the
17 teargas was aiming on the side of the protesters, on the
18 right-hand side, and then also the stun grenade was on the
19 - while they were moving, so it was shot like this. You
20 can also see it on the video. That's where then it's pa-
21 pa-pa-pa, that's right, and then it was in that direction.

22 CHAIRPERSON: On which side then did the
23 lieutenant alight, side of the protesters? The protesters
24 are moving in the direction that way, right?

25 SPEAKER: This way.

INSPECTION IN LOCO

1 MR MPOFU: They're still continuing.

2 CHAIRPERSON: Oh, this way. This way.

3 Sorry, this way, and where was the lieutenant?

4 LT BALOYI: The Nyala was facing that
5 direction and I went off with the left side of the Nyala.

6 CHAIRPERSON: Right, is there anything
7 else for us to see here, or can we move on?

8 SPEAKER: Sorry, Lieutenant, which side -
9 were you north or south of the protesters when you got out
10 the Nyala?

11 LT BALOYI: Sorry?

12 SPEAKER: Which side of the protesters
13 were you when you got out the Nyala? Were you that side or
14 that side?

15 CHAIRPERSON: North or south?

16 SPEAKER: North or south.

17 LT BALOYI: I can say north, as the
18 participants were on the south.

19 CHAIRPERSON: Yes, the [inaudible] on the
20 gravel road on the south, you were on the north side. So
21 you got out the north side and you then, you say there were
22 stun grenade and teargas from that direction. Is that
23 right?

24 MR WESLEY: Can I just point out two
25 things I'd like people to take notice of while we're

INSPECTION IN LOCO

1 standing here.

2 CHAIRPERSON: Dali, Charles wants to do
3 something.

4 MR WESLEY: If you watch some of the
5 video footage, in the background you see a green water
6 tower on a, sort of a pylon or a frame. That green water
7 tower, we will see where it used to be, it used to be where
8 the, you could see there's a blue police bakkie parked on
9 the road. On the other side of that, it used to be there.
10 It was a reference that we used. It's no longer there.
11 Alright, that's why you don't see it here; it's gone, but
12 we'll show you where the frame is. The other thing, if you
13 can just look to the south, the video cameras, the video
14 footage that we got from Lonmin, it's taken from the
15 workshop centre, which is here -

16 CHAIRPERSON: [Inaudible]

17 MR WESLEY: And from K3, which is over
18 there. Those are the directions that you see the video
19 footage that was taken from, if you want to orientate
20 yourself. So if you're looking at the video footage, that
21 will be behind you.

22 CHAIRPERSON: Is there anything else
23 here, or can we move on?

24 MR WESLEY: Sorry, Judge, I simply want
25 to -

INSPECTION IN LOCO

1 CHAIRPERSON: Please be silent. Mr
2 Wesley wants to say something and he wants everyone to hear
3 it.

4 MR WESLEY: I just want to point out to
5 you and orientate yourself, always keeping in mind the
6 aerial photographs, we're now crossing the path that you're
7 going to see that I referred to earlier. This is the path
8 here.

9 MR MPOFU: Visible on the aerial photo.

10 CHAIRPERSON: Mr Baloyi wants to show us
11 something. Mr Baloyi, sorry, yes, Lieutenant.

12 LT BALOYI: Ja, somewhere here it's where
13 I was attacked after throwing the stun grenade.

14 CHAIRPERSON: While you were throwing the
15 stun grenade, you were attacked?

16 LT BALOYI: There were two teargas fired
17 upon the participants, then they started attacking on us
18 and I threw a stun grenade, ja.

19 CHAIRPERSON: Yes, and then you were
20 attacked roughly here, somewhere around here.

21 LT BALOYI: Somewhere around here -

22 CHAIRPERSON: Near the path?

23 LT BALOYI: I'm not sure. That I cannot
24 say.

25 CHAIRPERSON: Somewhere around here.

INSPECTION IN LOCO

1 GEN MPEMBE: They're not sure exactly
2 [inaudible].

3 CHAIRPERSON: Okay. Where do we go to
4 now? What does he want to show us?

5 MR MPOFU: He's saying - no, Charles had
6 asked the spot at which a particular stun grenade was shot
7 and Mr Nzuza says it was close to this longish grass. So
8 it would have been round about here, because he says after
9 that initial shooting the crowd kind of split, but then
10 they regrouped here and then this is when that incident
11 happened of the second stun grenade.

12 MR WESLEY: Okay, if I can ask everybody,
13 Colonel Botha is over here. We are now more or less on the
14 area of the crime scene that he investigated. I'm going to
15 ask him to do his pointing out for us at this stage. He's
16 over there.

17 CHAIRPERSON: So is he pointing out more
18 or less where he is?

19 MR WESLEY: The crime scene, yes. He's
20 going to -

21 CHAIRPERSON: So we've got to go to him?

22 MR WESLEY: Yes, the scene, the bodies -

23 CHAIRPERSON: I can't see him in any
24 case. If he does -

25 MR WESLEY: Ja, this way.

INSPECTION IN LOCO

1 LT BALOYI: Yes, it's only one stun
2 grenade that was shot, not two, by that time.

3 MR MPOFU: Ja, it might be the number of
4 bangs and so on, so I won't quibble with that, but did it
5 happen more or less here?

6 LT BALOYI: No, I don't dispute the
7 place, I agree.

8 MR MPOFU: Okay, so the spot is right.
9 Okay, good.

10 SPEAKER: Where's the cameraman? Here he
11 comes.

12 MR MPOFU: We found them.

13 CHAIRPERSON: We found the camera.

14 MR MPOFU: We found it, Judge.

15 CHAIRPERSON: We found an interpreter.
16 We found two interpreters actually. We've got more than we
17 need.

18 SPEAKER: Where's the General?

19 SPEAKER: The General behind -

20 CHAIRPERSON: Okay, now what exactly are
21 we going to - sorry, you want to go -

22 MR MPOFU: Mr Nzuza says somewhere around
23 there he was to the - I don't know what to call this.

24 SPEAKER: Why don't you let him say it,
25 the interpreter is here.

INSPECTION IN LOCO

1 INTERPRETER: Okay, what he says is as
2 when they reached in fact this spot as there was the Nyala
3 that was there and then that police officer who had
4 alighted and then he shot towards our direction, shot at
5 us, and then that is where we split up.

6 CHAIRPERSON: Shot a stun grenade or
7 teargas canister?

8 MR NZUZA: Yes, that is where we split up
9 and then when the shot was fired, it hit Mambush and that
10 is where -

11 INTERPRETER: He points here behind here,
12 saying that's where he fell, Mambush. It never hit him in
13 fact.

14 MR MPOFU: He just fell?

15 INTERPRETER: Yes, he just fell, yes,
16 that's what he says.

17 CHAIRPERSON: And then? This is the
18 place he's pointing out?

19 INTERPRETER: Yes, okay, it is when they
20 started now running to different, I mean running from here,
21 from this spot.

22 CHAIRPERSON: Yes.

23 MR NZUZA: It was different directions.

24 CHAIRPERSON: General, are you happy with
25 that?

INSPECTION IN LOCO

1 SPEAKER: Sorry, the Nyala he's referring
2 to is that Nyala that were following you and passed you and
3 [inaudible].

4 CHAIRPERSON: That's the Nyala that
5 Lieutenant Baloyi was in. Is that right?

6 MR MPOFU: It sounds like it.

7 INTERPRETER: Yes, he says it sounds like
8 that, yes.

9 SPEAKER: Malindi has got a question.

10 CHAIRPERSON: Okay, before that, has the
11 General got any comment? He's waving his hand around.
12 General, have you got any comment on this?

13 GEN MPEMBE: I agree with what happened,
14 and others when they disperse, then they moved in that
15 direction.

16 CHAIRPERSON: Okay, we won't have
17 arguments about the evidence. We're just having places
18 pointed out. Mr Malindi had a question he wanted to ask.

19 MR MALINDI SC: Yes.

20 CHAIRPERSON: Yes, Mr Malindi, what do
21 you want to say?

22 MR MALINDI SC: What was fired towards
23 the crowd, towards the protesters? Was it teargas or a
24 stun grenade, as Mr Nzuza says?

25 INTERPRETER: In fact he says that that

INSPECTION IN LOCO

1 police officer who shot at them, it seems like because he
2 had like a shotgun and then it seems like it was rubber
3 bullets. That's what he says.

4 CHAIRPERSON: Alright, anyway, that's a
5 dispute that we can deal with in the auditorium in
6 evidence. We're not hearing evidence here; we're just
7 looking at spots which are being identified.

8 SPEAKER: Colonel Botha requested
9 [inaudible].

10 CHAIRPERSON: Let's now go to Colonel
11 Botha. Sorry, Lieutenant Baloyi wants to say something.

12 LT BALOYI: No, I say I shot the stun
13 grenade after two teargas were fired upon the participants,
14 I'm saying.

15 MR MALINDI SC: So he was not in
16 possession of a firearm?

17 LT BALOYI: No, I was having possession
18 of a shotgun with one stun grenade, but I never used the
19 shotgun.

20 CHAIRPERSON: Well, that's a matter of
21 evidence which we'll deal with when we get back to the
22 auditorium. We're just looking at places now. We can't
23 have a trial in the field. This is the place where one of
24 the civilians died, is it? Anyway, but -

25 SPEAKER: A policeman.

INSPECTION IN LOCO

1 CHAIRPERSON: A policeman died?

2 SPEAKER: Colonel Botha will [inaudible].

3 CHAIRPERSON: Oh [inaudible] okay,

4 Colonel Botha.

5 MR WESLEY: Okay, before we get to the

6 pointing out, I want to just orientate everybody. I just

7 want everybody to orientate themselves now on some

8 landmarks. Here's the road. You can see it here; there's

9 vehicles parked on it. To your south you can see the

10 embankment that forms the dam, that we talk about the dry

11 dam. Now here to your north, I want everybody just to have

12 a look, on the aerial photograph you see a white circle.

13 That is situated here just in front of this tree that you

14 see here. It is the base of a dam, an old dam. So that's

15 a reference you can use, and just to the right of it you

16 can see a small concrete, sort of an obelisk type shaped

17 object. You can use that as a landmark as well.

18 MR MPOFU: Are you talking about this?

19 MR WESLEY: Yes. Yes, you see it in -

20 MR MPOFU: 9, B9.

21 MR WESLEY: B9, exhibit B, page 9, you

22 see it very, very clearly. That's it. Colonel Botha,

23 where are you? You've got the show. Oh, sorry, one more

24 thing, Adv Malindi asked if he could just have something

25 pointed out to him.

INSPECTION IN LOCO

1 MR MALINDI SC: Judge, I would like to
2 know, there's been mention of a settlement in this area. I
3 would like it to be part of the orientation as to where
4 that settlement is.

5 GEN MPEMBE: The settlement is that side.
6 There is a settlement.

7 MR MPOFU: We can see it from here.

8 MR WESLEY: When we're finished here I
9 intend taking you through the settlement and also to the
10 dam. He points in that direction over there.

11 MR MALINDI SC: Can we use your compass
12 about the orientation -

13 MR WESLEY: Ja, no, that will be north,
14 south-east of where we are now.

15 MR MPOFU: You can also just see -

16 SPEAKER: South is over there.

17 MR WESLEY: South-east.

18 SPEAKER: Ja.

19 MR MPOFU: Can we see it on B9 in
20 relation to the thing that Charles was talking about, the
21 settlement -

22 CHAIRPERSON: If you look at B9 you will
23 see, when you hold it upside down, on the right-hand side,
24 more or less by the right-hand bottom of the page, you will
25 see the edge of the settlement. Ms Barnes wants to ask a

INSPECTION IN LOCO

1 question or make a comment.

2 MS BARNES: Yes, thank you. Could we
3 please ask at what spot the generals say that the
4 protesters moved towards the settlement?

5 CHAIRPERSON: I take it that's coming
6 later when we've moved from here on.

7 MR WESLEY: Colonel?

8 COL BOTHA: Okay, Commissioner, I'm
9 Colonel Botha from the SAPS. I was requested by Mr Charles
10 Wesley to reconstruct the scene the same way we did on the
11 2nd of October, with the same points, just to get clarity on
12 the relation of the things that's on the scene and stuff
13 like that. It will correlate with that.

14 CHAIRPERSON: That being B9?

15 COL BOTHA: Ja, it will correlate with
16 that. Okay, so I will have to ask everyone just to open
17 the circle maybe a bit because I'm going to need space to
18 explain, please. Just open this here. Commissioner, this
19 point is where, I think it's Warrant-Officer Lepaaku was
20 lying on the crime scene. Sorry, Monene. Monene, sorry
21 Sir, Mr Monene. Monene, where Warrant-Officer Monene was
22 lying on the crime scene, or on the scene. If you open,
23 just open here for me, please. Just open, guys. I can't
24 see the cone there. There's a cone there that I have to
25 see. A bit more. Ja, number 2, I cannot see it. Okay,

INSPECTION IN LOCO

1 I've marked point 2. It's point C on the aerial photo.
2 That was a stun grenade that was lying there.

3 CHAIRPERSON: Sorry to interrupt you.
4 This is A, is it?

5 COL BOTHA: Ja, this is A, ja.

6 CHAIRPERSON: This is A on the aerial
7 photograph B9.

8 COL BOTHA: Ja. That is C.

9 CHAIRPERSON: And 2 is C.

10 COL BOTHA: Is C, ja. I haven't numbered
11 it A, B, C, but I know what it is. Sorry.

12 CHAIRPERSON: That's C.

13 COL BOTHA: Ja.

14 CHAIRPERSON: Which is marked 2 today.

15 COL BOTHA: Ja.

16 CHAIRPERSON: Ja, and then?

17 COL BOTHA: And then where that cone, the
18 longish cone is there, it's number 3 now. That is point
19 number E on the crime scene. We can actually - ag, on the
20 scene, sorry. We can actually walk forward now. I'll
21 explain from there.

22 MR MPOFU: Colonel Botha, are you going
23 to cover these three -

24 COL BOTHA: Ja, ja, sorry, keep it like
25 that, please.

INSPECTION IN LOCO

1 CHAIRPERSON: Sorry, can I get through?

2 Sorry. Yes, Colonel, what is this now?

3 COL BOTHA: Commissioner, the same as on
4 the 2nd of October, this is E, and from E in an arc there to
5 that point is Z.

6 CHAIRPERSON: Yes.

7 COL BOTHA: Ja, so in this, from E to Z
8 in an arc like this, there were 11 shotgun cartridge cases,
9 one paper with possible dagga, a ballistic round, a shotgun
10 cartridge, that's one that wasn't fired, and two R5
11 cartridge cases in this arc this side. Commissioner, then
12 this is -

13 CHAIRPERSON: 4.

14 COL BOTHA: Number 4.

15 CHAIRPERSON: Is that GG?

16 COL BOTHA: Ja, that is GG, Sir, and in
17 this area here, 10 times 9mm cartridge cases, two rubber
18 bullets of a shotgun, three shotgun cartridge cases, and
19 two pools of blood, that was GG and HH. They were close to
20 each other. Then if - sorry, you will have to open for me
21 this side now, please. Where is that? Here, just open it
22 like this, please. Commissioner, then this, let's say this
23 is E and that's KK, that was where the shoe was found,
24 this, that number 5 there.

25 CHAIRPERSON: Which 5? I can't see.

INSPECTION IN LOCO

1 COL BOTHA: Yes, Sir, that one there.

2 CHAIRPERSON: Oh, there?

3 COL BOTHA: Ja, ja, so in this area here.

4 CHAIRPERSON: That's KK, I assume.

5 COL BOTHA: That's KK, ja.

6 SPEAKER: Very close to the road.

7 COL BOTHA: Ja, it's very close to the

8 road, yes.

9 MR WESLEY: Colonel, could I just stop

10 you here? If I could just interrupt. Ms Barnes has asked

11 a question which I think we should just get on the record,

12 if the General can perhaps give the answer. Ms Barnes?

13 MS BARNES: Should I repeat the question?

14 MR WESLEY: Ja, please.

15 MS BARNES: It's been alleged by the

16 police that at some point the protesters changed direction

17 and moved towards the informal settlement. If the generals

18 could indicate the point at which they say the protesters

19 changed direction.

20 GEN MPEMBE: I indicated earlier that

21 when they changed to the direction of the settlement,

22 that's when then the stun grenade was used. It should be

23 somewhere here, Judge, and then that's where then the stun

24 grenade was shot and then to get them to go this side.

25 COL BOTHA: Okay, we can just stay here,

INSPECTION IN LOCO

1 then just open for me, please. Open this side. There's a
2 cone this side that I have to see. Ja, ja, there it is.
3 Commissioner, as I've indicated in this area if you take
4 from GG to QQ, which is this number 7 here, to YY, that's
5 the furthest cone, that was where the body of the civilian
6 was, and you make a area, this is from E, that is RR that
7 was there, and then CCC, that was a gas grenade, the
8 furthest cone that side, in this block here there were
9 eight -

10 CHAIRPERSON: The civilian was what?

11 SPEAKER: YY.

12 COL BOTHA: That furthest, YY, that
13 furthest cone straight from us here now, Sir.

14 CHAIRPERSON: I see, okay.

15 COL BOTHA: Ja, that was the civilian
16 person that was there. In this, if you make a block in
17 this area, there were eight shotgun cartridge cases; two R5
18 cartridge cases; one R5 cartridge, one that wasn't fired;
19 four gas rubbers, it's a black round rubber that comes from
20 the gas grenade; two stun grenades; two gas grenade
21 holders; two knobkieries; a woollen cap, but that was there
22 by the deceased; a sharpened iron, that was there; there
23 was a stun grenade handle in the area; a blanket was here;
24 and one shotgun rubber. That was the total that was found
25 on the scene.

INSPECTION IN LOCO

1 CHAIRPERSON: So that's the evidence
2 you've given us before.

3 COL BOTHA: Ja.

4 CHAIRPERSON: You're just pointing out to
5 refresh our memories -

6 COL BOTHA: Ja, I was just requested to -

7 CHAIRPERSON: No, no, no, I understand,
8 to help us to visualise it, yes.

9 COL BOTHA: Charles, that is what you
10 asked me to - ja, can we go there to the -

11 MR WESLEY: Yes, okay.

12 SPEAKER: What next, Charles?

13 MR WESLEY: We're just going to point out
14 here, then I want to indicate some thing and then we'll go
15 in to this scene. Where's Captain Moshwana?

16 COL BOTHA: He will be somewhere here.

17 MR WESLEY: He's got to be here.

18 COL BOTHA: Yes, he was with me.

19 MR WESLEY: Ja.

20 COL BOTHA: He's not gone.

21 CHAIRPERSON: Yes, what do you want to
22 show us now?

23 COL BOTHA: Commissioner, Adv Wesley just
24 asked me to come closer. This was the, the body of the
25 civilian was lying here.

INSPECTION IN LOCO

1 CHAIRPERSON: 9?

2 MR MPOFU: YY.

3 COL BOTHA: Ja, at 9, YY. YY was lying
4 here, Sir.

5 CHAIRPERSON: Ja, but that's 9, is it?

6 COL BOTHA: Ja, that's 9 now, ja. I just
7 used different cones. That's it, Charles.

8 MR WESLEY: Okay. That ends the
9 Colonel's involvement. Captain Moshwana did the further
10 investigations, which we're now going to go to the east
11 across the road, but can I please ask everybody just to
12 make a path here? I want to point out a couple of things
13 while we're standing here, so that you can orientate
14 yourselves. This is Jokanisi, sorry.

15 SPEAKER: Can you just put on record
16 where Jokanisi was?

17 MR WESLEY: Ja, he was here. He was here
18 where we showed the spot. Can I just everybody, reference
19 is going to be made to an outbuilding or a toilet or a
20 bathroom. You see a small white building right here
21 behind, between the blue Merc and the white one -

22 CHAIRPERSON: The white and cream Merc -

23 MR WESLEY: The white and cream. Please,
24 that is it, so remember that picture, and then also I just
25 want you to cast your eyes back to where the earthen

INSPECTION IN LOCO

1 embankment is to our south, that's the dam wall, the dry
2 dam. Okay, yes.

3 SPEAKER: Charles [inaudible].

4 MR WESLEY: Yes.

5 GEN MPEMBE: What I wanted to say to the
6 Judge is that the same spot, that's where Warrant-Officer
7 Lepaaku was chopped, where the civilian lied, and by that
8 time we could see that we could save his life, then we
9 tried to pick him up to rush to the car to take him to the
10 hospital. It's Warrant-Officer Lepaaku that died in the
11 hospital. I wanted to point it out here.

12 CHAIRPERSON: You mean [inaudible] picked
13 up -

14 GEN MPEMBE: No, the same place where
15 this civilian died -

16 SPEAKER: The one who died.

17 GEN MPEMBE: Yes, the same spot.

18 CHAIRPERSON: This is YY.

19 MR WESLEY: Okay, if you could follow me,
20 we're going to go into the settlement and I'm going to
21 point out some features that I'd like you all just to note.
22 Judge, are you here? Okay. Are we here? The camera here?
23 Okay, it's important that you keep orientating yourselves.
24 I pointed out earlier the road and the bathroom, or the
25 toilet, the -

INSPECTION IN LOCO

1 CHAIRPERSON: [Inaudible]

2 MR WESLEY: Well, it's actually in use.

3 It's over there in the direction that I'm pointing behind
4 these buildings here. I would like you also to look to the
5 north, and remember the view that you see here.

6 CHAIRPERSON: What's that Lonmin building
7 we see?

8 MR WESLEY: That's K4.

9 CHAIRPERSON: That's K4.

10 MR WESLEY: K4 is there to the north, the
11 shaft that you see in the north. To the south of us in the
12 dip of the valley, that's where you'll find the river -

13 SPEAKER: It's not the south.

14 CHAIRPERSON: It can't be south.

15 MR WESLEY: The east. Forgive me, the
16 east. You will know there was a body found at a shack
17 here. This is the shack. The body was on the other side,
18 and just please remember, people live here. That's their
19 home. So treat it with respect. I'm going to point as
20 well to a hole in the wall on this side. Evidence is also
21 going to be led about that, so please take note of it. I'm
22 going to go and point it out.

23 SPEAKER: What's that alleged to be now?
24 Which side? Which way? That side?

25 MR WESLEY: Well, the body was found on

INSPECTION IN LOCO

1 that side.

2 SPEAKER: So from this side?

3 MR WESLEY: Well, we'll be - ja.

4 SPEAKER: Okay, it looks like it.

5 MR WESLEY: That's in, definitely in,
6 because the little -

7 SPEAKER: It looks like an entrance, yes.

8 MR WESLEY: Ja, it's an entrance.

9 CHAIRPERSON: Is that the exit -

10 SPEAKER: No, it's an entry.

11 MR WESLEY: It's an entrance. It
12 purports to be an entrance, so have a look at that. Then
13 the body was found on the stoep on the other side of the
14 shack.

15 CHAIRPERSON: Mr Wesley, are you going to
16 show us something?

17 MR WESLEY: Yes. The victim was lying
18 here. His foot were more or less orientated towards the
19 door and the head towards, which should be the south.

20 CHAIRPERSON: On this section here?

21 MR WESLEY: On this section, but I'm not
22 saying this is the exact mat. I think that this may have
23 been replaced.

24 CHAIRPERSON: Yes, it looks like it.

25 MR WESLEY: Right, Captain Moshwana.

INSPECTION IN LOCO

1 CHAIRPERSON: Right, what do you want to
2 tell us?

3 CAPT MOSHOANA: Okay, I'm Captain
4 Moshwana, Rustenburg LCRC. That day when I arrive here the
5 body was on this position, the head facing that side, and
6 then the legs this side, and also the body was lying on his
7 back. That's it.

8 CHAIRPERSON: That's it? We've had some
9 evidence about this already.

10 MR MPOFU: Ja.

11 MR WESLEY: Captain, the - Judge, do you
12 want to take 10, or carry on? Because what we're going to
13 have to do is head in the direction of the river, the scene
14 over there.

15 CHAIRPERSON: Is that the last place
16 you're going to show us?

17 MR WESLEY: Ja, and then walk back.

18 CHAIRPERSON: So let's do that.

19 MR WESLEY: Shall we do it then?

20 Captain, do you want to take the lead?

21 CHAIRPERSON: Do we have to go across the
22 river?

23 CAPT MOSHOANA: Yes.

24 MR WESLEY: Well, we can, I think we can

25 -

INSPECTION IN LOCO

1 CHAIRPERSON: Well, we could see it from
2 this side.

3 MR WESLEY: - see it from this side. We
4 don't have to cross river, but we can see.

5 CHAIRPERSON: I think the last time -

6 MR MPOFU: The Captain can cross.

7 CHAIRPERSON: The last time there was
8 difficulty in getting across.

9 MR MPOFU: He can cross it, ja.

10 MR WESLEY: Or we can send somebody
11 across -

12 MR MPOFU: He can cross, we'll listen.

13 MR WESLEY: Captain, can I ask you then
14 to take the lead? But everybody, if you stand here
15 [inaudible] please see what you [inaudible] memorise what
16 you see here.

17 CHAIRPERSON: You hear what Mr Wesley
18 said? He says look north, memorise the view. That's Karee
19 4, is it? Straight ahead.

20 MR WESLEY: Karee 4 over there.

21 CHAIRPERSON: Alright, so we're now going
22 towards the river.

23 MR WESLEY: Ja.

24 MR MADLANGA SC: From here I want us to
25 just take note of that white structure, you know, it show

INSPECTION IN LOCO

1 just a little bit of it to the left of that big tree there.

2 The white structure, it will become -

3 CHAIRPERSON: Do you hear that? Is that
4 the - everybody, Mr Madlanga wants us to look at a white
5 structure. If you look straight ahead, there's a white
6 structure to the left of that tree. He wants us to take
7 special note of that.

8 MR MADLANGA SC: It's visible from in
9 front of house C05.

10 CHAIRPERSON: And he says it's visible
11 from in front of house C05. I take it the house we were
12 looking at is house C05. That's written on the door.

13 MR WESLEY: There's a bit of a mystery
14 there. There's two houses C05. That is C05, the one that
15 we're talking about, but if you come here and you didn't
16 know it, there's another structure just over there called
17 C05 as well.

18 CHAIRPERSON: That's an impostor -

19 MR WESLEY: That's an impostor.

20 CHAIRPERSON: This is C05.

21 MR MPOFU: Judge, I don't know what you
22 call that tower, but can you also note it, because it's
23 also -

24 CHAIRPERSON: You mean the tower, apart
25 from the shaft?

INSPECTION IN LOCO

1 MR MPOFU: Yes, the -

2 CHAIRPERSON: There's a tower to the left

3 of it.

4 MR MPOFU: Yes.

5 CHAIRPERSON: That white tower?

6 MR MPOFU: Yes, that's important. In one

7 of the pictures of scene 1 you can see it on the

8 background.

9 CHAIRPERSON: Does anybody here know how

10 we can describe - please keep quiet for a moment. Does

11 anyone here know how we can describe that white tower?

12 It's not as tall as the Karee 4 Shaft, but to the left of

13 it as we look at it, there are a couple of trees in between

14 and then there's a whitish tower with what looks like black

15 windows or openings. I don't know how it should be

16 described. We'll call it the shorter white tower, and Mr

17 Mpofo says that's important for us when we look at some of

18 the photographs.

19 MR MPOFU: And the shaft itself.

20 CHAIRPERSON: And the shaft itself. So

21 we're now going to the river, are we?

22 MR WESLEY: I brought you to this spot

23 not because it's of particular importance, but just to

24 orientate you as well. Now the road is over here.

25 CHAIRPERSON: So we see.

INSPECTION IN LOCO

1 MR WESLEY: The township is there to your
2 right. We are heading in that direction there, which is
3 more or less east. Okay, if you see -

4 CHAIRPERSON: To the koppie?

5 MR WESLEY: Yes, that's towards the
6 koppie. That's the direction of the koppie.

7 SPEAKER: There's the smelter.

8 MR WESLEY: Yes, you can see the smelter
9 there to the right-hand side on the horizon. Yes, Danie,
10 can you point out the green tower where that was situated?
11 Just hang on, let's just get the - Danie, come here.

12 Right, this is Danie Van Tonder. He just wants to point
13 out something. You can go and have a look if you'd like.

14 MR VAN TONDER: Close to that the rooms,
15 up there there's an old farm house where that dark tree is,
16 about in that area, or close to that specific structure,
17 there is indication that there was two tanks.

18 MR WESLEY: We suspect that's the
19 remnants, or the place where the green water tower was,
20 which I had mentioned earlier disappeared, from the video
21 footage. That would be the approximate place where it was.
22 You can have a look if you like just for reference
23 purposes. We see the huge white structure, do you want to
24 point it out from here?

25 MR MADLANGA SC: Judge, you can see it,

INSPECTION IN LOCO

1 can you just see the white structure that I pointed out to
2 in front of -

3 MR WESLEY: Hold on, sorry. Hold on.

4 SPEAKER: [Inaudible] go there so one
5 gets a sense of the line backwards.

6 MR WESLEY: Okay.

7 MR MPOFU: No, we don't make sense.

8 SPEAKER: I think maybe people can do
9 that at their leisure.

10 MR WESLEY: And Adv Madlanga also asked
11 me just to point out the white structure that he mentioned
12 earlier is now fully visible, and there it is to your east.

13 CHAIRPERSON: Is that it? Is that it,
14 Charles?

15 MR WESLEY: Yes, that's it. We can -
16 Captain, would you lead on, please?

17 CHAIRPERSON: What are we going to see
18 where we're going to now?

19 CAPT MOSHOANA: Okay, straight to the
20 east.

21 CHAIRPERSON: What are we going to see?

22 MR WESLEY: What we're going to see -

23 CAPT MOSHOANA: Where I collected 17
24 cartridge cases, and then from there the large bushes.

25 CHAIRPERSON: We've seen that in the

INSPECTION IN LOCO

1 photographs, of course.

2 CAPT MOSHOANA: Ja.

3 MR WESLEY: We have [inaudible] -

4 CHAIRPERSON: I don't know that we have
5 to go there.

6 MR WESLEY: Ja.

7 CHAIRPERSON: We had an inspection
8 before, remember.

9 CAPT MOSHOANA: Yes, we had inspection
10 before, yes.

11 CHAIRPERSON: We got video material of
12 that inspection. So those who want to go can go, but
13 unless the parties positively submit that I have to go, I
14 propose staying here.

15 MR WESLEY: Judge, no, we have to go to
16 one more spot, which is in that direction. Danie, would
17 you take us to the spot?

18 MR VAN TONDER: Sure.

19 MR WESLEY: The significance will become
20 clear when evidence is given, but I want the parties to
21 know what they're looking at, the view that you can see
22 from there towards the east.

23 CHAIRPERSON: Do I have to go?

24 MR WESLEY: Yes. Danie, do you want to
25 just take us to the spot, please?

INSPECTION IN LOCO

1 MR VAN TONDER: We can fetch a 4x4 bakkie
2 quickly.

3 MR WESLEY: Yes?

4 MR VAN TONDER: Where that gentleman
5 sits, this is one position apparently where a guy fall down
6 and was picked up, and that shack number C46, round about
7 where that goat is, is where that person within the group
8 came towards this side with a gun in his hand. A shack
9 that will be marked AA is where you see that blanket is
10 hanging on that wire there, just to the left there's a
11 shack with silver corrugated iron at the back.

12 MR WESLEY: Stones on the roof?

13 MR VAN TONDER: Stones on the roof.

14 MR WESLEY: Please remember these spots,
15 and I want you also to orientate yourself again, look
16 across the river and memorise the view as far as you can.

17 MR MPOFU: Ja, I think while we are here,
18 the witnesses say that this is the route that they took on
19 their way there, which is very important. Ja, not,
20 whatever is being said now would be when they were coming
21 back, ja, but we just want to emphasise that this is the
22 same route that they had taken on their way there, passing
23 through those shacks.

24 SPEAKER: And just to the left is the
25 white [inaudible] -

INSPECTION IN LOCO

1 MR MPOFU: Yes, ja, ja, the group, the
2 group, ja, they had that shack to their left, yes, yes,
3 because they were going this way.

4 SPEAKER: But that structure is to our
5 right now [inaudible] -

6 MR MPOFU: Now, because we are facing the
7 opposite direction.

8 MR WESLEY: Ja, so they were like this,
9 coming -

10 MR MPOFU: Yes.

11 MR WESLEY: That's it. Thank you very
12 much. Is there anything else that somebody would like to
13 point out here?

14 MR VAN TONDER: Just indicate that it is
15 downhill from here going in the, it's steep.

16 MR WESLEY: Yes, if you could also just
17 then perhaps - Danie points out the incline towards the
18 bottom of the valley where you find the river at the bottom
19 there, it's, well it's at an angle.

20 MR VAN TONDER: It's about 4 to 1.

21 MR WESLEY: Ja, that's all we'd like to
22 point out as well. Thank you very much.

23 MR MPOFU: Ja, the witnesses are saying
24 also the river is apparently just a couple of hundred
25 metres or so, and they're saying that the third person who

INSPECTION IN LOCO

1 had a white overall was shot in the vicinity of the river.

2 MR WESLEY: Yes, we covered that in the
3 first inspection *in loco*. We did that in detail, so that
4 is on record. Well, thank you very much then.

5 SPEAKER: Sorry, just -

6 MR WESLEY: Yes?

7 SPEAKER: Did you point to that
8 [inaudible] that wall that's on the [inaudible].

9 MR WESLEY: No, in fact I must point that
10 out.

11 SPEAKER: Please do.

12 MR WESLEY: Ja, okay, while we're here -

13 SPEAKER: Charles -

14 MR WESLEY: Yes?

15 SPEAKER: Perhaps one can tell me whose
16 land is this one?

17 MR WESLEY: I don't know. We can find
18 out. Okay, but ja it's not something for the pointing out.
19 We'll get to that. Okay, if I can just have everybody -
20 yes, please translate. Okay, I'm going to go back to the
21 road because there's one more thing, last item I want to
22 point out to everybody. In the video footage you see a
23 precast wall, a "stop nonsense," which is on the northern
24 side of the image that you see at the top. I want to show
25 you what remains of that wall, because it is no longer

INSPECTION IN LOCO

1 there and I want to show you where it is so that you can
2 orientate yourself on that as well when you look at the
3 video. We can go back now.

4 CHAIRPERSON: Is that it?

5 MR WESLEY: That's it then. Where I'm
6 pointing over here, you can see the remains of a precast
7 wall, "stop nonsense." In the video images that you see
8 which is taken from the mine cameras, you can see it in the
9 background, it is a greyish stripe which appears across the
10 scene. This is the remainder of it. The rest of it is
11 gone. In the interim it's been broken down or removed, but
12 this is where it was and it lay in an east-west direction,
13 ran in that way. You can also orientate yourself, look at
14 this telephone line here. Right, thank you very much.

15 [END OF INSPECTION IN LOCO]

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