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Transcript of the Testimony of Keith Sigmon

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STATEMENT UNDER OATH
OF
KEITH SIGMON

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Tuesday, May 11, 2010, beginning at 10:13 a.m.

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ATTORNEY WILSON:

Mr. Sigmon, my name is Bob Wilson. I'm with the Office of the Solicitor, the United States Department of Labor. With me is Tom Morley with the Mine Safety and Health Administration. He's an accident investigator on the Upper Big Branch Investigation Team. Also present at the table are several other individuals with the State of West Virginia. I'll ask that they state their appearance for the record.

ATTORNEY MCATEER:

I'm Davitt McAteer.

MR. FARLEY:

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

MR. O'BRIEN:

John O'Brien, West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY BECK:

Jim Beck.

ATTORNEY WILSON:

Okay. And there are several other members of the investigation teams present in the

1 room. All members of the Mine Safety and Health
2 Administration Accident Investigation Team, and all
3 members of the State of West Virginia Accident
4 Investigation Team participating in the investigation
5 of the Upper Big Branch Mine explosion, shall keep
6 confidential all information that is gathered from
7 each witness who voluntarily provides a statement
8 until the witness statements are officially released.

9 MSHA and the State of West Virginia shall
10 keep this information confidential, so that other
11 ongoing enforcement activities are not prejudiced or
12 jeopardized by a premature release of information.
13 This confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Your participation in this interview
17 constitutes your agreement to keep information
18 confidential.

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

1 of Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.

3 After the investigation is completed,
4 MSHA will issue a public report detailing the nature
5 and the causes of the fatalities in the hope that
6 greater awareness about the causes of accidents can
7 reduce their occurrence in the future. Information
8 obtained through witness interviews is frequently
9 included in those reports.

10 You should know that if you request
11 confidentiality, confidentiality will be granted on a
12 case-by-case basis. Your statement may also be used
13 in other enforcement proceedings. You may have a
14 personal representative present with you during the
15 taking of this interview, and you may consult with
16 that representative at any time. Do you have a
17 representative with you?

18 MR. SIGMON:

19 I do.

20 ATTORNEY WILSON:

21 And I'll ask the representative to state
22 his name for the record.

23 MR. NEWBERRY:

24 My name's Robert Newberry, I'm with the
25 National Council, Field Labor Locals, AFGE.

1 ATTORNEY WILSON:

2 Thank you. Mr. Sigmon, you may refuse to
3 answer any question, and you may request to take a
4 break at any time. This is not an adversarial
5 proceeding, formal Cross Examination will not be
6 permitted, however, your personal representative may
7 ask clarifying questions as appropriate. A court
8 reporter will record your interview. Please speak
9 loudly and clearly. If you do not understand a
10 question asked, please ask that the question be
11 rephrased. Please answer each question as fully as
12 you can, including any information that you may have
13 learned from someone else.

14 I would like to thank you in advance for
15 your appearance here today; we appreciate your
16 assistance in this investigation. Your cooperation is
17 critical in making the nation's mines safer. After we
18 have finished asking questions, you will have an
19 opportunity to make a statement and provide us with
20 any additional information that you believe to be
21 important. If at any time after the interview you
22 recall any additional information that you believe
23 might be useful, please contact Norman Page at the
24 telephone number that was provided to you in the
25 letter. At this time, I'll ask the court reporter to

1 swear in the witness.

2 -----

3 KEITH SIGMON, HAVING FIRST BEEN DULY SWORN, TESTIFIED

4 AS FOLLOWS:

5 -----

6 ATTORNEY WILSON:

7 Tom?

8 EXAMINATION

9 BY MR. MORLEY:

10 Q. Please state your full name and spell your last
11 name.

12 A. Keith Aaron Sigmon, S-I-G-M-O-N.

13 Q. Please state your address and telephone number.

14 A. (b) (7)(C)

15 Telephone number (b) (7)(C) .

16 Q. Are you appearing here today voluntarily?

17 A. Yes.

18 Q. How long have you worked for MSHA?

19 A. Three years, eight months.

20 Q. What's your current duty station?

21 A. Ventilation specialist.

22 Q. And where's that at?

23 A. In the Mount Hope District Office.

24 Q. Okay. How long have you worked there?

25 A. Since December. Six months.

1 Q. Okay. And your present position is ventilation
2 specialist. How long have you been in that position?

3 A. The same time.

4 Q. Who's your current supervisor?

5 A. Joe Mackowiak.

6 Q. Can you tell me about your mining history and
7 experience?

8 A. I worked for Consolidation Coal Company. I
9 started with them in 1990 as a summer student, while I
10 was going through college. I graduated from Bluefield
11 State College with a mining engineering degree, and
12 went to work for Consolidation Coal Company in
13 Illinois. And it was a maintenance foreman,
14 production foreman, and then they transferred me back
15 to Virginia, Buchanan Mine, where I done production
16 work, maintenance work until I left and went to
17 seminary, and then I come to MSHA.

18 Q. Okay. Do you have any specialized training or
19 certifications?

20 A. Not anymore. All my papers will be out, so just a
21 mining engineering degree.

22 Q. You got any mining certifications?

23 A. Miner's card from the State of Virginia, Illinois.
24 That'd be it.

25 Q. Okay. What are your areas of responsibility in

1 your present position?

2 A. To review plans, revisions, annual maps,
3 ventilation plans, to make sure that they coincide
4 with the 30 CFR, and to make sure that they're
5 functioning properly, and to approve or disapprove
6 those plans.

7 Q. Okay. Do you go to the mine? Do you go out to
8 the mines, or is it ---?

9 A. Quite frequently, yes.

10 Q. Okay. Are you the authorized representative
11 assigned to the Upper Big Branch Mine this quarter?

12 A. No, I was not.

13 Q. When was the last time you inspected Upper Big
14 Branch Mine?

15 A. I was at the mine, I believe, in March or
16 February. I can't remember the actual date. I had
17 been at the mines during the first quarter of this
18 year. Keith Stone had --- who was the AR in
19 charge ---.

20 Q. And what type of inspection were you conducting?

21 A. We had went to the mine to assist Keith, who was
22 doing an E01, and Joe had asked me and Benny Clark and
23 Clyde Gray to go to the mine because Keith had wrote
24 some low air violations, and so Joe wanted to make
25 sure that each section, the longwall, and both

1 headgate sections had an AR ventilation specialist
2 there to make sure they weren't stealing air, or you
3 know, just make sure they had enough air top right.

4 Q. Okay. And did you go underground that day?

5 A. I did.

6 Q. Did anyone accompany you?

7 A. They did. Tom Moore, the field office supervisor
8 for work group two.

9 Q. Okay.

10 A. And a trainee out of work group two. Doy, I don't
11 know his last name but he's a new trainee, and then
12 the company representative with him and --- I don't
13 have that in my notes, but I'm trying to remember his
14 name.

15 Q. I happen to have a copy of your notes.

16 A. I figured you would. Harold Lilly. It was Harold
17 Lilly.

18 Q. Harold Lilly?

19 A. Lilly.

20 Q. Okay. And he was with?

21 A. With Upper Big Branch. He was the assistant
22 longwall coordinator.

23 Q. Okay.

24 MR. FARLEY:

25 And just for the record, do your notes

1 reflect the date that you were at the mine?

2 A. It does. It would be March the 9th, 2010. That
3 would be on the dayshift.

4 BY MR. MORLEY:

5 Q. Okay. Could you take us through your inspection?
6 What time do you arrive at the mine?

7 A. Eight o'clock.

8 Q. In what area did you travel to?

9 A. I went to the longwall section, the active
10 longwall section.

11 Q. Okay. Is that the only area you traveled to that
12 day?

13 A. I did. I went up the intake entry of the longwall
14 across the face and down the tailgate entry.

15 Q. How long were you in those areas?

16 A. Approximately three hours, three and a half.
17 Maybe four, I can't remember.

18 Q. How did you travel to this area, where did you
19 enter the mine at?

20 A. We entered from what is known as the Units
21 Portals, or the ---.

22 Q. Ellis?

23 A. Ellis Portals.

24 Q. Okay.

25 A. So Ellis Portals, and we traveled by track to the

1 section, and then we asked to be let off and walked
2 the intake. I wanted to take some intake for air
3 readings. So we took some intake air readings just to
4 see how much intake air they had coming to the
5 section, and then we walked across the headgate and
6 down the tailgate.

7 Q. Okay. During that time, you were traveling in,
8 did you make any observations as to the general
9 condition of the mine? I mean, did it look well rock
10 dusted in?

11 A. At that time it did. I mean, it was white and
12 didn't see anything that jumped out at us, me or Tom,
13 either one.

14 Q. Could you see the conveyer belt entry?

15 A. In some places the track and belt are in the same
16 entry. I didn't see anything there, the longwall
17 belt. We didn't travel it. So I don't know what it
18 looked like. There at the headgate area, it was okay,
19 because we did take air readings there at the headgate
20 to determine the crosscut air reading.

21 Q. Okay. Were the volumes you got consistent with
22 the ones that you had seen in the pre-shift books?

23 A. I believe --- if I remember correctly, they were.

24 Q. Did you review the pre-shift --- what else did you
25 review when you got to the mine?

1 A. The pre-shift. I've got those wrote down, I
2 think. The pre-shift, the intake was 87,000.
3 Actually I read a higher reading than the intake.

4 Q. Okay.

5 A. I'll note the last date of crosscut, I read
6 131,000. I do remember asking why, and they were only
7 taking it at the crosscut, and not combining the belt
8 and the --- because at that time they were using belt
9 air in the face.

10 Q. At the time you were at the belt, the air was
11 traveling through the face?

12 A. Correct.

13 Q. Okay.

14 A. And I was combining the belt air and the crosscut.

15 Q. Okay. What were your observations as to the
16 conditions in the longwall area as far as ---?

17 A. The longwall face, at that time, was --- it was
18 one of the prettiest longwall faces I've been on in a
19 while.

20 Q. Yeah?

21 A. Actually. And the headgate air movement across
22 all the jacks, the jacks were well maintained, the ---
23 you know, everything looked good on the face line. No
24 methane, the gob air wasn't pulling in the jack. It
25 looked good.

1 They were down maintenancing the shooter, and so
2 we exited out the tail. We had to pull some jacks and
3 we examined the roof to make sure everything was safe,
4 and then we got out on the tail, and then we noticed
5 that the tail entry had a check curtain across it.
6 And it had, which I'll have to look in my notes to get
7 exactly where the longwall was at that time.

8 Q. Where was the check curtain in relation to the
9 face?

10 A. It was outby. It was outby one crosscut, outby
11 the face in the entry, and the air is supposed to flow
12 inby, and provide intake air to the tail. And
13 actually their air had been reversed at that time and
14 was flowing out the mine. And so I informed Mr.
15 Lilly, and he said this curtain shouldn't be here. I
16 don't know why anybody would have put it here. And so
17 he took it down, of course when he took it down, we
18 could feel the air coming in harder to the --- going
19 outby. And so I said, Harold, we don't need to change
20 --- we need to figure out what the problem is before
21 we start doing anything. And so they had put a check
22 curtain in the crosscut outby, and knocked the
23 stocking in the crosscut to allow the air --- so the
24 air would come off and shoot over, and ---.

25 Q. Is that between the tailgate and the adjacent

1 entry?

2 A. Correct. Right. And so he wanted to know if they
3 could run that way, and I said no, you can't run that
4 way. We'd probably be issuing you a D2 order. But I
5 wanted to travel the rest of the entry to find out why
6 it wasn't going in the right direction, see what kind
7 of circumstances we had. I told him that I'd make an
8 evaluation of what kind of paper did he have. But at
9 that time, I wouldn't let him run because air was
10 reversed, and Tom Moore agreed with me, and so we got
11 our smoke tubes out and we began to smoke the entries.
12 And we smoked several entries as we went down the tail
13 entry. At that time, they didn't have an isolated
14 tailgate. They were approximately --- I need to find
15 that. It's probably back around ---.

16 Q. There's crosscut numbers here, if that's ---?

17 A. Yeah. It's probably around 60, I believe. But
18 anyway, at that time they didn't have an isolated
19 tailgate. As a result of this, they isolated the
20 tailgate. Anyway, so we were smoking entries Three
21 through Seven.

22 Q. You're referring to Entry One would be on the
23 leftmost looking inby towards the ---?

24 A. Correct. It'd be on the left side looking inby.

25 Q. Number Seven would be the tailgate?

1 A. Correct. And so we smoked Three through Seven in
2 various locations all the way to the Route 3
3 section ---

4 Q. Okay.

5 A. --- on the tailgate side. And when we got to the
6 tailgate side, we discovered that the regulator at
7 spad number --- just inby spad number 2422. I don't
8 need the magnifying glass. It was closed off.

9 Q. 22422?

10 A. Correct.

11 Q. Okay.

12 MR. FARLEY:

13 I'm sorry. What was that number?

14 MR. MORLEY:

15 22422.

16 A. Oh, it's 22. See I do need the magnifying glass.

17 MR. FARLEY:

18 Do you want to put the marker in a circle

19 --- identify that.

20 WITNESS COMPLIES

21 BY MR. MORLEY:

22 Q. What did you find that the air was doing at that
23 time?

24 A. This regulator had been closed off.

25 Q. Okay.

1 A. So that regulator, for lack of a better term, was
2 kind of serving as a point feed, just to feed this
3 area up here, so you would have intake air on your
4 tailgate side. Instead now that that regulator was
5 closed, the air was coming down, and actually, it only
6 began to re-circulate and come back up this Number
7 Three entry. And so it would come down and come back
8 up. And being that there was so many entries, the air
9 --- the velocity of the air died down so much that you
10 didn't really see it. You seen it pulling outby,
11 which would be Five through Seven.

12 Q. So the entries Five through Seven were traveling
13 outby, towards the mouth of the section?

14 A. Correct.

15 Q. And then the entries ---.

16 A. They had knocked this stopping here at this
17 crosscut, which would be at 35 break.

18 Q. That would be the stopping between entries Four
19 and Five?

20 A. Four and Five.

21 Q. Okay.

22 A. And so it was re-circulating and coming.

23 Q. Was it traveling inby entries Two and Four?

24 A. It was coming --- it was. It was traveling inby
25 and of course this side over here (indicating) was

1 going inby, too, in One and Two.

2 Q. Okay. In entries One and Two?

3 A. Correct.

4 Q. Keith, at the time did --- was anybody from the
5 --- take notes or photographs during your inspection?

6 A. No photographs. Me and Tom Moore both took notes
7 of what we discovered.

8 Q. Did anybody from the company take notes that you
9 knew of?

10 A. Harold Lilly may have wrote down, but I don't know
11 how extensive his notes were. He just may have wrote
12 down what the problem was, and he went back to inform
13 the longwall not to operate, and then he began to call
14 Wayne Persinger, ---

15 Q. Okay.

16 A. --- who would be the vice manager of mines, or
17 vice president or whatever over UBB. And we met Wayne
18 Persinger. We come through this set of airlock doors,
19 and met Wayne Persinger somewhere on the other side of
20 those airlock doors.

21 Q. And those would be the airlock doors in Number
22 Four entry ---

23 A. Correct.

24 Q. --- at the mouth of the tailgate?

25 A. Correct.

1 Q. Okay.

2 A. And so anyway, we met there and we discussed what
3 we discovered, and they wanted to make an air change
4 here (indicating), and we wouldn't let them do it with
5 men underground.

6 Q. That's the regulator at 22422?

7 A. Correct.

8 Q. Okay.

9 A. And ---.

10 Q. What did they want to do?

11 A. They wanted to take one block out at a time, until
12 they got enough air to overcome the air off the
13 longwall, and create a different pressure to overcome
14 that, to cause the air to go back to the bleeder fan.

15 Q. Okay.

16 A. And so I told them that --- and me and Tom talked,
17 and we agree that we couldn't be assured what this air
18 would do to the sections, and whether they could
19 control that to 9,000, so we didn't believe it was
20 safe to do with men underground. So we told them that
21 we wouldn't let them do that, and so then they pulled
22 all the sections, went outside, except for people to
23 make the necessary change, and they tried to restore
24 it back to the way the ventilation plan was.

25 When we got outside, I met with Jason Whitehead

1 and Wayne Persinger, and we discussed --- I had a copy
2 of the ventilation plan, and we discussed it, we went
3 over it, and they tried to change it back exactly the
4 way it's supposed to have been operating. And it
5 wouldn't work. And so I believe the mine was down two
6 and a half days, three days.

7 Q. Okay.

8 A. And I forget the numbers, but it was well over
9 100,000 they tried to put up through this regulator,
10 and it just wouldn't overcome. They, in return,
11 submitted a revision to the ventilation plan, which
12 isolated this return here --- or I mean, the tailgate
13 entry, and then they were able to overcome that.

14 Q. Do you know why they couldn't get air flowing in
15 the opposite direction?

16 A. No, I don't exactly --- you know, you would think
17 something back here with the bleeder fan pulling as
18 hard as it was, something would be blocked back here,
19 but Keith Stone, who later come back, traveled all
20 this before we ever let it go, and --- because they
21 said they had it ready. Keith Stone traveled all of
22 this, and couldn't find any blockages. He took air
23 readings at all the regulators, and then come back,
24 but they still didn't have it correct, so he wouldn't
25 release it. And then they submitted a revision, and

1 this went on two or three days. Everyday they called
2 and we'd go down, and they didn't have it right.

3 And so anyway, other than all these entries that
4 they had in common here, and all that air velocity
5 would die down so much here, that's the only reason I
6 can figure they would lose the pressure. So when they
7 isolated this, they were able to overcome that.

8 Q. And when you talk about here, you're talking about
9 these entries between 35 --- roughly 35 and 50
10 crosscut?

11 A. At that time it'd probably been around 60 or 62 if
12 my memory serves me correctly.

13 Q. Okay.

14 A. And they would have --- it would have been entries
15 Three through Seven, correct.

16 Q. If I understood you correctly, the operator was
17 prepared to reverse the airflow direction in these air
18 forces during the operating shift, if you guys hadn't
19 stopped them? Is that what ---?

20 A. They were asking if they could, because at that
21 time when I found the regulator closed, and I did
22 inform them I was going to write a D2 order, and that
23 the section would be down until the air was correct.
24 And then they said, well, can we make that change now?
25 And I said what's it going to take, and we discussed

1 what it would take to make that change, and I didn't
2 feel that they could make that change safely with men
3 underground, so I wouldn't allow them to do that.
4 They were just wanting permission. They didn't say
5 that we'll do it. They were just wanting to know if
6 they could.

7 Q. Over the next two days, did you travel in the mine
8 those days as well?

9 A. I didn't the next two days. I think I went down
10 two days afterwards maybe, maybe three. I can't
11 remember.

12 Q. Okay.

13 A. My memory ---.

14 Q. You dated it on the 11th.

15 A. Okay. I did?

16 Q. Somebody did. Stone did.

17 A. Keith Stone. Yeah. That's what I thought. I
18 went back down one --- and they had isolated these
19 entries --- I don't remember the date, it was a couple
20 days afterwards, and it was on the evening shift, and
21 they had created regulators in here, which wasn't a
22 part of the plan. And so I told them that I'd want to
23 talk to Joe about it, before I lifted the order. And
24 so I called Joe and Joe said no, don't lift the order
25 until --- and they also didn't have none ---.

1 Q. When you refer to regulators ---?

2 A. Along the tailgate entry, Number Seven entry,
3 where they were isolating it.

4 Q. Between the Number Six and Seven entries?

5 A. Correct.

6 Q. They had openings in the stoppings?

7 A. They had openings in the stoppings. None of the
8 stoppings had been plastered.

9 Q. Okay

10 A. And they had some --- a couple temporary controls.

11 And I said one, you're not going to be able to use

12 temporary controls; two, you're going to have to

13 plaster all those stoppings, and then three we want to

14 make sure --- the regulators, where the mandoor's

15 open, and the door's just being propped, and I said,

16 those can shut and change the air quantity, and so we

17 don't want to go that route. And so I said, we're not

18 going to be able to lift the order until the stoppings

19 get plastered and we get permanent regulators, and if

20 Joe's okay with the regulators. And the reason they

21 wanted regulators was not to create too much pressure

22 on the tail, then let some of it bleed over and keep

23 these, you know pressurized, too, and said --- after

24 the next day they talked with Joe, and Joe agreed that

25 those things need to be addressed in the plan and

1 naturally they addressed them, the plan was approved,
2 and then Keith Stone went down and lifted the order
3 after he went underground and went back over
4 everything.

5 Q. Okay. And you had said when you arrived at the
6 section, there at maintenance, did you ever see the
7 longwall operate?

8 A. I didn't see it operate that time. They were down
9 on the headgate, you know, couldn't be it's ---.

10 Q. Okay. And methane?

11 A. Zero.

12 Q. Zero?

13 A. .1 on the tail.

14 Q. You talked about conditions a little bit in the
15 headgate, how did the conditions look on the section
16 for rock dust or general mine conditions?

17 A. Looked fairly good, you know ---.

18 Q. These tailgate entries?

19 A. They looked fairly good.

20 Q. Did you travel inby the face at all ---?

21 A. I did not. No, I did not. We didn't go that way,
22 we just went down the tailgate and outby.

23 Q. How about the roof support? Anything unusual in
24 roof conditions?

25 A. No. You know, they had drilled some --- which

1 they're showing here it looks like on the map, they
2 had drilled some of this in plans, thinking that they
3 might have to shoot, and I asked them how they were
4 going to shoot in their return, and so ---. Because
5 they feared that they'd got off centers too bad, then
6 the panel would be too wide, but that was the only
7 thing.

8 Q. Did you know if they ever actually did any
9 shooting?

10 A. No. Not that I can tell, they'd done any
11 shooting. And actually the night I'd come back to
12 abate it, and then we found the --- that same night,
13 that I found that they didn't have the stoppings
14 plastered off, I was with Jack Roles, the longwall
15 coordinator, and he said they weren't going to do
16 that, and we kind of joked about it, you know, that
17 they drill those holes, because you know they had that
18 packed full of wood, and I asked Jack, what is that
19 Jack? He said you know what it is, but ---. And I
20 don't know if they drilled those on advance, thinking
21 they might have to shoot. He didn't tell me that. He
22 didn't say that they drilled them while they were
23 retreating, but ---.

24 Q. Do you remember what the immediate roof was? Was
25 it channel sandstone; do you remember?

1 A. They had the sandstone, you know, I can't remember
2 what locations. Some of it was shale, and then it
3 would transition into sandstone.

4 Q. On the face?

5 A. On the face? If I'm correct, at that time, it was
6 probably shale. They had a middle man, but that was
7 back at 62, you know, break.

8 Q. Did you have any conversations with mine workers
9 or mine management concerning mining conditions in
10 there?

11 A. Harold Lilly, I discussed with him, you know, as
12 we traveled, and of course I always stopped and talk
13 to miners and ask him how things are going, everything
14 was great. They didn't have any concerns at that
15 time, and you know, I told Harold --- I actually
16 complimented Harold on how good the face looked and so
17 forth.

18 Q. Was this the only time you were in this mine that
19 quarter?

20 A. That quarter I do believe it was those two times.

21 Q. The same ---?

22 A. Same scenario.

23 Q. The same incident?

24 A. Yeah. I don't believe I was in that mine any
25 other time that quarter.

1 Q. Have you ever been the AR assigned to this mine
2 previously?

3 A. I have. I have when I was in the field office.

4 Q. In?

5 A. Mount Hope Field Office.

6 Q. When was that?

7 A. It was before all the longwall, it would have been
8 three years ago. Approximately, two and a half, three
9 years ago.

10 Q. Okay.

11 A. And you know, I've done periodic EO, you know,
12 spot inspections, methane spot inspections. And then
13 helped inspectors. I was in the mine the quarter
14 before, helping Kevin Lyall, who had the --- who was
15 the AR assigned to the mine. I helped him finish.

16 Q. So you were at the mine the previous quarter as
17 well?

18 A. Correct.

19 Q. What sections did you travel to?

20 A. I was mainly on what would be called the south
21 side of the mine, which would be --- I don't know the
22 number of the sections, but it's not shown on this
23 map. It would be the ---.

24 Q. Like the barrier section, ---

25 A. From the old ---.

1 Q. --- the portal? Down here at the North and South
2 Portals?

3 A. Correct. Yeah. It'd be the lower part of the
4 mine. The old UBB Portals on the south side, what we
5 call the south side of the mine.

6 Q. What type of inspection were you conducting?

7 A. I was helping Kevin Lyall on these EO1
8 Inspections. I had been to --- I can't remember the
9 name of the sections. I'd been to both miner units
10 that were operating on that side of the mine. There's
11 two sections on that side of the mine.

12 Q. And what were your observations as to the
13 condition of that part of the mine?

14 A. There were some things that I liked and disliked.
15 One thing that I disliked was how they constructed
16 overcast. Not enough area overtop of the overcast,
17 didn't cut out any height overtop of the overcast.
18 Restricted the entry site. It was tough to get air.
19 I don't know that I wrote any low air, they were
20 really good about keeping their last open breaks, but
21 it was a concern, because it was always a battle to
22 maintain your air, and so you know, the belts. I
23 think I wrote a couple belts up. I can't ---.

24 Q. Do you remember what for?

25 A. I'm trying to remember it. I know I wrote for CO

1 sensors not operating ---. It was the water sprinkler
2 system, wasn't --- they didn't have it overtop of the
3 belt, they had it out to the side, where it wouldn't
4 cover the belt. I wrote one --- I can't remember
5 yesterday. I wrote another one for the --- it
6 wouldn't stop the belt when it was activated, the
7 water sprinkler system. Then wrote several pieces of
8 equipment violations on the sections. I wrote a D2
9 order on the --- I believe that's called the Number
10 Three section, because they hadn't made an examination
11 of an area in about six months, so I wrote a D2 order
12 there. That's probably the last piece of paper I
13 wrote there.

14 Q. Do you have any observations as to just in general
15 the rock dust in the area of the mine; ventilation?
16 What were your impressions?

17 A. I don't know. If I didn't write anything, it must
18 have been pretty good, because I would have wrote it.

19 Q. Okay. Any methane, do you remember?

20 A. No, not on that side. That side's never had any
21 history of methane at all. I mean, I've never
22 detected anything, except maybe out of seal. If you'd
23 like, I'll tell you where I --- the only places I've
24 ever found methane in the coal mine has been up in
25 this area, which would be --- I don't know what we're

1 referring that to as now, but the old gas well
2 and ---.

3 Q. Eight North.

4 A. Eight North area. You know, and the barometer
5 changed. You'd find up in this area, but never would
6 it go over six tenths --- you know, six or seven
7 tenths. And around this Glory Hole area, you might
8 find a little bit.

9 Q. Well, I was going to ask you if you'd ever been in
10 these other sections and ---.

11 A. I never had inspected the headgate sections.

12 Q. That would be Headgate 22 or its tailgate, you
13 were never in these?

14 A. Correct. I never inspected when they were driving
15 these two units for the present longwall.

16 Q. That'd be Headgate One North, and Tailgate One
17 North?

18 A. Correct.

19 Q. When were you at what we're calling the Eight
20 North area?

21 A. That would be back when I had it on E01, two and a
22 half, three years ago.

23 Q. Okay. And that was the gas section at that time?

24 A. This section, it wasn't operating at that time.

25 Q. Okay.

1 A. It was idle, but you know, you'd make it on your
2 weekly --- I'd go up there on methane spot, because
3 that would be --- in this mine that would be probably
4 one of my concerned areas, and I'd go up there just to
5 travel it to make sure that, you know, methane hadn't
6 built up.

7 Q. Do you remember how much methane you detected up
8 there?

9 A. It's like I said, the earlier that it probably ---
10 I never had six tenths for all, five, six tenths in
11 that area.

12 Q. Are you aware of any complaints that have been
13 lodged against the mine?

14 A. I don't know of any --- I've never received a
15 complaint. I know Joey Athey had complaints when he
16 inspected it. I went down to inspect this area here,
17 and I --- which would be the headgate side, or the
18 referring side of the longwall, and that would be
19 probably in December of 2009.

20 Q. Okay.

21 A. And I don't know if it was a complaint or what it
22 was, but Mike Hicks, supervisor out at Mount Hope
23 asked me to go down because men were working in water
24 up to their chest.

25 Q. This was prior to your present position?

1 A. Correct. I was still in work group two.

2 Q. Out at?

3 A. Mount Hope.

4 Q. Okay.

5 A. Mike Hicks is work group one supervisor, and I
6 asked him if I was to do that on a complaint? And he
7 said, no, it's not a complaint, it's just things that
8 I know and I need you to go down take care of. So I
9 went to the mine and informed Everett Hager where I
10 needed to go, for what reason, I asked him what the
11 water levels were. He had a copy of their own
12 documents that are not pre-shift, on-shift, but just
13 some daily recordings of water levels, and those water
14 levels recorded 50 inches, 48 inches of water. And so
15 anyway, I said, well, I need to travel up that entry,
16 and it was supposed to be --- this entry's supposed to
17 be isolated return for Headgate 22?

18 Q. Tailgate 22.

19 A. Tailgate 22. Right. Which at that time there was
20 no Tailgate 22, so it would have been for Headgate 22.
21 This tailgate hadn't started driving because this
22 return was for this --- this would have been the
23 tailgate for the new longwall.

24 Q. Right.

25 A. And so anyway, we went down and traveled this

1 return, for Headgate 22, and the stoppings were
2 crushed out, the solid side --- massive rib rolls,
3 that had already rolled out, and men were trying to
4 crib all that entry solid and build Kennedy stoppings,
5 a solid wall, because they couldn't get over the main
6 stopping and they were trying to build a solid wall of
7 Kennedies at the Headgate 22.

8 Q. You're pointing to the Number Two and Three
9 entries?

10 A. Correct, between Two and Three. And I'd have to
11 refer to my notes, but I began to get into water,
12 fairly deep, you know, 24 to 30 inches, and so I said,
13 I'm not going any further. I'm going to write you an
14 imminent danger order for working men in water. And
15 then I wrote him up a citation as well in conjunction
16 with that. It encompassed all the way back to ---
17 well, I think it encompassed --- because it was
18 scattered out through there, I just encompassed it all
19 the way to the bleeder fan.

20 Q. Did you see any pumps?

21 A. They did have pumps in a couple of places, but I
22 couldn't get to the backside to see what they had.
23 But ---.

24 Q. When you say backside, you're referring to ---?

25 A. The backside of the --- which would be the

1 longwall panel, the return side towards the bleeder
2 shaft.

3 Q. Okay.

4 A. I couldn't get ---.

5 Q. I guess you couldn't travel through the water?

6 A. Right. And I could never see where the water was
7 roofed, it was very deep. And it was restricting the
8 air, but it wasn't restricting it to where there was
9 buildup of methane. I never found anything on my
10 spotter. And so I didn't write anything for
11 restriction of air. I basically wrote it because they
12 were working men in water that were --- basically I
13 felt was unsafe.

14 Q. Did you ever get to travel to the backside?

15 A. I didn't that night. I think Link South and ---
16 who went with Link? Somebody went with Link. I think
17 Benny Clark, who was the acting supervisor for work
18 group two at that time, and Kevin Lyall had been at
19 the ---. So Link and Kevin must have went and Benny
20 and Dana Hosch, who's CLR, were there, and I don't
21 know if they traveled this way or went to the
22 backside, but anyway, I don't know where they were at
23 the next day. They went back in to see what the
24 conditions were, while I wrote in the danger. But
25 this section started because ---.

1 Q. That'd be the tailgate section?

2 A. The tailgate section. I went to Joe and I said
3 --- Mackowiak, supervisor for ventilation, I said Joe,
4 you better get down there and look at that, because
5 that tailgate will never hold for a new panel. It
6 will be crushed out, and you'll never get any air
7 through it. And so ---.

8 Q. You're referring to the ground control conditions?

9 A. Correct. And so anyway --- and of course, then
10 Joe, I guess, talked with Chris Blanchard, and they
11 agreed that they'd never hold that. That they run
12 ARMPS on it and ARMPS revealed that it was too low,
13 and that it wasn't sufficient. And so then they went
14 to drive in this new tailgate.

15 Q. At the time you wrote the order for the
16 accumulation of water, you said somebody had the
17 records of water depths?

18 A. Correct. Everett Hager had those at that time.

19 Q. Okay. He would have been the superintendent at
20 that mine. What other areas up here have you
21 traveled?

22 A. That would be it for me, I believe. I don't know
23 of any other areas that I've traveled. In its present
24 state, you know, I've made the mine in its entirety,
25 when I had it as a regular E01.

1 Q. That was years ago before this was developed?

2 A. Yep. It only had two sections at that time. They
3 hadn't punched out of the old portals. That mine was
4 on a potential pattern of violations during that time
5 that I had it. I had it the quarter before, I just
6 got my AR, and I insisted Jim Wilson in finishing
7 mine, because Jim got hurt, and then the next quarter
8 they gave it to me to do potential pattern of
9 violations. Then they, you know, they jumped through
10 every hoop that we asked them to jump through, and
11 they developed a plan, and they hired --- I don't
12 know, they hired probably 60 men to --- all they
13 basically did was cleaning rock dust, and ---.

14 Q. How many men?

15 A. Probably 60. I don't know. It was a bunch of
16 them. And I've never seen --- for two sections, I've
17 never seen that many miners underground. But you
18 know, they knew that they were developing for, and
19 they knew that they had to keep it off a pattern of
20 violations, and so they --- and during that quarter,
21 they done an exceptionally good job. That's probably
22 the best the mine had ever looked, in a long time.
23 They rock dusted continuously, they put a --- we asked
24 them to develop a rock dust schedule, and what days
25 they'd rock dust what areas, and they done that on a

1 weekly schedule, and it was a seven-day schedule, and
2 they held to it, they done a very good job, and matter
3 of fact, when I went back down later to help Kevin, I
4 was asking where that rock dust schedule was, because
5 it had done vanished. They quit doing it, you know.
6 And I was disappointed because you know, those things
7 that kept them off the pattern was really improved the
8 mine a hundred percent.

9 Q. So what, once they were off the potential pattern,
10 then they quit being --- heavy emphasis on the rock
11 dusting?

12 A. Well, I would say this, that once they were off
13 the pattern, they pulled manpower out and dispersed it
14 to other places.

15 Q. Okay.

16 A. That would probably be the best assessment. You
17 know ---.

18 Q. Are you aware of any conditions which required all
19 or part of the miners to be evacuated from the mine?

20 A. Those orders that I wrote, of course, required
21 miners to be evacuated. Of course, you'd hear other
22 inspectors talk when we come in, in the evenings, and
23 I know Joey Athey had issued several orders, and Bill
24 Bane had issued several orders, and had men withdrawn
25 from the mine. I guess Joey's would be the biggest as

1 these two panels were developing. You know, I think
2 Joey had wrote some high concentrations of methane,
3 and --- as they were driving those panels. And then
4 of course, Joe and the ventilation department, before
5 I was in it, had went down and they had not made a
6 ventilation --- they didn't follow the revision and
7 make the change according to the revision, approved
8 revision. And so they put an order on it and red
9 tagged it as a drift, I believe, and pulled the whole
10 mine out until that could be done. I believe that was
11 how it went. Maybe it was red tagged --- they red
12 tagged it somewhere.

13 Q. Do you know about what time period that was?

14 A. That would have probably been back in first
15 quarter of the fiscal year, which October probably,
16 November, somewhere.

17 MR. FARLEY:

18 Last year?

19 A. Last year. 2009.

20 BY MR. MORLEY:

21 Q. Are you aware of any times that oncoming shifts
22 were cancelled or delayed due to conditions or
23 problems at the mines? Times when they sent them back
24 home, or didn't call them out?

25 A. Well, when I --- you know, when I came down ---.

1 Q. Other than your order here.

2 A. Other than those times, no, I don't think so.

3 No.

4 Q. Okay. My map shows a three-year gap in longwall
5 production; do you know why?

6 A. They took that longwall and moved it to what would
7 be called Logan's Fort Castle.

8 Q. Okay.

9 A. I would say that they had a lot of trouble out of
10 that panel. I wasn't with MSHA then, but I don't
11 know, I guess all the stories you can tell, you know,
12 they had a lot of trouble with staying in compliance,
13 respirable dust on that last panel and so forth. I
14 don't know if that had anything to do with it, or
15 maybe they moved it out, because they knew this was
16 going to be a more extensive development, and it'd be
17 longer than they could get a longwall in --- I don't
18 know their reasonings, but it could be a multitude.

19 Q. Okay. I'm just asking.

20 A. Yeah.

21 Q. No stories of methane or anything that you know
22 of?

23 A. Yeah, I did hear a story that they had --- I
24 believe in the floor. I don't know what panel it
25 would've been on. But inundated the section, I think

1 that was investigated. That was before I was with
2 Mining Safety and Health Administration.

3 Q. What year was the --- did you have a year in
4 that ---?

5 A. I wouldn't even know what panel it would be on, so
6 I wouldn't have a year.

7 Q. Okay. And part of these panels were skipped; do
8 you have any idea why?

9 A. You mean they didn't finish ---?

10 Q. Right.

11 A. You know, I'd say mainly because of the rock in
12 those panels. I don't know. I mean, I wasn't there
13 to even say.

14 Q. If you don't know ---. Have any miners approached
15 you during your inspections at this mine considering
16 any unsafe conditions at the mine?

17 A. No. You know, when I inspected it as a --- I
18 remember Roger Kingley one time, he stopped me, and
19 said, hey, they're putting too many people in the
20 mantrips, and that was about the only --- and you
21 know, we stopped that, and that was about the only
22 time that I remember --- you know, of course, I
23 haven't been down there on a daily, like the other
24 inspectors. I don't know of anybody ever stopping me.

25 Q. Did you have any concerns about mining conditions

1 other than what you wrote?

2 A. No. You know, we wrote a lot of paper at that
3 mine. You know, when I had it, two, two or three
4 years ago, we was writing 80 --- 80, 90 pieces of
5 paper then with these two miner sections. I mean, of
6 course when the pattern come along, the S&S dropped,
7 but still the amount of violations was still way up
8 there. And you know, then --- you know, I would think
9 for a two section mine, but I never --- you know, I
10 never seen or encountered methane levels over one
11 percent, never seen it one time in the mine. Maybe
12 behind a seal, pulling a sample you might. But most
13 of the time pulling samples behind the seals, you
14 wouldn't find that, you'd just find low oxygen. The
15 biggest thing in this mine would have been some roof
16 conditions. We wrote a lot of roof violations.

17 Q. All right.

18 A. And the time I done it as an AR, I think they had
19 --- my first day was a roof fall, and they had 20 some
20 roof falls, and I forget --- maybe a year, I can't
21 remember though.

22 Q. Was that a recent thing, or was that back when you
23 were ---?

24 A. That was back when I was ---.

25 Q. About three years ago?

1 A. About three years ago, but you know, I don't think
2 they've had any problem with roof up in this area.
3 Lot of sandstone as they were driving this way, and it
4 was a good solid roof, but you know, I ---.

5 Q. Is there a history of ventilation problems in this
6 area? I know Joe ---.

7 A. Well, I'll tell you back when they were getting
8 ready ---. When I left this mine, they were getting
9 ready to turn right-handed and punch out the Units
10 Portal, or the Ellis Portal.

11 Q. Ellis Portal.

12 A. Okay. And they were driving these intakes up
13 here, and they'd just crossed over here.

14 Q. The five north parallels?

15 A. Five north parallels.

16 Q. Okay.

17 A. And at that time they struggled for air. They
18 were intake restricted. And they were hoping that all
19 these intakes here would help them, of course, the
20 intakes down that way are restricted, so opening an
21 entries up here is not going to help you that much.
22 But they --- you know, and I talked to them
23 extensively about fan --- you know, we got to come up
24 with something to get more air, and you know, course
25 that's three years ago, I'm sure I wrote some low air

1 violations, but I can't remember, but --- and like I
2 said though, never did you encounter any methane as
3 they were driving that right over here. You know, but
4 now what changed from here to here (indicating), I
5 don't know. But that's where they began to encounter
6 methane. I know Joey had wrote several withdraw
7 orders for methane, or several citations. And
8 they're, I guess just hearsay ---.

9 Q. Joey would be?

10 A. Joey Athey. I'm sorry. The AR at the mine at
11 that time.

12 Q. Right.

13 A. Their scenario was, we got to get to that bleeder
14 fan, that'll solve all our problems. And Joey said,
15 well, you're not going to blow it --- I know Joey said
16 this, you're not going to blow it up until you get
17 there, you know, trying to get there, you know. But
18 that was about it, you know. The management, when I
19 was there, if there was a problem, I told them, they
20 fixed it. Of course I wrote a piece of paper, but
21 they'd done everything they would to do it. I didn't
22 really see that there was extensive, you know --- the
23 main thing that I see, with any of their operations,
24 is engineering. They just don't engineer their mines,
25 and that's the big thing that I see. You know, it's

1 not engineered and then mined, it's mined and then
2 we'll try to get it to work, and if they're going to
3 paper it, get everybody happy. And they worked --- to
4 me it worked bass ackwards instead of engineering.

5 Q. Have you had any issues of the accuracy of the
6 mine maps in terms as like in ventilation controls and
7 such?

8 A. I'm trying to remember. I don't think that --- I
9 don't know if I've ever wrote the 1200 map there or
10 not. I can't remember.

11 Q. You aware of any instances where they made changes
12 without approval or ---?

13 A. Yeah. I mean, somebody closed that regulator, so
14 that would have been ---.

15 Q. That's the order you wrote?

16 A. That was the order I wrote. And 370(a)(1) is a
17 common violation there. They commonly don't follow
18 the ventilation plan. And I think they've been caught
19 several times making ventilation changes. I think
20 I've even wrote in my past there, violations for
21 making changes without a revision before it was
22 approved, so ---.

23 Q. Is that in this area or the other part?

24 A. The other parts of the mine.

25 Q. Okay.

1 A. Yeah. This area, I don't know.

2 Q. Okay. Let's shift gears here and talk about the
3 April 5th accident.

4 A. Okay.

5 Q. When and how were you notified of the April 5th
6 accident?

7 A. I was traveling back from Elbert, West Virginia.
8 I was on an accident down in Elbert, and actually when
9 I got in cell phone range I stopped and called my
10 wife, and she said someone's trying to get in touch
11 with you, I don't know who it is. And I asked her
12 what the number was, and she told me, and I said it's
13 Tom Moore --- it sounds like it's Mount Hope. I
14 didn't say it's Tom Moore. I said it's somebody from
15 the office. And when I got --- I said they'll call
16 me, so anyway I drove a little further and the phone,
17 my cell phone rang, and it was Tom Moore, and he asked
18 me where I was, and I told him and he said are you
19 headed back to the office, I said, yes, I'll be there
20 in five minutes. And he said good, we need you to go
21 to UBB, and set up the sample at the --- he didn't
22 know where it was, but I was going to sample it
23 through Bandytown bleeder fan.
24 So anyway, that's how I learned of it. And I
25 drove to the office, and then Link and those informed

1 me of what they wanted me to do.

2 Q. So you were involved in the rescue and recovery
3 efforts?

4 A. Correct.

5 Q. And when did you arrive at the mine?

6 A. I would think it was about six o'clock in the
7 evening, which would have been 1800.

8 Q. Okay. Who was in charge at that time, do you
9 know?

10 A. I know Mike Dickerson, but he's the family
11 liaison, and I didn't see anyone else. So I informed
12 Mike that I was supposed to be sampling at the
13 Bandytown fan, and that I was going to head over to
14 the Bandytown fan and get all the equipment set up, so
15 we could start sampling there. Then he informed Link,
16 or Bob Hardman, or Joe Mackowiak where I was at. And
17 then I met with Everett Hager, who was the
18 superintendent, and I went over where the Bandytown
19 fan was, because I'd never been to the fan, and so
20 after that, I immediately drove over there.

21 Q. Okay. And were you ever at the command center?

22 A. I was after tech support took over sampling at the
23 Bandytown fan. I was in and out of the command
24 center.

25 Q. Okay. During your time at the mine site, did any

1 miners ever approach you about any conditions at the
2 mine?

3 A. I had Mike Kiblinger. He approached me, and said
4 Keith, I'd like to be interviewed. Make sure that I'm
5 interviewed. And so I took his name down, and he said
6 Rick Hodge would like to be interviewed. Rick Hodge
7 was the superintendent that used to inspect --- or
8 used to be over the mine. I don't know when he left,
9 but I don't know if he was discharged or just quit or
10 what, you know --- anyway, he said him and Rick Hodge
11 would like to be interviewed, and if I would make that
12 happen. So I wrote his name down, and I gave that to
13 --- didn't I give that to you?

14 MR. O'BRIEN:

15 Wally, I thought.

16 A. Huh?

17 MR. O'BRIEN:

18 Wally.

19 A. Wally. Wally McMasters.

20 BY MR. MORLEY:

21 Q. Okay.

22 A. I can't remember who I gave it to, sir.

23 Q. Okay. So you went to Bandytown Fan, was that your
24 assignment for the whole time you were there?

25 A. No. I was there 26 hours? I don't know. It was

1 a long time. We were there --- throughout that night,
2 we'd sampled, bag samples, and then drove those to
3 Mount Hope until tech support got everything set up.
4 Then after that, I was with --- me and Joe Mockowiak
5 stayed together, and I guess I was his errand boy, or
6 personal assistant, or whatever, but we monitored the
7 drill sites for a couple days, and then once the
8 recovery --- it seemed that they were going to make a
9 go to get the bodies. We stayed there at the command
10 center. But that was pretty much my ---.

11 Q. You say you monitored the drill sites, what do you
12 mean?

13 A. We just kept pool samples, we set up sampling
14 there, at the first hole that went down until tech
15 support got their trucks up top and then they hooked
16 up and took over, and started taking samples. Then we
17 just monitored the depths of the holes and recorded
18 those back to Bob Hardman.

19 Q. About how many days did you do that?

20 A. Two, three days.

21 Q. Okay. So then when you went to the command center
22 at the --- I guess that'd be about the time they
23 recovered the final victims?

24 A. Uh-huh (yes).

25 Q. What?

1 A. I just relayed --- called in --- you know, the
2 quantity --- or the quality reports that they were
3 getting at Bandytown, and I'd go to the command
4 center, then I'd take what information the command
5 center was releasing to give me to take over and call
6 Arlington, and I'd take all that over and ---.

7 Q. And what days did you do that?

8 A. Saturday. Which it would have been the 10th, I
9 guess, April 10th. I know I did that on --- no, I
10 didn't do that on the 10th. I did it on the 11th. I
11 did it Sunday. Also we --- one day we sit with the
12 attorneys while they copied the records and we filled
13 all of the forms out so we could receive custody to
14 those records. We filled the chain of custody forms
15 out.

16 Q. Okay. Do you have anything that you'd like to add
17 that may be relevant to the investigation?

18 A. No. I don't think.

19 Q. Any other knowledge of the mine that could help us
20 out that I didn't ask you about?

21 A. No. You know, unfortunately, I hadn't been in
22 this part of the mine a whole lot. And since I've
23 been in ventilation, I hadn't really been able to work
24 on this mine. I know when I first went to the
25 ventilation department they were talking about driving

1 a short panel, down there at the Ellis Portals, and I
2 sat with Mike Haines, so I could learn the process and
3 everything. But that was probably about my only
4 knowledge that I had, and that may be relevant
5 information, because Joe Mackowiak wouldn't approve
6 their plan, because he wasn't convinced that the
7 pressure differentials would be enough to make that
8 plan work. And so he wanted a ventilation survey done
9 of the mine to prove to him that that plan would work,
10 and they really couldn't do a good ventilation survey
11 of the mine.

12 And so they struggled with that several times
13 until they finally got Joe enough information. I
14 think that would be my biggest contribution is that
15 they just don't engineer and then mine, they mine and
16 then engineer. And from my standpoint of everywhere
17 I've been and every coal mine I observed, that's
18 always been my standpoint. Just that they do things
19 backwards instead of --- what I would see as
20 backwards.

21 MR. MORLEY:

22 Okay. And now I'll turn you over to
23 Terry.

24 EXAMINATION

25 BY MR. FARLEY:

1 Q. Be patient with me, I got several things I want to
2 clarify, but ---

3 A. Okay.

4 Q. --- while you're on the subject, let's discuss
5 this engineering matter. I guess this is an
6 opinionated question, but you seem to think that they
7 had engineering problems, that they mined and then
8 they engineered, as opposed to engineering and then
9 mining. Now, do you think that's because they had
10 deficiencies in the quality of their engineers, or are
11 there deficiencies in how these engineers are managed
12 and directed? How do you feel about that?

13 A. You're asking an opinionated question, all this is
14 opinionated answer, and to my professional opinion, I
15 think that they're well understaffed in all their
16 engineering department. Surveyors --- as a matter of
17 fact, when I was inspecting in the lower part of the
18 mine in the latter part of last year, helping Kevin
19 Lyall, the AR at the mine, I was talking to a spad
20 man, and he said that he was a contractor. I said why
21 aren't you working for Massey, and he said there's no
22 way he said. He said you don't have no life, they
23 just work you so long because they don't want to hire
24 enough survey people to do the number of sections.

25 And he said, pretty much right now that all they

1 had was contractors because they can't keep nobody to
2 work for them because everybody quits because they're
3 so shorthanded. And so whether that's hearsay, or the
4 truth, I don't know, but that was one of the
5 conversations I had in the mine. You know, a lot of
6 their good engineers left them. They've got a lot of
7 young engineers who seem to be hard workers but just
8 not the knowledge level that they need to be at
9 probably, you know. And the way they're staffed, they
10 had a lot of coal mines. You know, of course, I
11 probably never talked higher up than Chris Blanchard,
12 but you know, I always said this mine needs a resident
13 engineer, you know, they need somebody there
14 constantly, but that's something you don't see, you
15 know, is resident engineers at any of the mines, but
16 anyway ---.

17 Q. Okay. I just wanted to get your take while we
18 were on the subject.

19 A. You get CAD people, but not engineers yet,
20 unfortunately.

21 Q. Okay. Now, let's go back to March 9th. You
22 entered the mine with the intention with going to the
23 longwall section; okay. What was your approximate
24 travel time from Ellis Portal to the location where
25 you exited the mantrip and began walking?

1 A. Thirty-five (35), 40 minutes probably.

2 Q. Okay. So it's fair to say they knew very well
3 that you were coming?

4 A. That's fair to say, correct.

5 Q. All right. Now, you indicated that you read ---.

6 A. And that was one of the reasons Joe wanted one of
7 us at each section, you know, because if they were
8 changing the air, he wanted us there, all three of us
9 to make sure that if they knew we were coming, they
10 couldn't do anything.

11 Q. Now, did your colleagues ride the same mantrip
12 with you?

13 A. They did not. They rode separate mantrips.

14 Q. Okay. Did you enter the mine first, or did they
15 follow you?

16 A. I think we entered the mine first --- I know we
17 did. I know we did.

18 Q. Let me ask that again. Did you all enter the mine
19 at the same time, or was one group of you ahead of the
20 other?

21 A. We were ahead of them.

22 Q. Okay.

23 A. But we were supposed to --- under Joe's
24 instruction, he wanted to not just take one set of air
25 readings, he wanted them to monitor that over a two or

1 three-hour period. And so that's how we did it. I
2 don't know how many air readings they took, you know,
3 but ---.

4 Q. Okay. Well, I think you also said at the time you
5 made you made an air reading near the longwall
6 headgate, it was about 131,000 cfm; is that correct?

7 A. Correct.

8 Q. And if I understood you correctly, you said that
9 correctly that included belt air ---

10 A. Uh-huh (yes).

11 Q. --- going to the face, too?

12 A. Correct.

13 Q. Now, approximately how much of that air was coming
14 along the belt?

15 A. Yeah, I don't know, because I'll tell you what I
16 did. I took it inby the mixing point. I didn't take
17 it outby in the crosscut, took it inby the mixing
18 point.

19 Q. Okay.

20 A. But it would be, I would say probably only a
21 quarter of it was coming from the belt.

22 Q. Okay. Now, was there a ventilation plan approved
23 by MSHA in place at the time you allowed the ---?

24 A. There was. And the reason because they had
25 submitted a change because we were trying to get them,

1 but the influence of that fan would not allow that
2 change to occur, and they were down. That was
3 probably the November, December they tried to change
4 that, of 2009. And the influence of the fan back
5 there wouldn't allow that change. And so they --- we
6 permitted them to operate that bay until I forget
7 which --- they told us --- I think it was a certain
8 crosscut they said they could turn that around. They
9 felt confident, and then that's when that air was
10 reversed on the belt.

11 Q. Okay. You lost me. When was the air reversed on
12 the belt?

13 A. Not violation wise, but they were attempting to
14 reverse it ---

15 Q. Okay.

16 A. --- to get the air to go outby.

17 Q. All right. Okay.

18 A. According to a plan, and that plan --- they
19 couldn't accomplish that plan because of the influence
20 of the bleeder fan.

21 Q. Okay.

22 A. And so we permitted them to continue to operate
23 with belt air in the face until at a certain crosscut
24 they gave us, they said that the influence of that
25 bleeder fan could be overcome and get the air to come

1 outby. And I don't know when that date occurred, or
2 what crosscut, I couldn't tell you, but it did occur,
3 and they started --- at the time of the explosion, the
4 belt air was supposed to be traveling outbound, not
5 blowing.

6 Q. All right. But on the day that you were there on
7 March 9th, it was traveling inbound?

8 A. Correct. And that's the way it was supposed to
9 have been at that time.

10 Q. Okay. So assuming they corrected the situation on
11 March 9th, then it would have been traveling outby at
12 the time of the explosion; is that correct?

13 A. Assuming they corrected the situation on March
14 9th? No, March 9th, the approved plan, they was
15 supposed to have belt air in the face.

16 Q. Okay. All right.

17 A. And then after that, a new plan --- a new revision
18 was sent in and approved for belt air to go outbound.

19 Q. Okay. Afterwards?

20 A. Right.

21 Q. Okay. I got you now. Now, when you traveled in
22 the outby direction in the tailgate entry, after
23 crossing the longwall face, you found that the tail
24 regulator was closed, and stopping knocked out in the
25 vicinity of spad 24222; is that right?

1 A. I think that was 22 --- 22422.

2 Q. 22422, excuse me.

3 A. Yes. That was where the regulator was closed.

4 Q. And what was the company's reason for closing the
5 regulator?

6 A. I asked Harold Lilly, and Harold told me that it
7 wasn't that way the week before, when he made the
8 weekly examination of that. I said well, who would
9 have closed that, Harold, and he said I don't know.
10 And of course then no one else knew either, who closed
11 it. And of course, I told him I wasn't going to play
12 games. Someone knew or should have known that that
13 regulator was closed. And so I was going to issue an
14 order.

15 Q. And if I followed you correctly, the order
16 remained in place for two and a half, three days?

17 A. Correct.

18 Q. Okay. But you do not know when that regulator was
19 closed?

20 A. I think I gave you the wrong number on that
21 regulator.

22 Q. Okay.

23 A. I did, I believe. I did everybody. That
24 regulator 22422 is wrong. It was 22421. That would
25 have been the right regulator. I just realized we

1 were looking at ---.

2 Q. Okay. Where is that?

3 A. It would be this regulator, inby the overcast.

4 Q. 22421, right there?

5 A. 22421, out ---.

6 Q. Right. Right where my finger is?

7 A. Correct. I'm sorry about that.

8 Q. That's okay.

9 ATTORNEY MCATEER:

10 Could you mark that one for us?

11 A. Do you want me to circle it or ---?

12 ATTORNEY MCATEER:

13 Yeah. That'd be great.

14 BY MR. FARLEY:

15 Q. Okay. But you don't know when that regulator was
16 closed ---

17 A. I do not.

18 Q. --- prior to March 9th?

19 A. If Harold Lilly, which Harold Lilly never has lied
20 to me that I've ever called him before, and I knew
21 Harold personally. He say it was open the week
22 before, and the air was flowing right, and he don't
23 know how it was changed, or who changed it or what,
24 I'd take Harold for his word.

25 Q. Okay.

1 A. So somebody's changed it during that time. And
2 you know, to me, this regulator and all this air
3 really --- we show it as neutral air here, but
4 somewhere back here it's fed off of intake, and if you
5 drop a lot of pressure, and so to me closing that
6 really gives you a lot more fresh air up here, you
7 know, so ---. Up in headgate and Tailgate 20 --- what
8 are you calling that, 21, or 22? Twenty-two (22), I'm
9 sorry. So that'd be Headgate 22, and Tailgate 22.
10 And they had wrote low air violations up here, and in
11 the past, and that day that they didn't find any low
12 air violations, that might be a direct reason why, you
13 know, because that would be a simple item to close
14 off.

15 Q. While you were down there and when you found this
16 regulator closed and you were preparing to write your
17 order, you indicated that they requested at that
18 point, that they be allowed to reverse the air with
19 people underground; is that correct?

20 A. Yeah. They wanted to know if they could --- if
21 it'd be all right if they pulled --- you know, they'd
22 shut these sections down, pull men outby, but if they
23 can make those changes, and I said no. You know, I
24 don't know if I said this, but to me the big deal was
25 that at that time I didn't see no methane, but you

1 could pull that gob air across the tail part of that
2 longwall, and that's why to me it was such a big
3 issue, because we don't know what's back here, and you
4 know, if you pull that, and if there is methane in
5 there and you pull it across the tail of that
6 longwall. It's not a good scenario. So that's part
7 of the reason we want --- you know, have intake air on
8 it. I'm sorry, if I ---.

9 Q. That's fine. Now, you mentioned some drilled
10 holes in that same area, too --- general area where
11 the regulator was closed?

12 A. They were on this --- on the panel itself, on the
13 tailgate side of the panel itself.

14 Q. All right. And you were going to drill
15 horizontally into the ---?

16 A. Right. They were just --- they had drilled some
17 holes to shoot.

18 Q. Okay.

19 A. And I don't know when those holes were drilled,
20 you know, I don't know their intentions. They
21 wouldn't tell me their intentions, but hopefully they
22 were drilled on advance and they planned to shoot them
23 on advance, but I guess they had done some surveys,
24 and determined they didn't need to shoot them.

25 Q. Can you mark where those holes were?

1 A. They would have back --- you know, they would have
2 run the whole length, but they would have just run up
3 through here (indicating). I don't know ---.

4 Q. How far apart were they?

5 A. Eight feet, maybe.

6 Q. Okay.

7 A. I don't know.

8 Q. Do you know what depth --- to what depth they were
9 drilled?

10 A. I didn't measure those, at that time. They had
11 all them plugged.

12 Q. Probably --- approximately?

13 A. I'm trying to get a visual image there. I don't
14 know, six inches. Yeah. Maybe four inches.

15 MR. MORLEY:

16 You didn't measure them, though; right?

17 A. I didn't measure them, no. I didn't measure them.

18 MR. MORLEY:

19 Okay.

20 BY MR. FARLEY:

21 Q. Okay.

22 A. I don't know what they were. I mean, I don't know
23 how the diameter of them ---.

24 Q. I'm jumping around here a little bit. After March
25 9th, was the date you were in UBB, or were you in

1 there after March 9th?

2 A. I was. I'm sure you got my notes there. Probably
3 the 11th; is that correct?

4 Q. Okay. I didn't see the notes.

5 A. Yeah. I think I've got Keith Stone's notes here.

6 Oh, the 10th? I was there the 10th. I apologize. It
7 would have been on the evening shift of the 10th.

8 Q. Okay.

9 A. Some of these aren't my notes though.

10 MR. NEWBERRY:

11 No. They may ---.

12 A. They're Keith Stone's. Yep.

13 MR. NEWBERRY:

14 They may be mixed in here.

15 A. The K.S. is getting me, I believe. They might be
16 mixed in, I think. But yeah, the 10th. It would have
17 been March 10th.

18 BY MR. FARLEY:

19 Q. Again, I'm jumping around here, but you were
20 helping Kevin Lyall on inspection on the south side of
21 the mine?

22 A. Correct.

23 Q. Was that after March 9th or before?

24 A. Before. That'd have been the second quarter of
25 the fiscal year, maybe less.

1 Q. Okay. And you indicated you didn't like the
2 construction of the overcast?

3 A. I didn't. No.

4 Q. Okay.

5 A. As a matter of fact, I wanted to --- I was wanting
6 to write a violation for being constructed not
7 accordingly. Normal standards, but I was told I
8 needed to find low air before that, you know. But
9 they were separating the air. Now, that was the
10 question --- were they separating or --- the overcast
11 were separating the air, so then I needed to find low
12 air, and then you can ---.

13 Q. Okay. Again, I'm jumping around. You indicated
14 that the only place in the mine where you found
15 methane with more than 0.6 percent, or six tenths of a
16 percent would have been in the Eight North area?

17 A. Correct.

18 Q. Now, when were you --- that was two and a half,
19 three years ago?

20 A. Correct.

21 Q. Okay. Now, when you say you found methane in
22 Eight North, you mean the faces?

23 A. You would find it in the faces, you would find it
24 around this gas well.

25 Q. You found it around that gas well?

1 A. Uh-huh (yes).

2 Q. Okay. Now ---.

3 A. And you would find some even around what they
4 would call the Old Glory Hole.

5 Q. When you found it around that gas well, did you
6 find it in the entry, the immediate --- the entry or
7 crosscuts immediately around the gas well?

8 A. You would find it usually as you was approaching
9 it outby.

10 Q. Okay.

11 A. You'd find it not so much in the perimeter around
12 it, but usually outby it. And then, you know, it
13 would be usually outby in the entries away from it,
14 toward the Glory Hole.

15 Q. Okay. Now, did you by chance walk all the way
16 around the block, which encompasses the gas well?

17 A. I've walked around that block before, yeah.

18 Q. Okay. But that would have been two and a half,
19 three years ago?

20 A. Correct.

21 Q. Okay. Now, the map would indicate that well is
22 centered in a block, which would weigh about a hundred
23 --- which would provide about a hundred foot radius
24 all around. Based on your memory of being in the
25 area, does the map accurately reflect the block size?

1 A. It did.

2 Q. Okay.

3 A. Yeah. Based on my memory.

4 Q. Okay. Do you know of any of your people have been
5 in that area in recent times?

6 A. I wouldn't know.

7 Q. If you'd been there two and a half, three years
8 ago?

9 A. Yeah, I wouldn't know after me, but I'm sure that
10 they would have been, to make the mine in its
11 entirety.

12 Q. Okay. All right. And you indicated you found
13 some little quantity of methane around the Glory Hole.
14 Would that have been, again, two and a half, three
15 years ago?

16 A. Yeah. Correct.

17 Q. Now, on March 9th, we had the belt air issue.

18 A. No. We didn't have no belt air issue on March
19 9th. We had the tailgate issue.

20 Q. All right. But was belt air being used to
21 ventilate --- excuse me. Let me say that again.

22 Was belt air used to ventilate other sections as
23 of March 9th?

24 A. I don't think it was. I can't remember.

25 Q. Okay.

1 A. I can't remember on these two sections.

2 MR. NEWBERRY:

3 You didn't go to those two sections. So
4 you wouldn't know; right?

5 A. I didn't go to those two sections.

6 BY MR. FARLEY:

7 Q. Now, just in listening to your testimony I'm
8 getting the sense that the UBB people would submit
9 ventilation plan changes or requests for ventilation
10 plan changes frequently?

11 A. Oh, yeah.

12 Q. I mean, can you quantify that? Let's say from
13 April 5th, back to, say, September of 2009. Can you
14 put on a number on how many times they approached you
15 with a ventilation plan ---?

16 A. Like I said, I started in ventilation in December.
17 I would imagine, say, since December 30, 30 revisions,
18 probably 20-some revisions went through our
19 ventilation department.

20 Q. Twenty (20) to 30; is that ---?

21 A. Yeah. Correct.

22 Q. Okay. All right.

23 A. A very extensive file.

24 Q. Can you quantify the number of times when MSHA may
25 have cited them for implementing changes before the

1 plan was approved?

2 A. Repeat that question.

3 Q. How many times have you cited them for utilizing a
4 plan, a ventilation plan that has not yet been
5 approved for it yet?

6 A. I'd say, me personally, a couple of times. I
7 don't know about total numbers. But when I did it, it
8 would have been back when I was a regular inspector.

9 Q. Okay. Again, let's narrow this down from say last
10 September, through ---.

11 A. I wouldn't know of anything since last September.

12 Q. Okay. Because I don't know --- you know, we can
13 --- I'm trying to ---.

14 A. Right. I wouldn't know of any of my knowledge.

15 Q. Okay. But we've got ---.

16 A. If I was a betting man, though, I'd throw money on
17 it, but I don't know of any.

18 Q. It might be a good bet. But again, probably a
19 minimum of 20 change requests since last fall, around
20 September?

21 A. Correct.

22 Q. All right. Now, on March 9th, or anytime since,
23 or anytime before, I think on March 9th, you traveled
24 to the longwall face, and your colleagues traveled to
25 the other two mine sections, 22 Headgate and 22

1 Tailgate?

2 A. Correct.

3 Q. Would anybody have been in these entries
4 connecting north from the longwall face, toward 22
5 Headgate? You have one, two, three, four in here ---.

6 A. I do not know if Benny or Clyde traveled those,
7 but they would have been the ones to check the
8 connectors. I do know Clyde traveled the belt, he
9 wrote one of the belts up for accumulations of coal
10 dust, but I don't know if he traveled the connector or
11 not.

12 Q. Okay. But your eyes are better than mine, you can
13 read these two spad numbers right here in this area
14 of ---.

15 A. 24078.

16 Q. Yeah. Where this big roof fall is indicated.

17 A. Right.

18 Q. Okay. Did you ever see that roof fall?

19 A. I did not.

20 Q. Or has it been cleaned up, or what's it look like?

21 A. I never have seen it, I've never been there.

22 Q. Okay.

23 A. I wouldn't know.

24 Q. All right. You indicated that while you were at
25 UBB, after the explosion you spoke with Mike

1 Kiblinger. He asked to be included as one of those
2 that we will interview?

3 A. Correct.

4 Q. Did he say why?

5 A. He just said he had some information and that's
6 all. He didn't tell me what it contained or anything.

7 Q. Okay. Mike Kiblinger is a current UBB employee;
8 isn't he?

9 A. I believe he's still employed, I don't know if
10 he's employed at UBB now, but at that time he was.

11 Q. Okay. He was there on ---

12 A. Correct.

13 Q. --- April the 5th. And he mentioned Rick Hodge, a
14 former superintendent. Now, is Rick Hodge no longer
15 employed there?

16 A. I don't know Rick's status. He had (b)(7)(C), so I
17 don't know if he's off on extended leave, or if he's
18 quit. I don't know.

19 MR. FARLEY:

20 Okay. And we will be taking a quick
21 break here before we finish up.

22 ATTORNEY WILSON:

23 Yes.

24 MR. FARLEY:

25 Okay.

1 MR. NEWBERRY:

2 Are you okay to keep going, or do you
3 need to take a break?

4 A. I'm fine.

5 ATTORNEY WILSON:

6 Can we take a break?

7 MR. NEWBERRY:

8 All right.

9 OFF RECORD DISCUSSION

10 ATTORNEY WILSON:

11 We'll go back on. Davitt?

12 EXAMINATION

13 BY ATTORNEY MCATEER:

14 Q. Mr. Sigmon, thank you for your earlier testimony.
15 It's been quite helpful. I just have a few questions
16 to clarify in my own mind some of the issues. The
17 tailgate you were talking about, I'm talking now about
18 the --- I believe it's the 9th of March. And that's
19 when you were examining the ventilation system. First
20 you said that the longwall was down?

21 A. It had run that day, but it was down at the head,
22 and they were servicing the shooter.

23 Q. Had it run when you were physically present?

24 A. It had not run when I was physically present.

25 Q. Let me ask you another question. Mr. Gray had

1 gone with you, but he had gone to the 22 Headgate?

2 A. Correct. He went to the --- I don't know if he
3 went to the tailgate or the headgate, but he went to
4 one of those two sections.

5 Q. Is that section running?

6 A. I believe it was. I believe both of them were
7 running. I don't know. I mean ---.

8 Q. Sure. You wouldn't know?

9 A. Yeah. I was ---.

10 Q. But in fact, in the course of your time there,
11 checking the ventilation system, the longwall was not
12 operating?

13 A. No, it was not. They were getting ready to
14 operate. And we were going to get on the tail side
15 for dust reasons, and he asked if we could --- he
16 could fire them up, and I said no, because the air was
17 reversed.

18 Q. Right. Now, you talked about the air reversal,
19 and you made a very good presentation about what had
20 happened. Let me ask you to speculate, and this is
21 just speculation. I think I understood you to say
22 that the reversal or the bleeder --- I'm sorry. The
23 regulator being changed would have caused air to go
24 somewhere else?

25 A. Correct. I mean, I believe that, you know, the

1 influence of that bleeder fan and the amount of ---
2 there was probably, just guesstimating, four inches of
3 drop between these two stoppings. It didn't take very
4 much size regulator to pull a lot of air through
5 there. And I can't remember exactly where that's sped
6 from, but it's down --- it's outby.

7 Q. Right.

8 A. And off the intake that would be supplying the two
9 sections and the longwall.

10 Q. So could you speculate on why one would want to do
11 that?

12 A. Just speculating, would be to close it off to gain
13 intake air on the sections.

14 Q. Okay. But wouldn't you be robbing Peter to pay
15 Paul?

16 A. Correct.

17 Q. And you said at one point that the Lilly calls
18 Wayne Persinger to discuss that they wanted to make a
19 change. To discuss with you the proposal of change,
20 proposed change.

21 A. No. Harold Lilly called Wayne to get him involved
22 with the situation.

23 Q. I see.

24 A. And then Wayne asked if they could make that
25 change, and I told him no. Yeah, Harold didn't really

1 --- Harold's just the assistant longwall coordinator.
2 He didn't deal much of their changes. He deals with
3 more ---.

4 Q. Right.

5 A. And so he wanted Wayne there to ---.

6 Q. And what's Wayne's position?

7 A. I don't know his title. I think he's manager of
8 the mine, or vice president or ---.

9 Q. Right.

10 A. He's under Chris Blanchard, he's second in
11 command.

12 Q. And would he have dealt with ventilation before?

13 A. I'm sure he would have, yeah.

14 Q. And how did you find the request that he made to
15 you to change ventilation with people underground?

16 A. I didn't feel that it was safe, because I didn't
17 feel that he could adequately determine that it
18 wouldn't affect these sections in a greater amount.
19 Plus he was reversing the air, and I felt that it
20 could be a health and safety issue, and I didn't like
21 --- it wasn't like changing a regulator on a tail ---
22 on the return of a section, where it could be
23 controlled a little bit more, it could be controlled
24 less than 9,000. With the reversal of the air, and
25 not knowing how it would affect the other two

1 sections, I didn't feel it was safe.

2 Q. Uh-huh (yes). And what's the rule on changing air
3 with people underground?

4 A. If it affects the health and safety of miners or
5 it's greater than 9,000, then they have to be
6 withdrawn.

7 Q. Would Mr. Persinger have known that, the rule?

8 A. Well, he should have known that. Yeah.

9 Q. Okay. You were speaking with a Jack --- and I may
10 have his last name, Roles, wrong?

11 A. Roles, R-O-L-E-S.

12 Q. Okay. All right. And the longwall coordinator
13 --- and you were discussing these holes drilled, and
14 you said --- and he said you know what it is, you
15 quoted that as saying?

16 A. Yeah. I mean, I don't know if that's his exact
17 words, but it was something to that nature.

18 Q. Again, I know this is all speculation, but what
19 would that be?

20 A. Holes to load and shoot.

21 Q. Right. And why is that unusual?

22 A. It'd be unusual to me, especially with the air
23 reversal, and you have return air coming, but they had
24 had those holes drilled a long way down through there,
25 just in case they did have to do that. And of course

1 to me that'd be unusual with the --- you know, if they
2 had had return air and ---.

3 Q. But it would be a good safety practice to shoot in
4 return air?

5 A. No, it wouldn't. That's why it would be unusual.
6 But you know, of course, with the ventilation plan
7 proper, it wouldn't be return air, it would be intake
8 air.

9 Q. Right.

10 A. And I --- you know, of course, he never did tell
11 me what their intentions were. If it was when they
12 were driving, or what.

13 Q. Sure. You had spoken about --- talking about
14 driving a short panel at Ellis?

15 A. Correct.

16 Q. Uh-huh (yes). And you suggested that --- it was
17 your understanding that your supervisor, Joe ---

18 A. Mackowiak.

19 Q. --- Mackowiak, would not approve such plan?

20 A. I don't know the status on that plan, as of before
21 the explosion. It may have been approved eventually,
22 but it took quite an extensive period of time. It
23 took a couple of months, and they were there a lot,
24 every day. The reason for that plan was this longwall
25 was so short and they were having to drive a new

1 tailgate, they wanted to drive a short panel, so they
2 could keep the longwall somewhere, and --- but I don't
3 know the exact status of that plan now.

4 Q. The information that you have, what was the
5 difficulty with the short panel?

6 A. Well, they were wanting to reverse some air ---

7 Q. Right.

8 A. --- to go out toward Ellis and we just wasn't for
9 sure that was going to work because they'd had
10 problems when they initially tried to do that, and the
11 influence of the bleeder fan, and the blowing fan, we
12 weren't convinced they had enough pressure
13 differential on those entries to do that.

14 Q. Okay. And did Joe talk to you about those, or did
15 you talk to him about those?

16 A. Well, you're all in the map room, you just kind of
17 overhear things. You're kind of there.

18 Q. Sure.

19 A. And Joe says, hey, sit in just in case I need
20 anybody to remember ---.

21 Q. Sure.

22 A. You know, and those kinds of things. I don't know
23 that --- you know, they had several meetings with him
24 over a period of time.

25 Q. And you sat in on some of those?

1 A. Correct.

2 Q. And did the other folks in the ventilation
3 department discuss this with you and Joe?

4 A. Mike Haines was doing that plan at one time. I
5 know he denied it a couple of times. I don't know if
6 Clyde --- I can't remember who worked on it.

7 Q. Right.

8 A. Benny or Clyde. I don't know who's all worked on
9 that plan.

10 Q. But the group of Mike and yourself and Joe,
11 generally agreed that there were problems with this
12 particular plan?

13 A. Correct.

14 Q. Potential problems. And that you were applying
15 generally considered safe ventilation practices in
16 order to get them to modify it?

17 A. Correct.

18 Q. Okay.

19 A. Yeah. We were wanting to see some engineering
20 numbers on them.

21 Q. Right.

22 A. Not just drawing arrows to show us where air goes,
23 but to prove to us that air can go that way.

24 Q. Uh-huh (yes). In your engineering model --- and
25 you never want to compare companies, but in your

1 previous experience, and your experience now, you're
2 suggesting that the engineering came last and the
3 mining came first, in the present case of the mines
4 you inspect. Can you speak to any other company that
5 operates --- do they do that the same way, or do they
6 put the --- is it reversed?

7 A. Well, I'll be honest. When I come to work with
8 MSHA, I never been --- it was a culture shock for me.
9 I worked for Consolidation Coal Company my whole
10 career.

11 Q. Uh-huh (yes).

12 A. And everything was engineered. If you hit a
13 fault, you went through the fault, because you weren't
14 going to change the engineer --- I mean, that's just
15 the way it was. And it was so engineered that maybe
16 it was too much engineered, you know. You always had
17 a good plan, and if something went wrong, it was very
18 adaptable. And of course, I come from a very gassy
19 coal mine. Everything that I'd worked was gassy, and
20 so rock dust was to the nth degree, two to three foot
21 deep everywhere, you know, just massive amounts of
22 rock dust. And so those things to me were different
23 when I come, because you know, they passed rock dust
24 surveys, you know, and I couldn't believe everywhere
25 passes rock dust surveys that's not two to three foot

1 deep, but it's the percentage, you know. You know,
2 that was a shock to me, the depth of rock dust. And
3 for some reason I understand now that, you know, where
4 we were at, we were going way overkill, because you
5 know, we liberated around 35 million a day ---.

6 Q. When you say we, that meant what mine?

7 A. Consol's Buchanan Mine.

8 Q. Uh-huh (yes).

9 A. But engineering was at the forefront of everything
10 we did. We had resident engineers, had survey crews
11 for that particular coal mine, they kept spads up
12 continuously in every row, you know. It was just
13 different. And so here, you deal a lot with Massey
14 operated coal mines especially out of Mount Hope. And
15 out of Mount Hope you probably --- 70 percent of coal
16 mines you deal with are going to Massey. And so it
17 was a culture shock to me that they were not
18 engineered as well.

19 Q. Uh-huh (yes). Let me ask a final question. You
20 mentioned about Joe Mackowiak had asked them to do a
21 ventilation survey in order to justify the change in
22 modification that we've talked about earlier, the
23 change back at Ellis. And can you speak to the
24 quality of the ventilation survey which they produced?

25 A. I think the first couple, Joe wasn't impressed

1 with it, and I don't think they even understood how to
2 do a ventilation survey. I think they really had to
3 bring somebody in, and I don't know the status after
4 that, but I know the first couple of times, it didn't
5 work out for him.

6 ATTORNEY MCATEER:

7 Thank you, sir.

8 A. Thank you.

9 MR. MORLEY:

10 Just a quick follow-up.

11 RE-EXAMINATION

12 BY MR. MORLEY:

13 Q. You circled the regulator that was closed, and you
14 said there's a stopping out that the air was traveling
15 through. Can you circle that one as well?

16 A. It would be the stopping here at the crosscut to
17 the 20 --- what is that?

18 Q. Between entries Four and Five.

19 A. Four and Five.

20 Q. And in your notes in the pre-shift book, they
21 refer on the longwall to an MPA and an MPV. Do you
22 know where they took those readings at?

23 A. They would take MP readings on both sides, but the
24 tailgate side, that would be --- that would have been
25 in these entries, which would be --- if I remember the

1 plan correctly, Seven and Six, they would take entries
2 readings.

3 Q. These two?

4 A. No. The tailgate entry and Six.

5 Q. Okay. And at the A would be?

6 A. I believe the tailgate entry.

7 MR. MORLEY:

8 That's it for me.

9 MR. FARLEY:

10 One final thing.

11 RE-EXAMINATION

12 BY MR. FARLEY:

13 Q. I think you indicated when you took an air reading
14 on the longwall headgate intake side, March 9th, you
15 had about 131,000 CFM?

16 A. Correct.

17 Q. Now, based on my reading of the pre-shift,
18 on-shift reports later in the month of March, their
19 entries for intake air on the longwall, drop down to
20 the 50,000 to 60,000 CFM range and seem to level off.
21 Any thoughts on how ---?

22 A. Well, I would say one thing is that we took a lot
23 of air. Anytime you take belt air from the face,
24 you're going to lose air. So you're going to lose
25 some air there.

1 Q. Would it have made that much difference?

2 A. I don't know. I wouldn't think. It would
3 probably --- you'd probably lose quite a bit of air,
4 you know, that fan and in the influence that of that
5 fan that it had. And you know, to get belt air to go
6 outby, you're going to lose a lot of intake air, I
7 mean with this push/pull system

8 Q. Okay.

9 A. You know, I don't know any other reason. I'm sure
10 there are other reasons. I'm sorry. But I do
11 remember looking through books and so forth after, and
12 I think there was reports of water being --- or pumps
13 being down, and those pumps are essential to keeping
14 that bleeder opened. I don't think that would
15 restrict their intake, as why that would be low, but
16 it would be --- sure, you restrict these for sure and
17 could cause gob air to come back. It may restrict it.
18 I wouldn't imagine that being the restriction to the
19 intake, though.

20 MR. FARLEY:

21 All right. Thank you.

22 RE-EXAMINATION

23 BY ATTORNEY MCATEER:

24 Q. I just have one. You mentioned the push/pull
25 system. Have you seen the push/pull system before?

1 A. Just 'til I come to this area.

2 ATTORNEY MCATEER:

3 That's fine. Thank you.

4 A. Yeah.

5 ATTORNEY WILSON:

6 Okay. Let's go ahead and mark this map

7 with a sticker.

8 A. Mine's not marked too much.

9 ATTORNEY WILSON:

10 We're going to mark this as Exhibit

11 Sigmon One.

12 (Exhibit Sigmon One marked for

13 identification.)

14 ATTORNEY MCATEER:

15 Sigmon One.

16 ATTORNEY WILSON:

17 Put that up by the right-hand corner.

18 All right. Mr. Sigmon, on behalf of MSHA, and the

19 Office of Miners' Health, Safety and Training, again I

20 want to thank you for appearing and answering

21 questions today. Your cooperation is very important

22 to the investigation as we work to determine the cause

23 of this accident.

24 We require that you not discuss your

25 interview here today with anyone other than your

1 representative who is with you. We will be
2 interviewing additional witnesses. After questioning
3 those additional witnesses, we may call you if we have
4 any follow-up questions that we feel we need to ask
5 you. If at any time you think that you have
6 additional information that would be helpful to the
7 investigation, please contact Norman Page at the phone
8 number on the letter that was provided to you.

9 At this time, if you wish, I want to give
10 you the opportunity to make any kind of statement that
11 you would like to make, or if there are any previous
12 answers that you recall, that you would like to amend,
13 I'd like to give you that opportunity at this time.

14 A. I don't have any.

15 ATTORNEY WILSON:

16 Okay. Then again, thank you. And have a
17 nice day.

18 A. Thank you.

19

20 * * * * *

21 STATEMENT UNDER OATH CONCLUDED AT 12:12 P.M.

22 * * * * *

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Brett Steele