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**Examination Under Oath of William Campbell**

**Date:** June 1, 2010

**Case:**

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STATEMENT UNDER OATH

OF

WILLIAM CAMPBELL

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, June 1, 2010, beginning at 10:39 a.m.

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

One

Pre-Shift Route

23\*

\*exhibits not attached

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ATTORNEY BAXTER:

Let's go on the record. My name is Derek Baxter. Today is June 1st, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Tom Morley, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia, and I ask that they state their appearance for the record.

MR. TUCKER:

Bill Tucker, at the West Virginia Office of Miners' Health, Safety and Training.

MR. JARRELL:

Dan Jarrell, West Virginia Office of Miners' Health, Safety and Training.

MS. SPENCE:

Beth Spence, with the Governor's independent team.

ATTORNEY BAXTER:

There are several members of the investigation teams also present in the room today. And Tom Morley, Bill Tucker and Beth Spence will be

1           conducting the questioning today.

2 All members of the Mine Safety and Health

3 Accident Investigation Team and all members of the

4 State of West Virginia Accident Investigation Team

5 participating in the investigation of the Upper Big

6 Branch Mine explosion shall keep confidential all

7 information that's gathered from each witness who

8 voluntarily provides a statement until the witness

9 statements are officially released. MSHA and the

10 State of West Virginia shall keep this information

11 confidential so that other ongoing enforcement

12 activities are not prejudiced or jeopardized by a

13 premature release of information. This

14 confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. Your participation in this interview

18 constitutes your agreement to keep this information

19 confidential.

20 Government investigators and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine-South on

24 April 5th, 2010. The investigation is being conducted

25 by MSHA under Section 103(a) of the Federal Mine

1 Safety and Health Act and the West Virginia Office of  
2 Miners' Health, Safety and Training. We appreciate  
3 your assistance in this investigation.

4 You may have your personal attorney  
5 present during the taking of this statement, or  
6 another personal representative, if MSHA has permitted  
7 it, and may consult with your attorney or the  
8 representative at any time. Your statement is  
9 completely voluntary. You may refuse to answer any  
10 question and you may terminate your interview at any  
11 time or request a break at any time.

12 Since this is not an adversarial  
13 proceeding, formal Cross Examination will not be  
14 permitted. However, your personal legal  
15 representative may ask clarifying questions as  
16 appropriate.

17 Your identity and the content of this  
18 conversation will be made public at the conclusion of  
19 the interview process and may be included in the  
20 public report of the accident, unless you request that  
21 your identity remain confidential or your information  
22 would otherwise jeopardize a potential criminal  
23 investigation. If you request us to keep your  
24 identity confidential, we will do so to the extent  
25 permitted by law. That means that if a Judge orders

1 us to reveal your name or if another law requires us  
2 to reveal your name or if we need to reveal your name  
3 for other law enforcement purposes, we may do so.

4 We request that you refrain from  
5 discussing your statement with others who may be  
6 interviewed. Also, there may be a need to use the  
7 information you provide to us or other information we  
8 may ask you to provide in the future in other  
9 investigations into and hearings about the explosion.

10 Do you understand?

11 MR. CAMPBELL:

12 Yes, sir.

13 ATTORNEY BAXTER:

14 Okay. Have any questions?

15 MR. CAMPBELL:

16 No, sir.

17 ATTORNEY BAXTER:

18 Okay. After the investigation is  
19 complete, MSHA will issue a public report detailing  
20 the nature and causes of the fatalities in the hopes  
21 that greater awareness about the cause of accidents  
22 can reduce their occurrence in the future.

23 Information obtained through witness interviews is  
24 frequently included in these reports.

25 A court reporter will record your

1 interview. Please speak loudly and clearly. If you  
2 do not understand a question asked, please ask me to  
3 rephrase it. Please answer each question as fully as  
4 you can, including any information you've learned from  
5 someone else.

6 I would like to thank you in advance for  
7 your appearance here. We appreciate your assistance  
8 in this investigation. Your cooperation is critical  
9 in making the nation's mines safer.

10 Since we will be interviewing other  
11 individuals, we request that you not discuss your  
12 testimony with any person aside from your personal  
13 representative or counsel. After we have finished  
14 asking questions, you'll have an opportunity to make a  
15 statement and provide us with any other information  
16 you believe to be important. If at any time after the  
17 interview you recall any additional information that  
18 you believe might be useful, please contact or have  
19 your representative contact Norman Page at the  
20 telephone number or e-mail address provided to you.  
21 Would you please swear the witness in?

22 -----  
23 WILLIAM CAMPBELL, HAVING FIRST BEEN DULY SWORN,  
24 TESTIFIED AS FOLLOWS:  
25 -----

1 A. Yes, sir.

2 EXAMINATION

3 BY ATTORNEY BAXTER:

4 Q. Please state your full name and spell your last  
5 name.

6 A. William Browning Campbell, C-A-M-P-B-E-L-L, II.

7 Q. Do you have a personal legal representative here  
8 with you today?

9 A. Yes, sir.

10 ATTORNEY BAXTER:

11 And will your personal legal

12 representative please identify himself?

13 ATTORNEY LEFLER:

14 Christopher D. Lefler.

15 ATTORNEY BAXTER:

16 And can you give us your firm name and

17 address, please?

18 ATTORNEY LEFLER:

19 Lefler & Boggs, PLLC, 316 North Kanawha

20 Street, Beckley, West Virginia, 25801.

21 BY ATTORNEY BAXTER:

22 Q. Mr. Campbell, did you voluntarily choose to have

23 Mr. Lefler as your personal legal representative?

24 A. Yes, sir.

25 Q. Do you feel like you had a choice in that matter?

1 A. Yes, sir.

2 Q. And do you consent now to having Mr. Lefler be  
3 your personal representative?

4 A. Yes, sir.

5 Q. Do you understand that Massey Energy, its  
6 affiliates, officers or directors or attorneys may not  
7 represent or direct you in this matter?

8 A. Yes, sir.

9 ATTORNEY BAXTER:

10 And Mr. Lefler, are you legally  
11 representing the witness in this matter?

12 ATTORNEY LEFLER:

13 Yes.

14 ATTORNEY BAXTER:

15 Do you understand that you may not  
16 communicate with Massey Energy, its affiliates or its  
17 officers or directors or attorneys concerning the  
18 substance of this representation?

19 ATTORNEY LEFLER:

20 Yes.

21 ATTORNEY BAXTER:

22 And are you being paid by a third party  
23 to provide such representation?

24 ATTORNEY LEFLER:

25 No.

1 BY ATTORNEY BAXTER:

2 Q. Okay. And Mr. Campbell, having heard these  
3 representations, do you still want Mr. Lefler as your  
4 personal legal ---

5 A. Yes, sir.

6 Q. --- representation here?

7 ATTORNEY BAXTER:

8 Okay.

9 EXAMINATION

10 BY MR. MORLEY:

11 Q. Can you please state your address and telephone  
12 number?

13 A. My address is (b)(7)(C)

14 (b)(7)(C) . My telephone number is (b)(7)(C)

15 (b)(7) .

16 Q. Okay. And I believe you said you're appearing  
17 here voluntarily?

18 A. Yes, sir.

19 Q. How many years' mining experience do you have?

20 A. Nine or ten, give or take.

21 Q. Can you give me a brief history of your mining  
22 employment?

23 A. I worked as a contractor when I first started out,  
24 but I worked for Chris Cline for a while, worked for  
25 --- then I quit there and started to work as a

1 contractor for Mountaineer Mine Safety out there at  
2 Enron. I got laid off and started with Massey, I  
3 think in '02, late '02 or '03. I'm not for sure. I  
4 can't remember. And I've been with Massey pretty much  
5 ever since. Well, then I quit, went to Frazier Creek  
6 over in Fayette County and then come back to Massey.

7 Q. Okay. So are you a Massey employee?

8 A. I was a contractor.

9 Q. Are you a contractor now or a Massey employee?

10 A. Now. I was a contractor when the explosion  
11 happened. All the rest of the time I was a regular  
12 employee through Massey.

13 Q. Okay. Do you have any mining certifications?

14 A. Yes, sir.

15 Q. What would those be?

16 A. I have my underground black hat card. I have my  
17 assistant mine foreman's certificate. I had my EMT  
18 miner's card. It expired in December. Got a dust  
19 certification, dust sampling card, and I think that's  
20 about it.

21 Q. Okay. Are you presently employed?

22 A. I start to work today.

23 Q. And where's that?

24 A. Kanawha Eagle.

25 Q. Okay. What's your present job title?

1 A. My present job title?

2 Q. Yeah.

3 A. Don't know yet. With them, I'm not for sure.

4 Q. Okay. So before the accident, you were a  
5 contractor for --- working at Massey?

6 A. Yes, sir.

7 Q. And what was your job title then?

8 A. Belt man, fire boss.

9 Q. Okay. Have you performed any other jobs at the  
10 mine, at Upper Big Branch?

11 A. Yes, sir.

12 Q. And what was that?

13 A. During the time of --- the whole time, sir, or  
14 just here presently?

15 Q. Yeah. The whole time you were there.

16 A. I've been equipment operator on a shuttle car.  
17 I've been a bolt man. I've helped pull pillars, run  
18 MRS jacks. I've worked on the longwall. I've worked  
19 outby construction, bossed for 'em, fire bossed for  
20 'em. You name it.

21 Q. Okay. What sections did you work on?

22 A. I worked on the Headgate 20 section. I worked on  
23 Headgate 18 section. I worked on Lower Big Branch or  
24 LBB ---. That's --- and North Mains when we was  
25 driving up North Mains. And I worked on that section,

1 too, as production.

2 Q. What part of North Mains?

3 A. From 132 Break on North Mains is where I think we  
4 started it at, or 135. It won't be on this  
5 (indicating) map. It'll be on that, the big map up  
6 there, ---

7 Q. Okay.

8 A. --- right past Headgate 11. We started driving  
9 it. We turned off to the right there, or to the left  
10 and drove out through there and then drove to 45 on  
11 towards where the Glory Hole is at 127 Break.

12 Q. Did you ever work on Headgate 22, the tailgate or  
13 current longwall headgate or tailgate?

14 A. I walked the belts. I fire bossed them. Where I  
15 was a belt man, too, I'd have to do the --- I'd look  
16 at my splices on the belt, and if a splice had to be  
17 made on any of 'em, I'd make the splice. You know,  
18 I'd call and shut the belt down and get the necessary  
19 tools and manpower to make the splice.

20 Q. But other than a belt man?

21 A. No, sir.

22 Q. Okay. Did you ever work on the longwall, this  
23 longwall?

24 A. Not --- not that one, no, sir.

25 Q. Okay.

1 A. Now, I worked behind it. We was pumping water at  
2 the beginning of December back here (indicating) at  
3 --- I couldn't even tell you what break that would be.  
4 We had had air pumps set back here and we had to ---  
5 we was running 24 --- you know. We was working  
6 constantly, working on them.

7 Q. Twenty-four (24) hours a day?

8 A. There was a crew there 24 hours a day, yes, sir.

9 Q. And that was in December of last year?

10 A. Yes, sir.

11 Q. And do you have any idea on the map where you were  
12 at?

13 A. I was at --- it would've been 85 Break, starting  
14 right here (indicating) where the water --- where the  
15 water is on the map.

16 Q. Okay.

17 A. I worked back up in 75 all the way down to the  
18 return fan behind the longwall.

19 Q. How long did you do that?

20 A. About a month and a half or so. And then they  
21 asked --- they told me to start fire bossing for ---.

22 Q. How deep was the water?

23 A. It was --- just depended where you was at. Some  
24 --- some places it was almost chin level. Some places  
25 --- we always wore hip --- or chest waders. It was up

1 to your chest at least.

2 Q. Did it ever roof out?

3 A. Yes, sir. In a few spots it had roofed out.

4 Q. Did it affect the ventilation?

5 A. Yes, sir.

6 Q. How long did it take to --- by the time you left  
7 it, was it under --- was it under control? Did they  
8 ever get it under control?

9 A. It was a ongoing thing. As long as you stayed on  
10 it and had guys working on it and moving the pumps,  
11 you could --- you know, you could keep it pretty much  
12 under control. When the --- if the power went off or  
13 something like that or something happened and they  
14 lost their compressor pump on the top, you know, I  
15 don't know if they'd run out of diesel fuel or  
16 whatever, now the water would gain really quick.

17 Q. How did it affect ventilation?

18 A. How did it? You shut your whole return off with  
19 the water. Or you'd shut your return off to this side  
20 of the --- to the north side of the map.

21 Q. So was it --- was it just like in one entry or was  
22 it like shutting off all the entries?

23 A. There was places in there it'd shut off all of 'em  
24 but one. Some --- you know, back there towards the  
25 return shaft it had shut pretty much all of it.

1 Q. Did you ever see it like that?

2 A. Sir?

3 Q. Did you ever see it like that?

4 A. A few times. But, you know, like I'd see it to  
5 where you'd have, you know, a foot or two up on one  
6 entry and the rest of 'em would be filled up.

7 Q. Okay. You said that you left Massey for a while  
8 and then you came back to them as a contractor that  
9 last time?

10 A. Yes, sir.

11 Q. What was your job assignment when you came back?

12 A. To when I come back to Massey?

13 Q. Yeah.

14 A. That's when I started working on the pump crew.

15 Q. Okay. That was before you became the fire boss?

16 A. Yes, sir.

17 Q. Okay. And did you receive any training prior to  
18 being assigned to that your first day back?

19 A. The training on pumping water?

20 Q. When you came back to Massey, what kind of  
21 training do you receive?

22 A. I had to go to the eight-hour MIT training.

23 Q. Okay.

24 A. Then they took me in and took me over to the map  
25 and showed me what all was going on, where I would be

1 working at, what my escapeway would be out and, you  
2 know, just the norm for somebody starting to work at a  
3 mine.

4 Q. Okay. Do you know who did the training?

5 A. I couldn't tell you the MIT training part of it.  
6 Everett Hager took me and showed me the map and all  
7 the other stuff, filled out my --- I had the training  
8 papers and ---.

9 Q. Okay. Going back to the current time, what was  
10 the last shift you worked at Upper Big Branch?

11 A. Sunday morning, Easter morning.

12 Q. Okay. And what did you do?

13 A. We, Glen Allman and I, we --- that was my fire  
14 bossing buddy, and we had to wait. You know, we went  
15 and got all of our power centers, fire bossed them on  
16 a regular schedule, and then we had to --- we waited  
17 on the longwall and both the Tailgate 22 and the  
18 Headgate 22 sections to shut down so we could fire run  
19 the belts.

20 Q. Okay. On that Sunday morning, were they running  
21 Headgate 22 and the tailgate?

22 A. Yes, sir. They was running it up until we --- you  
23 know, until they shut down for us to, you know ---  
24 because we had to fire run the belts due to Easter.

25 Q. What time does your shift start and end?

1 A. My shift started at six o'clock in the evening and  
2 it would end at 6:00, on a regular schedule.

3 Q. End at 6:00 in the morning?

4 A. Yes, sir. We worked 12-hour shifts.

5 Q. So you started at six o'clock, 6:00 p.m.

6 Saturday ---

7 A. Saturday evening.

8 Q. --- to 6:00 a.m. Sunday?

9 A. No, sir. I wasn't there until 6:00 a.m. on  
10 Sunday. Once they --- or once they quit production,  
11 we cleared the belts up, we fire run the belts out and  
12 made sure everybody was out of the mines, and we rock  
13 dusted the --- the portals and all that. And then we  
14 filled our books out and left.

15 Q. So you started at 6:00 a.m.?

16 A. 6:00 p.m. ---

17 Q. Okay.

18 A. --- is when I started, on Saturday evening.

19 Q. Okay. And when did you end?

20 A. It was probably about 2:30, something like that,  
21 after we done all we had to do.

22 Q. 2:30 ---?

23 A. Sunday morning.

24 Q. 2:30 a.m.?

25 A. 2:30 a.m., yes, sir.

1 Q. Okay. What's a normal shift? What was a normal  
2 shift for you?

3 A. I come in at 6:00 in the evening, fire boss, start  
4 fire bossing at 8:30, 8:00, 8:30. Finish up fire  
5 bossing the mines at usually 11:00, 11:30, get the  
6 books filled out and then either work on shoveling  
7 belt, greasing our belt heads, try to take care of,  
8 you know, setting timbers, taking care of safety  
9 problems, stuff like that up until it was time for us  
10 to fire boss again our pre-shift for dayshift to come  
11 in.

12 Q. Okay. So after you did your first pre-shift, did  
13 you go out and fill out the books or ---?

14 A. Either --- usually either Glen Allman or both of  
15 us, depending on how we run our fire bossing or how  
16 we'd walk the belts, we would go out and fill the  
17 books out for evening shift, or for pre-shift for the  
18 hoot owl to ---

19 Q. Okay.

20 A. --- come underground.

21 Q. What area in the mine were you responsible to pre-  
22 shift?

23 A. It depended on which day. When there was --- we  
24 had one light day where there was three fire bosses  
25 there at the mines. Part of the time I worked with

1 Glen Allman. When I worked with Glen, I would --- I  
2 would start at Headgate 22 and I'd walk from the  
3 tailpiece out, come across the little cut-through here  
4 (indicating) in front of the longwall, then walk up on  
5 Tailgate 22, come back off, walk the longwall belt out  
6 and then make a complete circle.

7 Once I got to the longwall, I would start on Six  
8 North belt and walk back down to Seven North, where I  
9 started at their head drive. And then we would have  
10 to pre-shift the --- pre-shift for both shifts up here  
11 (indicating) on North Mains section, have to get to  
12 the Glory Hole and the electrical, all electrical  
13 boxes in between.

14 Q. Did you conduct it all on foot?

15 A. Yes, sir, every bit of it.

16 MR. MORLEY:

17 Can we have a highlighter?

18 BY MR. MORLEY:

19 Q. Could you just highlight the ---?

20 A. Areas I was?

21 Q. Yeah. This (indicating) is Headgate 22. This is  
22 the tailgate here.

23 A. You want me to draw a ---?

24 Q. Sure, draw it on the map.

25 WITNESS COMPLIES

1 MR. MORLEY:

2 There. We gave him a pink marker. Can  
3 we please mark this as exhibit Campbell One?

4 (Campbell Exhibit One marked for  
5 identification.)

6 A. Oh, this (indicating) right here. I do take that  
7 back.

8 BY MR. MORLEY:

9 Q. Okay.

10 A. We had track up in here, so we could get towards  
11 the end of the track here.

12 Q. That's what? That's track up into Eight North?

13 A. Well, there wasn't no Eight North. They took it  
14 out, but that was going up into our old North Mains'  
15 section.

16 Q. Okay. I'm just saying when you said there was  
17 track up into here, ---

18 A. Oh, yes, sir.

19 Q. --- you need to describe it. How far up here did  
20 the track go? Do you know?

21 A. It went to 1 --- I think 162 Break, if I'm not  
22 mistaken, or right around 160, 162.

23 Q. And then up here (indicating), what did you fire  
24 boss?

25 A. We had a pump setting up there in Number Four

1 entry.

2 Q. Could you highlight it? Is that where it says  
3 water on map?

4 A. Yes, sir. And then we had to walk the faces and  
5 check for methane and then come back off, and then  
6 they had a --- there was a D box set right here,  
7 that ---.

8 Q. Could you just write DB or something next to that,  
9 so we know? And next to the pump could you write  
10 pump?

11 WITNESS COMPLIES

12 A. And then there was a D box here.

13 MR. MORLEY:

14 Do the same, if you would.

15 WITNESS COMPLIES

16 ATTORNEY BAXTER:

17 He's marking a D box by the Glory Hole.

18 BY MR. MORLEY:

19 Q. Your route of travel. Did you travel out the  
20 longwall beltline?

21 A. Yes, sir.

22 Q. Okay. I think you marked that ---.

23 A. Oh.

24 ATTORNEY BAXTER:

25 For the record, he marked the track.

1 He's going to remark the beltline and we'll just  
2 scribble out the line through the track entry.

3 BY MR. MORLEY:

4 Q. So there's two pre --- pre-shift examiners for  
5 each shift, generally?

6 A. Yes, sir, except on --- it would have been  
7 Tuesday.

8 Q. Okay. Was there any water along any of these  
9 places you had to pre-shift?

10 A. No, sir. No. You know, just a little bit from  
11 the belt heads, but there wasn't nothing major.

12 Q. And electrical installations, other than these DB  
13 boxes, what other electrical installations did you  
14 guys have to pre-shift?

15 A. The belt head boxes, splitter boxes on the belt  
16 heads and --- oh, I forgot there was a pump here  
17 (indicating), too, that we had to get. Let's see.  
18 120 ---.

19 Q. The pump up by the Glory Hole?

20 A. Yes, sir, by the Glory Hole. There was a splitter  
21 box. I think it was at 120, maybe 122 Break, we had a  
22 power box for the --- that set right along the track,  
23 I believe, if I'm not mistaken. And just the boxes at  
24 the belt heads.

25 Q. Were any of these installations enclosed?

1 A. No, sir.

2 Q. Okay. And what was your procedure on pre-shifting  
3 electrical installation?

4 A. I'd take a methane check. I'd go around and make  
5 sure that the ground straps was on all the cat heads,  
6 that they was properly installed. And, you know, if  
7 they needed rock dusted I'd make a note and then  
8 during my shifts, between my pre-shift for my --- for  
9 the hoot owl to come in and my pre-shift for the  
10 dayshift to come in, I would throw rock dust down,  
11 dust the belt head, whatever needed to be done.

12 Q. Okay. What kind of methane detector did you have?

13 A. A Solaris.

14 Q. And did you take that home to keep it charged or  
15 did you turn it in or ---?

16 A. Kept it at the house.

17 Q. And how'd that get calibrated?

18 A. On the Birchton side or Ellis Eagle Portal, we had  
19 a bump test or --- and a regular calibration test that  
20 we'd run daily.

21 Q. And you'd run it yourself?

22 A. Yes, sir.

23 Q. And was there a record kept of that or ---?

24 A. Yes, sir.

25 Q. There was a book you filled out?

1 A. Yes, sir. It was a paper I filled out.

2 Q. And that was over at Ellis Portal?

3 A. Yes, sir.

4 Q. Okay.

5 A. The bump test, it would just roll up on to like a  
6 receipt. And my every 30-day test, I would write it  
7 in the book.

8 Q. Okay. So the bump test was kind of like an  
9 automated system?

10 A. Yes, sir.

11 Q. Were there any high spots along the belt you had  
12 to examine?

13 A. There was one on Six North, and it would have  
14 been, I guess, at 97 Break. And there was one on the  
15 track at like 100 and --- it was pretty close to the  
16 Glory Hole in the main line, and we would have to  
17 check it.

18 Q. And how'd you check it?

19 A. With a Pro rod.

20 Q. Do you bring it with you or did they have them  
21 there?

22 A. No, sir, they had 'em --- they had 'em laying on  
23 the cribs there.

24 Q. Stationed right there?

25 A. Yes, sir.

1 Q. Okay. Now, did you just do the fire boss on the  
2 belts or did you fire boss other areas for your normal  
3 day, like the track or anything?

4 A. The track, when the guy --- he would drop me off.  
5 When Glen or John Skaggs would drop me off down here  
6 (indicating), ---

7 Q. Okay.

8 A. --- they would do the --- they would do the fire  
9 bossing here ---

10 Q. So the other fire boss ---

11 A. --- on the track.

12 Q. --- would do the track?

13 A. Right.

14 Q. Okay.

15 A. And then when John Skaggs was my partner, ---

16 Q. Uh-huh (yes).

17 A. --- he would fire boss what I fire bossed, and  
18 then I would fire boss the main line out or the main  
19 track and everything, or the main --- the main  
20 beltline going outside to the Ellis Portal.

21 Q. Okay. Did you have to check any refuge  
22 alternatives when you did pre-shift?

23 A. No. Yeah. We checked the outby refuge. Is that  
24 what you're asking or the ones that's on the section?

25 Q. Either.

1 A. Yes, sir. I would check the one ---. It was down  
2 here at --- it was going towards the tailgate side of  
3 the longwall panel. It was at Eight Break. We would  
4 check it.

5 Q. Okay.

6 A. We would check the one at --- I think it was at  
7 Five Break on North Mains --- or Five or Six Break on  
8 North Mains. And then we would check the one at 84  
9 Break on Six North belt.

10 Q. Okay. And what did you do when you checked those?  
11 Did anybody ever give you any training on what to  
12 check?

13 A. You'd go around, you'd make sure that all your  
14 tags are still on your green box that holds your  
15 scrubber and stuff for your CO. Then you take a  
16 methane test and make sure that your oxygen and  
17 everything's good, check the phone and data up in  
18 there and come out.

19 Q. Okay. Did you ever find any hazardous conditions  
20 during your pre-shift?

21 A. During my pre-shift?

22 Q. Yeah.

23 A. No, sir, not ---. Well, I mean you know, just the  
24 typical timber or something needs to be set or a rib  
25 roll, ---

1 Q. Okay.

2 A. --- stuff like that. Yes, sir, I have.

3 Q. And what was your procedure when you found  
4 something?

5 A. I would write it down, come out and I'd call the  
6 hoot owl shift foreman and tell him about it if I  
7 couldn't fix it myself, and he would get the necessary  
8 guys and the stuff to fix it.

9 Q. Did you ever detect methane in the areas that you  
10 pre-shifted?

11 A. The highest I've ever got anywhere in that mines  
12 besides this set of seals here, Set 15 seals, ---

13 Q. Okay.

14 A. --- was .02 and .2 was the highest. .02 was ---  
15 that run --- up there in the faces of Headgate 22,  
16 normal.

17 Q. It was .2?

18 A. .02. .2's the highest I've found since I'd been  
19 back in that mines.

20 Q. So you never --- did you ever detect any  
21 accumulations of methane?

22 A. No, sir.

23 Q. What was up with Seal 15? You said that ---.

24 A. That set of seals? When I was fire bossing on  
25 dayshift, they had a guy that checked all the seals

1 throughout the whole mines.

2 Q. Okay.

3 A. And sometimes he'd be running a little late or  
4 something, and when I would come up through here,  
5 waiting on my ride --- because I'd usually stop here  
6 at 78 Break ---. That's where the phone and ---

7 Q. Okay.

8 A. --- the track and stuff was. I'd stop there and  
9 wait on my ride to pick me up, and he would ask me to  
10 come over here and check these seals.

11 Q. Okay.

12 A. The highest I'd ever got over there was like right  
13 at one percent or something.

14 Q. And that was in front of the --- right in front of  
15 the seal?

16 A. That's what I'd use the --- yeah, pretty much.

17 Q. And was that the sampling out of the seal or was  
18 that ---?

19 A. Yeah, you could take it and open, crack the seal  
20 and hold your detector up there and that's what it  
21 would show up.

22 Q. Okay. Did you use a pump or anything or just ---

23 A. No, just ---.

24 Q. --- open the valve ---?

25 A. I was just --- I was checking pretty much the

1 integrity of 'em, ---

2 Q. Okay.

3 A. --- where they had to be pre-shifted daily.

4 That's the only one I ever checked. And I'd check for  
5 ingassing or outgassing.

6 Q. You said you did pre-shift, two pre-shift exams.

7 What times did you start your pre-shift exams?

8 A. My first one was at eight o'clock, from 8:00 to  
9 11:00. And then my next one I would start at 3:00 and  
10 end at 6:00, or roughly thereabouts.

11 Q. What were the general conditions of the mine in  
12 the areas that you examined?

13 A. Other than general housekeeping, it was --- I  
14 mean, it was a pretty nice mines. It was one of the  
15 nicer ones I've been in. But general housekeeping,  
16 just really, I mean, it lacked a lot.

17 Q. It lacked a lot of what?

18 A. It lacked a lot of general housekeeping. Rails,  
19 track rails laying on the side of the track, your crib  
20 blocks throwed out everywhere. Just general  
21 housekeeping sucked.

22 Q. What about accumulations of coal or coal dust?

23 A. We had gotten written up a few times on that  
24 because they had fired the guy. They caught him  
25 sleeping, our dust man, the guy that run the duster.

1 Q. Uh-huh (yes).

2 A. They caught him asleep and they had to fire him,  
3 so there was a time there, I don't know, it wasn't  
4 very long that we had --- things had gotten kind of  
5 black around there, but it ---. All of us had pitched  
6 in and had started, you know, trying to take care of  
7 things and stuff like that. But the belt on Headgate  
8 22, it was isolated and you really couldn't get to it  
9 except with, like, a --- or like, a bander duster, or  
10 not a --- I guess that's what it's called, a bander  
11 duster.

12 Q. What's that?

13 A. Like --- it looks like a thing you spray gunite  
14 with, but it's got a auger in it you could put dust in  
15 and carry around on a scoop bucket.

16 Q. Okay. Can you drive a scoop down that beltline  
17 or ---?

18 A. No, sir. You'd have to --- your beltline was  
19 isolated ---

20 Q. Okay.

21 A. --- because they had their intake coming up the  
22 track entry, so you could pull in at the man doors and  
23 take that. They just had got it and take it and  
24 spray the beltline with it, up through there. And  
25 that was something that was written up constantly,

1 that and just general housekeeping up through there,  
2 you know, just rib rolls and trash and everything  
3 laying up through the walkway up through areas. It  
4 was mountain climbing, trying to get to the end of it.

5 Q. The problem with the guy on the rock dust crew,  
6 about what time frame did that occur at?

7 A. That he rock dusted?

8 Q. That he ended up getting fired. Are we talking  
9 like a year ago or a ---?

10 A. No, it was January, something like that, of this  
11 past year or something. I'm not totally for sure.

12 Q. When you did your exams, did you carry out or call  
13 out all your results?

14 A. Either. Like I said, it would just depend where  
15 I --- which way I walked this, of which --- where I  
16 was at. If I was --- if I was further on down on  
17 North Mains towards Headgate 22 when I finished, I  
18 would call my report out. Now, if I was up here  
19 (indicating) towards --- towards the Mother Drive or  
20 up towards 78 Break, I could catch a ride out to do  
21 --- do my work ---

22 Q. Okay.

23 A. --- you know, to fill my books out.

24 Q. And what time did you have to have that done by?

25 A. 11:00.

1 Q. And what time did you usually call or call out  
2 or ---?

3 A. Anywhere between 10, or 15 'til 11:00 to 10:30.

4 Q. Did the other shift ever come in before  
5 everybody's report was filled out?

6 A. Yes, sir, they have.

7 Q. Did that happen often or ---?

8 A. No, sir, it hadn't happened often. You know, some  
9 --- you know, there's been a few things that's  
10 occurred and they've wrote ---. You know, I don't  
11 know what all goes on, on the hoot owl, you know.

12 Q. Yeah.

13 A. I got my own thing, but they've --- you know, I've  
14 seen 'em come in before the report's been called out.  
15 And I even went to the mine foreman and told him and  
16 told him that it better come to a stop, a halt or I  
17 was going to call somebody.

18 Q. And about how long ago was that?

19 A. That happened about January, February, also.

20 Q. And who was the mine foreman then?

21 A. Terry Moore was the mine foreman on our side.

22 Q. What's the ---?

23 A. Or Terry --- is it Terry Moore? Because I get the  
24 inspector mixed up --- the other Moore mixed up with  
25 him.

1 Q. Okay.

2 A. But either --- it was a black fellow.

3 Q. So what's the schedule for the eight-hour pre-  
4 shift intervals? It's 11 o'clock?

5 A. Of mine?

6 Q. No. I mean, do you know what the mine has set up  
7 for --- because they --- because the shifts are kind  
8 of odd. Do they have a schedule set for pre-shift?

9 A. The dayshift pre-shift starting at 12:00.

10 Q. Okay. 12:00 to ---?

11 A. 3:00.

12 Q. Had to be done by 3:00?

13 A. Yeah.

14 Q. Okay.

15 A. Then the evening shift's pre-shift had started at  
16 8:00 to 11:00.

17 Q. Okay.

18 A. The hoot owl's pre-shift started from 3:00 to  
19 6:00.

20 Q. Okay. Besides the housekeeping, what do --- what  
21 condition do you think the rock dust was in recently?

22 A. It was fair. I mean, it was really looking up, a  
23 whole lot better than it was when I started there in  
24 December. We had started getting a lot --- you know,  
25 it just started picking up. I thought it looked real

1 good.

2 Q. You think it still needed more dust?

3 A. Anything needs more dust. I mean, it ---.

4 Q. Well, I understand.

5 A. You can't get enough.

6 Q. Did you see any areas that had black float coal  
7 dust on 'em in the track entry, belt entries, drives  
8 or electric stations, anywhere?

9 A. I'm trying to think. The one that really needed  
10 the dust, and it was really so wet, would've been  
11 Ellis Five, that I really saw. I mean, I walk these,  
12 --- I walk these every day. And this one could've ---  
13 Headgate 22 could've needed a little additional  
14 dusting. But all in all, the belts was --- they was  
15 in real good condition.

16 Q. That last Sunday morning when you were up around  
17 Headgate 22, how'd the dust look that time? Do you  
18 know?

19 A. I didn't walk it. I can't remember who the boss  
20 was up there because they had two different crews for  
21 the evening. He fire run his own belt. The headgate  
22 --- the guy ---. See, who was it? I can't remember  
23 who he was either, but he run his own belt out and  
24 Brian Collins walked his own belt out. So really all  
25 I did --- all I done was I got from the Seven North

1 tail to Five North tail. And then Glen Allman got  
2 from Five North Tail to outside. And it was Brandon,  
3 Brandon --- I can't remember his last name. That's  
4 bad. He was the boss up there on ---.

5 Q. I'm sure it's in the book. When was the last time  
6 that you did actually fire boss that?

7 A. That would've been Saturday.

8 Q. And all --- you did all these Saturday?

9 A. Or Saturday morning, Friday evening.

10 ATTORNEY BAXTER:

11 You're asking about Headgate 22?

12 MR. MORLEY:

13 Headgate 22.

14 BY MR. MORLEY:

15 Q. And did you also --- in what shape was it in then?

16 A. It could've needed a little additional dusting,  
17 but they had been wroten up and shut down, so they had  
18 worked on that. They had all three crews and they  
19 started and cleaned the walkway up and was dusting it.

20 Q. And did you also see the tailgate on that shift?

21 Did you see these other belts on that shift?

22 A. Yes, sir.

23 Q. The tailgate. And what condition were they in?

24 A. The tailgate just had started out. It wasn't that  
25 far up in there. Now, this (indicating) crossover

1 belt right here, they had been trying to work on it  
2 since they'd got that duster in, the one that ---

3 Q. Was it the one between the headgate ---?

4 A. --- rode with the scoop.

5 Q. Headgate and tailgate?

6 A. Yes, sir.

7 Q. Okay.

8 A. They had been trying to work on that one and the  
9 headgate. This wasn't up in --- the tailgate section  
10 wasn't up in there but about four or five breaks.  
11 Their beltline wasn't.

12 Q. What was the condition of that crossover belt?

13 A. It needed some additional dusting on it. It  
14 wasn't too awful bad, but I start writing it up in the  
15 book as soon as it starts turning just a little  
16 grey, ---

17 Q. Okay.

18 A. --- for them to, you know, to be able to get to  
19 the dusting on it, or, you know, know that it needs to  
20 get dusted on.

21 Q. And what about the headgate belt?

22 A. The headgate belt, it stayed pretty white, except  
23 just right around the Mother Drive here ---

24 Q. Uh-huh (yes).

25 A. --- and back past the storage unit. You really

1       couldn't get to it with nothing, so you had to hand  
2       dust it. You couldn't --- you know, it wasn't to a  
3       good as grade as using a machine duster.

4       Q. While we're talking about the headgate belt, what  
5       direction was the air going on the headgate belt?

6       A. Which day?

7       Q. Did it change?

8       A. Yeah. When we --- when they got the water pump  
9       down back here (indicating), like I said, behind the  
10      longwall, it was going a different, kind of different  
11      direction than it was after they got it pumped down.

12     Q. Do you know what direction it was supposed to be  
13     going on that Saturday?

14     A. It's supposed to be going outby.

15     Q. Was it going outby?

16     A. Yes, sir, it was. On Saturday when I walked it,  
17     it was.

18     Q. Had it been going, you know --- do you know when  
19     they changed it?

20     A. I couldn't give you an exact date. I remember  
21     when all of it went on. I was ---. Let's see ---.

22     Q. Well, what went on?

23     A. They had to do a air change because, see, I don't  
24     know who called it up, but somebody tried to get  
25     everything to --- they was trying to get three intakes

1 running down the track on every section we had. And  
2 it just --- it didn't work all that well, if you  
3 know ---. I mean, they had good air, longwall and ---  
4 longwall had real good air, but it just --- it wasn't  
5 going the way they wanted it to go, so they had  
6 to ---. I know that they brung in some expert from  
7 MSHA and their --- Massey's expert come in and worked  
8 around it to get stuff situated back the way it was  
9 supposed to go.

10 Q. Do you know who those people were?

11 A. No, sir, I don't.

12 Q. So before this change, the belt air on the  
13 longwall went which way?

14 A. It went inby.

15 Q. And then after the change, it went ---?

16 A. Outby.

17 Q. And did it keep going outby, ---

18 A. Yes.

19 Q. --- every --- every shift you were there?

20 A. They had to --- they had to double check it. You  
21 know, usually you just put your checks across your  
22 last open break where you're trying to push air across  
23 the longwall. They checked it there and then they  
24 come up the beltline and had two portable checks, you  
25 know, that they put up with timbers and curtain that

1 they had moved up when they advanced with the wall, or  
2 you know, advanced with the section.

3 Q. And those checks were across which entries?

4 A. It would've been across the belt entry.

5 Q. Okay. Overtop of the belt?

6 A. Yes, sir. It was from rib to rib overtop of the  
7 belt and everything. Yes, sir.

8 Q. And about how far outby the stage loader were  
9 those checks?

10 A. The first one, it had to be probably, maybe four  
11 breaks, and then the next one was --- or maybe three  
12 breaks, and then the next one was about two breaks  
13 from it. But your beltline, it was isolated because,  
14 you know, your intake for the longwall come up your  
15 track entry, and the track entry was right beside the  
16 --- right beside your beltline.

17 Q. The air that was going out the belt, where did it  
18 go to? Do you know? Where'd they dump it at?

19 A. It just went --- it went straight out the belt and  
20 then mixed with the rest of your air here (indicating)  
21 on your --- you know, on your track and on your  
22 longwall here, or on your --- the rest of your  
23 beltlines. And to me, the way I felt that it come  
24 down was it come right back up to 78 and it was shoved  
25 right back down to the --- to the return.

1 Q. So the air, the air went all the way out Headgate  
2 One North all the way out to ---?

3 A. Six North belt that way.

4 Q. Six North belt?

5 A. Yeah, it come out that way. Yes, sir, because  
6 that's where it dumped at.

7 Q. And then Six North belt was --- the air was  
8 traveling outby?

9 A. Yes, sir.

10 Q. And then it dumped down at 78?

11 A. That was where one of your biggest airflows was,  
12 was right at 78. And it was like everything just  
13 totally collided right there. And then it sucked on  
14 back through. They had a set of regulator doors, I  
15 guess around 32 Break or something, 34 Break here on  
16 the tailgate. And they had those set of doors and it  
17 would pull on down to your return.

18 Q. If you know, could you --- after the change, could  
19 you put arrows on these beltlines that show us which  
20 way the air was going, ---

21 A. Oh, yeah. Yes, sir.

22 Q. --- to the best of your knowledge?

23 ATTORNEY BAXTER:

24 You're going to use a green marker this  
25 time.

1 BY MR. MORLEY:

2 Q. You can make big arrows. We're not going to use  
3 the map for anything else.

4 A. Now, this air, they had had a problem on the  
5 tailgate side, and it was coming inby also.

6 Q. This would be the tailgate section?

7 A. Yes, sir. That's the tailgate section.

8 Q. Okay.

9 A. They had had a problem here (indicating). And  
10 really I don't know what all they done there.

11 Q. Okay.

12 A. But it was coming outby and then it was coming  
13 back here behind the longwall, the way it felt. This  
14 one here, the crossover belt, didn't hardly have a  
15 lick of air on it.

16 Q. Okay. You couldn't tell which way it was going?

17 A. No, sir.

18 Q. Okay.

19 A. You had to --- you could throw dust up in there.  
20 And this belt here, ---

21 Q. Yes?

22 A. --- there was nothing on it either.

23 Q. Almost no airflow?

24 A. Almost no airflow.

25 Q. And that's the Headgate 22?

1 A. That's the Headgate 22 Section.

2 Q. So you couldn't even determine the direction?

3 A. No.

4 Q. What about on Seven North belt there?

5 A. Seven North, it come outby.

6 Q. Can you just mark that up, if you would? And then

7 Six North?

8 A. And Six North, it come outby.

9 Q. And then Six North, outby the headgate?

10 A. It come outby.

11 Q. Okay. What about Five North?

12 A. It done about the --- from right here

13 (indicating), this air just circulated here. This  
14 come inby.

15 Q. Okay. Where is that?

16 A. The belt on Five North come inby, and it just kind  
17 of circulated right here. That's why I said ---  
18 because these doors ---

19 Q. It comes in the tailgate?

20 A. --- here was so hard to open.

21 Q. Could you mark those doors on the tailgate?

22 WITNESS COMPLIES

23 A. Well, you had a set of doors here. And then they  
24 had a regulator here.

25 BY MR. MORLEY:

1 Q. That's the Tailgate Number Three entry at  
2 approximately Crosscut Ten?

3 A. Yes, sir.

4 Q. Okay.

5 A. And then they left these doors partially open.  
6 They had two sets. They left them open and made a  
7 regulator to try to suck all this air this way, back  
8 down into the return.

9 Q. And those are the doors in the --- that would be  
10 the old track entry of the tailgate at Crosscut 33?

11 A. Yes, sir.

12 Q. Okay. Did they have a regulator or did they just  
13 block open the doors?

14 A. They just left the doors open, one side, one ---  
15 one door apiece. You know how you got your double  
16 doors?

17 Q. That's a pretty bit opening.

18 A. Yes, sir. It'd suck you through there, because  
19 there was --- back down here --- see, it had to be  
20 about five breaks from the doors --- there was a KVA  
21 box that set in the entry here somewhere. And I just  
22 put a KVA there. It set right there, and you had to  
23 go pre-shift it, also, when --- when the headgate  
24 section --- or they was driving this here right in  
25 front of the longwall.

1 Q. And when was the last time you saw this, the KVA  
2 box?

3 A. They took the KVA out when we pulled this --- when  
4 they pulled this section out to move inby here driving  
5 the tailgate. And I'd say that would have probably  
6 been January, February. February, because it took 'em  
7 a month to move.

8 Q. When was the last time you saw those doors down  
9 there by Crosscut 33?

10 A. When they shut the power off. When they pulled  
11 all this out here, pulled the KVA out, they shut the  
12 power off down that way, down to the Old Two section.

13 Q. Okay. So you haven't been down in that area for a  
14 while?

15 A. No, sir.

16 Q. But the belt air was still going outby on Six  
17 North and dumping in some --- it's going out the  
18 tailgate somehow?

19 A. Yes, sir.

20 Q. Okay. Did you have date boards at each place that  
21 your supposed to pre-shift?

22 A. Yes, sir.

23 Q. Did anyone ever tell you not to put a hazardous  
24 condition on the book?

25 A. No, sir.

1 Q. Did you talk about hazardous conditions you found  
2 with any supervisors?

3 A. Yes, sir. If I couldn't get it fixed, I'd go  
4 straight to the top. I'd go --- you know, I'd go to  
5 Everett and the mine foreman. And then when Wayne  
6 Persinger took over, you know, he was more active in  
7 the whole, you know, getting everything done. And  
8 then if I thought something was important enough, I  
9 would go to him and tell him about it.

10 Q. I don't think I asked you, being a contractor, who  
11 was your supervisor?

12 A. Everett Hager.

13 Q. And he was ---?

14 A. The superintendent of the Ellis Portal side.

15 Q. Okay. And when did you --- you originally started  
16 out as --- helping with the pumping. When did you  
17 become a fire boss?

18 A. It had to be right --- the week of Christmas,  
19 something like that.

20 Q. Of ---?

21 A. Of 2009, the week before, the week of Christmas,  
22 something like that.

23 Q. Okay.

24 A. That was when I started fire bossing this last  
25 time.

1 Q. Did you check the previous shift's results in the  
2 fire boss books before you started?

3 A. Yes, sir. I always countersigned every book that  
4 I'm going to have to record in.

5 Q. And then did you often record the same hazards  
6 that they found?

7 A. Sometimes. Sometimes it was. Sometimes I'd find  
8 something different and I'd add it into the book.

9 Q. Okay. But it seemed like a lot of the same ---  
10 same hazards like needs dusting and stuff, were  
11 carried from one shift to the other. Why was that, do  
12 you know?

13 A. You couldn't get a lot of people --- like the  
14 other fire bosses and stuff, you couldn't get them to  
15 actually work with you. And the mines was so big  
16 that, you know, they only have one dust crew. You  
17 can't, you know, cover everything in a day or in a  
18 week.

19 Q. Well, who is responsible for correcting the  
20 hazards?

21 A. Everybody was. Anybody that sees a hazard needs  
22 to be responsible enough to do it.

23 Q. But when you go out and you fill out the book, was  
24 there --- I guess my question is, who was responsible  
25 for assigning somebody to correct that hazard?

1 A. That would've been your mine foreman, your  
2 superintendent to get the outby crew to do --- you  
3 know, to tell 'em what to do.

4 Q. How long did it take to get something corrected?

5 A. Sometimes it'd take just a day or two.

6 Q. Okay.

7 A. Sometimes it'd take more than that.

8 Q. It seems like the rock dusting was continually an  
9 issue. How many men were assigned to rock dust?

10 A. Would have been two.

11 Q. And for the --- two on the shift or just two,  
12 period?

13 A. Two on the hoot owl.

14 Q. Okay. Do you think that was an adequate number to  
15 keep up with the rock dusting?

16 A. Yes, sir. I think there was --- yes, sir.

17 Q. Did they do any dusting on your shift?

18 A. No, sir. Well, they dusted on my shift because I  
19 was on the hoot owl.

20 Q. Yeah.

21 A. You know? I've worked both. Yeah, they dusted on  
22 the hoot owl. And then they got a new dust guy and if  
23 his dust buddy wasn't there, if the guy that wasn't  
24 there that done --- that helped him with the dusting,  
25 he would take off in the mantrip and he would go dust

1 something. I mean, he was dedicated.

2 Q. This rock dust crew, how --- what did they use to  
3 dust ---?

4 A. A pod duster. They held six ton of dust on a  
5 track and they haul it behind a motor.

6 Q. Okay. Like for this crossbelt and stuff, how did  
7 they dust? How did they dust it?

8 A. You couldn't.

9 Q. Was there any track done in here?

10 A. No. There was at one time. When the Headgate 22  
11 section was driving straight ahead towards ---

12 Q. Okay.

13 A. --- North Mains, when they pulled back they pulled  
14 all the track out of here (indicating).

15 Q. So the tailgate had no track?

16 A. Well, they had track down two breaks past the fall  
17 here on the track ---.

18 Q. On the ---?

19 A. They had about --- they had track down to about  
20 two breaks, because it took 'em a while to clean it  
21 up.

22 Q. Could you just mark end of track, so we know?

23 A. I'd say the end of the track would probably have  
24 been about right here (indicating).

25 WITNESS COMPLIES

1 BY MR. MORLEY:

2 Q. And then the end of the track in the headgate, do  
3 you know where that --- approximately where that was  
4 at?

5 A. Let's see.

6 ATTORNEY BAXTER:

7 There's no crosscut numbers on that. I  
8 don't see.

9 A. Yeah, that's what I was trying to look for. I  
10 would say ---.

11 ATTORNEY BAXTER:

12 Where'd they start it? They start  
13 numbering from back here (indicating)?

14 A. You know, I'm not for sure.

15 BY MR. MORLEY:

16 Q. That's about Number 20 there.

17 A. I'd say it was probably around 18 or so, ---

18 Q. Okay.

19 A. --- end of track.

20 Q. That's just an approximate. My question is, how  
21 do they rock dust past the end of the track?

22 A. That's where they got that little bander duster  
23 and they started dusting it then, with it.

24 Q. And it was ran off the scoop?

25 A. Yeah, it run off the PTO --- hydraulics on scoop.

1 Q. And do you know when they got that?

2 A. It was at --- I couldn't tell you the exact date,  
3 but when they shut --- when MSHA come in and shut this  
4 belt down, ---

5 Q. Okay.

6 A. --- the Headgate 22 belt, they --- it appeared  
7 somewhere.

8 Q. Are we saying, like, March or February or ---?

9 A. It had to be probably the first of March,  
10 something like that.

11 Q. Okay.

12 A. Somewhere --- the very end of April.

13 Q. Did you feel like you had enough time to do your  
14 pre-shifts and to cover the ground that you were  
15 assigned to cover in the three hours?

16 A. No ---. I guess, yes. I mean, yes, sir, I do.

17 But then again, all it took was for one little foul-  
18 up, one gobbed-out tailpiece and it put me behind  
19 schedule, you know? And then I would have to radio my  
20 buddy to help me out.

21 Q. Because you're expected to correct it?

22 A. Yeah, you can't --- you can't leave a, you know, a  
23 gobbed-out tailpiece running, you know? You're going  
24 to have to try to get it cleaned up to where it's not  
25 touching the belt and then come back and clean it up

1 after your fire boss --- you know, after your pre-  
2 shift.

3 Q. Did any of the upper management ever travel with  
4 any of the pre-shifters to make sure that they had  
5 enough time to do the exam?

6 A. Not that I know of.

7 Q. Okay. Do you feel you know all the regulations  
8 required to conduct a proper pre-shift?

9 A. Yes, sir.

10 Q. The operator ever give you any training  
11 specifically?

12 A. On pre-shifting?

13 Q. Yeah.

14 A. No, sir.

15 Q. Okay. I'd like to ask you about the roof, rib and  
16 bottom conditions. Was there ever any floor heaving,  
17 pillars falling, any --- any, you know, ground-control  
18 issues at this mine?

19 A. Yes, sir. There's been quite a few through the  
20 --- through the years, starting back, I know, from  
21 Headgate 17.

22 Q. Okay. What was the issue?

23 A. Bottom hooving. We had a --- we had a bleeder.  
24 We had a bleeder of methane, in --- it had to be at  
25 probably '05 or early '06. No, it had to be '05.

1 Q. What happened there?

2 A. The longwall was cutting on Headgate 18 and we'd  
3 had some issues with water behind the wall. But the  
4 --- excuse me, the bottom hooved up and methane  
5 started coming out of there, gassed everything off.  
6 And they had to close the mines for probably about ---  
7 I guess right at two weeks or so, maybe a little  
8 longer, until they could ventilate it, flush it out.

9 Q. Did you ever hear of anything like that happening  
10 up in the active sections of the mine?

11 A. No, sir. I know that right up at --- right up  
12 here at the very ---. They was running six --- six-  
13 inch water line, hard line, through here and they was  
14 dumping water because ---.

15 Q. The tailgate section?

16 A. No, on the headgate section. Oh, it was over  
17 here, because they was running water and it was --- it  
18 kept coming out of the bottom. It kept making water.

19 Q. Out of the bottom?

20 A. Yeah. And they had a --- they had a pump. They  
21 moved up every time they moved belt and had it  
22 constantly running. And it was dumping into the Glory  
23 Hole back here at this pump at the Glory Hole.

24 Q. Was the bottom heaving or anything or just ---?

25 A. No, there was a --- you had a little heaving on

1 the headgate section here ---

2 Q. Uh-huh (yes).

3 A. --- in the track entry. I mean, there was hooving  
4 everywhere in that mines. All you had to do was just  
5 look.

6 Q. Was there any methane associated with any of this  
7 heaving going on?

8 A. Not really. There was a few places that you could  
9 hear, you know, hissing out of the ribs and stuff like  
10 that, but all in all, I mean, like I said before,  
11 there wasn't --- you didn't catch much methane on your  
12 monitor.

13 Q. Yeah. And this active area up here, do you know  
14 of any unusual methane liberations?

15 A. No.

16 Q. Okay.

17 A. Not that I've heard of at all, or not that I've  
18 seen.

19 Q. This mine uses airlock doors instead of overcasts  
20 down here across the --- across the intake. Does that  
21 concern you?

22 A. Yes, it does.

23 Q. And why is that?

24 A. Because you're constantly interrupting your main  
25 intake from --- you know, you're supposed to have a

1 --- you know, in --- uninterrupted air supply. When  
2 you open those doors, I don't care how good they're  
3 sealed, you're losing air. And each --- each time you  
4 come through 'em or somebody comes through 'em, you're  
5 losing air.

6 Q. Which way would the air want to flow, from the  
7 intake to the belt or the belt to the intake?

8 A. Excuse me?

9 Q. Which way did the air want to flow? Meaning, when  
10 you went through the --- before you went through the  
11 doors, you were basically in the track and belt entry.

12 A. Yeah.

13 Q. And then you go into the intake. Which way is the  
14 air wanting to go through the ---?

15 A. Oh, it was coming --- well, once you got into your  
16 double doors here (indicating), it was coming down and  
17 going towards the longwall.

18 Q. I understand that, but if --- say the doors were  
19 left open, which way would the air go? Would it go  
20 towards the back belt track entry or would it come  
21 from the belt and track towards the intake?

22 A. It would go towards the track entry.

23 Q. It wanted to get out of the intake into the belt  
24 and track?

25 A. Yes, sir.

1 Q. Okay. How well were they maintained?

2 A. Well, they --- they was all right, I guess. We  
3 had to replace a couple sets, people running into 'em.

4 Q. Were they ever left open?

5 A. No, sir, not that I know of. They were supposed  
6 to have electric. You know, they were supposed to  
7 have been electric.

8 Q. Yeah.

9 A. But they had had people run into 'em with the  
10 motors and stuff, so they took the electric off so you  
11 had to get out and open a set and then close a set and  
12 open a set to get into the intake, and then do the  
13 same to get out of it.

14 Q. Were they far enough apart to get a supply trip  
15 through?

16 A. You could put --- there was --- it was three  
17 breaks between the most inby set of your outby set and  
18 your outby set to your inby set, you know what I mean?  
19 You had three breaks of intake. It was supposed to  
20 be. And then you had enough to fit three mantrips  
21 between the doors to go ---.

22 Q. In each set, ---

23 A. Yeah.

24 Q. --- you could fit three mantrips?

25 A. The first set you could fit three. The second set

1       you could fit two.

2       Q. Okay. How did the supply trip get through the  
3       second set? Did it fit through them? Could they have  
4       one open and one closed? Can you close 'em both and  
5       open the other one, ---

6       A. Yes, sir.

7       Q. --- or did they have to open both up and go  
8       through?

9       A. You could open up one, drive in, close it, open up  
10      the other and drive through and then close the other  
11      set.

12     Q. Okay. So it's long enough for a trip to make it  
13     through?

14     A. Yeah.

15     Q. Okay.

16     A. Yes, sir.

17     Q. Are you aware of any conditions which required the  
18     mine to be evacuated?

19     A. Just they --- I come in one evening and they had  
20     recalled all the guys out of the mines. And I asked  
21     'em what was going on, and they had said that they  
22     couldn't get their air right on the longwall, that the  
23     air, as soon as it come across the longwall face, it  
24     was wanting to come back outby instead of going back  
25     towards your return fan.

1 Q. Okay.

2 A. So being a certified foreman, I got all my stuff  
3 and went in with the rest of the guys, the rest of the  
4 certified guys to help 'em try to fix the problem.

5 Q. When was that?

6 A. It was probably back in March.

7 Q. Okay. Did they ever cancel or delay oncoming  
8 shifts for problems?

9 A. There's been a few times, yeah. They sent the  
10 hoot owl home and not let them work, just kept the  
11 bosses to try to help with getting the air right.

12 Q. Okay. Did you have any concern for the  
13 ventilation before the explosion?

14 A. There were certain things that I didn't agree  
15 with, the way they was doing things, because any way  
16 you run it, if you run your main intake to your  
17 longwall section and then try to split your air, your  
18 longwall's sucking all your air. It's taking all your  
19 air because it's closest to the fan.

20 Q. Could you show me on the --- you know, show me on  
21 the map specifically what your concern was there?

22 A. Well, okay. You had your doors here (indicating).  
23 Then your air come across here.

24 Q. Those are the doors down by ---?

25 A. Those are your intake doors.

1 Q. Down by 80, 80 ---

2 A. It would've been 80 ---

3 Q. --- 84 or ---

4 A. --- 82 Break, something like that, 83.

5 Q. Right.

6 A. Then your intake come across here and come right  
7 down through here. And then they put in one --- they  
8 put in a overcast here, but everything was sucking to  
9 your longwall. All your air was trying to go directly  
10 to the wall and straight across, which then, in turn,  
11 it bleded --- it was depleting all your air off your  
12 other sections because they wasn't getting the full  
13 track amount of air.

14 Q. So you're saying the air --- these are the  
15 intake ---?

16 A. Yes, sir, that's what they drove that for.

17 Q. Intake rooms?

18 A. Yes, sir.

19 Q. And you're showing that the air was coming up One  
20 North Headgate?

21 A. Yes, sir. That's the way --- they had two  
22 overcasts or three there, and it would come up, pop  
23 over it, and then it would come down towards the rest  
24 of the other sections.

25 Q. They came in on these midnight shifts sometimes to

1 make air changes. Did they ever make any air changes  
2 during production shifts that you know of?

3 A. Not that I know of. That one where they had  
4 called everybody out of the mines here, ---

5 Q. Uh-huh (yes).

6 A. --- they had --- they had recalled it and they  
7 called everybody out.

8 Q. Did you look at the bulletin board and review  
9 changes that had been submitted to MSHA?

10 A. What bulletin board?

11 Q. Did they have a bulletin board with any --- or any  
12 changes to the ventilation plan posted?

13 A. They would --- they would post their, you know,  
14 the stuff for the fans, stuff like that, but they had  
15 never posted --- and, you know, we never did see a  
16 citation. They was all locked up in the  
17 superintendent's office, you know?

18 Q. They never posted them?

19 A. No, sir, not on our side of the mine, they didn't.

20 Q. Or if they had an air change coming up, they  
21 didn't post it on ---?

22 A. No, sir.

23 Q. So I take it you didn't receive any training about  
24 the change --- changes that were planned?

25 A. No, sir. They just come in and do 'em and tell us

1 what had to be done and that'd be it.

2 Q. Did they tell you which way the air was supposed  
3 to being going when it's done?

4 A. Well, you know you can't use your outby, or your  
5 belt air to go outby. Or it has to go outby. You  
6 can't use it to ventilation the section. Other than  
7 that, they really didn't say much.

8 Q. So you're doing your pre-shift. If you came  
9 across air that --- how would you know if the air was  
10 going in a proper direction if they didn't tell you  
11 which way it was supposed to be going?

12 A. I don't know, buddy. That's one on me. Now, I do  
13 know belt air's supposed to go outby ---

14 Q. Okay.

15 A. --- because we don't have a waiver for it anymore.  
16 We used to.

17 Q. Okay. Have you visited the Glory Hole area? I  
18 guess you ---?

19 A. Quite a few times, yes, sir.

20 Q. Did you ever have any problems with methane, low  
21 oxygen?

22 A. No. They said there at one time --- I was talking  
23 to a guy and he said that they had a problem with  
24 methane in the hole itself.

25 Q. Yes.

1 A. I don't know. I guess there's like a little  
2 observation thing up there where they had nuclear  
3 stuff, ---

4 Q. Okay.

5 A. --- you know? They had a problem with it there,  
6 but I'd never run into anything the whole time I've  
7 been up here.

8 Q. Okay. What about up in the end of the main?

9 A. I'd get .2 up there sometimes. Other than  
10 that ---.

11 Q. Was that coming out of the faces?

12 A. It was coming out of everywhere.

13 Q. Okay.

14 A. You know, you could see the bottom bubbling up a  
15 little bit. You could see it come --- or you could  
16 hear it coming out of the ribs as you was walking your  
17 faces over.

18 Q. Okay.

19 A. That's the highest I ever got, but, you know, ---

20 Q. This was still making ---?

21 A. --- it wasn't up there constant.

22 Q. Still making methane?

23 A. Sir?

24 Q. This was still making methane up here?

25 A. You could hear it. But sometimes it wouldn't even

1 register on your methane detector.

2 Q. Faces of Eight North. Did the CO system ever go  
3 into alarm on your shift?

4 A. It had rang off before and they had asked us to  
5 check it. You know, they'd get ahold of us and ask us  
6 to check it.

7 Q. Okay.

8 A. And we'd go up there and there'd be nothing.  
9 There'd be a malfunction in CO.

10 Q. Okay. We're almost done here for me. Did anybody  
11 from Performance Coal interview you or did you receive  
12 a memo from anybody about interviews or anything like  
13 that?

14 A. No, nothing.

15 Q. Okay. And did you keep personal notes about any  
16 of your examinations?

17 A. Quite a few, yeah.

18 Q. Do you still have any of them?

19 A. They're at Performance. They're sitting in my  
20 basket.

21 Q. Okay. But you're not there anymore?

22 A. Oh, I still got to go there and get my stuff.

23 Q. Is there a chance we can get a copy of your notes?

24 A. Yes, sir. I think I got notes all the way back  
25 from when I first started fire bossing, somewhere.

1 Q. And I was just going --- were you there at the  
2 time of the accident?

3 A. I wasn't there during the explosion.

4 Q. Were you there after?

5 A. I was there --- I was there for 96 hours after the  
6 explosion.

7 MR. MORLEY:

8 Do you want to go to follow-up or do you  
9 want me to just go through that?

10 MR. TUCKER:

11 You can go ahead and do that.

12 MR. MORLEY:

13 Okay.

14 MR. TUCKER:

15 And then I'll just finish up.

16 A. Can I use the bathroom? Can we have a time-out?

17 ATTORNEY BAXTER:

18 You have to take a break? Absolutely.

19 SHORT BREAK TAKEN

20 ATTORNEY BAXTER:

21 Go back on the record.

22 BY MR. MORLEY:

23 Q. Before we start talking about the accident, just  
24 for the record, what contractor did you work for?

25 A. David Stanley.

1 Q. And did they provide you any training?

2 A. I'm trying to think here. Not really.

3 Q. Okay. And what portal did you work out of?

4 A. Ellis Eagle Portal.

5 Q. Okay. And the plans and citations were not posted  
6 there?

7 A. Well, they was there.

8 Q. Yeah.

9 A. They was locked up in the superintendent's office.

10 Q. How'd you know that?

11 A. Because you could see 'em.

12 Q. Oh, they were posted in his office, ---

13 A. Right.

14 Q. --- but you did not have access to them?

15 A. Right. We couldn't get to 'em.

16 Q. Okay.

17 A. Yeah. I mean, you could see 'em. You could see  
18 'em sitting right there, you know, hanging on the  
19 wall. You just couldn't get to 'em.

20 Q. Okay. That clarifies that. I wanted to clarify  
21 one question on the compressor and the water back in  
22 the back of Headgate One North.

23 A. Uh-huh (yes).

24 Q. When the compressor went off, you said that the  
25 water started to accumulate, and you said it happened

1 fast. Do you have any idea of how fast? I mean,  
2 could you give us any ---?

3 A. I've seen it go up a little over a foot an hour.

4 Q. A foot an hour?

5 A. Yes, sir. Eight --- eight to twelve inches an  
6 hour.

7 Q. Do you know where the water was coming from?

8 A. Well, back during our --- back not this last time  
9 but we used --- you know, we had a class on it. They  
10 said we had a little over 60,000,000 gallons of water  
11 over our head that we was mining under, plus that's  
12 not counting the abandoned mines that's overtop of us,  
13 too, so I'd say probably out of one of those.

14 Q. Was this before the turbine pump went in?

15 A. We had pumps here (indicating), back here at  
16 Jarrell's Branch fan that took care of most of our  
17 water then.

18 Q. Where did those air pumps pump to?

19 A. It pumped it back there to the fan area on the  
20 return, and then they supposedly pumped it outside.

21 Q. Okay. So that's even with that turbine pump  
22 installed, it would go up eight inches an hour if the  
23 air pumps weren't on?

24 A. Yeah, but see, there were so many swags and dips  
25 and ---

1 Q. Uh-huh (yes).

2 A. --- this and that, you know? I mean, you had to  
3 --- you had to constantly piggy-back it to get it to  
4 where it worked.

5 Q. Okay. Okay. Going back to the day of the  
6 accident, where were you at the time of the accident?

7 A. I was at home.

8 Q. And how'd you find out? Who notified you?

9 A. My ex-wife's girlfriend (sic) called me. And he  
10 works ---. I worked with him and --- called me and  
11 asked me if --- or called and asked my girlfriend if I  
12 was there because he knew I worked at that mines.

13 Q. Uh-huh (yes).

14 A. And he wanted to know. And she asked him what was  
15 going on. He told her that there had been an  
16 explosion there.

17 Q. So what'd you do? Could you just take me through  
18 your experience after that?

19 A. What did I do?

20 Q. Yeah.

21 A. Immediately I called, didn't get no answer and  
22 they sent me to Massey Coal Services and, you know,  
23 made me call in. And I called and they said there'd  
24 been an explosion, didn't know what was going on. I  
25 asked them if they needed my help, and, you know, told

1 me to just come in on Tuesday.

2 Q. Okay.

3 A. And so I come in on Tuesday at my regular shift.

4 They stopped me and helped them get ready the mine

5 rescue and getting the body bags and all that junk and

6 --- I mean you know, they're just --- I just helped

7 with the whole thing.

8 Q. If you can, can you be a little more specific on

9 what you --- all you did or ---? Do you know? Like

10 take me through your day if --- do you remember it

11 all?

12 A. Oh, take you through a day? I was there 96

13 straight hours. That's just --- one day.

14 Q. Yeah.

15 A. As soon as I got there, you know, I had to check

16 in at the gate and I had to get me clearance. I went

17 in and we immediately started getting the permissible

18 rides ready and the gurneys, or not the gurneys but

19 the backboards and all the --- you know, that stuff.

20 And the water and stuff put on these rides and got the

21 --- or the mantrips and the motors ready and made sure

22 they was fully charged. And made sure all the four-

23 wheelers was charged, the permissible four-wheelers

24 was charged.

25 Made sure we had trailers ready, you know, so we

1       could put two bodies per trailer, you know, picked up  
2       trash, helped the fire department get their stuff  
3       ready, you know, move stuff around the yard to get  
4       that other things, the other ---. I don't even know  
5       what that thing is, man, you know, big trailer and had  
6       air pumps and stuff in it and ---. I mean, just ---  
7       you know, just helped in general with the whole  
8       shebang.

9       Q. Okay. Did you ever go underground?

10      A. We was slated to and got to the drift mouth and  
11      they recalled us.

12      Q. What were you going to do?

13      A. I was supposed to --- it was supposed to be me and  
14      Rick Foster and a couple other guys, and we was going  
15      to take a mine rescue team in and take it to the fresh  
16      air base, let them do their exploring from there. And  
17      this fresh air base was like --- I think they said it  
18      was at 78.

19      Q. Okay.

20      A. They was going to have two crews coming in. One  
21      crew come down on the tailgate of the longwall and  
22      come across. Another was supposed to walk down the  
23      track entry or whatever entry they could get down from  
24      Six North, and they was supposed to meet them at the  
25      mouth of the wall and they was supposed to converge

1       there. That's all I knew. We was told that we was  
2       supposed to stay at 78 Break.

3       Q. About what time was that, if you remember?

4       A. It would've been Tuesday night, and I couldn't  
5       tell you what time, up into Wednesday morning.

6       Q. Okay.

7       A. And then they said we wasn't allowed to go  
8       underground because we wasn't trained on the Drager  
9       breathing apparatus.

10      Q. So you were there for four days?

11      A. Pretty much. I went and took naps in my vehicle.  
12      You know, you work with them guys seven, eight years  
13      and, you know, it's --- just turns into more  
14      motivation than it does anything.

15      Q. So after that night, do you know what you did the  
16      next day? I mean, did you spend the entire four days  
17      out there by the portal?

18      A. Outby the portal. I spent it out there in the  
19      yard, you know. I mean ---.

20      Q. You were out there in the yard, pretty much?

21      A. Pretty much, yeah.

22      Q. Yeah. Did you ever go up to the fans or up on the  
23      hill or anything?

24      A. The what?

25      Q. Up by the fans or was your assignment just to stay

1       there at the portal ---?

2       A. I done some running when they started getting  
3       those test readings in from the boreholes, and I'd run  
4       it up to the engineer, and then stuff like that. I  
5       mean, you know, I mean, I was just --- I was  
6       constantly going there at the mine site. And then I  
7       didn't go up to the --- to the return fan, if that's  
8       what you're asking.

9       MR. MORLEY:

10      Okay. Go ahead.

11      EXAMINATION

12      BY MR. TUCKER:

13      Q. Just while he was on that thought, did you help  
14      any with checking in and out, Bill? Do you recall?

15      A. The check-in, check-out?

16      Q. With the mine rescue teams.

17      A. I checked in with 'em.

18      Q. I mean as far as keeping track, ---

19      A. Oh, no, sir. No, sir, I did not.

20      Q. --- a written log on who was ---?

21      A. No, sir.

22      Q. Okay. All right. I've got several questions.  
23      Hopefully I won't repeat too many that you've been  
24      asked. I'm going to be bouncing around a little bit;  
25      okay? You mentioned you'd worked for Massey once

1 before for a couple --- several years and you left and  
2 went --- went to here and there. And this time back  
3 you came back as a contractor through David Stanley.

4 How long had you been working for him as a contractor?

5 A. From December 7th. That's when I started back  
6 down there at Upper Big Branch.

7 Q. Was your ultimate goal at some point maybe to get  
8 back on with Massey?

9 A. Yeah.

10 Q. I know since then you told us in your testimony  
11 you're starting at another mine, Kanawha Eagle today  
12 or ---?

13 A. I go fill my paperwork and stuff out to see. Yes,  
14 sir.

15 Q. What do you think it ---? I mean, just you've  
16 been --- you were there several months from December  
17 to April. What do you think it takes as a contractor  
18 to be hired on with --- with Massey?

19 A. Do your job. I was slated to get hired on when  
20 all this occurred, and it kind of went to a  
21 standstill. You know, you just do your job, do what  
22 --- you know, do what's right, do ---. You know, if  
23 you're equipment operator, run the equipment to the  
24 best of your ability or whatever you're doing, you  
25 know, to help the company and help yourself.

1 Q. You'd mentioned when you found things on your fire  
2 boss run, one of the things you mentioned that the  
3 general housekeeping just sucked, with the rails on  
4 the track and crib blocks and things like that.

5 A. Yes, sir.

6 Q. When you'd find things like that, would you talk  
7 to somebody in management about it? Would you record  
8 it in your fire boss book or how did you ---?

9 A. I'd talk to people about it, talk to the, you  
10 know, the mine foreman and superintendents and stuff  
11 like that.

12 Q. Did you ever record any of those issues in your  
13 fire --- in the fire boss book?

14 A. A few at times. If I would record everything,  
15 it'd take up probably a whole book per run. I mean,  
16 you know, I mean, it wasn't --- I'm not going to say  
17 it was that bad, but, I mean, you know, there's some  
18 stuff that one person as myself can't ---. You know,  
19 I can't lug around a 60-pound or 80-pound track rail,  
20 you know, to try to even get it away from, you know,  
21 being a tripping and stumbling hazard and stuff like  
22 that.

23 But you know, if I see something in my immediate  
24 view, you know, like crib blocks, I'll stack it up on  
25 the rib or, you know, whatever it is. If it's

1 guarding highline to, you know, whatever, I'll do it  
2 myself ---

3 Q. All right.

4 A. --- you know, if I can do it, within my means.

5 Q. So do you feel like that the things --- items that  
6 you did find, that it was your responsibility to  
7 correct?

8 A. If it was within my means, yes, sir. And if I  
9 found them on my shift, yes, sir, I would try to take  
10 care of it or make sure somebody knew about it to get  
11 it taken care of.

12 Q. All right. Now, primarily, did you --- your fire  
13 bossing, was it fire bossing the belts in this idle  
14 area up on Eight North? Did you ever fire boss any of  
15 the working sections, like on an idle day or  
16 something?

17 A. No, sir. Well, I fire bossed the tailgate section  
18 --- well, it would've been section Number Two up here  
19 (indicating) --- a time or two. Just and it would be  
20 very minute times, you know, because John Skaggs  
21 usually took care of that area.

22 Q. Was that the intake rooms?

23 A. Yeah, that would've been when they was driving  
24 that. Yes, sir.

25 Q. Do you recall on those working faces if --- I know

1 it's been a while, while back --- any methane you may  
2 have picked up?

3 A. They had --- they had one of the best air up  
4 there. You know, there --- you'd get on your methane  
5 or your anemometer, you'd usually get about 32,000,  
6 35,000 up there, you know, on a --- one a sweep air  
7 system.

8 Q. Right.

9 A. I mean, if they had some air, it'd weigh curtains  
10 down, weigh your fly pads down, everything like that,  
11 to keep the air up there on section.

12 Q. Did an inspector ever travel with you on your fire  
13 boss run?

14 A. No, sir.

15 Q. You'd mentioned that if you ran into a problem  
16 while you was making your fire boss --- when you was  
17 fire bossing the belt, say if you came upon a  
18 tailpiece or something that was gobbled out, you just  
19 couldn't walk off and leave it, you'd have to try to  
20 clear it up ---

21 A. Yes, sir.

22 Q. --- you know. And then you would call one of your  
23 buddies to tell him you got held up and ask him to  
24 help you finish your run.

25 A. Yeah, if it took me that long.

1 Q. If you see you wasn't going to get it ---

2 A. Yes, sir.

3 Q. --- completed? Did you ever call for help and  
4 maybe they got tied up also and couldn't finish your  
5 run like you'd requested?

6 A. No, sir, never.

7 Q. Okay.

8 A. You mentioned that a couple times before you  
9 called your report out on your pre-shift that the  
10 oncoming shift had started underground and you'd told  
11 Terry Moore, you know, this needs to stop. If not,  
12 I'm going to call somebody. Would that have been on  
13 the midnight shift starting underground or would that  
14 have been for the day, pre-shift you done for the  
15 dayshift?

16 A. No, it would've been for the hoot owl or for ---.

17 Q. For the midnight?

18 A. It would've been my pre-shift for the hoot owl  
19 coming in. Yes, sir.

20 Q. Would the entire midnight shift be coming in?

21 A. You'd see three or four mantrips come in ---.

22 Q. And you hadn't called your report out yet?

23 A. Exactly.

24 Q. All right.

25 A. You know? I mean, that --- it really made me hot.

1 I mean, you know, it ain't --- it ain't a good thing.

2 Q. Right. Yeah, that's an important job that the  
3 fire boss has to make sure it's safe ---

4 A. Exactly.

5 Q. --- for the oncoming crew to come in. And what  
6 was his reaction when you mentioned ---?

7 A. He kind of just brushed it off. And I told him,  
8 I said, Terry, I said, I'm not playing. I mean ---  
9 you know, I mean, just because I'm a contractor, you  
10 know, I still got to take my job serious because I'm  
11 the one signing these books, you know?

12 I don't care. He could've fired me yesterday.

13 You know what I mean? At the time I told him, I don't  
14 care, but, you know, it was just a point. It was a  
15 statement that I --- you know, that I was trying to  
16 make a point that, you don't --- you know, you don't  
17 do that.

18 Q. Right.

19 A. And he just kind of brushed it off. He said,  
20 well, I guess I won't let it happen again. I said,  
21 well, you guess --- don't or you'll have somebody  
22 up here on your butt.

23 Q. Good deal. You talked some about the different  
24 sets of doors as you --- that you come through as you  
25 travel in the mine. Whether you were coming in or

1 going out, have you ever come upon those doors and  
2 found like one set of 'em open?

3 A. Not --- not none of these intake. None of the  
4 main intake doors have. Some of 'em, like the ones  
5 that was right here (indicating) at your --- at where  
6 the track come down on to Headgate 22, found 'em  
7 cracked, you know, something like that, because the  
8 way they installed 'em, they didn't install 'em right.  
9 They installed 'em before they put the track in and  
10 then your track comes in and then you got to --- you  
11 know, take a slate board and lift 'em up and  
12 everything to get 'em closed. I've seen stuff like  
13 that, but I've never really seen just running with the  
14 doors open.

15 Q. What about the ones outside next to the Ellis?

16 A. Well, you mean where their main intake --- where  
17 the main intake come up and shot across? Is that what  
18 you're talking about, because there was numerous ---.

19 Q. Any that's out ---. Go ahead.

20 A. Numerous sets of doors. I mean, that's the  
21 doorest place I've ever seen.

22 Q. Why do you think they used so many doors?

23 A. Because they're too lazy to cut overcasts.  
24 They're too --- in too big of a hurry. It's easier to  
25 throw up a set of doors than it is to take a shift and

1 cut a set of overcasts.

2 Q. So those outby doors, you ever find any of those  
3 open?

4 A. Now, the set --- I don't actually know if they was  
5 really in service. We had a set as soon as you come  
6 in Ellis Portal and drop down over the hill, and they  
7 stay open, but I, like --- you know, I never seen  
8 'em closed, so --- but they was there. I don't know  
9 if they just wasn't been put into use yet or what.  
10 But really, I mean, everything --- all the doors and  
11 stuff, they may have been shut, but they might not  
12 have worked properly, you know what I mean?

13 Q. Yes, sir. On the longwall belt, do you ever have  
14 any trouble with them overloading the belt and kind of  
15 coal rolling off the sides or ---?

16 A. A few times.

17 Q. Do you have any gob-outs that you recall as a  
18 result of that?

19 A. Quite a few. And then, you know, my luck was the  
20 belt would stop and then it would gob every head out  
21 in the whole mines, you know? That's happened a time  
22 or two, too.

23 Q. Did you ever call the longwall about ---?

24 A. Yeah. I would. I'd call the headgate to talk to  
25 them. And then they'd run just harder.

1 Q. Didn't ease up on it?

2 A. No.

3 Q. Do you know if they'd established a area at the  
4 mouth of the longwall panel --- there's not a whole  
5 lot left on that --- for a pullout of any  
6 equipment ---

7 A. No.

8 Q. --- at the mouth of the longwall?

9 A. Nothing that I know of. They had even brung  
10 underground all the stuff that was --- they had ---  
11 there was a --- or not Long-Airdox. It was a Bucyrus  
12 or whoever bought Bucyrus or --- you know. I can't  
13 remember. DBT. Yeah. They had a DBT sitting two  
14 breaks outby the --- or two breaks inby the storage  
15 unit. That was the only piece of equipment that I  
16 seen up there.

17 Q. Okay. You had mentioned about checking the power  
18 centers, and you had several to check. Did you ever  
19 look or take notice, you know, of the glass at the  
20 back of the power centers, ---

21 A. Yes, sir.

22 Q. --- where you had the visual disconnect to look in  
23 there for like fine ---

24 A. Yes, sir.

25 Q. --- floater dust or anything like that?

1 A. Yes, sir. I always done that. And then if --- if  
2 it was bad, I'd call the chief electrician on the hoot  
3 owl and he'd come by and clean it out.

4 Q. You mentioned there was some --- a pump and some  
5 equipment up here (indicating) on the mains up there  
6 around Eight North. Do you know who done the weekly  
7 exam, the electrical exam on those?

8 A. I guess that --- you know, I'm not for sure. I  
9 don't want to say something and it be totally wrong.

10 Q. You'd mentioned that your last shift there you  
11 made a fire run on the belt. That was Easter  
12 Sunday, ---

13 A. Yes, sir.

14 Q. --- that morning? What time --- when you do your  
15 fire run, when do you start your fire run?

16 A. You could start it 15 minutes before the belts  
17 shut off, up to 45 minutes after the belts shut off.  
18 So the belts could be down 45 minutes.

19 Q. Okay. So would you typically start right before  
20 they ---?

21 A. I'd wait until they completely cut off ---

22 Q. And then you started your run?

23 A. --- before I started my run. Yes, sir.

24 Q. On your last shift while you was making your fire  
25 boss run, did you notice the belt rubbing anywhere,

1 find any hot spots?

2 A. No, sir, not a one.

3 Q. Did you smell anything out of the way?

4 A. No, sir.

5 Q. Have you ever been examining the belt and say find  
6 where the belt was rubbing the structure and smoking  
7 or starting to smoke or anything of that nature?

8 A. Yes, sir. I have before. And I train it back  
9 over to get it away from the --- whatever it may be,  
10 if it's a roll --- or if it's a chain or a bottom  
11 roller bracket or whatever.

12 Q. Has it ever been smoking to the point it irritated  
13 your eyes? Notice any burning sensation?

14 A. No, sir. Oh, are you talking on the belt,  
15 just ---?

16 Q. Well, anywhere in the mines that your eyes burned?

17 A. Yeah, I have. And I shut the --- I shut the mines  
18 down over it.

19 Q. Where was that at?

20 A. That was on Ellis Five or Ellis Four tailpiece.  
21 And then I shut it down again on Four North tailpiece.

22 Q. What was going on?

23 A. Well, I'd come in on my shift and it'd be on a  
24 Sunday, you know? And come in and they say, well, you  
25 know, you need to take some grease. So-and-so, you

1 know, is up there greasing the tailpiece.  
2 You'd go up there and they got water spraying on  
3 the tail rollers or on the, you know, tail roller  
4 bearing, and you --- you know, it's sitting there  
5 still smoking. Grease is blowing out of it and I just  
6 shut it down right there. That's it. Call in the  
7 dogs. It's done. You know? I mean, I ain't got no  
8 problems with shutting it down if I think it's unsafe.

9 Q. All right.

10 A. I have.

11 Q. You ever see any flames on the belt?

12 A. Yes, sir. I've come across a few bottom rollers  
13 and they'd be on fire. Then I'd shut the belt off  
14 and, you know, put the fire out and take the roller  
15 out of it.

16 Q. Is that a situation where after you done that and  
17 cleared it up, maybe --- would that be one of the  
18 situations where there's a guy outside who's watching  
19 the automatic monitoring system would call and check  
20 on maybe a ---

21 A. No.

22 Q. --- CO sensor that went off?

23 A. No, I've only ran into a few little, you know,  
24 rollers what's caught on fire, and they would be  
25 during my fire bossing run, during my pre-shifting.

1 And I may actually have to, you know, shut the belt  
2 down, tell him what's going on and then, you know, put  
3 the fire out and pull the roller out.

4 Q. So you would tell him outside that ---

5 A. Yeah, I'd tell him I'd have to shut ---

6 Q. --- there's a small fire?

7 A. --- the belt down. Yeah. That, you know, roller  
8 on fire, I got to shut the belt down, put it out.

9 Q. Would that be somebody in management? Have you  
10 ever reported that to that, you know, maybe then even  
11 if it's the next day that you're going over what you  
12 found that night? Say ---

13 A. Yeah.

14 Q. --- someone found a small ---.

15 A. You know, Terry Moore used to ask me about it  
16 every day. You know, what's going on? How's  
17 everything look, this, that and the other, you know?  
18 And I'd tell him. I'll say, oh, you know, we had this  
19 happen or had this happen, you know, quite a few  
20 times.

21 Q. So on those small fires, is that something you  
22 would've told Terry about?

23 A. Yes, sir.

24 Q. You mentioned you was working as a --- with the  
25 pump crew on the headgate side of the longwall and the

1 deep water you had up there. Are you aware of any  
2 equipment being left up there in those waterholes?

3 A. Any equipment? There's belt heads, belt  
4 structure, I mean, highlines still left up there,  
5 everything all the way back. There's stuff down  
6 through the tailgate side. There's stuff all the way  
7 down this (indicating) headgate side all the way back  
8 far. You know, they said they was in too big of a  
9 hurry to puut that longwall in the coal. So they kind  
10 of got what they could get and track's still left down  
11 through there.

12 Q. Any battery-powered equipment that you know of?

13 A. There is a scoop. And I can --- I know if I was  
14 walking down through, I could show you where it's at.  
15 I don't know what break it's at, but it's behind the  
16 wall here (indicating). And then there was a four-  
17 wheeler, a permissible four-wheeler setting back here  
18 behind the --- right at the fan, somewhere around  
19 there. That's the best I know of.

20 ATTORNEY BAXTER:

21 Somewhere in the area of Crosscut 55? Is  
22 that where you're pointing to?

23 A. No, it would be more up towards probably in the  
24 40s, 43, somewhere around through there.

25 ATTORNEY BAXTER:

1 Okay.

2 BY MR. TUCKER:

3 Q. Okay. So it's outby the longwall face? It's not  
4 inby?

5 A. Well, yeah, I'd say.

6 Q. Okay. And the four-wheeler you said down next to  
7 Bandytown fan?

8 A. Yes, sir. That's the only two things that I know  
9 of back there.

10 Q. When you was working in that deep water, did you  
11 ever question the company about or express any  
12 concerns about wading water chest-high, any safety  
13 concern?

14 A. No. I've had to do it before setting pumps and  
15 stuff, you know. I just strip down, you know? I'd  
16 wear extra socks, wore, you know, extra clothes, so  
17 I'd strip down and wear what I had to wear, you know?  
18 And then I'd have extra clothes to wear out. Really I  
19 --- you know, I didn't see no safety concerns at my  
20 point. You know, I can swim.

21 Q. You ever seen anybody in a flak jacket?

22 A. No.

23 Q. Did anyone ever discuss with you --- have any  
24 discussion with you about a comprehensive mine safety  
25 program?

1 A. I've heard mentions of it. Other than that, no.

2 Q. Do you know if that's a State or a Federal  
3 requirement or just a company requirement or ---?

4 A. I'm not for sure.

5 Q. Okay.

6 A. Don't know.

7 Q. So in between your runs on the belt, what do you  
8 typically do?

9 A. I would find me a spot that was wrote up in my  
10 belt boss book, my fire bossing book, whether it be a  
11 head needs dusting or, you know, a belt needs cleaned.  
12 And one of us or, you know, both of us, we'd get  
13 together and go to that spot, shovel on it up 'til it  
14 was time for us to fire boss again, and then we'd get  
15 into place and start our fire bossing.

16 Q. How long does it take you --- the normal run  
17 that's assigned to you, how long does it typically  
18 take you to complete that fire boss run?

19 A. About two hours and 30 minutes, two hours,  
20 something like that.

21 Q. So I guess, like you said, if you don't run into  
22 anything that you have to stop ---

23 A. You know, if you don't run into ---

24 Q. --- and take care of?

25 A. --- nothing --- if you don't run into nothing big,

1 you know, you got her licked, but you run into  
2 something and it just, you know, it takes a little  
3 time to fix, then you're had, you know?

4 Q. What type of instruments has the company provided  
5 to you to make your examinations with?

6 A. Methane detector. I have my own anemometer.

7 Q. You got your own personal anemometer?

8 A. Yes, sir. And that's about it.

9 Q. You ever found any stoppings crushed out along  
10 your runs?

11 A. I have, and I've told them about it and they've  
12 just come by and foamed 'em.

13 Q. What do you think was causing it, top or ---

14 A. Pressure.

15 Q. --- bottom or ---?

16 A. Both.

17 Q. Both?

18 A. You know, just depends on where you're at. You  
19 know, you --- I've seen it sag. You know, I've seen  
20 it sag and hoove all at the same time. Most of it was  
21 coming out of the bottom of it. Lot of bottom  
22 pressure. You know, you can't take that much of a  
23 mountain and expect it just to just set there. I  
24 mean, you know? I mean, the pressure's got to be  
25 relieved somewhere.

1 Q. So compared to the other mines you've worked at,  
2 would you say bottom hooving was more of a problem or  
3 less of a problem at UBB than the other places that  
4 you ---?

5 A. It was more of a problem here at UBB than it would  
6 be any other place I've ever worked.

7 Q. On your exams, have you ever found the air going  
8 the opposite direction of what you thought it should  
9 be going?

10 A. A time or two I have. But see, one --- the one  
11 thing that really got me was I told 'em that the air  
12 was going the wrong way here (indicating) one time  
13 here. And they was like, no, it's supposed to go that  
14 way because that's where your split is. So I mean  
15 that was the --- that was what the exam, you know ---  
16 the excuse that they give me when I've asked about  
17 certain things, you know. And in, you know, certain  
18 parts of the mines when it concerns belt air and  
19 stuff.

20 Q. So as far as --- have you fire bossed at any other  
21 mines other than UBB?

22 A. Yes, sir.

23 Q. And where was that?

24 A. Marsh Fork Eagle, Horse Creek Eagle. I done my  
25 own fire bossing at Frazier Creek, UBB twice. That's

1 about it.

2 Q. Do you feel like you're free to enter any  
3 violations or hazards that you find on --- while  
4 conducting your fire boss exam in the book outside?

5 A. I'm free to do it any time, because I ain't afraid  
6 of 'em. If I see it and I think it's a hazard and it  
7 needs to be reported, it goes in the book.

8 Q. Okay.

9 A. There ain't no --- ain't no excuses, no qualms  
10 about it. It goes in there, you know? I mean,  
11 that's ---

12 Q. Okay.

13 A. --- the way I feel about it.

14 MR. TUCKER:

15 Good deal.

16 EXAMINATION

17 BY MS. SPENCE:

18 Q. Your last shift at UBB, was anybody working on  
19 ventilation?

20 A. No, ma'am.

21 Q. Why'd you quit Massey before?

22 A. I wanted to go --- I felt like I wasn't getting  
23 nowhere with Massey, so I left and went to somewhere  
24 where ---. You know, I started out over at Frazier  
25 Creek as a hoot owl shift foreman, you know. And I

1 was trying to work, work up, you know, to be something  
2 else besides what I am, you know, at Massey. Somebody  
3 gives you a little more appreciation for what you work  
4 and what you do for --- for your company.

5 RE-EXAMINATION

6 BY MR. MORLEY:

7 Q. Just a couple of quick follow-up questions. You  
8 said there's a piece of equipment here by DBT? What  
9 kind of equipment was that?

10 A. It's a shield hauler.

11 Q. Okay. And on the map here at Headgate 22, the map  
12 shows the intake air coming up around the faces of the  
13 old mains ---

14 A. Uh-huh (yes).

15 Q. --- and then coming down. But the map shows doors  
16 here. Do you know how the air got into the section up  
17 here? Are you familiar with that?

18 A. These double doors was not here. They wasn't  
19 there. Those used to be a old set when they had their  
20 air coming up this way ---

21 Q. Okay.

22 A. --- and over, like that (indicating). Those  
23 double doors wasn't there. Now, these two doors here,  
24 you had your split --- your track come around.

25 ATTORNEY BAXTER:

1 Can you circle the ---? Wait. Can you

2 circle the ones that were out?

3 WITNESS COMPLIES

4 ATTORNEY BAXTER:

5 Okay. Go ahead.

6 A. All right. Well, your track come that

7 (indicating) way.

8 BY MR. MORLEY:

9 Q. Right.

10 A. Well, I think it come right here, like that.

11 Q. Uh-huh (yes).

12 A. And then your track come around that way. Your

13 split, you know, your split-off and your track went

14 that way and over ---

15 Q. Right.

16 A. --- up towards the intake rooms, and then you had

17 these two sets here. They stoppined this one off.

18 See, they had it all messed up.

19 Q. Is that stopping? What is that ---?

20 A. There's a stopping here, like that, (indicating)

21 and they pushed their air in through here and over.

22 Q. Okay. Was this door there?

23 A. Yes, sir, that door was there.

24 Q. It's what, like a mine --- is it a door across the

25 whole entry like an equipment door or ---?

1 A. Yeah. Yes, sir. You need me to circle it?

2 Q. Yes. That's the door showing next to the  
3 overcast, and I guess it'd be Number Three entry of  
4 the crossovers.

5 A. And then I can't --- I can't remember exactly but  
6 I think there was another door. It had to be right  
7 there. There was a door.

8 Q. Okay. And the doors that did not exist or the ---  
9 on the track, Headgate 22 track adjacent to the  
10 overcast that's circled on the map here?

11 A. They had started those out when they first started  
12 this section. They put those doors in, and then when  
13 they started using their ---. When they started using  
14 what bit of air they had coming up through the intake  
15 rooms and coming back down, they took those doors out  
16 and put a set of airlocks in right there (indicating).

17 ATTORNEY BAXTER:

18 Okay. And those markings were made in  
19 orange, for the record.

20 MR. MORLEY:

21 Right.

22 BY MR. MORLEY:

23 Q. During the recovery operation, did you ever work  
24 in the command center ---

25 A. No, sir.

1 Q. --- or did you spend all your time in the yard?

2 A. Just spent it all in the yard.

3 Q. Okay.

4 OFF RECORD DISCUSSION

5 ATTORNEY BAXTER:

6 On behalf of MSHA and the Office of

7 Miners' Health, Safety and Training, I want to thank

8 you for appearing and answering questions today. Your

9 cooperation is very important to the investigation as

10 we work to determine the cause of the accident. We

11 request that you not discuss your testimony with any

12 person aside from your personal representative.

13 After questioning other witnesses, we may

14 call if we have any follow-up questions that we feel

15 we need to ask you. If at any time you have

16 additional information regarding the accident that

17 you'd like to provide to us, please contact us at the

18 contact information that was previously provided to

19 you.

20 Any statements given by miner witnesses

21 to MSHA are considered to be an exercise of statutory

22 rights and protected activity under Section 105(c) of

23 the Mine Act. If you believe any discharge,

24 discrimination or other adverse action is taken

25 against you as a result of your cooperation with this

1 investigation, you are encouraged to immediately  
2 contact MSHA and file a complaint under Section 105(c)  
3 of the Act. Remedies under the Mine Act include back  
4 wages and immediate temporary reinstatement to your  
5 most recent position with the company, pending a  
6 complete investigation of your complaint. In order to  
7 file such a complaint, you should contact the MSHA  
8 District 4 Office.

9 If you wish, you may now go back over any  
10 answer you've given during this interview. You may  
11 also make any statement that you'd like to make at  
12 this time.

13 A. You all waiting on me?

14 MR. MORLEY:

15 Anything else we should know?

16 ATTORNEY BAXTER:

17 You know.

18 A. Yeah. Well, like I said before, this (indicating)  
19 section up here, they hardly didn't have what the ---  
20 they had the minimum, what they needed to run.

21 MR. MORLEY:

22 That's Headgate 22?

23 A. Yes, sir, Headgate 22. Other than that, it's  
24 basically about it, I believe.

25 ATTORNEY BAXTER:

1 I'd like to thank you for your  
2 cooperation in this matter, and Mr. Tucker has a  
3 statement he'd like to read.

4 MR. TUCKER:

5 As previously mentioned, my name's Bill  
6 Tucker. Terry Farley and I are the lead investigators  
7 for the State in the UBB investigation. On behalf of  
8 the State I, too, would like to thank you for  
9 appearing here today and talking to us.

10 Mr. Baxter explained to you your rights  
11 under Federal law in the event you're discriminated  
12 against for speaking to us here today. I would also  
13 like to mention that West Virginia Law also protects  
14 you from discrimination for speaking to us. West  
15 Virginia Code 22A-1-22 protects miners who discuss  
16 safety violations and mine practices that may have  
17 contributed to this explosion.

18 I'm handing you a memo that contains the  
19 address of the Board of Appeals. This is an  
20 administrative body that hears and determines cases of  
21 discrimination. If you believe that your employer's  
22 discriminated against you in any way for speaking with  
23 us, you can file a discrimination action by simply  
24 writing in a letter how you believe you were  
25 discriminated against and then mail that letter to the

1 Board of Appeals. This must occur within 30 days  
2 after that discrimination occurred. The memo that I'm  
3 giving you also contains a phone number where you can  
4 reach me if you think of something later that might be  
5 relevant to this investigation. Again, thank you for  
6 being here today.

7 ATTORNEY BAXTER:

8 Thanks a lot, Bill.

9 A. Boy, I hope I helped you all out.

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STATEMENT UNDER OATH CONCLUDED AT 12:36 P.M.

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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*