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**Transcript of the Testimony of Jerry Adame**

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STATEMENT UNDER OATH

OF

JERRY ADAME

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, June 3, 2010, beginning at 1:18 p.m.

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1                   A P P E A R A N C E S

2

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21    (b) (7)(C)

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

Today is June 3rd, 2010. I am with the Office of the Solicitor, United States Department of Labor. We're here this afternoon to conduct an interview of Jerry Adame. With me is Clete Stephan, accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. Also present are individuals with the State of West Virginia. I ask that they state their appearance for the record.

MR. MCGINLEY:

Patrick McGinley, independent investigation team.

MR. O'BRIEN:

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

ATTORNEY WILSON:

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

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

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

1 You may have a personal attorney present  
2 during the taking of this statement or another  
3 personal representative and you may consult with your  
4 attorney or representative at any time. Do you have a  
5 representative with you?

6 MR. ADAME:

7 No, sir.

8 ATTORNEY WILSON:

9 Your statement is completely voluntary.

10 You may refuse to answer any question, and you may  
11 terminate your interview at any time. You may request  
12 a break at any time. Please just let me know. This  
13 is not an adversarial proceeding. Cross Examination  
14 type questions will not be permitted. However,  
15 clarifying and follow-up questions will be permitted  
16 to be asked by the various teams.

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

1 Judge orders us to reveal your name or if another law  
2 requires us to reveal your name or if we need to  
3 reveal your name for other law enforcement purposes,  
4 we may do so. Also, there may be a need to use the  
5 information you provide to us or other information  
6 that we may ask you to provide in the future in other  
7 investigations into and hearings about the explosion.  
8 Do you understand that?

9 MR. ADAME:

10 Yes, sir.

11 ATTORNEY WILSON:

12 Do you have any questions about that?

13 MR. ADAME:

14 No, sir.

15 ATTORNEY WILSON:

16 After the investigation is complete, MSHA  
17 will issue a public report detailing the nature and  
18 the causes of the fatalities in the hope that greater  
19 awareness about the causes of accidents can reduce  
20 their occurrence in the future. Information obtained  
21 through witness interviews is frequently included in  
22 these reports. Since we will be interviewing other  
23 individuals, we request that you not discuss your  
24 testimony here today with any other person. A court  
25 reporter will be recording the interview here today,

1       so I ask that you speak loudly and clearly.  If you do  
2       not understand a question, please ask that the  
3       question be rephrased.  Please answer each question as  
4       fully as you can, including any information that you  
5       may have learned from someone else.  Again, I want to  
6       thank you in advance for your appearance here.  Your  
7       cooperation is critical in making the nation's mines  
8       safer.

9       After we have finished asking questions,  
10       we will provide you with an opportunity to make a  
11       statement or to provide us with any additional  
12       information that you believe to be relevant to the  
13       investigation.  If after the interview is completed  
14       and you recall any additional information, you can  
15       contact us at the contact information that will be  
16       provided to you before we finish here today.

17       MR. ADAME:

18       Okay.

19       ATTORNEY WILSON:

20       Do you have any questions?

21       MR. ADAME:

22       Not at this time.

23       ATTORNEY WILSON:

24       All right.  Then at this time I will ask

25       that the court reporter swear you in.

1 -----

2 JERRY ADAME, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
3 AS FOLLOWS:

4 -----

5 ATTORNEY WILSON:

6 And I will pass to Clete to begin the  
7 questioning. Do you want to start? Oh, I'm sorry.  
8 Go ahead.

9 MR. O'BRIEN:

10 I've just got some information I'd like  
11 to pass along to you. Under the West Virginia Code  
12 you are protected under --- against discrimination.  
13 If you have any complaints, you must file within 30  
14 days to this address. If you have any questions, you  
15 can contact these folks at this number. Any  
16 questions?

17 A. No. That's fine. Thank you.

18 MR. O'BRIEN:

19 Okay.

20 ATTORNEY WILSON:

21 Okay. Clete?

22 EXAMINATION

23 BY MR. STEPHAN:

24 Q. Please state your full name and spell your last  
25 name for the record.

1 A. My name is Jerry G. Adame. Last name is  
2 A-D-A-M-E.

3 Q. Would you please state your home address and  
4 telephone number?

5 A. (b) (7)(C)

6 (b) (7)(C)

7 Q. Are you appearing here today voluntarily?

8 A. Yes.

9 Q. Has anyone offered you anything for your  
10 appearance today?

11 A. No.

12 Q. Could you tell us about your general mining  
13 experience from the time that you were first employed  
14 in mining?

15 A. Relatively new. Twenty (20) years ago I worked in  
16 the mines for just a small so-called punch-hole  
17 outfit. I got my black hat and I worked there for  
18 about two years. The strike came, shut us down. We  
19 were out of work, so I never thought I'd be in the  
20 mines again, and I owned my own construction company  
21 for 15, 16 years, something like that. And just  
22 recently, with all the decline in building and so  
23 forth and then, of course, Massey was hiring and  
24 advertising on the radio. I was hired in with them  
25 --- I believe it was September --- this year will make

1 two years. So I was with them about a year-and-a-  
2 half.

3 I was hired in as a shuttle car operator. And  
4 this past November, 2009, I was put into the  
5 electrical program, the maintenance program, as an  
6 apprentice electrician. And I went to the hoot owl,  
7 and I've been working the hoot owl since.

8 Q. Do you have any specialized training or  
9 certifications?

10 A. No, sir.

11 Q. When you talk about being a shuttle car operator,  
12 would that have been your most recent position, along  
13 with this electrical maintenance apprentice?

14 A. Actually, the --- I hadn't run a shuttle car since  
15 --- been January of '09, and --- but the latest was  
16 the electrician, the apprentice electrician.

17 Q. And have you been in that position since January  
18 of '09?

19 A. November. From January to November, it was still  
20 labeled as a shuttle car operator, but --- it's hard  
21 to explain. I've shoveled belt and I've helped work  
22 on equipment and I've --- just actually, a little bit  
23 of everything. If we got violations that were given,  
24 three or four guys to go make sure that this was took  
25 care of or if it was dirty belt or bad rollers or

1       whatever.  But I was just used as --- actually, all  
2       over the mine.

3       Q.  Is all this work you're describing done at the  
4       Upper Big Branch Mine?

5       A.  Yes.  Yes.

6       Q.  And who was your supervisor?

7       A.  I worked immediately under Jody Price.  He was the  
8       section electrician.  We were labeled as like the  
9       Three section.  We were in the other side of the mines  
10      until conditions as far as getting in a lot of rock.  
11      It was really tearing up equipment, so they elected to  
12      move us out and to come in the old LBB section.  We  
13      were setting up belt, getting ready for the next move  
14      of the longwall.  We were setting up the tailpiece and  
15      structure and getting everything ready.

16      Q.  Did you get all of your job assignments from Jody  
17      Price?

18      A.  Yes.

19      Q.  And could you run through a little bit of your  
20      specific job duties while you were underground?

21      A.  Well, the maintenance --- any time any piece of  
22      equipment had anything --- well, we done preventive  
23      maintenance as well.  But if something were in a ---  
24      lights get knocked off or sprays on the miners get  
25      messed up or, you know, plugged or whatever, I mean,

1 we change caps on 'em, change pumps, motors. We kept  
2 the equipment running. And it was just day to day of  
3 what the dayshift would run, what the evening shift  
4 would run and whatever problems that they come upon,  
5 that night it would be on the board for us to address  
6 those problems and fix 'em, you know, before the next  
7 morning.

8 Q. Did you ever do maintenance or repair work on the  
9 longwall?

10 A. No, sir. I've never worked on the longwall.

11 Q. Which sections would you have performed work on?

12 A. Forgive me, but they --- I guess, you know,  
13 they've changed the names just recently from Headgate  
14 22, it used to be One section. And I still know 'em  
15 as the --- we still refer to 'em as One, Two, Three  
16 and Four section.

17 Q. Well, we have a map. How about if you refer to  
18 them ---

19 A. Sure.

20 Q. --- on the map? It would be the bottom map here.  
21 I'm going to pull that one out.

22 A. When I went to --- first started at UBB, because I  
23 worked for Massey at Slip Ridge, at the Marfork  
24 property, initially and then they transferred me to  
25 UBB. The very first thing I done was went to the old

1 Two section, and they had shut down, and we pulled ---  
2 there were two of us, and we pulled all the equipment.

3 Q. You're making reference --- you're making  
4 reference to a certain section and you're pointing on  
5 the map. I'd prefer maybe if you'd take a marker and  
6 just mark how you're going to designate that area.

7 And there's a pen ---

8 A. Sure.

9 Q. --- that you can use.

10 A. And if I can clarify this. You want where I was  
11 last, from November until the explosion, or all of my  
12 work experience at UBB?

13 Q. This is your UBB experience.

14 A. Okay.

15 Q. You can tell us specifically what dates, if you  
16 know, that you worked any particular sections.

17 ATTORNEY WILSON:

18 Or just general time frames would be  
19 good.

20 MR. STEPHAN:

21 Yes.

22 A. I'm trying to think when I transferred down there.  
23 I'm not for sure. So I went back to work --- it was  
24 around in April, I think, of --- it would have been,  
25 you know, of course, last year. We retrieved all the

1 equipment off of the old Two section and ---.

2 BY MR. STEPHAN:

3 Q. Could you mark old Two section on there, where  
4 you're ---?

5 A. Just right here?

6 WITNESS COMPLIES

7 ATTORNEY WILSON:

8 And this will be Adame One Exhibit.

9 (Adame Exhibit One marked for  
10 identification.)

11 A. And we pulled that equipment down to the 30 Break.  
12 And that would have been the tailgate for the  
13 longwall, because the longwall hadn't started up at  
14 that point.

15 BY MR. STEPHAN:

16 Q. Well, let me ask you what equipment you're  
17 referring to, when you say you moved it?

18 A. It would have been --- we moved three roof bolters  
19 because one was brought over because they operated  
20 with two. One was brought over. So we moved three  
21 roof bolters, two miners, three shuttle cars, the  
22 maintenance ride, tool sleds, the emergency tent  
23 shelter, the --- everything --- every piece of  
24 equipment, the starter boxes, the power center,  
25 the --- everything that was on the section to make the

1 old Two section run. They just pulled the men off and  
2 repositioned the men and then we come up and got the  
3 equipment and transferred it back to 30 Break.

4 Because at that point, when we got it there, they were  
5 going to turn ---.

6 Actually, what we did is we brought it back down  
7 to --- I need to make sure where I'm at. Come up here  
8 to 78 Break. Come up here to --- where's the ---?

9 That would have been --- should have been this section  
10 right here. Where's the break ---? Here's 30 Break.

11 We brought the equipment up from the old Two section  
12 all the way back down and positioned it here, because  
13 with that equipment, that's what we set up here, so  
14 they could cut this tailgate for the longwall.

15 ATTORNEY WILSON:

16 Will you mark where here is on the map?

17 A. Thirty (30). Thirty (30) Break.

18 ATTORNEY WILSON:

19 You're drawing a circle in blue.

20 A. That was set up. We used that equipment to set up  
21 this 30 Break, set up the tailgate. How about that?

22 ATTORNEY WILSON:

23 You're referring to the crossover entries  
24 immediately outby the longwall section; is that right?

25 A. Yes, sir. And I'm not sure on the time frame. It

1 was --- I'm going to speculate it was a couple months  
2 because there --- like I said, it was just a couple of  
3 us. And at different intervals, if they had guys  
4 freed up, you know, they would send them up to assist  
5 us or, you know, to help along.

6 BY MR. STEPHAN:

7 Q. How many people would be involved in making this  
8 move?

9 A. Initially, two.

10 Q. You and who else?

11 A. Randy Lafferty. He's an electrician. But he and  
12 I was the general two, but like I said, Dino --- or  
13 Dean Jones --- we called him Dino, him and his crew  
14 actually come and helped us several occasions. Rick  
15 Hutchens used to work there. He was a boss. Him and  
16 his crew actually come and helped us a few times. And  
17 it would just be real sporadic, according to what they  
18 were doing. But if they were freed up, we sure could  
19 use the help. And they were actually --- they were  
20 needing it. This had to be cut through before they  
21 could start the longwall up here.

22 ATTORNEY WILSON:

23 Now, I'm going to ask you, when you  
24 reference locations on the map and you say this, if  
25 you can explain what you're referring to.

1       A. This is the --- known as the tailgate. This would  
2       be the headgate. This would be the tailgate. They  
3       have to have those in place before the longwall can  
4       actually operate.

5       MR. STEPHAN:

6       Okay.

7       A. So we were setting up to get the tailgate for the  
8       --- the longwall that was in production now, we were  
9       setting up to get that tailgate cut before the  
10      longwall started.

11      ATTORNEY WILSON:

12      So what you're referring to as the  
13      headgate are the three entries going across the inby  
14      face of the longwall; ---

15      A. Very good.

16      ATTORNEY WILSON:

17      --- correct?

18      A. Correct.

19      ATTORNEY WILSON:

20      And then the tailgate, you're referring  
21      to the entry immediately outby the longwall?

22      A. The longwall, yes, sir. And after I actually got  
23      these set up, I thought I was going to start running a  
24      buggy at that time because that's what I was hired as,  
25      a shuttle car. But it didn't happen. They brought

1 one of the crews back from wherever they moved 'em.  
2 They started cutting this tailgate, and then ---.  
3 Yes, sir?

4 BY MR. STEPHAN:

5 Q. Let me ask you about the equipment move. Were you  
6 familiar with any equipment problems that they had  
7 with any of that prior to you moving it? Like, did  
8 you fix any problems or just move the equipment?

9 A. No. Everything that I know of was operational. I  
10 mean, you might have had to change a breaker or --- a  
11 lot of times you had --- if it's set up different when  
12 you plug it into equipment, you may have to reverse  
13 leads or something. But no, all the equipment was  
14 operational and we ---.

15 Q. So even when the entries were driven, that  
16 equipment was ---?

17 A. Yeah, it was --- everything was fine, yes, sir.

18 Q. Can you tell me anything about the ventilation  
19 down through that area before you moved that  
20 equipment? Like were stoppings in place?

21 A. Everything was intact. There was only four  
22 entries up here, and everything was intact. They  
23 actually had --- I'm trying to think, a set of doors  
24 up there, but they were --- well, they had just been  
25 put in because they only went this far and then

1 stopped. You know what I'm saying? So everything was  
2 good at that point. We never had any bad readings  
3 with our monitors. I mean, there was no issues. The  
4 top was good up there. We didn't have anything, you  
5 know, popping or cracking. It was --- I mean, it was  
6 actually rather pleasant.

7 And with a couple of us working, it wasn't real  
8 confusing. We went up there, done our job, pulled  
9 back. And each day they'd want to know, you know,  
10 where it is. And we had to give 'em a report of  
11 where's the miner at, where's --- what did you do  
12 today and, you know, the full move was documented of  
13 where everything was brought to.

14 Q. Now, could you actually mark on there where  
15 approximately you think those doors were located?

16 WITNESS COMPLIES

17 A. There --- or these. Okay. I don't remember the  
18 others. But, you know, it's according to what entry  
19 we're in, what --- we only used one entry. You know,  
20 we was pulling equipment back. You'd get into one  
21 entry and you'd go --- well, actually we came this way  
22 and went down to 30 Break.

23 ATTORNEY WILSON:

24 You marked on the map, in blue, doors.

25 A. Doors. And those were intact. They were very

1 functional. I mean, like I said, we didn't have any  
2 problems.

3 ATTORNEY WILSON:

4 And when you say you went this way ---?

5 A. It was dry.

6 ATTORNEY WILSON:

7 I just want to clarify for the record.

8 When you said you went this way, you came outby to the  
9 diagonal entries and then you came to the tailgate  
10 side of the longwall --- what would be the tailgate  
11 side of the longwall and came outby; correct?

12 A. Right. The diagonal, this would be the headgate.  
13 I mean, we followed that diagonal for ---.

14 BY MR. STEPHAN:

15 Q. And again, the time frame on that move?

16 A. I'm thinking it was a --- it was a couple months.

17 Q. So it took a couple months to complete the move?

18 A. Yes.

19 Q. When did that couple months occur? Was that like  
20 early '09 or ---?

21 A. That would have been sometime around April, May,  
22 June, somewhere through there, of ---. It would have  
23 been '08, right, '08. I'm trying to get my bearings  
24 right. Because I was only there a year-and-a-half.

25 ATTORNEY WILSON:

1 You started there in September of '08; is  
2 that right, because you said it would be two years?

3 A. Right. That would have been '09.

4 BY MR. STEPHAN:

5 Q. April, May, June of '09 ---

6 A. Right.

7 Q. --- is when ---?

8 A. And then November I start --- right, it would have  
9 been '09, ---

10 Q. Okay.

11 A. --- because I wasn't there in '08.

12 Q. Okay.

13 A. Sorry for the confusion.

14 Q. Was there any significant floor heave that  
15 occurred in that area at all while you were up there,  
16 in the area that you moved around in?

17 A. Fifty (50) Break we had --- exactly at 50  
18 Break --- I'm not exactly sure which entry. It was  
19 the Number 50 Break. We had problems. Some of the  
20 equipment would not clear because of the floor. You  
21 know, the bottom was hooving, coming up. And we  
22 actually had to, you know, dig --- you know, dig  
23 around and get --- I mean, it was close there. But  
24 that's the only place. The rest of the bottom, top,  
25 everything, was good all through there. But which

1 ever entry that was we come down through, 50 Break  
2 I'll put the bottom, and it was the bottom. It wasn't  
3 the top. The bottom was --- I'll put bottom coming  
4 up.

5 And that's a return. I was thinking there was  
6 pretty much --- right there. But I do remember the 50  
7 Break. But that was close and you could tell that the  
8 bottom had come up somewhat, but no, everything else  
9 --- like I said, this was probably the driest that  
10 I've ever been in the mines in this mines and good air  
11 and good conditions. The top, everything, was  
12 actually a nice work environment.

13 Q. During that period of time, were you familiar with  
14 any gas outbursts that had occurred?

15 A. No, sir. We never --- never once had our  
16 detectors go off, so ---. Well, actually, Randy had  
17 one. I didn't have one. But we were together, so ---  
18 but we never had ours go off.

19 Q. What was the highest methane reading that you  
20 remember Randy ever receiving?

21 A. I really didn't inquire. As long as it's not  
22 alarming, I'm okay. You know what I'm saying? Now,  
23 if it would alarm, yes, then I would want to know at  
24 that point. But, you know, it's one of those things,  
25 if it doesn't go off, you're not --- you know, you

1 want to make sure he's got it every day or didn't  
2 forget it or something like that. But short of that,  
3 no, I didn't ask for any readings or document any  
4 readings, no, sir.

5 Q. Do you know what level sets the alarm off?

6 A. It initially sets off at --- I know five is  
7 dangerous, but it --- is it 1.5 on the miner? I'm not  
8 for sure, no. I know that it's set up on the miner so  
9 when it does go off, it will alarm, and it will even  
10 shut the miners down as well. Now, I'm not certified  
11 in that and not trained in that, but ---.

12 Q. Okay. After the move, ---

13 A. Yes, sir.

14 Q. --- around June of '09 or whenever, ---

15 A. Right.

16 Q. --- can you tell us where you went next, like what  
17 your next job duty was?

18 A. We had a lot of issues. They started drilling the  
19 20-foot round diameter hole at the --- yep, right  
20 above the Glory Hole there. Is that the hole? That's  
21 the Glory Hole. No, we had the airshaft hole.

22 Q. The Bandytown fan?

23 A. Yes.

24 Q. Is it the one at the back of the longwall?

25 A. Yes.

1 Q. They started drilling that. And where they  
2 were --- the --- I don't know. It was rock, but where  
3 they had so much water and so forth, once they started  
4 putting that on the belt, it really started gobbing  
5 out Ellis Number Five. And probably for three weeks,  
6 myself, along with --- and three, four other people,  
7 we continually shoveled at Ellis Number Five to clean  
8 it up. But it was just real tacky, and it didn't want  
9 to come off the belt, and it would gob up there, and  
10 we --- that was our job, to keep it clean.

11 Q. When you're saying Ellis Number Five, ---

12 A. Ellis Number Five.

13 Q. --- can you identify that on ---?

14 A. Yes, sir. That would be --- do you want me to  
15 write on this one, too?

16 Q. Yes.

17 A. That would be, I believe, at this belt right here,  
18 in Number Four, if I'm not mistaken by my maps. I'm  
19 not a great map person, but I'm going to label this as  
20 Ellis Five. The belt head that turns there --- the  
21 tailpiece --- it would be the tailpiece of Number Four  
22 belt. But we shoveled there for several weeks. It  
23 was probably about a month, I mean, actually. Some  
24 days, you know, once we got it all cleaned up, you  
25 could --- you wouldn't have to fool with it for a few

1 days and --- but I worked this entire Ellis area  
2 because the punch-out was not functional at that time.  
3 The building was not there. I mean, none of that was  
4 there at that time, and we just had to keep this from  
5 gobbing up. The --- because that's the path that  
6 the --- all of our coal and everything left from that  
7 area.

8 Q. When you say keeping this from gobbing up, you're  
9 pointing to the Ellis Number Five, where you marked in  
10 blue on the map?

11 A. Yes, sir.

12 Q. Thank you.

13 (Adame Exhibit Two marked for  
14 identification.)

15 ATTORNEY WILSON:

16 And we marked that as Adame Exhibit Two.

17 MR. STEPHAN:

18 Adame Two.

19 A. And after that, I actually worked with a new  
20 trainee in management, Brian --- and I do not know his  
21 last name. He was actually a red hat, but he had a  
22 Master's in Mine Engineering. So he was just coming  
23 out of school, getting ready to get in the management  
24 program with Massey. For probably an additional two,  
25 three more weeks, he and I were put together, and we

1       took care of dirty belts, bad rollers, building  
2       stoppings, had some stoppings that were leaking around  
3       the edge, the old stoppings, and we went through and  
4       sprayed those with the foam spray. We went with Gary  
5       May into the old LBB section and walked the LBB  
6       section. And Gary would --- and Gary's a mine foreman  
7       at that time, but he was teaching us how to do the air  
8       readings at the --- I think they're DPP points,  
9       deepest penetration point, whatever it stands for, in  
10      the old LBB sections. It was kind of educational for  
11      me as well.

12     And at that point I thought I might be getting  
13      into management, but shortly thereafter they put me  
14      into the electrician program instead of going into the  
15      management programs. But I just --- we worked all  
16      over, you know, done a lot of walking. We walked the  
17      belts. We walked the intakes, made sure all the  
18      phones worked in the intakes.

19     One of my other jobs --- and when this happened, I  
20      felt good about it, was I made sure --- they gave me a  
21      list of where all of the self-rescuers were to be  
22      because the inspectors had brought it up that we  
23      needed X number self-rescuers stored. I'm not for  
24      sure. Is it 4,100 feet, or anyway --- there was a set  
25      amount, and they had to be so many at such-and-such

1 break. And then we had to do an inventory on those.  
2 So I was the one that went through and counted 'em,  
3 made sure that they weren't expired, the manufactured  
4 dates were put down and the serial numbers were put  
5 down to every one of 'em, all the way up to --- I  
6 mean, every one in the mines. And that took us ---  
7 took us a while. And after that was when I went to  
8 the electrician program, in November.

9 Q. Just backing up real quick. When you were back  
10 here doing your work at this Ellis Number Five  
11 location, did you experience any unusual problems  
12 here?

13 A. No. It was just pretty much you stayed at that  
14 tailpiece and --- it's worse than it sounds. You  
15 shovel for nine, ten hours, and that's what you got  
16 all day.

17 Q. Did the belts ever shut down?

18 A. If you were lucky. But no. For the most part, I  
19 mean, it was --- you know, it was pretty continuous.  
20 Every now and then --- it was all in the hands of the  
21 guys up there that was contracted to drill that hole.  
22 And if they'd run into a problem, of course, they'd  
23 give you a break to get caught up. But we had worked  
24 on --- had the --- actually, the reason it was gobbing  
25 so bad was the scrapers, the primary scrapers, kind of

1       messed up and it wasn't getting good contact. And we  
2       finally got the scraper company to come in to work on  
3       the scrapers, and it really helped a lot. But that  
4       was two weeks after we had been shoveling every day,  
5       but ---. But no, there's --- I mean, pretty much it's  
6       --- you got there, you set your jug of water down and  
7       you started shoveling. And it's almost like an Army  
8       deal, you know, you shovel it down and get it down  
9       clean, all of a sudden they, you know, start loading  
10      it out again, and it just --- it would start gobbing  
11      back out, and you'd start shoveling again. And it was  
12      continual.

13      Q. You said you were involved in construction or  
14      maintenance of stoppings?

15      A. Yes, sir.

16      Q. Did you build those ---

17      A. Yes, sir.

18      Q. --- stoppings?

19      A. Yes, sir.

20      Q. What kind of stoppings did they have underground,  
21      at that point?

22      A. I worked on two different types of stoppings they  
23      had me to build, cinderblock --- you know, regular  
24      cinderblock stoppings, and we used some of the Kennedy  
25      stoppings, the metal --- I don't know. Are you

1 familiar with ---? They're metal and they expand to  
2 the top and the bottom, and then there's a metal brace  
3 that goes in and bolts on and you build a stopping  
4 with it. And we always sealed, you know, with the  
5 foam spray, the spray pack, Styrofoam ---.

6 Q. You sealed the perimeter?

7 A. Perimeters, yeah.

8 Q. Okay.

9 A. Now, the block stoppings, of course you had to  
10 seal those with the --- I don't want to call it tight,  
11 but I don't know --- UniBond or --- I forget the real  
12 name, but it's --- you mix it with water. It's like a  
13 fiberglass compound that you smear on with your hands  
14 and seal 'em up. And then we'd still do the edges,  
15 perimeters, with the spray foam.

16 Q. Did you just seal one side or both sides?

17 A. Both. Normally you would seal one side --- like  
18 the block stoppings, you would seal those with the  
19 bond and then do the perimeter. And then on the back  
20 side, you just had to do the perimeter. You didn't  
21 have to do the entire block on those. The Kennedy  
22 stoppings, you'd spray all the seams because it was  
23 jut the sheets of metal abut together and you'd spray  
24 the seams with the spray foam and seal those up.

25 Q. Did you use any tape on the seams?

1 A. I never did, no, sir.

2 Q. What areas of the mine were you involved in the  
3 stopping issue? Everywhere?

4 A. Yes, sir. Okay. I built --- I know I've been on  
5 or helped with or built myself at least 50 stoppings  
6 in all different places, so ---. And I put up several  
7 sets of the doors as well, you know, the airlock doors  
8 on the tracks, I've installed or helped install for at  
9 least ten of those.

10 Q. I'd like you to go through the process of telling  
11 us how you would actually install those doors from  
12 site selection all the way up to completion of a door.

13 A. They were --- it was predetermined by higher-ups  
14 than myself. You know, we would --- you guys, you  
15 three or you four are going to go build the doors, and  
16 you know, we'd get on the ride. And once we got  
17 there, all the materials would be there, the two  
18 doors, the --- and there's the two legs for the doors  
19 and then a crossmember across the top. But all that  
20 would be there, block would be there, half-headers,  
21 wedges, the spray foam packs, the bonding material.  
22 As far as mixing that, you normally had to find you  
23 some buckets to mix it in or something and find your  
24 own water. But all of that would be on site and it  
25 would be predetermined. It was, you know, one door is

1 going to be here and then --- normally you'd have a  
2 couple of breaks so that a motor with --- if he's got  
3 cars on him and he goes through the one door, he has  
4 plenty of room to pull up there and stop at the next  
5 door so he can close these before he opens those,  
6 because it's --- only one is supposed to be open.  
7 That's the purpose of 'em. But it's a preselected  
8 site and it's --- there's two jack posts on the sides.  
9 The hinges --- the doors are --- you know, we bought  
10 those, so they're pre-manufactured. So you pretty  
11 much just stand your two jack posts up and get those  
12 tight and there's a crossmember that holds them, you  
13 know, together in your doors. The hinges is already  
14 on 'em, and you hang those on the hinges and make sure  
15 that they're --- I mean, there's some minor  
16 adjustments with them to make sure that they open and  
17 close freely, they don't hit the tracks, they don't,  
18 you know, rub or overlap. I mean, they have to be  
19 fine-tuned, but ---. And then, of course, you seal in  
20 all the void around with block and the bonding  
21 material and then, again, spray the seams on both  
22 sides.

23 Q. Were they designed as doors that would open  
24 manually ---

25 A. Yes.

1 Q. --- or automatically?

2 A. Well, actually, I've worked on both, but the ones  
3 with the pushbutton --- with the electric motors on  
4 'em for opening, I'd be speculating to say why they  
5 didn't work for a very long period of time. I don't  
6 know, but you know, you'd just have to unplug those  
7 and undo the motor. So you had to do 'em manually.  
8 Every now and then some of the doors would not  
9 function with the pushbutton, so you would just  
10 manually open 'em. The pushbutton is just more of a  
11 convenience, so you didn't have to get off the ride.

12 Q. Did that become a problem with all of the  
13 automatic doors?

14 A. Some were installed and not even put motors on,  
15 you know, so I --- any time that I'm riding in and I  
16 have to --- and you know, I'm getting older. I'm 50  
17 years old, and for me to crawl out of a mantrip and  
18 have to walk up there and open the doors and let 'em  
19 through and then close the doors back and crawl back  
20 in, sure, I mean, who wants to do that, you know? It  
21 would be nice if they all was on a remote or whatever,  
22 pushbutton.

23 Q. Can you tell us about other work that you might  
24 have done after that?

25 A. I was working with --- like I said, working with

1 Gary May and a manager trainee. And then at that  
2 point they come to me and I worked three weeks on the  
3 belt crew with --- Kyle Anderson was the supervisor.  
4 I forgot about that. I worked three weeks with that.  
5 And like I said, I'm (b). Belt crews, in my opinion,  
6 is designed for a young man. I mean, I didn't ---  
7 matter of fact, he gave me the keys to the toolbox and  
8 told me I was his right-hand man. You're the guy.  
9 You hustle, you work and --- but I told him, but I  
10 can't keep working like this. It's too much. But we  
11 were --- I was with Kyle Anderson's belt crew and we  
12 done belt moves. And I worked there about three weeks  
13 and Rick Nicolau came to me one night while we were,  
14 you know, underground. And I had mentioned to him  
15 since I had started that I'd like to get into  
16 management or into the electrical program or something  
17 besides the manual labor type job. And I hadn't  
18 talked to him for a while, but Rick Nicolau come to me  
19 one night and he said, we're going to start you in the  
20 electrical program. And I started it and I was  
21 tickled to get off the beltman crew, you know. And  
22 that was in November.

23 Q. November of '09?

24 A. Yes, sir. And that ---.

25 Q. Go ahead.

1 A. I had been with 'em for six months. I was halfway  
2 through the program.

3 Q. Were you ever involved in rock dusting, the  
4 application of rock dust?

5 A. Sure. I'd help out. Not with the --- just by  
6 hand, by hand. A lot of the areas, when we shovel,  
7 you always --- if you shovel, I mean, because you're  
8 disturbing the floor. I mean, see, you're shoveling  
9 up, so when you're done you rock dust everything. And  
10 they always keep bags of rock dust. You know, I mean,  
11 rock dust is all over the mines, but --- yeah. And on  
12 the section, even a lot of times, as far as the  
13 electrician --- because I was an apprentice  
14 electrician. And if we got up there and the guy had  
15 to stay over and he was trying to clean and, you know,  
16 his crew already left, well, he's got to stay and  
17 clean with the scoop and rock dust. A lot of times we  
18 would jump in because we didn't want to see him have  
19 to stay late or whatever, so we would go up and we'd  
20 help him rock dust some entries or something like  
21 that. But yes, I've rock dusted by hand. I have not  
22 used the blower, though, no.

23 Q. From the time you started work up on the old Two  
24 section there to move that equipment out, what would  
25 you say would be the general condition of the entries

1 with respect to rock dust?

2 A. That was --- I mean, it was --- when we moved the  
3 equipment, all that was undisturbed. So I mean, it  
4 was --- everything was covered. Of course, you might  
5 see a, you know, 16-inch piece or something, rocks  
6 fell out or something and --- you know, but as far  
7 as --- everything was white. I mean, it's all  
8 covered. And like I said, really, the top and the  
9 bottom, the ribs, everything through that section, as  
10 far as what I seen, was --- was in good shape.

11 Q. I'd like you to focus a little bit now on the  
12 after November of '09 period of time and what you  
13 might have been doing underground with respect to your  
14 electrical work.

15 A. When I was put onto the electrical work, I started  
16 out with --- training with Billy Graham and Greg  
17 Shrewsberry, the --- they're two chiefs on the hoot  
18 owl. And I traveled with them for a month-and-a-half  
19 or so. They were the outby chiefs. And we monitored  
20 the fans every night, both fans, south and north, took  
21 all the readings, you know, once a month, done the  
22 maintenance, the greasing, checked the doors and the  
23 tram --- and the E-Stops. But I traveled with those  
24 two for about a month-and-a-half, and then I was put  
25 with Jody Price on the Three section, which was

1 actually in the other side of the mountain. And we  
2 worked on Three section until --- we hadn't been over  
3 here, but I'm thinking about three weeks before it  
4 exploded. We'd been in the other side, the other part  
5 of the mines. And like I said, the conditions  
6 warranted over there, as far as the center seam of  
7 rock started expanding --- it was growing and, you  
8 know, we was really tearing up the miner head,  
9 grinding the rock and going through bits and not  
10 making much progress, so they said where they were  
11 going to shut that down and move us over here. And we  
12 were going to get the LBB --- the old LBB section, get  
13 it set up with a headgate, tailgate, so that when the  
14 longwall finished where they were at, they needed a  
15 place to move.

16 And we were --- actually, we were trying to get  
17 this --- you see, it's a very short --- this would be  
18 the headgate, this would be the tailgate in the old  
19 LBB section. And these green lines that is in here  
20 would --- I mean, that's what they're trying to do, is  
21 get this set up so that when the longwall would finish  
22 where they were currently at, they had another home to  
23 move to, and that's --- we'd come in. And in the  
24 meantime, they put the bath house on the Ellis side  
25 and opened up that side of the mountain to come in.

1 Q. Maybe you could mark on there new longwall  
2 location or something in the area that you're talking  
3 about.

4 WITNESS COMPLIES

5 A. And we were working ---.

6 ATTORNEY WILSON:

7 We'll mark this as Exhibit Adame Three.

8 MR. STEPHAN:

9 Okay.

10 (Adame Exhibit Three marked for  
11 identification.)

12 A. And then here we come down. We were actually ---  
13 we were setting up the belt head, because once they  
14 started running coal, they had to have, you know, the  
15 belt head. And we were bringing in equipment and we  
16 were just doing the general work in --- I'm going to  
17 say in this area initially because, like I said, we  
18 had just got up there and really just got started with  
19 what we were doing.

20 BY MR. STEPHAN:

21 Q. And when you say this area, that's the area that  
22 you designated ---

23 A. Yes.

24 Q. --- by a square, the blue square?

25 A. We started --- I think we put in the --- we put in

1 a rock box for the belt, the tailpiece and so forth.  
2 Worked with the belt crew, and they were putting in  
3 the pieces of belt, getting it established so that the  
4 miner section could come in and cut this headgate for  
5 this new longwall section.

6 Q. Is that where you were working from that time when  
7 you started up until the time of the explosion?

8 A. Once we come out of the other side --- I'd only  
9 been over here about three --- this is about three ---  
10 we moved here three weeks prior to the explosion.  
11 Because I had worked all these other parts that we had  
12 talked about, then I had went over to the other side  
13 of the mountain and --- because with --- when I was  
14 working the electrician program with Greg and Billy,  
15 Greg Shrewsberry and Billy Graham, we were over the  
16 entire mine, I mean, both sides, up by the longwall,  
17 the Glory Hole. We were just everywhere. If we had  
18 one of our miner sections and they were needing help a  
19 specific night with something, we may go up and help  
20 them half the night or all night, and then we'd leave  
21 there and go help --- so we was all over the mine.

22 And after I left them, I went with Jody Price into  
23 the Three section on the other side of the mountain.  
24 And then at that point, they closed that Three section  
25 down and moved us here. And I'm thinking we were here

1 for approximately three weeks prior to the explosion.

2 Q. Was there ever a time while you were underground  
3 that you were notified that you needed to be withdrawn  
4 from the mine because of methane?

5 A. Bad air, yes. I know two occasions that I  
6 believe --- and I don't know the dates, but --- and  
7 that would be documented, but on two occasions I think  
8 that I had to come out from underground because of bad  
9 air.

10 Q. Do you know like about when that would have been?

11 A. No. I ---.

12 Q. Are you familiar with any shifts that would have  
13 been cancelled prior to the start of shift because of  
14 bad air?

15 A. I don't --- I think the one time we --- they were  
16 sent outside because of bad air. And then the next  
17 shift got there --- some of the guys showed up, but  
18 some of 'em were called and told not to come. And of  
19 course, it had to be monitored. And MSHA's there and  
20 the State and everybody shows up, and of course, we  
21 had to monitor it and find out what was wrong with the  
22 air, stoppings, whatever. You know, was one breached?  
23 Was one --- what had to happen to get the air right  
24 again, and then they'd give us the okay that the mines  
25 was okay, and we'd go back to work, but ---.

1 Q. Do you remember when?

2 A. No, sir. No, sir. And it would --- I mean, it's  
3 kind of a bad answer, but I'm sure it's documented in  
4 the books, you know. But for me to recall, no, sir, I  
5 don't remember.

6 Q. Were you working at that ---?

7 A. No, sir. This was before I came to the old LBB.  
8 I was unaware of any --- in the past three weeks,  
9 prior to the explosion, I was unaware of any bad air  
10 quality. I was really shocked at what happened.

11 ATTORNEY WILSON:

12 Let me just clarify something. When you  
13 say you went to the other side of the mountain for a  
14 period of time, ---

15 A. Yes, sir.

16 ATTORNEY WILSON:

17 --- how long of a period of time was  
18 that?

19 A. Probably from --- I was with Greg and Billy for  
20 about a month-and-a-half, so November, December ---  
21 probably first of the year, around the first of the  
22 year, January, I would say I went over to the Three  
23 section side with Jody Price.

24 ATTORNEY WILSON:

25 So about --- so then you came back over

1 to UBB around mid-March, would that be right?

2 A. Somewhere close, yes, sir.

3 ATTORNEY WILSON:

4 You want to pick up the questioning for a  
5 while?

6 MR. O'BRIEN:

7 Sure.

8 ATTORNEY WILSON:

9 Are you doing okay? You need a break  
10 or ---?

11 A. No. I'm fine.

12 ATTORNEY WILSON:

13 Okay.

14 A. Thank you.

15 EXAMINATION

16 BY MR. O'BRIEN:

17 Q. Jerry, just bear with me. I'm going to skip  
18 around a little bit here.

19 A. Okay.

20 Q. You say you're an electrician trainee?

21 A. Yes, sir.

22 Q. What type of training have you gone through?  
23 Classroom? Have you gone through any classroom  
24 training?

25 A. I've been with Troop. His name is --- I believe

1 it's David Terry. They call him --- he's known as  
2 Troop, and he runs the electrician trainee program for  
3 Massey. And he holds a classroom setting two nights  
4 every other week, held at Elk Run's training facility.  
5 So we would go to class for the two nights every other  
6 week. And I started those in November.

7 Q. Do you possess a West Virginia apprentice  
8 electrician card, certification?

9 A. Yes, sir. Had to have the card before you could  
10 actually start helping with anything. Yes.

11 Q. Do you perform any electrical work yourself?

12 A. Sure.

13 Q. What type of electrical work would you be  
14 performing?

15 A. I mean, I've helped --- are you saying totally by  
16 myself or hands on that I've done, hands on as far as  
17 helping make splices, putting a cathead on?

18 Q. Assisting and any by yourself.

19 A. Right. I've put catheads on cables and made buggy  
20 splices or, you know --- all of the highline splices  
21 was definitely supervised and --- but I've helped with  
22 several of the highline splices, worked on the KVA  
23 boxes. But all of my --- all of my experience, as far  
24 as electrical, is documented with Troop. And you have  
25 to keep your low/medium hours and your high-voltage

1 hours and what it was and dates. I mean, it's all  
2 documented in those books, all but --- you want to get  
3 as many credits as you possibly can, but ---.

4 Q. All right. Let me --- you said you helped on some  
5 of the ventilation controls. Did you ever help build  
6 any overcasts or repair any overcasts?

7 A. Yes, sir. I've built --- or helped build  
8 probably --- I can recall at this time three different  
9 overcasts that were going in and helped build those,  
10 yes, sir.

11 Q. Do you remember where those were?

12 A. If you can give me a minute, yes, sir.

13 ATTORNEY WILSON:

14 We're back looking at Exhibit Number One,  
15 but we changed colors.

16 A. Sure.

17 ATTORNEY WILSON:

18 So to keep things straight, we'll go to  
19 the red or pink marker.

20 A. And again, I'm not real detailed on the mapping of  
21 which one is an overcast, but there's an overcast here  
22 for this --- this should be not this side, but it  
23 should be on this side. There was an overcast built  
24 at the --- at this --- this one or this. Anyway, the  
25 overcast that was built in this area, and I know it

1 has to be marked, so which ever one of these marks is,  
2 helped build this overcast at the tailgate of the  
3 longwall. After the Two section had completed the  
4 tailgate, I helped assist on the overcast.

5 ATTORNEY WILSON:

6 Well, why don't you just --- if you're  
7 not sure, just put a large circle around the general  
8 area.

9 A. There's a --- and this was --- there was an  
10 overcast.

11 ATTORNEY WILSON:

12 You marked --- you circled the area with  
13 an arrow and you wrote overcast.

14 A. I'm trying to think. There was one --- it had  
15 been so long ago, I don't know. But there's one at  
16 the --- if I'm thinking right, it should be at the  
17 tailgate of this next --- this would be a working  
18 panel for the longwall at this tailgate.

19 ATTORNEY WILSON:

20 You're referring to the area outby the  
21 Headgate Number 22; is that right?

22 A. I think there's an overcast in there. I'm not ---  
23 and then Two section, ---.

24 ATTORNEY WILSON:

25 But again, for the record, you circled in

1 red the area immediately ---?

2 A. I'll do this and this to the overcasts. I'm  
3 trying to think of where the other one was at.  
4 Nothing was done down through here (indicating).  
5 There might have even been two in that section. I  
6 think there was two in that section there, just in  
7 general, but I assisted with those, yes, sir.

8 BY MR. O'BRIEN:

9 Q. Were they prefabricated overcasts or ---

10 A. No, sir.

11 Q. --- somebody ---?

12 A. No, sir. These were built with --- and explained  
13 to me the way that we were to build those was to put  
14 the steel I beam on the bottom and have it level. You  
15 know, you had to clean the debris and then get the  
16 steel beam on the bottom level and stack your box on  
17 top of the steel beam with mortar, if you would, the  
18 stopping compound, in between. It had to be wet  
19 stacked, so it had to be in between each course of  
20 block and then, of course, both sides of that had to  
21 be sealed with a stopping compound as well. And then,  
22 of course, on the top, I have built them with the  
23 metal tops on 'em. And of course then, you know, you  
24 had to seal to the top and the ribs, which, you know,  
25 cut the air off which way you're building it to. We

1 wet stacked those with mortar in between on top of  
2 steel beams.

3 Q. Okay. Very good. Now, do you remember if you had  
4 --- what kind of clearance you had overtop those  
5 overcasts? Did you have as much clearance overtop of  
6 the overcasts as you did underneath the overcasts? Do  
7 you remember?

8 A. The ones that we built I would say we probably had  
9 more overtop --- they were very close, but more  
10 overtop of than we did underneath.

11 Q. Have you ever helped on any equipment moves,  
12 moving equipment in and out, other than this, ---

13 A. Oh, from outside in?

14 Q. --- as an apprentice electrician?

15 A. Not from outside in. We've actually taken  
16 equipment from inside and got it prepped to go  
17 outside.

18 Q. Okay.

19 A. But not from outside in.

20 Q. Were there any red caps or red hats on those  
21 current moves, that you know of?

22 A. No. We ---.

23 Q. Okay.

24 A. I was probably the greenest person on our crew.

25 Q. All right. Have you ever been involved in any

1 cutting or welding?

2 A. Yes, sir. I was actually being taught to --- I've  
3 used the torches in the past, so I was familiar with  
4 torches, but --- or somewhat familiar with them, and  
5 then they were teaching me to weld as an apprentice  
6 electrician, yes, sir, on the rock boxes.

7 Q. Okay. Can you briefly tell me what the procedure  
8 was when you got ready to cut and weld and ---?

9 A. You had to check the air, I mean, every --- I  
10 think it's 15 minutes. Of course, like I said, I was  
11 supervised by the other guys, but Jody and Adam Fraley  
12 both had detectors, but they checked air I think like  
13 every 15 or 20 minutes. But pretty much for the focus  
14 on that, mine was, you know, to have a shield, to have  
15 some gloves on and --- because that's hot, and I was  
16 trying to focus on learning to weld. But I don't know  
17 --- I mean, if that's where you're going with the  
18 air ---.

19 Q. That's good. That's what I mean.

20 A. Yeah.

21 Q. After a welding or cutting job was performed, was  
22 there any precautions taken afterwards?

23 A. Yeah. I mean, if you was --- it depends on the  
24 situation, but a lot of times you had to put water on,  
25 you know, areas or --- and you always had rock dusting

1 and fire extinguishers and everything right with you,  
2 so I mean, it's ---.

3 Q. Okay. Did you ever help in performing any  
4 permissibility on the section equipment?

5 A. Other than observation, really, no. That was  
6 something we were just starting to cover and they ---.  
7 I was a tag-along at that point, and they would tell  
8 me --- you know, they were trying to teach me the  
9 stuff. But, you know, as far as me doing  
10 permissibility on the equipment, no. I just was there  
11 to assist.

12 Q. What about methane monitors on the miner, did you  
13 or any of the people you traveled with ever  
14 calibrate ---

15 A. Yes, sir.

16 Q. --- methane monitors?

17 A. Yes, sir. I didn't, but I was with 'em when they  
18 did recalibrate, and, you know, they show you a  
19 procedure and the tanks. And then even the sniffers  
20 on the front, we replace those and --- yeah, but ---.

21 Q. You say you replaced some sniffers. What  
22 generally was the problem with the sniffers, do you  
23 know?

24 A. I don't know why, you know, it would quit working,  
25 but evidently it would quit working. The miner would

1       either, you know, give you an odd reading or it  
2       wouldn't start or --- you know, because once the  
3       reading gets so high, it will not operate or whatever.  
4       But in detecting whatever's wrong, you know, it's  
5       either you need to recalibrate the monitor itself or  
6       sometimes --- I only recall one occasion, but the  
7       sniffer up at the front had to be replaced. It was  
8       just bad. I don't know what was wrong with it. It  
9       wouldn't work.

10      Q. All right. How often do you have to calibrate and  
11      maintain the monitor, do you know?

12      A. I have no idea, no, sir.

13      MR. O'BRIEN:

14      All right. That's all I have for you.

15      Thank you.

16      ATTORNEY WILSON:

17      Pat, did you want to ---?

18      MR. MCGINLEY:

19      Yes.

20      EXAMINATION

21      BY MR. MCGINLEY:

22      Q. Mr. Adame, did you talk to any Massey lawyers  
23      after the explosion, from that point on until today?

24      A. No, sir, I haven't.

25      Q. Do you know anyone who has talked to Massey

1 lawyers?

2 A. Actually, as far as post-explosion, I heard about  
3 it that day. I just --- I come outside about 10:00,  
4 10:30 that morning and went home. A friend of mine  
5 called me and told me he heard something about it on  
6 the scanner. Turn the scanner on. I do not have a  
7 scanner. And so I made some phone calls and found out  
8 what happened. I packed my vehicle with clothes and  
9 some food for myself and I went to the mine. Of  
10 course, they wouldn't let me on the hill, but I went  
11 to where the families were being held and pretty much  
12 I stayed all week. I even stayed overnight several  
13 nights, trying to assist with whatever I could.

14 After that, they informed me that they wanted me  
15 to come back to work at UBB because I do know they had  
16 transferred the majority of everybody to another mine.  
17 I went back to UBB the following week and I worked  
18 there for --- I'm going to say approximately a week  
19 setting up the State's trailer, the Federal trailer,  
20 the two double-wides and the ---. I used to be a  
21 contractor and had my own construction company, so I  
22 built the steps and the decks to get in and out of  
23 those.

24 Q. So you knew how to do all that?

25 A. Yes, sir. And I had the tools and stuff, so ---.

1 Q. What about since then, what have you been doing?

2 A. Actually, I have quit Massey. I did not have  
3 anything to go to. I have confidence. I've got a  
4 college degree, so I decided in --- well, myself, I  
5 have two sons, 15 and 19, and my wife, and all four of  
6 us decided that it's best for me to leave. And  
7 everybody else can do what they want, but through  
8 discussions of --- I can control what I do and  
9 what --- you guys work with me, and we're here working  
10 on a --- dropping a wheel unit out of a buggy. I can  
11 control --- I can control you even, but we cannot  
12 control two breaks away from us, if they back through  
13 a stopping or tear down a curtain or don't have air or  
14 they're making deep cuts or what --- you know, we  
15 cannot control that. And you're unaware of it, so at  
16 that --- with that understanding, I decided to leave  
17 the mines.

18 And I went down and turned my rescuer in and  
19 signed --- you know, filled out the paperwork of  
20 termination. And I actually went and took my  
21 insurance exam, and I'm an insurance broker now, so I  
22 haven't been around the mines for three or four weeks  
23 now.

24 Q. I see. So no one at Massey contacted you to ask  
25 you if you would talk to lawyers?

1 A. Oh, no. No.

2 Q. So ordinarily what time did your shift end?

3 A. It was 11:00 to --- I think it was 8:00. And I  
4 know that sounds crazy not to know when your shift  
5 ends, but I don't ever recall leaving so-called on  
6 time. And that's part of being an electrician. I  
7 mean, you stay and work on something until it gets  
8 fixed, until it's right.

9 Q. Do you get paid for the ---?

10 A. Oh, sure. Sure. And then that's kind of what  
11 makes it nice, is the overtime.

12 Q. Did you know anything about an incentive program  
13 for miners based on production? They didn't tell you  
14 anything about ---?

15 A. You hear, you know, and I would just say it would  
16 be hearsay, of, you know, --- years ago, the guys used  
17 to get burgers and steaks when they'd come out if  
18 they'd run so much coal or, you know, they got so much  
19 money or ---. My close to two years with Massey, I  
20 was never fortunate enough to receive anything like  
21 that or to be on any of that. If it existed, I do not  
22 know.

23 Q. Okay. When you were moving equipment, I think you  
24 said from the old Number Three, ---

25 A. Two section.

1 Q. --- Two section, and setting it up over here for  
2 the --- in advance of the longwall, you said they  
3 wanted to know each day what you did and basically  
4 were keeping track of your work. Who wanted to know  
5 that? Who did you report to?

6 A. The mine foremen at that time was Andy Kolson and  
7 Gary May.

8 Q. And was this just an oral report?

9 A. No. I had to --- I had to go upstairs and have  
10 all my stuff documented. The Number Two shuttle car  
11 is at 67 Break, the --- you know, and I had to have it  
12 documented. And then they kept a little map, you  
13 know, of --- I mean, I guess it's good bossing so that  
14 they know that the stuff is there, but ---.

15 Q. You did that every day?

16 A. Yes, sir. Some days were better than others. And  
17 that's according to how --- I mean, how many cables  
18 you had to move or whatever. But they did want to  
19 know --- keep track of, exactly where everything was  
20 at.

21 Q. You were asked and you talked a little bit about  
22 the doors, and you said you built some of them and you  
23 installed them. What --- you know, what quality were  
24 they? I mean, there's a range of quality of doors you  
25 could have, I guess that you buy from the outside.

1 A. Right.

2 Q. What was your sense of these?

3 A. I really --- honestly, I don't know what to  
4 compare them to as far as other mining doors. But as  
5 far as per quality, I mean, they're very functional,  
6 very capable of doing their job of the airlock until  
7 somebody runs into 'em.

8 Q. Did that happen very often, in your experience?

9 A. Sure. And then you got to tear those down and put  
10 up new doors and, you know --- what happens is you  
11 open 'em and you get back on those mantrips and they  
12 start through and one of the doors starts creaking  
13 back open and then they hit it and bend it up. Well,  
14 then it's got to come down and a new door's got to go  
15 up, so ---. I mean, anything can probably ---. I  
16 mean, we can all second guess everything, ---

17 Q. Sure.

18 A. --- and improve on it.

19 Q. Sure.

20 A. But as far as quality of doors, I mean, they were  
21 sufficient, I think.

22 Q. So when they'd be damaged, what priority ---?

23 Would they be a top priority in terms of --- you said  
24 you'd come in and you've on the board your assignment  
25 for the shift?

1 A. Uh-huh (yes).

2 Q. Would repairing doors be a top priority or was  
3 there any priority that you could identify in terms of  
4 the kind of work you were doing? You did a lot of  
5 work, different things.

6 A. When they'd give me my list to --- pretty much ---  
7 I don't know the priority on a list other than this is  
8 on your list. This has to be done before morning.

9 Q. Okay. So is it up to you what ---

10 A. Right.

11 Q. --- things on the list you did first?

12 A. Right.

13 Q. So if there were broken --- there were doors that  
14 weren't closing properly, had been, you know, run into  
15 to, might have been something else that you went to in  
16 connection with the folks you're working with, ---

17 A. Right.

18 Q. --- you might do the doors last; is that possible?

19 A. Sure. I don't know as far as putting them --- as  
20 far as --- you know, if we had an electrical problem  
21 or something, you know, then I would say the doors  
22 would take a secondary to, you know, if you've got an  
23 electrical issue that may cause a fire or ---

24 Q. Sure.

25 A. --- something like that or ---.

1 Q. Do you have any sense of where, you know,  
2 doors --- repairing doors that weren't closing  
3 properly ---?

4 A. Oh, you had --- I mean, because we had a lot of  
5 company, and yeah, I mean, you got to get it fixed,  
6 because if you don't, then that's a violation. And I  
7 was told that any violations you see, you need to  
8 either write it --- fix it. And if you can't fix it,  
9 you got to write it down and you got to get it to  
10 somebody --- supervisor so that they can make  
11 arrangements to get it fixed.

12 Q. So with all the situation with the damaged doors,  
13 there were times where you couldn't get it fixed with  
14 the time you had?

15 A. No, not that I'm aware of. Any time I had doors  
16 to fix, we --- it was, like I said, it's expected of  
17 you.

18 Q. Sure.

19 A. That's on your list. You will have 'em done for  
20 the morning.

21 Q. Did you get everything --- did you always get  
22 everything done on your list at the end of the shift?

23 A. Pretty much. But then that's why you stayed  
24 sometimes, you know, 14, 16 hours.

25 Q. You said sometimes, you know, if you couldn't get

1 things done, you wrote it down so somebody would get  
2 it done.

3 A. Right. If they're --- you know, if you're  
4 changing the --- and a lot of times it's mainly on the  
5 equipment. If you're changing the head on a miner,  
6 you know, you're --- it's going to be a long process.  
7 But with the overlap of shifts, you're still working  
8 on it when the next shift comes in. And they ---  
9 actually, there's an overlap there, I think it's about  
10 an hour, and you'd be working with them, and that way  
11 you can bring them up on what all you run into, good  
12 or bad. And then you're leaving and they're staying  
13 to continue on, but ---.

14 Q. There was a public statement by one of the members  
15 of the Board of Directors of Massey that in 2009, at  
16 UBB, there was a very large number of serious types of  
17 violations. Are you aware of that?

18 A. No, sir. I mean, you would know there was a  
19 number --- as far as --- I'm speaking for me.

20 Q. Sure.

21 A. At times you'd come in and know that, you know,  
22 the inspectors have been there. And one day there  
23 might be three. The next day there might be 11.

24 Q. Did you have a sense or ---?

25 A. You could tell what --- I mean, now as far as how

1 bad or whatever, the only times I knew of that was  
2 when prior to me going into the electrician program  
3 of, hey, you know, we've got to fix this. They wrote  
4 us up. There's debris in the intake, and it's not  
5 really passable. You need to get over there and get  
6 timbers set and secured and a walkway and, you know.  
7 But I would have to address --- I mean, fix whatever  
8 they wrote.

9 Q. Did you ever hear of anyone being disciplined by  
10 management as a result of being written up and cited  
11 for a violation?

12 A. Hearsay, yes, sir. I mean, you know, if it was  
13 yours ---. Well, I know that they would verbally get  
14 onto you. If it's yours and you got a violation on  
15 it, then --- then you're not doing your job. But I  
16 know they'd verbally get onto 'em, but I don't know of  
17 any actions or --- you know, I can't state any that I  
18 know of, so no, sir.

19 Q. You said that you --- one of the things you did  
20 was repair old stoppings that were leaking around the  
21 edges. How do you know they were leaking? I mean,  
22 did somebody ---?

23 A. You can hear 'em.

24 Q. You can hear 'em?

25 A. Uh-huh (yes).

1 Q. But is that something --- I mean, you were --- you  
2 were given assignments all through the mine before in  
3 the electrician ---

4 A. Right.

5 Q. --- program. If you heard 'em, would you report  
6 it or would you --- when you were going and making  
7 these repairs, did somebody tell you to do that?

8 A. Most of the time they were, you know, told to us  
9 because we're working on something else, well, they  
10 find those, and then they would direct us right to  
11 'em. But if --- I carried a pen and one of the little  
12 pocket notebooks, and I'd make my notes in there. And  
13 if you go by one and it was, you know, --- because the  
14 top and the bottom and the ribs all move, you know,  
15 different degrees, but they all move. And you know,  
16 if they are moving and air starts going through there,  
17 you can --- you can be a break away and hear it, if  
18 you will, sucking air. And you just bring in the  
19 spray foam and go around ---.

20 Q. What if you're --- you've got all those things on  
21 the board that you have to do, do you --- do you do  
22 that? Do you drop everything and do that or ---?

23 A. You do --- pretty much you do what they tell you.  
24 I mean, that's a --- you know, you go in and they'll  
25 have a list for you. Here's your list, here's your

1 list, and here's your list, and they may --- you know,  
2 instead of you actually working on stoppings --- so  
3 you've been working on 'em for a week, ---

4 Q. Uh-huh (yes).

5 A. --- all of a sudden, they may have you going to  
6 shovel belt and have him working on a stopping. See,  
7 you don't --- and I mean, that's something for me. I  
8 didn't question, you know, ---. They hand you your  
9 list, and you do what's on your list.

10 Q. So at least, in part, the management --- bosses  
11 were setting the priorities of what you would do ---

12 A. Yes.

13 Q. --- and other miners?

14 A. Yes.

15 Q. You were all over the mine. Did you find any  
16 occasions where you found curtains down or you could  
17 actually determine there were some problems with  
18 ventilation, reversed air, anything like that?

19 A. No. I've seen curtains tore down on a section,  
20 you know, by a shuttle car running through it or  
21 something and snagging it or a scoop or, you know,  
22 something sharp tearing it down. And I mean,  
23 immediately you go over and --- because sometimes  
24 they'll get off and fix it, like they're supposed to.  
25 Sometimes they don't. Well, it doesn't matter. It's

1 all --- or it's supposed to be. It's all a team. I  
2 mean, you know, you see a guy get snagged on it and he  
3 starts ripping it and he stops, you flag him off and  
4 pull it off there and tell him to go on and you'll  
5 take care of it. Pulls nails out of your pocket and  
6 pin it up. You can have it pinned back up faster than  
7 he can turn the machine off and climb off and fix it  
8 and climb back. Let him go and you can fix it. And  
9 I've fixed many up there.

10 Q. When you say it's all part of the team, you mean  
11 the people that you're working with, ---

12 A. Section, yeah.

13 Q. --- or are you including management?

14 A. I mean management's what gets you paid.

15 Q. I understand. But you said that's supposed to be,  
16 and I'm just ---.

17 A. The team is --- I classify a team as the working  
18 section, and that's from the section boss to the  
19 electricians, to the ---.

20 Q. Did you know there were ventilation problems or at  
21 least problems ---?

22 A. I had heard --- and now that was, I think, if I'm  
23 not mistaken, while we was in Three section in the  
24 other side of the mountain they had an air change.  
25 Somebody was talking about it, but I wasn't aware of

1 anything. And you know, they were talking about when  
2 they were getting permits to get everything. And to  
3 be honest with you, I was like, well, I'm glad, you  
4 know, that way I'm over here and you're over there.  
5 They can build stoppings.

6 Q. So people were talking about ventilation problems?

7 A. Well, they was just talking about the air change.

8 Q. Air change. What did that mean to you?

9 A. Well, I mean, and conditions change because you  
10 --- you know, as you cut new cut-throughs, new  
11 break-throughs and headgates and tailgates and you're  
12 setting up different things, it all affects ---

13 Q. Oh, sure.

14 A. --- the path of the mine. But then if they're  
15 doing a ventilation change, I mean, I'd be speculating  
16 in my own mind that, well, they need more air or they  
17 got too much at one place and, you know, they're going  
18 to have to regulate it and build stoppings or  
19 regulator, put the blocks out and ---.

20 Q. Well, sure, you have changes. It's a day-out  
21 process of mining.

22 A. Right.

23 Q. But what I'm really asking you about is, did  
24 you --- were you aware of or did people talk about  
25 problems with ventilation, not adequate air? Never

1 heard that?

2 A. If we were on --- well, actually, we were in the  
3 other side of the mountain --- and I'm speculating, I  
4 think it's Massey's rule is 20,000 --- I don't know,  
5 but there's a set amount that Massey says you have to  
6 have across the face. Fire bosses come to us many  
7 times and said --- and like I said, I'm the new  
8 trainee, so I would get volunteered, changing the  
9 scoop tire over here, and there's three or four of us.  
10 It's a slow night or whatever, and we're doing  
11 something, and the fire boss comes down and says, hey,  
12 man, I don't have air up here. I need to hang some  
13 curtains and do some additional things up here. Can  
14 you all help? Sure. Jay, go help them, you know. So  
15 then I'd go up there and help hang curtains or, you  
16 know, whatever he told me to do to get the air right.  
17 But other than that ---.

18 Q. So ---.

19 A. But you know, it would be right before --- of  
20 course, before anybody come in.

21 Q. Right. Well, when you came back the last three  
22 weeks you were in there, did anybody talk about  
23 concerns about not enough air?

24 A. No, sir.

25 Q. Never heard it?

1 A. No, sir. Of course, we were --- you know, I mean,  
2 I was a long ways from the longwall and Headgate 22.  
3 And then it had been a while since I'd actually been  
4 up in there working. But I was very shocked to hear  
5 it exploded.

6 Q. Did you know anybody that was killed in the  
7 explosion?

8 A. Yes, sir. I actually worked with, I mean,  
9 probably 95 percent of 'em. And then where I was on  
10 dayshift and then you dress and change and ride in  
11 and --- yes, sir, I knew all but three or four. Very  
12 close friends with a lot of 'em.

13 Q. None of them mentioned any problems with  
14 ventilation?

15 A. No, sir.

16 Q. You said that you recall one time when the sniffer  
17 had to be replaced. What was the process for getting  
18 it replaced?

19 A. Actually, Jody --- that was in --- we were in  
20 Three section, the other side of the mountain. And  
21 like I said, I don't know why it quit working, but  
22 before we would go in, there would be a note. I guess  
23 they called it out to the electrician's office or  
24 whatever, but we had a board and there would be a note  
25 on the board of what Three section --- you know, to

1 Jody Price, of what it was supposed to take care of.  
2 And I never really got it, it wasn't addressed to me,  
3 but, you know, he would get it and he would go through  
4 it and he said, all right, we need to go downstairs  
5 and get ---. And we'd have a list of --- you know,  
6 he'd say, you run down there and grab some five-  
7 eighths bolts and get a Dash-3 monitor and get, you  
8 know, and --- but that night, the reason I recall it  
9 was because he told me to get --- I call it the  
10 sniffer. I don't know if it's got a real name, but he  
11 told me to get the sniffer, and I didn't know what it  
12 was.

13 Q. You didn't have to send out of the mine to get it,  
14 though?

15 A. Oh, no. Well, we were outside, you know, and  
16 we're getting our list to get ready to go in. And we  
17 were in the warehouse and then finally he got it and  
18 he showed me. I was like, oh, cool. You know, so we  
19 went in and then, at that point, you know, he went up  
20 there and I just knew it was right behind the drum,  
21 the head, and there was a little place in there. And  
22 I didn't change it, but I just knew he had changed it  
23 out. And then I watched them calibrate the --- you  
24 know, with the little tanks, the calibration kit and  
25 the magnet and ---. I've watched them do that several

1 times, but I've never actually participated in that.

2 MR. MCGINLEY:

3 Okay. No further questions. Thanks.

4 ATTORNEY WILSON:

5 Let's go off the record.

6 SHORT BREAK TAKEN

7 ATTORNEY WILSON:

8 We're back on the record. Clete, did you

9 want to continue?

10 MR. STEPHAN:

11 Yes.

12 RE-EXAMINATION

13 BY MR. STEPHAN:

14 Q. Was advance notice of MSHA inspections given by  
15 the operator to avoid any enforcement actions, ever,  
16 that you're aware of?

17 A. I can't say that I ever received any, but I'm sure  
18 that there's calls of, you know, we've got company,  
19 you know, you better make sure everything's right now,  
20 you know. But I mean, it's just --- it's almost like,  
21 if I can, you get a phone call on your cell phone and  
22 you're at the house and you say, honey, Jay's coming  
23 over, and you do the last-minute little, you know,  
24 well, sweep out the porch here or pick up the shoes or  
25 --- minimal stuff, but it was nothing, you know ---

1 but I never personally received --- of course, I was  
2 just a --- I'm a trainee, you know.

3 Q. Well, did your crew ever receive such a call,  
4 where they came back and they said to you, we got to  
5 clean something up here because there's an inspector  
6 on their way?

7 A. I can't name a time, but I would --- I think  
8 there's --- either they knew they were coming or they  
9 were already there. I don't know how they would know  
10 they were coming. I think they'd probably be on their  
11 way or something and, sure, they'd say, you know, make  
12 sure this is cleaned up. You better make sure --- but  
13 yeah, there's been times that, you know, they --- I  
14 don't know how, but yeah, they've said, you know, the  
15 man is here or something to that effect, get it  
16 cleaned up or make sure everything's right, make sure  
17 you got everything ---.

18 ATTORNEY WILSON:

19 Well, when you say they would say, I  
20 mean, do you recall specifically anyone telling you  
21 that an inspector was on the way to the section?

22 A. No, just the guys you're working with or  
23 something --- you know, the phone goes off or  
24 something or they come back around and they say, guys,  
25 you know, it's --- we got company here and, you know,

1 don't know if he's coming up here or what, but make  
2 sure everything's right. Make sure you --- you know,  
3 and you would just kind of proof over, not that ---  
4 you know, my deal would be to check the fire  
5 extinguishers and make sure --- but you do that once a  
6 month anyway. But you never know who's going to come  
7 up there, and I don't know why, but why would somebody  
8 take a fire extinguisher down at the power center?  
9 What would they ---? But sure enough, you look  
10 around, and you know, where'd it go? But there'd be  
11 something stupid like that. Or they'd bust --- the  
12 six bags of rock dust that's supposed to be there and  
13 somebody busted two of them, well, you better get two  
14 more there or have extra or something just minimal,  
15 but no, nothing to any degree.

16 Just make sure that our power centers was cleaned  
17 off and not somebody had thrown trash from their  
18 lunch previous. Because you may be around the corner  
19 working on a scoop and, you know, if you've got  
20 company coming and they call or something and tell  
21 you, yes, we go around and somebody --- have you been  
22 to the power center? It don't matter. Somebody  
23 better go around there and check and make sure the  
24 section guys before didn't leave all their lunch trash  
25 out or something, because then, again, if you've got

1 --- if he come up there and you got wrote up because  
2 of, you know, something as --- I will say as stupid as  
3 leaving trash lay on top of the power center or  
4 something like ---. And that's just an example, but  
5 you know, it would look pretty bad on you, and say,  
6 well, why didn't you clean that up? Well, we hadn't  
7 even been over there yet, so ---. But you know --- I  
8 mean, and there was times, I'm sure, that they called.  
9 But who called or who talked to, no, I don't know. I  
10 just know that, you know, it was like, boys, we got  
11 company on the property. You better make sure  
12 everything's, you know --- it's okay. Run back  
13 through your stuff.

14 ATTORNEY WILSON:

15 Can you give a ballpark figure as to how  
16 often that happened?

17 A. Nah.

18 ATTORNEY WILSON:

19 Was it more than once?

20 A. I've heard it more --- in two --- or almost two  
21 years, a year-and-a-half, whatever, I've heard it more  
22 than once. But as far as naming times or knowing  
23 when, no, sir, I don't --- I can't tell you. I'd be  
24 guessing. I don't know.

25 BY MR. STEPHAN:

1 Q. In your opinion, was mine ventilation adequate at  
2 all times?

3 A. For the most part, yes. I won't say a hundred  
4 percent of the time. I know there's times that we've  
5 had to work on it. And you wouldn't be working on it  
6 if it was right, so there was times that, yeah, we had  
7 to work on it. We had to, you know, build stoppings  
8 or, you know, go back and check the seals around so  
9 many stoppings down through there because you wasn't  
10 getting the proper air readings. But yeah, I mean,  
11 there's times that the air wasn't right, that we was  
12 working on it.

13 Q. And when you say you were working on it, what  
14 would be the most major thing that you would have ever  
15 have done to correct the air?

16 A. Me, personally, would be to --- found a stopping  
17 that it --- don't know what happened to it. It sure  
18 looked like somebody had run into it with a scoop.  
19 Now, I don't know. I didn't see it. There was no  
20 scoop there, but there was ---

21 Q. Knocked out?

22 A. --- a hole in it. So --- have no idea. But at  
23 that point, you know, we had to tear that one down and  
24 build back. But other than that one time, you know,  
25 it was pretty much going around and sealing --- you'd

1 have a section --- you know, going up through the main  
2 beltline here you might have --- out of this entire  
3 section, you may have --- because there's stopping  
4 line on both sides, all the way up through there. You  
5 may have 15 or 20 that's just sucking a little bit.  
6 But if you add that up, it sure makes a difference.  
7 So you would be given foam packs and told to head up  
8 one side and there might be two more guys on the other  
9 side, and they go up the other stopping line.

10 Q. Are you aware of any major ventilation changes  
11 that were made while miners were underground?

12 A. No. We had to --- the ones I know, we had to come  
13 out.

14 Q. Are you aware of any mining that took place  
15 without ventilation curtains being in place?

16 A. No. I mean, I've had to --- I've run a buggy, and  
17 you hate running through fly pads and curtain. It's  
18 terrible, but you got to do it.

19 Q. Were methane monitors ever bridged out?

20 A. No.

21 Q. You ever come upon a methane monitor that was  
22 covered?

23 A. No. That's reaching. I mean, no. As far as I  
24 know, everybody that I worked around and encountered,  
25 and I was all over this mines and worked with many

1 different crews, I never seen anything deliberately  
2 that I can say deliberately would jeopardize yourself  
3 or your buddy that you're working with, no.

4 Q. Did you refer to a bad sniffer earlier?

5 A. Uh-huh (yes).

6 Q. Would the section continue to run with a bad  
7 sniffer?

8 A. That miner wouldn't, no. I mean, they'd shut that  
9 miner --- we had two miners, but that miner would be  
10 down.

11 Q. Do you ever know of a case where a sniffer went  
12 bad and the miner continued operating?

13 A. No. Actually, that was the only one that I ever  
14 was aware of was that one, and it was down, when we  
15 got up there and we had to fix it in a hurry so it  
16 could get back to production.

17 Q. Are you familiar with any miners who were  
18 subjected to retaliation and threats for reporting  
19 safety issues and other concerns?

20 A. No.

21 Q. You talked before a little bit about building  
22 overcasts. In the ones that you're familiar with, did  
23 they ever take any top down to build the overcast,  
24 shoot out any roof or open the entry out any more  
25 before they built it?

1 A. Yeah, with the miner. I don't --- I've never seen  
2 'em shoot anything. But with the miner, they would  
3 cut out, sure.

4 Q. Okay. Okay.

5 A. Yeah.

6 Q. I just didn't ---.

7 A. Almost every one of those that was built that I  
8 was around, I mean, you had to. By the time you put  
9 your steps up, I mean, you're supposed to have room to  
10 walk across the top of it.

11 Q. And maybe you answered this before, too, but I'm  
12 going to ask it again. Could supply cars and motors  
13 pass through the equipment doors without opening both  
14 sets of doors?

15 A. Ask again, please.

16 Q. Could supply cars and motors pass through  
17 equipment doors without opening both sets?

18 A. No. The way --- and if I can, to make sure ---  
19 one opens, they have room to pull in with their  
20 materials and their other cars. That one has to be  
21 closed before the other one opens.

22 Q. Okay.

23 A. That is the known procedure and supposed to be  
24 followed at all times, but ---. And that doesn't  
25 matter if you got three mantrips in a row or four. If

1       there's four and say that area will only hold three,  
2       that other guy's got to wait and you're going to close  
3       the door in his face. And he'll probably holler and  
4       swear and cuss, but you know, he's going to sit there  
5       because there's not room. Close the door before you  
6       open the other one.

7       Q. You said you were home at the time that the  
8       explosion actually occurred on April 5th?

9       A. Yes, sir.

10      Q. What was the last shift that you actually worked  
11      before the explosion that morning ---

12      A. That ---

13      Q. --- or that ---?

14      A. --- hoot owl shift, I came out about ten o'clock,  
15      10:30 that morning and come home.

16      Q. And you said that you were notified of the  
17      accident by a friend?

18      A. One of my co-workers.

19      Q. And who was that?

20      A. Jody Price.

21      Q. Do you remember when you were notified?

22      A. No. He was listening to his police scanner, and  
23      he called me and he said, man, you got to turn on your  
24      scanner, something is happening at the mine. Well, I  
25      think he even said, there's an explosion. I said, no

1 way. I mean, we had water issues. There's a few  
2 places water is deep in there. We have had a few  
3 places in there that the ribs was rolling out, a few  
4 places --- you know, you kind of --- maybe if  
5 something is going to happen you might speculate in  
6 your mind of what. But an explosion, to be honest  
7 with you, I may just be stupid, but it really, really  
8 shocked me. But he told me, turn on my scanner, which  
9 I didn't have a scanner, so ---.

10 Q. Well, you mentioned water problems, and I'm  
11 wondering if you would be able to show us on the map  
12 the extent of the water problems that you're referring  
13 to.

14 A. Behind the longwall, I had to go on --- when I was  
15 doing the ---. And I don't even --- I'm sorry, but I  
16 don't know how to label what I was doing. I mean, I  
17 was just doing whatever. I had to work on the air  
18 pumps in behind the longwall. And to be honest with  
19 you, I don't --- I couldn't --- I'd be guessing. I  
20 have no idea where they would be, as far as for the  
21 map because I was only up there, I'm thinking about  
22 three nights, maybe four nights. And about that third  
23 night that we went up there to work on the pumps, I  
24 explained to my super --- Kyle Anderson, when I was  
25 working with actually the belt move crew, and he got

1 nominated --- him and his crew got nominated to go up  
2 there and change out those air pumps.

3 Q. Can you show me where those air pumps were?

4 A. No, sir. I don't really know. I know that they  
5 would be beyond --- wouldn't have been in that cut,  
6 because that was new. It had to be on this side of  
7 the longwall, and I have no idea. They were on the  
8 other side of the stopping line up through here.  
9 Because it was known to this before this started. But  
10 after this all got --- you know, was coming down  
11 through here ---.

12 Q. You're saying a lot of thises and thats.

13 A. I was familiar with the Two section and me pulling  
14 the equipment back by this diagonal, where the  
15 headgate was going to be. But for the air pumps, was  
16 on the other side of the longwall, and it was months  
17 after that. The longwall already started, and we come  
18 in from a totally different way. So I don't know ---  
19 as far as looking at the longwall from the outby side,  
20 it would have been on the right-hand side. And it  
21 would have been inby the longwall, the shearer and, I  
22 mean, it would have been --- now, how far up in there,  
23 I don't know, but there was a lot of water and it got  
24 over waist deep.

25 And I've just explained to Mr. Anderson that I

1 wasn't coming back. I mean --- and I guess it's just  
2 all subjective at that point what your job was, but I  
3 wasn't going out there and parade water first thing to  
4 change out an air pump and wade up over your boots.  
5 And of course, your boots fill up and, you know,  
6 everything from your underwear down, and then you  
7 continue to work all night. I did it one night, but I  
8 won't do it again, so ---.

9 But yeah, there was --- I know they had a lot of  
10 water issues. And to be honest with you, they had  
11 other guys to go in there. And they continued to do  
12 it, you know, if there's a problem or checking those  
13 new air pumps they put in. And I don't know how many,  
14 but they was several of 'em put in. You know, you see  
15 'em outside, new ones, and I knew they were taking 'em  
16 up there and I was like, better them than me, but I'm  
17 not --- I just refused to go up there.

18 Q. Are you familiar with any time that the water  
19 might have been roofed?

20 A. No. When we went up there it was up to ---  
21 actually, the particular place I was at, it got  
22 beltline, waist. I'm not a real tall guy either, but  
23 to about my waist. But it was --- you paraded through  
24 that for eight, ten breaks.

25 Q. Okay. Turning your attention back to the day of

1 the explosion, ---

2 A. Okay.

3 Q. --- when did you actually arrive at the mine?

4 A. The day of the explosion?

5 Q. After you had heard about the explosion and packed  
6 your vehicle, you said you went back to the mines.

7 A. I'm going to speculate and say that it was ---  
8 because it wasn't so much watching my time. I mean, I  
9 heard about it and I grabbed some clothes, threw in  
10 my truck, food, put it in my truck and I headed down  
11 there. I got to the bridge there at UBB to cross the  
12 bridge. And of course, State Police was there and, I  
13 mean, you know, they were directing --- they would not  
14 let me on the hill. I would think that it was 6:00  
15 --- five, six o'clock in the evening, somewhere around  
16 there.

17 Q. Did you report to somebody when you made it back  
18 to the mine?

19 A. Oh, no. No. It was all --- totally volunteer  
20 basis. Nobody called me and told me to be there, to  
21 come to --- matter of fact, when I got there, I tried  
22 to go on the hill and they said, you can't, you're ---  
23 they had a list of people that they allow or whatever,  
24 but --- even though they knew me, you know, I'd see  
25 'em every day, they said, you're not on the list, you

1 can't go.

2 So I went down to where they were --- the families  
3 were being not held, but where they gathered at and I  
4 just started volunteering with anything that I could  
5 do. I'd like to think that if I was underground and  
6 my family was out there, that my co-workers would try  
7 to do what they could for my wife and two boys. And  
8 that's the way I looked at it.

9 Q. Did you ever make it to the top of the hill?

10 A. I went up there probably about four times that  
11 week. And actually, the only reason that I was  
12 so-called allowed to go up there, I used my truck to  
13 empty the trash. I mean, I have a three-quarter ton  
14 diesel long bed, and we totally heap it up, and then I  
15 would take the trash from the family center up to the  
16 dumpsters that was on the hill. And no longer than  
17 throw the trash over in the dumpster, speak to a  
18 couple of the guys and, you know, hey, man, what are  
19 you doing, I didn't know you was up here, you know,  
20 whatever, hey, I got to run. And of course the place  
21 was swarming with everybody, rescue teams and  
22 inspectors and so forth.

23 Q. So are you familiar with any particular surface or  
24 underground activities that were going on at the times  
25 that you were up there?

1 A. No. They were --- when I was up there, it was ---  
2 they were waiting to go back in to try to --- they  
3 were still looking for the four --- or hopes of having  
4 four guys survive, but they hadn't brought any bodies  
5 back out, and it was just that waiting time. Mine  
6 rescue was up there but nobody was underground.

7 Q. Did you actually travel underground at any time  
8 between now and the time of the explosion?

9 A. No.

10 Q. Who was actually directing your activities? Like  
11 who was telling you ---?

12 A. After the explosion?

13 Q. Yeah.

14 A. Nobody.

15 Q. Well, how did you know when to go up to the top of  
16 the hill?

17 A. I mean, I've worked there for, you know, a  
18 year-and-a-half. I knew the dumpsters was up there.  
19 And down at the bottom there were no dumpsters. We  
20 were getting overrun with all the family and the food  
21 and, you know, we had --- actually, one night I made  
22 three trips back to back, there was so much trash  
23 there. So the only place I knew to put it was to take  
24 it up on the hill and put it in the dumpster, so ---.  
25 But I wasn't reporting --- it was totally voluntary.

1 Q. Did any miners approach you during the time you  
2 were at the mine site with concerns regarding unsafe  
3 mining conditions at this mine?

4 A. No.

5 Q. Did any family members speak to you about any  
6 concerns that they had about underground activities?

7 A. Sure. The families --- well, at the family  
8 center, one of the jobs that I done was actually they  
9 had the map, similar to the one hanging on the wall  
10 here now, but I would just kind of go over it. They  
11 asked me --- I don't even know who asked me, but  
12 somebody asked me, said, look, you worked underground.  
13 You've been all over that mines. Will you kind of  
14 show 'em where, you know, their family member was  
15 working or their section was working and, you know, if  
16 it was the longwall. And like I said, I knew probably  
17 all but --- I think all but four of the guys and, you  
18 know, I knew where they were working. And I just  
19 tried to help explain --- nothing more than, you know,  
20 they were on the longwall, and this is the longwall,  
21 and you know, just show 'em and tell 'em they were  
22 working in this area right here.

23 And of course, everybody's like, well, where did  
24 it explode or what happened? You don't know. And we  
25 sit here and we still don't know. But that's the only

1 thing I done as far as for the family. And prayed  
2 with 'em.

3 Q. I appreciate that. Do you have anything else that  
4 you'd like to add that might be relevant to this  
5 investigation or something that I might have forgot to  
6 ask you about?

7 A. For what it's worth, I always felt comfortable.  
8 If I felt scared, I would not work there. And the  
9 only time that I did not like the conditions was when  
10 I paraded the water beyond the longwall back up in  
11 there. And I --- at that point, I objected to it.  
12 And I know you --- or somebody on this panel has asked  
13 me, you know, were you reprimanded for it. I never  
14 heard anything about it. I just stated to 'em, I'm  
15 not coming in this water again, you can get somebody  
16 else, and that was the end of the story. Now, you  
17 know, I mean, they could have got onto me or fired me  
18 or whatever. That's the only time I felt  
19 uncomfortable. They've treated me well. The only  
20 thing they want is they want you to work, and they  
21 want you to work a bunch, but I never felt unsafe or  
22 threatened or any of the above, no, sir.

23 RE-EXAMINATION

24 BY MR. O'BRIEN:

25 Q. Just a couple quick questions. When you and I

1 think it was Randy Lafferty moved equipment ---

2 A. Yes, sir.

3 Q. --- in the --- what you called the old Two

4 section, ---

5 A. Yes, sir.

6 Q. --- do you know who fire bossed the travelway for

7 your equipment?

8 A. I don't remember who. I mean, I don't remember

9 who the fire bosses were, I don't.

10 Q. Was Randy an electrician, by chance?

11 A. Yes.

12 Q. Okay.

13 A. Yes.

14 MR. O'BRIEN:

15 All right. Thank you.

16 RE-EXAMINATION

17 BY MR. MCGINLEY:

18 Q. What were you told about reporting safety problems

19 you saw? Did you have any instruction? Was there a

20 process?

21 A. There may be. I don't know. But I was told that

22 if you see anything that's a problem or a violation or

23 a danger, you need to report it to your immediate

24 supervisor. And then, you know, if he wouldn't do

25 something about it, I'm sure I'd, you know, try to go

1 to the next level. But if you see --- I was told on  
2 several occasions, if you see anything that's a  
3 hazard, a violation or trouble or whatever, yeah, you  
4 need to report it. Can't ---.

5 Q. Who were you to report it to?

6 A. To whoever your --- the immediate supervisor would  
7 be.

8 Q. And who told you that?

9 A. I've been told that by several people, I mean,  
10 because I've worked on several crews, you know. But  
11 Jody has told me and, of course, working with Randy,  
12 you know. And that was with two of us up there and  
13 having to watch and, I mean, there are a lot of  
14 things. And he said, if you're ever --- if you see  
15 anything or whatever, you know, you let me know. And  
16 then at that point, if we couldn't fix it, they'd get  
17 somebody that can or, you know, that could help or  
18 whatever, but ---.

19 Q. Did you consider the waist-high water to be a  
20 safety violation or safety ---?

21 A. Well, that's what they were working on. That's  
22 why we were in there, working on the pumps. And I  
23 don't know what happened to --- and I don't know the  
24 real name for them. They call them air pumps. They  
25 run off of air compression. But I don't know why they

1 quit working, but we had two of them up there that  
2 quit working. Now, that's what the pumps were for, is  
3 to get the water down. I don't know how long they had  
4 quit or anything, but that's what we were doing, was  
5 taking new air pumps up. We took those off and put  
6 the new ones on. So we were actually fixing that  
7 condition, or trying to.

8 Q. So other than that condition, did you ever --- you  
9 didn't report that. You were told to go there and fix  
10 it; right?

11 A. Right.

12 Q. So was there ever an occasion in that year-and-a-  
13 half you were at UBB that you ever saw something that  
14 would constitute a safety violation or a safety  
15 concern that you reported?

16 A. Sure. I mean, cut --- nicked cables or, you know,  
17 part of a rib that's starting to break loose to come  
18 out, you know. A lot of times I didn't have time or  
19 I'd be doing --- I may be working on a cable and it  
20 come through and part of the rib is really starting to  
21 break loose and come out. And I'd report it to --- if  
22 the section was up there, you'd report it to the  
23 section boss or something and tell them, hey, have  
24 some guys go around there and knock that down, clean  
25 it up and then rock dust the side again. But yeah,

1       there's been several things. I mean, you know, the  
2       belt's got a tear in it or it's rubbing, got a rock in  
3       it and it's rubbing and it's starting to smoke. We  
4       had an issue with that one night. We come up through  
5       there and there was smoke and I thought, oh, what's  
6       happening here? Is there something going on? But it  
7       was a rock got caught between the --- you know, part  
8       of the metal and the rock and it was sitting there and  
9       it just --- the rubber smoked from where it was rubbed  
10      and friction. But you know, we got on the phone and  
11      reported it. And then actually, through the process,  
12      we called and reported it, but then we went over and  
13      helped 'em --- had to shut down the belts and bars and  
14      --- anyway, but we helped fix it.

15     Yeah, I've reported ---. I mean, sure,  
16      you'll see things. I mean, that's a big mine. There  
17      will be a lot of little things here or there that ---  
18      but as far as anything major or life-threatening ---  
19      Q. Right.

20      A. --- no, other than a cable that has been run into,  
21      and that could be life-threatening immediately. But  
22      no, just ---.

23      Q. So were you surprised to learn that MSHA had  
24      issued a large number of citations for serious  
25      violations, according to Director Suboleski, 47 during

1 the months of April through October 2009?

2 A. Yeah. That's a lot. I know they'd come and they  
3 write a lot. You kind of second guess, well, why in  
4 the world, you know, do we have 11 in one day? You  
5 can speculate.

6 Q. Well ---.

7 A. It can be subjective, you know, why you think so  
8 or why, but I do know that they wrote --- and I don't  
9 know if it's State or Federal or who, but the old ---  
10 the little four-wheeler cart in the parking lot that  
11 like five years ago you --- you know, they write silly  
12 stuff. So you hear a number of violations, but I  
13 really never was to --- privy to the information of  
14 which ones is ---.

15 Q. So are you surprised there were 47 serious  
16 violations, ---

17 A. Serious violations.

18 Q. --- according to Director Suboleski, the Massey  
19 director? Does that surprise you, from October ---  
20 from April through October 2009?

21 A. That's a lot, yeah.

22 Q. Would that have worried if you had known that?

23 A. And I'm sitting here now, I'm curious to ---.

24 Q. Sure. Sure.

25 A. And I don't even work there, but I'd still like to

1 know what were they? I mean, what's --- yeah, that's  
2 a lot.

3 MR. MCGINLEY:

4 Okay. No further questions.

5 ATTORNEY WILSON:

6 Mr. Adame, on behalf of MSHA and the  
7 Office of Miners' Health, Safety and Training, I want  
8 to thank you for appearing and answering questions  
9 today. Your cooperation is very important to the  
10 investigation as we work to determine the cause of the  
11 accident. We require that you not discuss your  
12 testimony with any person. After questioning other  
13 witnesses, we may call you if we have any follow-up  
14 questions. If you, at any time, have any additional  
15 information that you believe to be important, please  
16 contact Norman Page, the lead accident investigator  
17 for MSHA, at the contact information that was provided  
18 to you or the State, at the contact information that  
19 they have provided.

20 You should know that any statements given  
21 my miner witnesses to MSHA are considered to be an  
22 exercise of statutory rights and protected activity  
23 under Section 105(c) of the Mine Act. If you believe  
24 that any discharge, discrimination or any other  
25 adverse action is taken against you as a result of

1 your cooperation with this investigation, you are  
2 encouraged to immediately contact MSHA and file a  
3 complaint under Section 105(c) of the Act. Remedies  
4 under the Mine Act include back wages and immediate  
5 temporary reinstatement to your most recent position  
6 with the company, pending a complete investigation of  
7 your complaint. In order to file such a complaint,  
8 you can contact the MSHA District 4 office. And the  
9 contact information is provided for you in the letter.  
10 Before we go off the record, I do want to give you one  
11 last opportunity if there's anything else that you  
12 would like to add to the record.

13 A. Not at this time.

14 ATTORNEY WILSON:

15 Okay. And again, I want to thank you for  
16 your cooperation in this matter, and we'll go off the  
17 record.

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19 \* \* \* \* \*

20 STATEMENT UNDER OATH CONCLUDED AT 3:26 P.M.

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1 STATE OF WEST VIRGINIA )

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4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and  
6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in  
8 the foregoing deposition, was duly sworn by me on said  
9 date and that the transcribed deposition of said  
10 witness is a true record of the testimony given by  
11 said witness;

12 That the proceeding is herein recorded fully  
13 and accurately;

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



22 *Alicia R. Brant*

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