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Transcript of the Testimony of Joshua Williams

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

JOSHUA WILLIAMS

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 Friday, June 11, 2010, beginning at 8:18 a.m.

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

2

3 MATTHEW N. BABINGTON, ESQUIRE
4 U.S. Department of Labor
5 Office of the Regional Solicitor
6 1100 Wilson Boulevard
7 22nd Floor West
8 Arlington, VA 22209-2247

9

10 TERRY FARLEY
11 West Virginia Office of Miners' Health,
12 Safety and Training
13 1615 Washington Street East
14 Charleston, WV 25311

15

16 JOHN GODSEY
17 Miners' Safety and Health Administration
18 P.O. Box 560
19 Norton, VA 24273

20

21 BETH SPENCE
22 West Virginia Independent Investigation
23 (b) (7)(C)
24 (b) (7)(C)

25

A P P E A R A N C E S (cont.)

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BARRY KOERBER, ESQUIRE
West Virginia Office of Miners' Health,
Safety, and Training
1615 Washington Street East
Charleston, WV 25311

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is June
5 11th, 2010. I'm with the Office of the Solicitor,
6 U.S. Department of Labor. With me is John Godsey, an
7 accident investigator with the Mine Safety and Health
8 Administration, an agency of the U.S. Department of
9 Labor. Also present are several people from the State
10 of West Virginia. I ask that they state their
11 appearance for the record.

12 MS. SPENCE:

13 I'm Beth Spence, with the Governor's
14 independent team.

15 MR. FARLEY:

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

18 ATTORNEY KOERBER:

19 I'm Barry Koerber, with the Office of
20 Miners' Health, Safety and Training as well.

21 ATTORNEY BABINGTON:

22 There's several members of the
23 investigation team also present in the room today.

24 John Godsey will be conducting the questioning.

25 All members of the Mine Safety and Health

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

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

1 your assistance in this investigation.
2 You may have your personal attorney
3 present during the taking of this statement or another
4 personal representative, if MSHA has permitted it, and
5 you may consult with your attorney or representative
6 at any time. Your statement is completely voluntary.
7 You may refuse to answer any question and you may
8 terminate your interview at any time or request a
9 break at any time. Since this is not an adversarial
10 proceeding, formal Cross Examination will not be
11 permitted. However, you may ask clarifying questions
12 as appropriate. For the record, do you have a
13 personal representative or legal representative with
14 you today?

15 MR. WILLIAMS:

16 No.

17 ATTORNEY BABINGTON:

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

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

10 MR. WILLIAMS:

11 Yes.

12 ATTORNEY BABINGTON:

13 Do you have any questions?

14 MR. WILLIAMS:

15 No.

16 ATTORNEY BABINGTON:

17 After the investigation is complete, MSHA
18 will issue a public report detailing the nature and
19 causes of the fatalities in the hope that greater
20 awareness about the causes of accidents can reduce
21 their occurrence in the future. Information obtained
22 through witness interviews is frequently included in
23 these reports.

24 Since we will be interviewing other
25 individuals, we request that you not discuss your

1 testimony with any person aside from a personal
2 representative or counsel. A court reporter will
3 record your interview. Please speak loudly and
4 clearly. If you do not understand a question asked,
5 please ask the interviewer to rephrase it. Please
6 answer each question as fully as you can, including
7 any information you've learned from someone else.

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

12 After we've finished asking questions,
13 you'll have an opportunity to make a statement and
14 provide us with any other information that you believe
15 to be important. If at any time after the interview
16 you recall any additional information that you believe
17 might be useful, please contact anyone here or Norman
18 Page at the contact information previously provided to
19 you.

20 Finally, any statements given by miner
21 witnesses to MSHA are considered to be an exercise of
22 statutory right and protected activity under Section
23 105(c) of the Mine Act. If you believe any discharge,
24 discrimination or other adverse action is taken
25 against you as a result of your cooperation with this

1 investigation, you're encouraged to immediately
2 contact MSHA and file a complaint under Section 105(c)
3 of the Act. Beth, do you have a statement?

4 MS. SPENCE:

5 Yes. Joshua, thank you so much for
6 coming here today on behalf of the Governor's
7 independent team. I just want to thank you for coming
8 to help us with this investigation. In addition to
9 trying to make the nation's mines safer, we have to
10 look at the fact that 29 men died in this accident,
11 and we need to find answers for their wives and
12 children and family. And your participation in this
13 will help us do that, and we thank you very much.

14 -----

15 JOSHUA WILLIAMS, HAVING FIRST BEEN DULY SWORN,
16 TESTIFIED AS FOLLOWS:

17 -----

18 EXAMINATION

19 BY MR. GODSEY:

20 Q. Josh, could you state your full name and spell
21 your last name?

22 A. It's Joshua Scott Williams, W-I-L-L-I-A-M-S.

23 Q. And your home address?

24 A. It's (b) (7)(C)

25 Q. And your telephone number?

1 A. (b) (7)(C)

2 Q. Are you appearing here today voluntarily?

3 A. No. Voluntarily?

4 Q. Yeah. Are you appearing here voluntarily?

5 A. I guess.

6 Q. I mean, ---.

7 ATTORNEY BABINGTON:

8 Are you here as a matter of your own
9 choice?

10 A. My choice? No. Oh, yeah. I gotcha now.

11 ATTORNEY BABINGTON:

12 Do you understand what ---?

13 A. Yes. Yes.

14 ATTORNEY BABINGTON:

15 So you are here voluntarily? You're not
16 being forced to be here?

17 A. Oh, I'm here voluntarily, yes.

18 MR. GODSEY:

19 Okay. Thank you.

20 BY MR. GODSEY:

21 Q. Has anyone made any promises to you for giving
22 this statement or offered you any rewards in exchange
23 for making your statement?

24 A. No.

25 Q. Has anyone threatened you or warned you not to

1 provide this statement?

2 A. No.

3 Q. How many years of mining experience do you have or
4 how long have you worked in the mine?

5 A. I started January 31st, 2008. It will almost be
6 three years in January.

7 Q. Give us a brief description of your mining
8 employment history.

9 A. Like when I started? Like who I started for?

10 Q. Yeah.

11 A. I started for David Stanley, and I started at UBB.

12 Q. How long did you work for David Stanley?

13 A. Four months.

14 Q. And that was like a contractor?

15 A. Yes.

16 Q. And you worked at UBB?

17 A. Yes.

18 Q. Are you presently employed?

19 A. Yes.

20 Q. Where were you employed at?

21 A. I work at Parker Peerless.

22 Q. Is that a Massey ---?

23 A. Yes.

24 Q. When did you start?

25 A. Started there last Thursday.

1 Q. And what are you doing there? What's your job?

2 A. Roof bolter.

3 Q. Roof bolter. Now, Josh, the rest of the questions

4 I ask you, it won't pertain to anything to your

5 present job. It will be all at Upper Big Branch.

6 A. All right.

7 Q. I don't want to get you confused. What was your

8 first day of employment at Upper Big Branch?

9 A. Belt man.

10 Q. Can you tell me the date?

11 A. Oh, January 31st, 2008.

12 Q. And what was your first job assignment at UBB?

13 A. I helped the guys working on belt heads.

14 Q. Was it all through the mine or just in a certain

15 area or ---?

16 A. All through the mine.

17 Q. What area of the mine did you visit on the first

18 day that you were there?

19 A. We went all the way up to the --- they call it the

20 Glory Hole.

21 Q. Okay.

22 A. They took us all the way up through there, then

23 back outside the first day we all was there.

24 Q. Did you travel any escapeways or anything?

25 A. Not the first day.

1 Q. Did you in days past that or ---?

2 A. Yeah. It was probably two days past that.

3 Q. Did you receive any training prior to being
4 assigned a job at Upper Big Branch?

5 A. Yeah.

6 Q. Who give you that? Where did you receive that
7 training and who gave it to you? Or do you remember?

8 A. I don't even remember.

9 Q. Did you receive the Massey initial training or
10 what's called the MIT training?

11 A. Yes.

12 Q. On April 5th, the day of the accident or
13 explosion, what was your job title?

14 A. Bolt man.

15 Q. Roof bolter?

16 A. Yes.

17 Q. And what section were you working on?

18 A. I was on Three section.

19 Q. Now, just where is Three section?

20 A. It's on the south side. But on April 5th, the day
21 it happened, we was on Lower Big Branch, right there
22 at the mini longwall where the --- on over to your
23 right.

24 Q. You talking about that ---

25 A. Right there.

1 Q. --- little setup ---?

2 A. Yep. We was on that setup right there.

3 Q. You was on this?

4 A. Yeah, right here. We was cutting out.

5 Q. On the new headgate off of Ellis Portal?

6 A. Yeah. We was cutting out the head --- we was
7 cutting out an overcast that day.

8 Q. Who was your supervisor that day?

9 A. Bobby Baker.

10 Q. So you was cutting it out and then bolting it
11 back?

12 A. Yes, sir.

13 Q. Did you notice anything strange or different in
14 the day previously?

15 A. Yes.

16 Q. What was it?

17 A. Thursday, the day --- Thursday, the week before,
18 we was cutting out the belt channel. It came through
19 here. And all of our dust was going out the beltline
20 and outside on Ellis side.

21 Q. In other words, what you saw, the air reversed?

22 A. That day, all of it was going out.

23 Q. Instead of ---.

24 A. That first day. The first day.

25 Q. Which was is it supposed to be going?

1 A. We thought it was going the right way, going out
2 that way. Because if it had been going the other way,
3 it would have been going up towards the longwall and
4 everything when we was cutting them out.

5 Q. Had you ever noticed it go the other way, towards
6 the inby?

7 A. Yes. On the day of the explosion, when we was
8 cutting it out, it was going inby that day.

9 Q. Does it change daily or ---?

10 A. That was the only two --- that was the first two
11 days we was cutting on them, was that Thursday and
12 that Friday.

13 Q. Did your supervisor say anything or ---?

14 A. He didn't. He didn't say ---.

15 Q. Did they have any doors open or anything?

16 A. I really don't know because there was so many
17 doors.

18 ATTORNEY BABINGTON:

19 Could you --- for the record, could you
20 circle the area you were in, in which you experienced
21 the air reversal on this map right here? I guess you
22 said you were cutting the overcasts that day?

23 A. Yes. We were --- there's a switch when you come
24 down. We was over here.

25 BY MR. GODSEY:

1 Q. I guess you were probably driving this way,
2 weren't you? I mean, if this is your headgate, you
3 probably --- let's pull this map up. This is about
4 where we're talking about.

5 A. Yeah. We cut out --- this would be the beltline.
6 That's Ellis Switch. We were coming down through
7 there. We had come over. It was probably right
8 around in here because we was.

9 ATTORNEY BABINGTON:

10 Let's mark it on the map.

11 A. That's the track, ain't it?

12 BY MR. GODSEY:

13 Q. The yellow is track.

14 MR. FARLEY:

15 Should be.

16 A. I'll tell you, we was --- this would have been the
17 track. We was probably right --- we was a break ---
18 we was probably right here, cutting out an overcast
19 for some reason.

20 BY MR. GODSEY:

21 Q. Okay. Do you want to ---?

22 ATTORNEY BABINGTON:

23 Do you want to draw a line and label that
24 like cutting an overcast?

25 WITNESS COMPLIES

1 ATTORNEY BABINGTON:

2 And that's where you experienced the air
3 reversal?

4 A. Yes.

5 ATTORNEY BABINGTON:

6 For the record, that appears to be ---
7 this is like the --- yeah, I guess near the new
8 longwall panel, by Ellis Switch, and it's about two
9 breaks down the crossover.

10 MR. FARLEY:

11 Were you in the return at the time when
12 you were cutting it, though?

13 A. They said it was intake.

14 MR. FARLEY:

15 Okay.

16 BY MR. GODSEY:

17 Q. Have you been there before that --- worked up in
18 that area before?

19 A. Yes, because when I was a red hat, right before I
20 got my 90 days, I worked on Two section with the Two
21 section guys when they punched in LBB into Ellis. And
22 then it was --- they never --- we never had no air
23 trouble or nothing down that way.

24 Q. Had you worked there the day before this happened,
25 when ---?

1 A. Yeah. I worked there that Thursday because we was
2 off Friday, Saturday and Sunday.

3 Q. Did you ever notice --- I'm sorry, I'll say it
4 again, it going inby and outby or ---?

5 A. No. It just all went outby.

6 Q. How much --- about how much air? Was it high
7 velocity or ---?

8 A. Yeah. It was high velocity air. Like I say, when
9 we came back in Monday and started cutting on it, it
10 was all going inby, back up towards Ellis Switch and
11 like towards the longwall and stuff like that.

12 Q. The day of the explosion, it was going inby?

13 A. Yes.

14 Q. Are there any doors out that way on Ellis ---
15 which portal do you all ---?

16 A. We portalled from UBB side.

17 Q. In other words, you come all the way through the
18 mountain?

19 A. All the way through the mountain that day we did.

20 Q. Do you ever go outby Ellis? Do you ever go out
21 that portal?

22 A. The day of the explosion, that's the way we had to
23 go out.

24 Q. Have you talked to anybody since the explosion
25 about --- any fellow worker about the conditions or

1 about the air reversals and all that?

2 A. Because in the mantrip I talked --- because I was
3 riding with a guy I bolted with, and he said, man,
4 it's dusty down the track. He said, the other day
5 when we was cutting on the overcast, it wasn't that
6 dusty. He said, something's changed.

7 Q. Have you talked to anybody else at work, foreman
8 or anything?

9 A. Uh-uh (no).

10 Q. And have you been --- how long have you all been
11 down there?

12 A. We started down there ---.

13 Q. Doing the construction work there.

14 A. The construction we started on that Thursday, that
15 Thursday.

16 Q. And what had you been doing prior to that?

17 A. We was working on Three Section, on the south
18 side ---

19 Q. Okay.

20 A. --- in the mine.

21 Q. Do you have a methane spotter assigned to you?

22 A. Yes.

23 Q. When did you have the training and all that?

24 A. I just got a roof bolt spotter. It's a roof bolt
25 spotter. It just checks for methane.

1 Q. Who maintains your maintain monitor?

2 A. I usually gave it to Gary may, and he calibrated
3 it.

4 Q. You don't know how --- do they do anything special
5 with it every day or ---?

6 A. No, they don't.

7 Q. Do you know what type it is?

8 A. I forgot what kind it is?

9 Q. Would it be a Solaris?

10 A. No, it ain't a Solaris.

11 Q. Is it a silver one?

12 A. Yeah.

13 Q. Have you ever participated in evacuation drills,
14 walked escapeways and all that?

15 A. Yes.

16 Q. Do you remember if you've been trained in ERP?

17 A. ERP?

18 Q. Emergency Response Plan, you know, like for a case
19 of an explosion?

20 A. Oh, yeah. The fire and stuff, yeah.

21 Q. When was the last time you had your annual
22 refresher?

23 A. Annual refresher, it was --- I think it was back
24 --- I believe it was in March --- not March. Yeah, I
25 believe it was in March.

1 Q. This year?

2 A. Yeah, this year. We had it down at the Pettus
3 Grade School.

4 Q. How many men or miners are on your section?

5 A. On our section there was --- two bolt men, the
6 shop or the scoop man, nine.

7 Q. Who all had methane monitors assigned to them?

8 A. The two miner men, the scoop man had one, I had
9 one, and Check Smith.

10 Q. Okay. Does your bolter, does it have a methane
11 monitor attached to it?

12 A. No.

13 Q. What's the highest methane reading that you've
14 read underground?

15 A. Underground? When we was driving towards the air
16 shaft of One section, we hit 8.5 one time.

17 Q. How did you --- did they --- what happened? Did
18 they shut you --- did you all shut down?

19 A. Yeah, we shut down.

20 Q. How long were you down for?

21 A. We was down probably for 30, 40 minutes.

22 Q. Where was the methane coming from?

23 A. It was coming out of the top.

24 Q. Out of what?

25 A. It's coming --- they said it's coming out of the

1 top, is what they said.

2 Q. I know we're jumping around here a lot, but when
3 you were driving did you have much floor problems with
4 heaving or anything that way?

5 A. Yeah. Yeah.

6 Q. To what extent? How ---?

7 A. When we was driving the tailgate the longwall was
8 coming off of, we got way up in there and the bottom
9 started heaving pretty bad.

10 Q. Okay. Could you mark that on the map there? Do
11 you know how far down there?

12 A. It was in the 60s is where we hit that one part of
13 the map. If I remember, it was 66 or 65 Break.

14 ATTORNEY BABINGTON:

15 Let's go off the record for a second.

16 OFF RECORD DISCUSSION

17 BY MR. GODSEY:

18 Q. Put out from it what you --- or just draw a line
19 out and mark it.

20 WITNESS COMPLIES

21 A. It was in between about One and Two entries.

22 BY MR. GODSEY:

23 Q. Okay. Did you put methane in there?

24 A. Oh, we didn't hit no methane. That was just where
25 the bottom busted up.

1 Q. Where was the methane at?

2 A. It was up through here.

3 Q. Okay. We'll get that. Do you know approximately
4 where it was?

5 A. No, sir.

6 Q. But it was somewhere --- was it inby the
7 connector?

8 A. Yeah, it was inby the connector.

9 Q. Inby toward the Bandytown fan?

10 A. Yes.

11 Q. Was there much water there up in --- did you
12 encounter any water?

13 A. When we was driving our tailgate in the longwall
14 face and the angle, we didn't hit much water. But
15 when we started driving towards the air shaft, we got
16 a lot of water.

17 Q. What's a lot --- how much was a lot of water?

18 A. They just --- sometimes it would be knee deep.

19 Q. And could you tell exactly about where it was
20 coming from?

21 A. It was coming up out of the bottom.

22 Q. And how about your air, how much ventilation ---
23 were you ever a shortage on ventilation when you were
24 up there?

25 A. Just whenever we almost got to the end, we started

1 losing --- losing a lot of air.

2 Q. Did you all ever mine with low air?

3 A. No, sir. Our boss, Jack Martin --- Jack Martin
4 was out boss at that time, and he --- if we didn't
5 have enough air, he'd shut down.

6 Q. Would they ever say anything to him for shutting
7 down? Did management ever say anything ---?

8 A. They tried, and he wouldn't --- they told him to
9 start up running, and he told them no.

10 Q. Who would tell him that?

11 A. I don't know. Who he talked to on the phone, they
12 just told him he needed to --- we needed to get that
13 air shaft. And he told them he wasn't firing up. He
14 didn't have enough air to run.

15 Q. Do you know any other sections --- did any other
16 shifts have the same problem?

17 A. I do not know, sir.

18 Q. And what were you doing your job?

19 A. I was a bolt man, roof bolter.

20 Q. Did you --- when you were bolting, did you get
21 much methane, any methane while you were bolting?

22 A. Just that one time when we hit that --- it usually
23 stayed like 0.2, 0.3.

24 Q. Did you all keep your curtains up?

25 A. Yes, sir.

1 Q. Do you know of any other time that the --- any
2 other time they hit large methane in there?

3 A. No, sir.

4 Q. Have you worked --- did you ever work on the
5 headgate when you --- the longwall since they've been
6 fired up?

7 A. No, sir.

8 Q. Okay.

9 A. Because after we finished up at the fan drive, up
10 that way, we brought all of our equipment back down,
11 and we drove across from --- off the tailgate down
12 here. We drove from 30 Break across and connected
13 into this headgate.

14 Q. Drove the connectors out by the headgate and the
15 tailgate?

16 A. Yes, sir.

17 Q. Okay. Then you went down to where?

18 A. They we come back. We started to move over to the
19 new headgate. And we got about halfway over and they
20 said, Blankenship called and said he didn't need two
21 sections moving equipment at the same time. And
22 that's when we come back down to 30 Break and started
23 driving towards 78 Break.

24 Q. Did you encounter any problems there?

25 A. No.

1 Q. No floor heave or nothing like that?

2 A. Because we weren't there long. We weren't there
3 long. We drove three breaks, and that's when all that
4 water got up in the return and intake in behind the
5 longwall. That's when they shut us down.

6 Q. Okay. While you're talking about that water
7 behind the longwall, exactly how did they handle it?

8 A. The only thing I know that they was doing, they
9 was setting pumps.

10 Q. Did you know of anybody that was working back
11 there?

12 A. Yes.

13 Q. Did you ever talk to them?

14 A. They just always said they was just setting pumps,
15 is all they said.

16 Q. Did they ever talk about how much water that they
17 were having to ---?

18 A. At one time one guy said it was so deep, that they
19 couldn't --- they couldn't even walk up the entry.

20 Q. Do you know if it ever blocked the air or ---?

21 A. I don't even know, sir.

22 ATTORNEY BABINGTON:

23 Sorry, John. To go back for one second,
24 just to clarify where you said you were going. You
25 were down what's labeled here as the Tailgate One

1 North, ---

2 A. Yes, sir.

3 ATTORNEY BABINGTON:

4 --- and then you came up through this
5 crossover section at the mouth of the longwall panel?

6 A. Yes, sir.

7 ATTORNEY BABINGTON:

8 And then you came up to the Headgate One
9 North section?

10 A. Yes, sir.

11 ATTORNEY BABINGTON:

12 And then you moved up the crossover
13 section, towards Headgate 22?

14 A. Yes.

15 ATTORNEY BABINGTON:

16 And then you were told at that point ---
17 someone instructed you to retreat back to the
18 crossover section at the mouth of the longwall?

19 A. Yes, sir.

20 ATTORNEY BABINGTON:

21 Okay.

22 MR. GODSEY:

23 Terry's going to ask him some questions
24 now. Go ahead, Terry.

25 EXAMINATION

1 BY MR. FARLEY:

2 Q. You indicated at some point you encountered
3 about eight-and-a-half percent methane and that you
4 were in these entries toward the location of the
5 Bandytown fan and you were in by where the diagonal
6 connects. Now, do you recall who detected the methane
7 from the crew? Was it anybody in particular?

8 A. The guy I bolted with.

9 Q. Okay. What kind of a detector was he using?

10 A. He was using a roof bolt spotter. It was silver.

11 Q. Okay. Did you have a detector, too?

12 A. I didn't have one. He had it. He was the
13 operator.

14 Q. Okay. Now, did you find the eight-and-a-half
15 percent in the face?

16 A. It was like two foot off --- it was like a
17 foot-and-a-half off the rib with a probe.

18 Q. Okay. Which rib was he ---?

19 A. It was on his side, the operator's side. I was on
20 the left side.

21 Q. Okay. Was the machine running at the time?

22 A. Yes. And when he said he hit it, I went running
23 down to the power center and knocked all the power.

24 Q. Okay. Now, what did you do to correct that
25 situation? How did you fix it?

1 A. Our boss, Dino, made us go down and stand at the
2 power center, and him and one of the miner men went up
3 and hung curtain. They set up both sides, and it
4 started flushing it, flushing the methane out.
5 Because when we went back up there, we checked it
6 again, and it was only like 0.4, 0.5, when we went
7 back up.

8 Q. Do you remember which entry it was in?

9 A. It was in our Number Three entry.

10 Q. Okay.

11 A. It was in --- it would have been in Three Right.
12 They would turn the break.

13 Q. Okay. And you were driving four entries,
14 obviously; correct?

15 A. Yes.

16 Q. Was that a one-time event or did that happen
17 again?

18 A. That was the only time we hit it. I don't know,
19 because we was on a --- that was during the summer,
20 and we was on a crazy schedule where we had four crews
21 running who worked five on/four off, three on/two off,
22 and we never --- we never seen the other crew. And
23 the evening shift, they never said they hit any
24 methane or nothing.

25 Q. Okay. Let me back up on one more thing before I

1 give it back to John here. Well, we'll come back to
2 it when we get to the other map.

3 MR. FARLEY:

4 Go ahead, John.

5 ATTORNEY BABINGTON:

6 Beth, do you have ---?

7 MS. SPENCE:

8 Yeah, just one question. When did you

9 say this was that you hit this methane, approximately?

10 A. It was back during the summertime.

11 MS. SPENCE:

12 The summer of '09?

13 A. Yes, ma'am.

14 MS. SPENCE:

15 Thank you.

16 RE-EXAMINATION

17 BY MR. GODSEY:

18 Q. Did Dino, did he --- or your boss, did he make a
19 check after you all found that?

20 A. Yes. And Dino was our boss that day.

21 Q. What did he find when he came over?

22 A. He came --- when we hit the --- when we hit that
23 high methane, that's when he come over with his
24 Solaris, and that's when he read the 8.5.

25 Q. So that confirmed what you ---?

1 A. And that confirmed it. Then he told us to get
2 back, because I knocked the power to come back up, and
3 that's when he told us to go back to the power center
4 and stand and let him and that one guy --- he said
5 they'd flush it out. And then he checked it again and
6 he said, you all can come back up, he said, it's going
7 down. He said, if it goes back up, go back down to
8 the power center and knock the power again and come
9 and get me.

10 Q. Did he bring the crew together to talk to them?

11 A. Yes.

12 Q. And what about the --- what different did they do
13 in the miner when they was cutting it?

14 A. They didn't do nothing different, not really.

15 Q. Did a miner ever gas off up there?

16 A. The guy said it did.

17 Q. Do they always use line curtain?

18 A. Yes.

19 Q. What about their velocities behind the curtain,
20 the air in the place?

21 A. He said he had enough.

22 Q. Did you all ever have any time that you all ever
23 rolled the curtains up or --- to scoop behind the
24 curtain or anything like that?

25 A. The scoop man, he'd roll the curtain up to scoop

1 in behind it.

2 Q. How much would he roll up? The whole entry
3 or ---?

4 A. The whole entry usually it was.

5 Q. Did he ever put up anything, a methane spotter up
6 there in the face ---?

7 A. I don't really know if he did or not.

8 Q. Do you all have that in your ventilation plan to
9 be able to do that, or are you aware of it?

10 A. I wasn't aware of it.

11 Q. You've been up there on the section. Have you
12 ever heard of or witnessed a methane monitor that
13 would have been bridged out or a plastic bag or
14 anything placed over it?

15 A. No, sir.

16 Q. Have you ever heard of anybody doing it in a mine
17 or anybody finding that?

18 A. No, sir, not the air. I've heard people --- like
19 my dad, back when he worked, he talked about it and
20 stuff, but I've never seen it happen.

21 Q. Did you all --- how deep of cuts were you all
22 taking up there?

23 A. At that time I believe we was in deep cuts, 35s.

24 Q. Did you all --- what did you use, a scrubber or
25 fan sprays or ---?

1 A. No, they just used a scrubber.

2 Q. Do you all use a scrubber all the time?

3 A. They did on 35, but on 20s they don't.

4 Q. Did that kind of get you off guard when you were
5 running the beltline like that?

6 A. Yes, sir.

7 Q. Did you all have walk-through bolters or do you
8 have ---?

9 A. No. We just had roof ranger twos.

10 Q. Well, Dino, your --- did he come around more often
11 after that?

12 A. Yes, sir.

13 Q. Okay. Did you ever observe him doing a pre-shift?

14 A. Yes, sir.

15 Q. How often --- I mean, when would he do it?

16 A. He'd do it every --- about almost right on the dot
17 every two hours.

18 Q. Did he have anything to call out or report
19 anywhere?

20 A. I'm not sure. He'd just come by. We'd be
21 bolting, he'd date up and he'd just keep on walking.

22 Q. Did you have any problems with the roof up there?
23 What did it feel like?

24 A. It was solid.

25 Q. What did you all --- what kind of ---?

1 A. We was putting up six-foot torque tensions.

2 Q. Were you supplementing with anything?

3 A. Uh-uh (no). Just when we was driving the tailgate
4 up in our number --- well, way back here would have
5 been the Number Seven. We was putting up cable bolts
6 every other row.

7 Q. Why were you doing that?

8 A. They said it was in the plan where I guess ---
9 where the longwall was coming off.

10 Q. Did you ever see any problems with the roof up ---
11 did you have any problems with the roof when you all
12 were driving up through there?

13 A. If I ain't mistaken, up in --- it was up in the 55
14 or 60 Break.

15 Q. On Tailgate One North?

16 A. On Tailgate One North we had a fall.

17 Q. What size fall? Can you remember?

18 A. I can't remember, because we was using six-foot
19 torque tensions, then they said we could go to
20 four-foot bolts. And we told them they was making a
21 mistake, and they wouldn't --- we went three or four
22 breaks, and that's when we had the fall.

23 Q. What's the mining height up through there?

24 A. It was probably --- it ranged anywhere from
25 five-and-a-half to seven foot.

1 Q. Did you ever have any problems with the ribs up
2 there?

3 A. Yes.

4 Q. What kind of problems did you have with it?

5 A. When we got up in the 80s, the ribs starting
6 rolling out on the right side of the section.

7 Q. Just on the right side?

8 A. Yes, sir.

9 Q. Did anybody explain to you why you thought they
10 might have problems up there?

11 A. Nobody never said nothing, because people always
12 got hurt.

13 Q. Who were they?

14 A. Corey Wills, he was running a buggy, and the rib
15 rolled out on him when he was dumping his load. And a
16 guy I was bolting with, he --- a corner --- he was out
17 and bolting a corner, and a rib rolled out and hit him
18 on the^{(b) (7)(C)} .

19 Q. Was it pretty serious?

20 A. He missed two days of work and came back.

21 Q. What about the other?

22 A. He was off for a while. I believe he had to have
23 ^{(b) (7)} surgery.

24 Q. Okay. Talking about injuries, is it --- is there
25 several people usually on light duty there if they get

1 injured, they put on light duty?

2 A. They just leave them outside.

3 Q. I mean, how often does this happen?

4 A. Not very much.

5 Q. Have you been injured there?

6 A. No, sir.

7 Q. What other --- have you worked any on the
8 longwall?

9 A. No, sir.

10 Q. Okay. How about on Headgate 22, have you worked
11 up there?

12 A. No, sir.

13 Q. Tailgate 22?

14 A. No, sir.

15 Q. So most of yours has been outby?

16 A. Yes, sir.

17 Q. Was you on the UBB side; right?

18 A. Yes, sir.

19 Q. That wasn't the barrier section, if you know?

20 A. No, sir.

21 MR. FARLEY:

22 Would that be what they called the portal
23 section?

24 A. Yes, sir.

25 BY MR. GODSEY:

1 Q. You say you come in the UBB side. What's the rock
2 dust and how is it maintained?

3 A. It was maintained good. It was white.

4 Q. How about the belt?

5 A. I never traveled the belt.

6 Q. What about the roof conditions?

7 A. Because when I first started there, back down ---
8 coming in from UBB side, they had a guy, he was
9 putting up wire mesh and stuff when I first started
10 there, keeping up the track and stuff.

11 Q. Did you ever see any roof bolts hanging down on
12 the travel route?

13 A. No, sir.

14 Q. What about water on the track?

15 A. No, sir, just --- when I first started there,
16 there was some water. When you came in from UBB side
17 and come down the LBB, when you could still go
18 through, there was some water on that track.

19 Q. When you came up to these areas, did you ever
20 travel through the man doors --- I mean, equipment
21 doors, excuse me, not man doors?

22 A. Equipment ---.

23 Q. Equipment doors, you know, on a track where you
24 had to open them?

25 A. Yes, sir.

1 Q. How many of those did you go through?

2 A. We went through six to get up to --- when we was
3 up in here.

4 Q. Okay.

5 ATTORNEY BABINGTON:

6 When you say up in here, you ---.

7 A. That's Tailgate One North.

8 BY MR. GODSEY:

9 Q. Have you been up toward Headgate 22, up toward the
10 longwall?

11 A. No, sir.

12 Q. Have you been through those doors?

13 A. No, sir.

14 Q. Have you ever heard about anybody leaving any
15 doors open?

16 A. No, sir. It was just --- the only time I traveled
17 through there is when we had to come over and come up
18 at Headgate One North when we was driving for the air
19 shaft and we came through all them doors. And when we
20 was driving that and they was hauling the shields in,
21 that's when we'd lose a lot of our air because they'd
22 come in with motor motors and leave both sets of doors
23 open, come on through, and then they'd shut them.

24 Q. Was that a practice that they did, uncouple them
25 and just ---?

1 A. I guess. Then after they found out we was losing
2 air, the superintendent started making them uncouple
3 one, the motor go through, shut the doors, then the
4 next motor go through and shut the doors.

5 Q. Did you all ever have a meeting on that or
6 management talk to you all about that?

7 A. They didn't talk to us.

8 Q. When the mantrips in the evening and stuff, they
9 go out, do they open the doors up and everybody goes
10 through and then close the doors or ---?

11 A. No, sir.

12 Q. What's the process they do?

13 A. Usually if there's two of them behind, like two
14 mantrips coming out, the one mantrip will open the
15 first set of doors, he'll go in, then the other
16 mantrip will come in behind him, will shut the back
17 doors. When the back door shuts, they'll open the
18 front doors, and both mantrips will go out, and the
19 last one will shut the doors, the last set of doors.

20 Q. Okay. And have you --- has anyone ever talked to
21 you while you were --- lately about the ventilation
22 problem on any of the sections, ---

23 A. No, sir.

24 Q. --- shortages of air or anything?

25 A. No, sir.

1 Q. What about --- how about ventilation changes?
2 When a ventilation change is made, do they do that
3 with people underground?

4 A. No, sir. The last one they done, we was on the
5 south side, on Three section. They called underground
6 and told us we needed to get outside at one o'clock.
7 And that's all they said. Said they was doing a
8 ventilation change and we needed to be outside.

9 Q. What about --- has anybody --- have you all ever
10 been evacuated out of the mine?

11 A. No, sir.

12 Q. I mean, any --- because of a problem coming up,
13 because the fan would go down or ---?

14 A. Just that one time when the fan blew up, and that
15 was it.

16 Q. What happened with that?

17 A. And it was the hoot owl.

18 Q. How did it blow up?

19 A. I do not know, sir. The hoot owl was underground
20 when it blew up, and they evacuated them.

21 Q. Have you all ever --- have you ever come to work
22 and they've delayed you going underground because of a
23 hazard or safety, something wrong underground?

24 A. No, sir.

25 Q. Have you ever --- on sections up in here, did you

1 ever see much of any water or anything --- or talk ---
2 anybody talking about water coming through the roof?

3 A. No, sir.

4 Q. When you were --- moved the section to over where
5 you are now from the UBB side, did they ever go over a
6 ventilation plan with you, ---

7 A. Yes.

8 Q. --- the requirements and stuff?

9 A. Yes, sir.

10 Q. How in depth do they do that?

11 A. They went --- they had --- because they told us
12 how many sprays the miner needed, how much air the
13 roof bolter needed in behind the line curtain coming
14 up, the miner, all of it.

15 Q. So you felt like it was a pretty ---?

16 A. Yes.

17 Q. When you show up in the morning or whenever you
18 --- when you work, do you ever look at the bulletin
19 board any?

20 A. Yes, sir.

21 Q. Do you ever see any ventilation revision changes
22 that have been submitted?

23 A. No, sir.

24 Q. Do you ever see any citation that's been written?

25 A. Yes, sir.

1 Q. Do they ever go over those citations with you?

2 A. No, sir. They never do.

3 Q. Have you ever been on a section when a citation or
4 citations have been written?

5 A. Yes, sir.

6 Q. What did they say to you?

7 A. They just --- they didn't say nothing to us.

8 Q. Have you ever --- how many times have you been on
9 a section that someone's called in and said that we've
10 got an inspector on the property or coming?

11 A. A lot.

12 Q. What now?

13 A. A lot.

14 Q. A lot. Who would tell you? Who would do that?

15 A. I guess the dispatcher would call up because the
16 phone would be beeping, and then the boss would come
17 back and be like, we have company. That's all he'd
18 say.

19 Q. Okay. Have you ever answered the phone when
20 they ---?

21 A. No, sir.

22 Q. Okay. Do you know if there's a procedure how that
23 --- if an inspector, State or Federal, pulls on the
24 property?

25 A. I don't know what they do, sir.

1 Q. Around the middle of March they had a major
2 ventilation change, and did you see any results of it
3 or did you work on any of it?

4 A. I didn't work on it, no.

5 Q. Have you ever --- or how often have you ever
6 discussed safety concerns or health concerns with
7 management?

8 A. We --- our boss would go over safety stuff every
9 day. He'd read a safety plan every day or evening.

10 Q. Did you ever talk to them about something that
11 concerned you that ---?

12 A. No, sir.

13 Q. Suppose you had done that, how would they have
14 received it?

15 A. I don't know, sir.

16 Q. Have you known of anybody that ever made a safety
17 concern to management?

18 A. No, sir.

19 Q. What about the Massey 800 number, how many times
20 have you called it?

21 A. I haven't called it.

22 Q. Do you know anybody that has?

23 A. No, sir.

24 Q. Or how about the MSHA Hotline?

25 A. No, sir.

1 Q. Have you ever been told not to report an accident?

2 A. No, sir.

3 Q. Do you know anyone who ---?

4 A. No, sir, not to my knowledge.

5 Q. Have you ever talked to a State or a Federal
6 inspector with concerns that you had about some kind
7 of safety problems, something you didn't understand?

8 A. No, sir.

9 Q. How did the company feel about you talking to
10 inspectors?

11 A. I never talked to them, just --- like when we'd be
12 up on a section and we'd be running dust, I just
13 talked to them. Never discussed nothing about safety
14 or nothing.

15 Q. I may have asked you this, but if I haven't, have
16 you ever been on a section where --- other than Dino,
17 where something's came up, a sort of error or some
18 problem, and they've had --- he told you to stop and
19 then outside or management told you to get back on
20 production?

21 A. That was just the only time, sir.

22 Q. On the day of the accident, do you know if the
23 longwall had any problems that day?

24 A. No, sir. I ---.

25 Q. Did anybody mention anything to you?

1 A. Nobody never mentioned nothing. When the longwall
2 guys got outside, they wouldn't talk to nobody.
3 They'd just change their clothes and go.

4 Q. Was they kind of different than the rest of you
5 guys?

6 A. I guess. They'd just get their stuff, go. And in
7 the wintertime they'd get in and get in the mantrip
8 and go.

9 Q. In other words, did they travel from mine --- from
10 longwall to longwall, from mine to mine? When one
11 finished here, they'd go somewhere else?

12 A. I guess. Because the longwall and the Headgate
13 22, they --- all them, they portal from the Ellis
14 side, they did.

15 Q. Did you --- I may have asked you this again, but
16 did you ever have any problems or any concerns about
17 the ventilation underground when you were there?

18 A. No, sir.

19 Q. Do you know of anybody that was ever concerned
20 about their safety there about going to work?

21 A. No, sir.

22 Q. Have you ever been?

23 A. No, sir.

24 Q. What was the management's attitude toward ---
25 about production and safety? Which one --- what would

1 they put first, do you feel?

2 A. It's 50/50.

3 Q. Did they ever talk to you about it?

4 A. Huh?

5 Q. Did anyone ever talk to you about it?

6 A. No.

7 Q. Okay. Do you know of anybody --- any other people
8 that --- any other miners that we could talk to that
9 may have some information about or some input on this?

10 A. No, sir.

11 Q. Did this accident surprise you?

12 A. Yes, sir.

13 Q. How come? Why do you say that?

14 A. Because I thought it was a safe mines.

15 Q. And do you feel that ventilation was adequate at
16 all times, everywhere you went?

17 A. Yes.

18 Q. And you don't know of anybody else who's ever made
19 any ---?

20 A. No, sir.

21 Q. Let's go to April 5th, the day that you said that
22 the air was reversing out there. And could you tell
23 the --- I don't know, it's probably a silly question,
24 but could you tell anything --- any smell or anything?

25 A. No, sir.

1 Q. Was there anything in the air that was different?

2 A. No, sir.

3 Q. Do you know of anybody --- any crew that came out
4 when you did. At the end of the shift, did anybody
5 talk about seeing any strange things up around ---?

6 A. No, sir, because the only crew we seen was the
7 track crew. That's the only crew we seen that day.
8 They never said a word.

9 Q. Did you talk to Ralph Plumley?

10 A. We didn't talk to him. He come through the switch
11 to go to Ellis --- down there to go to Ellis, and he
12 said just hi and just went on.

13 Q. Well, did you talk to any of the people who worked
14 with him?

15 A. Uh-uh (no).

16 Q. And no one else?

17 A. Nobody else.

18 Q. And back --- where were you at when the accident
19 happened?

20 A. We was coming up the Ellis Five belt, and we was
21 almost at Four North Head, at the S-turn coming to
22 Ellis.

23 Q. So you were leaving your work area, going back up,
24 going to UBB side?

25 A. Yes, sir. And that's when the world came to an

1 end.

2 Q. Okay. Just go from there. Just tell us what
3 happened.

4 A. We was coming up the track, and the guy I was
5 bolting with, he said, man, it's dusty. I said, yeah.
6 Then he said, do you feel a lot of air coming down the
7 track? I said, yeah. He said, it wasn't doing that
8 this morning. We kept on going, and my ears popped
9 and I couldn't hear nothing. And then that's when we
10 hit air. We just started pushing our mantrip back.
11 It was throwing blocks, foam. That's when I laid down
12 on the mantrip and threw my jacket over my head and
13 was starting to get my rescuer out because I didn't
14 know what in the world was going on.

15 Q. Did it come gradually, the air come gradually?

16 A. The air just came all at once.

17 Q. How long did it last?

18 A. We lasted --- we made it six, seven breaks back
19 outby, and it was ---.

20 Q. Okay. You say you made it six or seven breaks.
21 You say it blew your mantrip?

22 A. It blew our mantrip. But after we got it ---.

23 Q. How far did it blow it?

24 A. It blew it probably five breaks, the mantrip. But
25 after the guy got turned back around and got the

1 switch and we started back to Ellis, we went another
2 six, seven breaks and it was like, boom, nothing ever
3 happened.

4 Q. What kind of a mantrip were you in?

5 A. We was in just a regular mantrip.

6 Q. A big bus or ---?

7 A. We was just in one of the ---.

8 Q. How many men could ride on it?

9 A. It had --- you could sit three on each end, three
10 on each side, front and back. I guess nine people.

11 Q. Was anybody injured or something ---?

12 A. No, sir.

13 Q. Was there any material in there?

14 A. No, sir.

15 Q. What happened then after you --- it blew it back
16 and the mantrip stopped, what did you do then?

17 A. I heard our boss screaming, telling him to hurry,
18 hurry, hurry, and get us out, get us out. And that's
19 when I felt the mantrip start going. Like I said, we
20 went six, seven breaks, and it was like nothing
21 happened.

22 Q. Who was operating the mantrip?

23 A. Jeremy Reed, our electrician.

24 Q. What did he do? Did he have any brakes on or
25 what ---?

1 A. I don't know. He said it just lost power and he
2 had to set power of it.

3 Q. Okay. Did you all --- was there anything else on
4 the track behind you?

5 A. No, sir.

6 Q. And you all --- then what happened? You got out
7 of the mantrip, and then where did you go?

8 A. We got --- we went --- we rode the track all the
9 way back out to the Ellis Portal, and then we went
10 outside.

11 Q. Okay. Did you all take any gas checks or anything
12 or did you think about it?

13 A. Our boss said that we had --- our oxygen was down
14 to like 19 percent, and it was like a thousand parts
15 per million. That's all he told us.

16 Q. A thousand parts per million CO?

17 A. Yes. That's what he said. Told all of us on the
18 ride to have our rescuers ready to pull the cord.

19 Q. Had you pulled the tops of your rescuers ---

20 A. Yes.

21 Q. --- and ready to just put in your mouth ---

22 A. Yes.

23 Q. --- and pop the cord?

24 A. Yes, sir.

25 Q. Did you pass anybody going out?

1 A. No, sir.

2 Q. What about the track crew, where were they?

3 A. They was already outside.

4 Q. And how about the pumpers that were behind the
5 longwall?

6 A. I don't know.

7 Q. They don't come out --- you all travel a different
8 direction.

9 Q. When you got outside, what was you told?

10 A. We was just told there might have been a mine
11 explosion. That's all they said.

12 Q. Did anybody mention about maybe a rock fall
13 or ---?

14 A. No, sir. Just our miner man that was in the other
15 seat when it happened, he said, why we've had a rock
16 fall. Then that other guy said no, he said, that
17 wasn't no rock fall.

18 Q. After that --- did you see anybody put an SCSR ---
19 open it, pull it and put it in their mouth?

20 A. Uh-uh (no).

21 Q. How far did the debris go out the portal?

22 A. I do not know, sir. They said when it come out,
23 it came out both sides. And one guy that we talked to
24 that worked on the Tailgate 22, because they was still
25 portalling from UBB said, when we got back over there,

1 he said the fan reversed and he said it sounded like
2 helicopters landing, was going to land in the parking
3 lot. And he said it blew dust everywhere out the
4 back, because they said they thought --- when that
5 happened, they thought the fan might have blew up.

6 Q. What did they tell you when you got --- when you
7 got outside, they told you --- who told you there may
8 have been an explosion?

9 A. Just --- I don't even know who he was.

10 Q. Did you have any mantrip personnel out there?

11 A. Yeah. They was --- Chris Blanchard was outside.
12 Jason Whitehead was out there, Everett, the
13 superintendent on the other side.

14 Q. What did they do?

15 A. They just started --- they went over to the intake
16 phone, trying to holler at Adam and stuff, trying to
17 get ahold of him. And that's when Everett told us we
18 needed to get back to UBB side and tag out.

19 Q. So who took you back over there?

20 A. A guy off the longwall. The evening shift
21 longwall guy took us over there.

22 Q. Okay. While we're still here at Ellis, what ---
23 did anybody see anybody go underground?

24 A. No, sir. I never seen nobody go underground.

25 Q. Okay. When you got back over to UBB, what did

1 they tell you over there?

2 A. They didn't say nothing.

3 Q. What did you do?

4 A. I just went outside and sat. Then about 5:30
5 somebody called. They --- a guy was in the bath
6 house, listening on the phone. He said they heard it.
7 They found that mantrip at 62 or 63 Break that had
8 them guys on it.

9 Q. Okay.

10 A. And that's whenever I got my stuff and I went
11 home.

12 Q. Did anybody call you since then?

13 A. No, sir.

14 Q. Have you talked to anybody --- any of your fellow
15 workers about what happened that day?

16 A. Just the guys that we got --- when we first got
17 shipped, I went to Hunter Peerless, and some guys over
18 there we talked about it while we was working. But
19 besides that, no.

20 Q. Have any of them ever given you any idea of what
21 may have happened?

22 A. No. Just people was talking they might have hit a
23 marked gas well. The bottom might have busted up
24 under them. That's all they said.

25 Q. Have you been aware of the bottom busting up under

1 them before?

2 A. No, sir. Like I said, the longwall guys never
3 said nothing to nobody.

4 Q. What about --- nobody's ever discussed about any
5 problems on the longwall?

6 A. No, sir. Like I said, they just --- they'd come
7 in and they'd leave. Come in and go, wouldn't say
8 nothing.

9 MR. GODSEY:

10 Okay.

11 RE-EXAMINATION

12 BY MR. FARLEY:

13 Q. At the time the explosion occurred you were headed
14 towards Ellis Switch?

15 A. Yes, sir.

16 Q. And you said that the force of the air blew the
17 mantrip?

18 A. It started pushing us backwards.

19 Q. Now, did it actually move the mantrip or did you
20 --- did the operator change direction?

21 A. They didn't change direction. They didn't have
22 time to change direction with as much air as that was.

23 Q. Did it actually move the mantrip?

24 A. Yes.

25 Q. Okay. Now, to what extent and how far did it move

1 the mantrip?

2 A. It felt like it moved us five or six breaks is
3 what they said.

4 Q. Okay. Now, I think you told us Jeremy Reed was
5 operating the trip at the time. Can you recall who
6 else was in the mantrip with you?

7 A. Yes. The guy that was sitting with me, his name
8 was Chuck Smith. And the guy sitting on the other
9 side of us, his name was Bill Sullivan.

10 Q. Okay.

11 A. And in the back it was Charlie Williams ---

12 Q. Okay.

13 A. --- Bobbie Baker, Joe Ferrell and Roger Toney.

14 Q. Okay. Did you actually don your rescuer?

15 A. No, sir. We just had them ready, just ready to
16 pull.

17 Q. Okay. Can you mark the map at the location you
18 think you were --- where you were at, at the time the
19 explosion occurred? Can you estimate where you were?

20 A. He was coming from this way. Where's Four North
21 Head? Because we was right there at Four North Head.

22 Q. Were you approaching Ellis Switch at the time?

23 A. No, sir. We was at Four North Head coming to ---
24 on this straightaway, coming this way. We was getting
25 reading to make the S-curve, coming this way.

1 Q. Okay. So you had not made the S-curve when the
2 explosion ---?

3 A. No, sir. No, sir.

4 ATTORNEY BABINGTON:

5 You said coming this way. You were
6 coming inby?

7 A. Inby, yes, sir. Coming to Ellis Switch.

8 BY ATTORNEY FARLEY:

9 Q. We're going to go back to this ventilation that we
10 were talking about earlier when you said the air was
11 going the wrong way. Now, you've marked the location
12 where you were cutting the overcast on April 15th.

13 Now, the arrows on the map indicate airflow moving in
14 the outby direction toward the overcast location.

15 Now, the map also shows some doors at the area of the
16 overcast.

17 A. Yes, sir. We was cutting in between the doors.

18 Q. Were the doors closed?

19 A. Yes, sir. As far as I know, the inby set I
20 believe was, but the outby --- the outby set this way
21 was open.

22 Q. Meaning the doors about two crosscuts outby where
23 you were cutting the overcasts, they were open?

24 A. Yes, sir, the first set was. But the inby set,
25 like going towards --- like we was going to set the

1 headgate up, ---

2 Q. Okay.

3 A. --- they were shut. That's the way Wayne
4 Persinger told us, the vice-president told them how to
5 do it.

6 Q. Okay. And the air was moving in the outby
7 direction?

8 A. Yes, sir.

9 Q. Now, which way was the air moving on April 1st,
10 the previous Thursday?

11 A. The previous Thursday it was all headed out
12 towards the Ellis punch-out. It was all going out
13 that way.

14 Q. Okay. Now, which way did it go on April 5th?

15 A. It was coming up this way.

16 MR. GODSEY:

17 Can you mark that direction, the date,
18 which way it was on Thursday and then which way --- to
19 show direction?

20 ATTORNEY BABINGTON:

21 I'm going to have you use another color
22 for the air direction on the other date, if that's
23 possible, the blue highlighter.

24 WITNESS COMPLIES

25 BY MR. FARLEY:

1 Q. Okay. Now, assuming this map is correct, again,
2 it showed --- the map would reflect airflow moving in
3 the outby direction, toward the location where you
4 were cutting the overcasts, which would show as
5 neutral air?

6 A. Yes, sir.

7 Q. Okay. Now, who gave you the directions on how to
8 manage the doors?

9 A. Wayne Persinger, who's vice-president.

10 Q. Okay. So on April 1st, the air from where you're
11 cutting travels outby towards the Ellis Portal?

12 A. Yes, sir.

13 Q. Okay. And on April 5th it's moving inby, in the
14 direction of Ellis Switch?

15 A. Yes, sir, because --- I guess this would be the
16 return going out, there was two sets of doors right
17 there. And he said, open them, and we opened them.

18 Q. Now, on April 5th, when the air was --- you say
19 the air was traveling towards Ellis Switch, was it
20 traveling --- which entry was it ---?

21 A. It was going up the track entry.

22 Q. It was going up the track entry, okay, which would
23 be the yellow line?

24 A. Yes, sir.

25 Q. Okay. The track entry, according to the map, was

1 in neutral air. Is that what you remember?

2 A. Yes, sir.

3 Q. Do you know where that dust from that overcast
4 would have eventually coursed itself to a return, or
5 did it?

6 A. I do not know, sir.

7 Q. Okay.

8 MR. GODSEY:

9 What doors did he say he had you open up?

10 A. If I ain't mistaken, when they brought equipment
11 in from the Ellis side, they brought it up through
12 here, and there was two sets of doors right here.

13 MR. GODSEY:

14 Can you mark those on there, those doors,
15 showing they were open?

16 ATTORNEY BABINGTON:

17 With the blue one, if you could.

18 MR. GODSEY:

19 They were in that first entry?

20 A. Yes, sir.

21 ATTORNEY BABINGTON:

22 If you could circle the area where you
23 believe the doors to have been?

24 WITNESS COMPLIES

25 ATTORNEY BABINGTON:

1 A quick question on that. How much air
2 are we talking about?

3 A. It wasn't a lot, but it was moving.

4 BY MR. FARLEY:

5 Q. Anybody measure it?

6 A. Nobody measured it, but it was moving the dust
7 pretty good. When he was cutting out an overcast,
8 that sandstone, how dusty it gets it, it --- you could
9 still see the miner head and everything cutting.

10 Q. Now, what time did you stop cutting the overcast?

11 A. It was probably around 2:40, 2:45.

12 Q. Okay. Now, what did the dust look like? Was it a
13 lighter or darker color?

14 A. It was like a lighter color.

15 Q. Okay. Did it look sort of like smoky or foggy
16 looking?

17 A. Yes.

18 Q. Okay.

19 A. Because we usually left from up there around ---
20 when we was on day --- he said we was going to leave
21 about 2:50, but we didn't leave from up there until at
22 least probably about 2:55 when we left from up that
23 way.

24 MR. GODSEY:

25 When you left, was the air still going

1 inby, towards Ellis?

2 A. Yes, sir. Plus it was still dusty a ways up
3 through the track. That's what that guy was saying.
4 He just said --- he said, it's really dusty up there.
5 I said, it shouldn't be. I said, Joe --- I said that
6 Joe's dust shouldn't even have been coming up through
7 here. And then that's when he said he felt --- he
8 said the air --- he said, wait a minute. He said, the
9 air is coming the wrong way. He said it's coming back
10 down the track. And that's when we went a little ways
11 and that's when my ears popped, and that's when we hit
12 all of it.

13 MR. GODSEY:

14 When you all got on your mantrip going
15 inby towards Ellis, the air was going with you?

16 A. Yes, sir.

17 MR. GODSEY:

18 And then all of a sudden, it reversed and
19 was coming out, ---

20 A. Yes.

21 MR. GODSEY:

22 --- and that's when the force ---?

23 A. That's when the force hit us.

24 BY MR. FARLEY:

25 Q. And I believe, if I understood you correctly, as

1 you were headed out --- headed home at the end of the
2 shift, you had not rounded this curve, is that what
3 you --- this S-curve that ---?

4 A. Yes, sir. We was ready to come around the
5 S-curve, and that's when it blew us.

6 Q. Okay.

7 MR. GODSEY:

8 How much different did the air --- from
9 the last day you were there, when it was going the
10 other --- when it changed? Was it a big --- did you
11 have a lot of air, a dramatic change in it?

12 A. It didn't feel like it was a big change.

13 MR. GODSEY:

14 When it was going out?

15 A. Yeah.

16 MR. GODSEY:

17 Was it light or heavy when it was going
18 out?

19 A. When it was going out, it was --- no sooner he had
20 turned the ripper head on and started cutting that
21 sandstone, it was just out. It was disappearing.

22 MR. GODSEY:

23 And it went out the track --- it went out
24 the track entry?

25 A. Whenever we was cutting that April 1st, it was all

1 going out down the beltline outside.

2 MR. GODSEY:

3 Going outside. And then the day of ---

4 A. The day of ---.

5 MR. GODSEY:

6 --- the explosion, it was going inby?

7 A. It was going inby, down the track.

8 MR. GODSEY:

9 But did you all have those doors open

10 outby that you said ---?

11 A. I'm not for sure. I never --- I didn't go out

12 that way. Because whenever he was cutting on the

13 overcast, he'd take 20 feet, we'd bolt it, then we was

14 coming up through here and we was laying pipe,

15 waterline, for that --- to get the water up so we

16 could start. When we got done cutting all that, we

17 could come up here and start cutting out the head

18 holes and stuff.

19 MR. GODSEY:

20 Where were you gobbing the rock at?

21 A. They was gobbing it in the break. I don't know.

22 They was gobbing it off in breaks.

23 ATTORNEY BABINGTON:

24 When you said coming down here, you're

25 talking about moving inby, towards that new headgate?

1 A. Near the new headgate.

2 BY MR. FARLEY:

3 Q. Now, were you involved in cutting that overcast
4 any other days besides April 1st and April 5th?

5 A. That was it. Because they had people on the hoot
6 owl cutting out the belt channel.

7 Q. Okay.

8 A. I don't know who they were.

9 MR. GODSEY:

10 Did your foreman --- did he take any air
11 readings when you all were down there?

12 A. Not to my knowledge.

13 MR. GODSEY:

14 He never could see how much velocity ---?

15 A. I never seen him take any air readings or nothing
16 like that or check --- see if there was any methane
17 coming.

18 ATTORNEY BABINGTON:

19 Including on that Thursday, nobody took
20 any air readings?

21 A. Not to my knowledge.

22 BY MR. FARLEY:

23 Q. Now, as you were exiting the mine before the
24 explosion occurred, were you still traveling in dust?

25 A. We traveled in it for probably four or five

1 breaks, then it just --- like it just disappeared.

2 Q. Okay.

3 MR. GODSEY:

4 How traveled outby, come out after you?

5 Did anybody come out ---?

6 A. No, nobody come after us. Because when we got to

7 there, we had to go back ---.

8 MR. GODSEY:

9 And there was nobody else underground?

10 A. There was nobody else underground. They went down
11 this way.

12 BY MR. FARLEY:

13 Q. Did you see anybody coming out before you started
14 out?

15 A. Yes, sir, the track crew.

16 Q. Okay. Did they say anything about difficulty to
17 breathe on the way out?

18 A. No, sir. The only thing Ralph said as he came
19 through the switch to go outside, he just said hi and
20 took off.

21 Q. Ralph?

22 A. Plumley.

23 Q. Who was with him, any idea?

24 A. He had three red hats with him.

25 Q. Three red hats, okay.

1 MR. GODSEY:

2 And did any of them have SCSRs on ---

3 A. No.

4 MR. GODSEY:

5 --- or deployed?

6 A. No, sir.

7 BY MR. FARLEY:

8 Q. Now, you saw Ralph and these three red hats before
9 the explosion?

10 A. Yes, before the explosion happened.

11 Q. Okay.

12 A. Because I believe they worked from like 6:00 to
13 3:00 or 6:30 to 3:00.

14 Q. Okay.

15 MR. GODSEY:

16 What time did your shift start?

17 A. Our shift started at 6:30.

18 MR. GODSEY:

19 And it goes to?

20 A. 3:30.

21 MR. GODSEY:

22 And you work dayshift all the time?

23 A. No. We swing shift.

24 MR. GODSEY:

25 That's right. Okay. You work two weeks

1 day and then ---?

2 A. Two weeks evening. But when I was on the headgate
3 and all that, we was on dayshift, straight dayshift.

4 MR. GODSEY:

5 Do you want to take a little break for a
6 minute?

7 ATTORNEY BABINGTON:

8 Do you want to take a break or are you
9 okay?

10 MR. FARLEY:

11 A short break would be appreciated.

12 ATTORNEY BABINGTON:

13 Okay. Let's take a quick break.

14 SHORT BREAK TAKEN

15 BY MR. FARLEY:

16 Q. One more on the air reversal that we discussed
17 here between April 1st and April 5th. Now, could you
18 tell that the air was going in a different direction
19 as soon as you got there on April --- the morning of
20 April 5th?

21 A. Not as soon as we got there. Because no sooner
22 than we got there, they --- our boss told us what we
23 needed to do. And me and the scoop man, we went up
24 and we started laying the waterline back down towards
25 this way, and they started cutting out the overcasts.

1 Q. Okay. And then you noticed the air going in the
2 wrong direction?

3 A. When we got up there and we started bolting. And
4 we told the boss and he said --- he didn't say
5 nothing. He just walked away. Me and the other bolt
6 man told him, and he just --- he said, well, I'll
7 figure it out.

8 Q. He said, I'll figure it out?

9 A. Yeah, that's what he said.

10 Q. Okay. And who was the boss again?

11 A. Bobby Baker.

12 Q. Okay.

13 A. He said that he'd look and see if all the doors
14 were open, shut.

15 Q. Did he ever --- did he explain it later in any
16 way?

17 A. No, sir.

18 Q. Okay. Now, ---.

19 A. Because I don't believe he had been bossing a
20 couple months, not very long.

21 Q. Okay. Now, prior to April 5th, what was the last
22 day you worked? Have you already told us that?

23 A. April 1st was the last day.

24 Q. All right. Excuse me.

25 A. We was on evening shift.

1 Q. Sorry I repeated that. Was the mine idle on April
2 4th, or do you know?

3 A. I do not know, sir.

4 Q. Okay. Have you --- in conversations with any of
5 your fellow workers, had anybody indicated there might
6 have been some type of ventilation change on April the
7 4th or ---

8 A. No, sir.

9 Q. --- during that weekend?

10 A. No, sir. The only thing I know, they asked for
11 volunteers for the 2nd and 3rd, and that was it.

12 Q. Okay. You told us all about the water in the One
13 North Headgate entries, as have others, and that was a
14 significant problem. Is there anywhere else in the
15 mine where you thought there was a significant water
16 problem that you can think of?

17 A. No. Just the one time we walked off of the --- I
18 guess at the top of Headgate One. When we was driving
19 --- where the air shaft and we had to walk the intake
20 out. And when we got down towards the tailgate at One
21 North, walking the intake there was some deep water
22 holes we had to go around.

23 Q. Were you ever in the area of the mine that they
24 referred to as the Glory Hole?

25 A. Just when I was a red hat, sir.

1 Q. And that's a couple years ago?

2 A. Yes, sir.

3 Q. Okay. Were you ever in the area of the mine they
4 now call Eight North?

5 A. No, sir.

6 Q. Okay. Prior to the explosion, within the last
7 month prior to the explosion, at any time did you
8 participate in any kind of written survey about
9 Performance Coal or Massey Energy?

10 A. Yes, sir.

11 Q. Can you tell us a little bit about that, please?

12 A. They was just asking us questions, if we liked our
13 upper management and all this and all that, if we
14 liked our superintendent and all this and that. Just
15 questions asking if you liked the upper management and
16 all that. That's all they really even asked about.
17 There'd be two or three questions and then they'd ask
18 you about upper management and your supervisors and
19 all that.

20 Q. Okay. Did it ask you to identify your position or
21 your job?

22 A. No, sir.

23 Q. Okay.

24 A. They just told us not to put our names on it.

25 Q. Okay. Did you ever hear any results on the

1 survey?

2 A. They told us a couple results when we was down at
3 retraining.

4 Q. Anything interesting that struck you about the
5 results?

6 A. Just that they said that we --- because the
7 superintendent we had, not too many people liked him,
8 and they said that he was greatly liked.

9 Q. All right. Anything else about it that ---

10 A. No, sir.

11 Q. --- jumped out at you?

12 A. No, sir.

13 Q. Okay.

14 EXAMINATION

15 BY MS. SPENCE:

16 Q. Was anybody on your mantrip leaving the mine that
17 day, was anybody hurt?

18 A. No, sir --- no, ma'am.

19 Q. Nobody?

20 A. Just everybody's hearts.

21 Q. Yeah, I'd imagine.

22 A. Especially that one miner man. He worked with the
23 crew that was on the headgate, and he worked with them
24 guys for 17 years.

25 Q. And the person that you said was hurt by the rib,

1 hurt in the neck, who was that?

2 A. (b) (7)(C) .

3 Q. (b) (7)(C)

4 A. (b) (7)(C)

5 Q. What's S-1?

6 A. S-1, I guess it's --- I've heard of it. Heard
7 them talk about it.

8 Q. What does it mean to you when you hear about that?

9 A. They sometimes went by it and sometimes they
10 didn't.

11 Q. Do you know what it stands for?

12 A. No, ma'am.

13 Q. Okay. Have you ever seen a manual, ---

14 A. No, ma'am.

15 Q. --- an S-1 manual?

16 A. No, ma'am.

17 Q. All right. Thank you.

18 MS. SPENCE:

19 That's all I've got.

20 ATTORNEY BABINGTON:

21 John?

22 RE-EXAMINATION

23 BY MR. GODSEY:

24 Q. I've got just a couple more to ask you. Were you
25 ever in the other entries down there at the Ellis

1 Switch where the air was traveling?

2 A. No, sir. We was just --- like I said, we was
3 right there at that overcast, and we was in --- it was
4 going to be the beltline, going over to this beltline,
5 and that was it.

6 Q. You were in that entry, all --- no other ---?

7 A. No other ones.

8 Q. Okay. Had you been in any other ones previously?

9 A. Yes, sir.

10 Q. What was the air direction then?

11 A. The only one I was in after that was the --- I
12 guess the return going outside.

13 Q. Number One entry at Ellis Portal?

14 A. It was going outside, and we had to take the scoop
15 out that way to get bolts and glue and stuff.

16 Q. Is that the one where also you marked where the
17 doors were?

18 A. Yes, sir.

19 Q. Okay.

20 A. And that was on April 1st, that night. We had to
21 go outside and get ---.

22 Q. What were the doors then?

23 A. They was open that night.

24 Q. Okay. When did you all move your equipment from
25 UBB side up to the ---?

1 A. The equipment that's on the UBB side, on the south
2 side, is still there.

3 Q. Okay.

4 A. This stuff they brought in from Ellis side.
5 Somebody brought it. I don't know who brought it in.

6 Q. So all of your equipment for your section is still
7 on the UBB side and ---?

8 A. Inside the mines.

9 Q. They brought all the equipment to cut the overcast
10 and stuff from the Ellis ---?

11 A. Yes, sir.

12 Q. We was talking about the line curtain earlier.
13 Have you all ever --- have you ever been on a section
14 when a citation or something had been written for a
15 curtain not being installed, rolled up or anything?

16 A. Just two times, where the buggy man came through
17 the curtain and knocked it off the fly pad while we
18 was up there bolting, then the inspector came over.
19 Virgil, said we didn't have enough air and wrote us a
20 low air violation.

21 Q. What did they do? Did anybody say anything to you
22 all ---?

23 A. Yes. They just --- the boss went off on the buggy
24 man.

25 Q. I may have asked you this. Forgive me if I have.

1 But if a miner had made a safety complaint to upper
2 management, would there be a retaliation against him
3 or any punishment?

4 A. I wouldn't think.

5 MR. GODSEY:

6 Do you have anything?

7 MR. FARLEY:

8 I don't think so.

9 ATTORNEY BABINGTON:

10 I just have a couple questions.

11 EXAMINATION

12 BY ATTORNEY BABINGTON:

13 Q. Have you been interviewed by Massey's attorneys
14 about your time at UBB?

15 A. Yes, sir.

16 Q. When was that?

17 A. It was back in April. Probably about the end of
18 April. When we first --- when I first started at
19 Hunter Peerless, they had us go down there after work.

20 Q. Where was the interview?

21 A. At Elk Run.

22 Q. Did they give you any instructions about any
23 future interviews that you might have about your time
24 at UBB?

25 A. No. The only thing they said, that they --- that

1 you all might be talking to us, and we didn't have to
2 talk to you all if we didn't want to. We didn't have
3 to talk to them if we didn't want to and stuff.

4 That's all they said.

5 Q. So they didn't give you any other instructions or
6 direct you to say anything?

7 A. No, sir. No, sir.

8 EXAMINATION

9 BY ATTORNEY KOERBER:

10 Q. Let me ask a couple questions on that. When you
11 talked to the Massey lawyers, did you tell them the
12 things that you told us today?

13 A. I was afraid to tell them about the air because I
14 didn't know if they would fire me or do what.

15 Q. Okay.

16 A. I was scared to say anything about the air problem
17 or nothing.

18 Q. And you're talking about the difference
19 between ---?

20 A. April 1st, yes, sir.

21 Q. Okay. So they don't know that?

22 A. No, sir. Because I didn't know ---.

23 Q. When you told them about the other issues, like
24 the methane and the floor heaving and the water, did
25 they tell you anything?

1 A. They said that they heard it, they heard it, too.
2 Because the guy I bolted with, when it happened, he
3 walked out, and that's when I went in to see the same
4 woman.

5 MR. KOERBER:

6 Thank you.

7 RE-EXAMINATION

8 BY MR. FARLEY:

9 Q. Whenever people were going to make air changes at
10 the mine, did they ever consult with you in advance?

11 A. No, sir.

12 Q. Okay. Well, I don't think you got anything to
13 worry about then.

14 ATTORNEY BABINGTON:

15 Okay. The witness marked up two maps.

16 J. Williams One is the Ellis Portal Map, and J.
17 Williams Two is the Bandytown fan map. And those maps
18 are part of the record.

19 (J. Williams Exhibits One and Two marked
20 for identification.)

21 ATTORNEY BABINGTON:

22 On behalf MSHA and the Office of Miners'
23 Health, Safety and Training, I want to thank you for
24 appearing and answering questions today. Your
25 cooperation is very important in the investigation as

1 we work to determine the cause of the accident.
2 We request that you not discuss your
3 testimony with any person aside from a personal
4 representative or Counsel. After questioning other
5 witnesses, we may call you if we have any follow-up
6 questions. If at any time you have additional
7 information regarding the accident that you'd like to
8 provide to us, please contact us at the contact
9 information previously provided to you. If you wish,
10 you may now go back any answer you've given during
11 this interview, and you may also make any statement
12 that you'd like to make at this time.

13 A. No, sir.

14 ATTORNEY BABINGTON:

15 Thank you. And again, I want to thank
16 you for your cooperation in this matter.

17

18 * * * * *

19 STATEMENT UNDER OATH CONCLUDED AT 9:37 A.M.

20 * * * * *

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24

25

1 STATE OF WEST VIRGINIA)

2)

3

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.



20
21
22 *Alicia R. Brant*
23
24
25