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Transcript of the Testimony of Jason Griffith

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STATEMENT UNDER OATH
OF
JASON GRIFFITH

taken pursuant to Notice by Cynthia Piro
Simpson, a Court Reporter and Notary Public in
and for the State of West Virginia, at the
National Mine Health and Safety Academy, 1301
Airport Road, Room C-137 Beaver, West Virginia,
on Friday, June 18, 2010, beginning at 8:20
a.m.

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

2

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EXHIBIT PAGE

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NUMBER

DESCRIPTION

IDENTIFIED

One

Mine Map

27*

*exhibits not attached

P R O C E E D I N G S

ATTORNEY HAMPTON:

Let's go on the record. My name is Polly Anna Hampton. Today is June 18th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Jerry Vance, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record right now.

MR. FARLEY:

Terry Farley, West Virginia Office of Miners' Health, Safety and Training.

MR. O'BRIEN:

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

MS. MONFORTON:

And Celeste Monforton with the Governor's special team.

ATTORNEY HAMPTON:

There are also several members of the investigation team present in the room right now. Mr. Jerry Vance will be conducting the questioning today.

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

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

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.
3 You may have a personal attorney present
4 during the taking of this statement, or another
5 personal representative if MSHA has permitted it, and
6 you may consult with this person at any time. Your
7 statement is completely voluntary. You may refuse to
8 answer any question and you may terminate your
9 interview at any time or request a break at any time.
10 Since this is not an adversarial
11 proceeding, formal Cross Examination will not be
12 permitted. Just so the record is clear, do you have a
13 personal representative with you today?

14 MR. GRIFFITH:

15 No.

16 ATTORNEY HAMPTON:

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

1 reveal your name for other law enforcement purposes,
2 we may do so. Also, there may be a need to use the
3 information you provide to us or other information we
4 may ask you to provide in the future in other
5 investigations into and hearings about the explosion.

6 Do you understand?

7 MR. GRIFFITH:

8 Yes, ma'am.

9 ATTORNEY HAMPTON:

10 Do have any questions?

11 MR. GRIFFITH:

12 No.

13 ATTORNEY HAMPTON:

14 Okay. After the investigation is
15 complete, MSHA will issue a public report detailing
16 the nature and causes of the fatalities in the hope
17 that greater awareness about the causes of accidents
18 can reduce their occurrence in the future.

19 Information obtained through witness interviews is
20 frequently included in these reports. Since we will
21 be interviewing other individuals, we request that you
22 not discuss your testimony with any other person.

23 A court reporter will record your
24 interview. Please speak loudly and clearly. If you
25 do not understand a question, please ask the

1 questioner to rephrase it. Please answer each
2 question as fully as you can, including any
3 information you have learned from someone else.

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

8 After we have finished asking questions,
9 you will have an opportunity to make a statement and
10 provide us with any other information that you believe
11 to be important. If at any time after the interview
12 you recall any additional information that you believe
13 might be useful, please contact Norman Page at the
14 telephone number or e-mail address provided to you in
15 the letter. Any statements given by miner witnesses
16 to MSHA are considered to be an exercise of statutory
17 rights and protected activity under Section 105(c) of
18 the Mine Act. If you believe any discharge,
19 discrimination or other adverse action is taken
20 against you as a result of your cooperation with this
21 investigation, you are encouraged to immediately
22 contact MSHA and file a complaint under Section 105(c)
23 of the Act. Terry?

24 MR. FARLEY:

25 On behalf of the Office of Miners'

1 Health, Safety and Training I want to advise you of
2 some information here and tell you that the West
3 Virginia Mine Health and Safety regulations also
4 protect miners against potential discrimination. Now,
5 I have here for you a memo with contact information
6 for the West Virginia Board of Appeals, along with my
7 business card and the business card for Mr. Bill
8 Tucker, who is also one of our lead investigators.

9 MR. GRIFFITH:

10 Okay.

11 MR. FARLEY:

12 Should you experience any such treatment
13 from your employer for participating in this
14 interviewing process, that will tell you who to
15 contact if you want to file a claim.

16 MR. GRIFFITH:

17 Okay.

18 MR. FARLEY:

19 Thank you.

20 ATTORNEY HAMPTON:

21 Okay. Could you swear in the witness?

22 -----

23 JASON GRIFFITH, HAVING FIRST BEEN DULY SWORN,
24 TESTIFIED AS FOLLOWS:

25 -----

1 EXAMINATION

2 BY MR. VANCE:

3 Q. Jason, we're going to start with a few background
4 questions here. Could you please state your full name
5 and spell your last name?

6 A. Jason Mark Griffith, G-R-I-F-F-I-T-H.

7 Q. Please state your home address and telephone
8 number.

9 A. (b) (7)(C)

10 (b) (7)(C) You need my physical
11 address, as well?

12 Q. Yes.

13 A. And then (b) (7)(C)

14 Q. Telephone number?

15 A. (b) (7)(C) I'm sorry. I'm ---

16 Q. Okay.

17 A. --- nervous, you know.

18 Q. You just relax. Don't worry about it.

19 ATTORNEY HAMPTON:

20 It's okay.

21 BY MR. VANCE:

22 Q. Just relax. Are you appearing here today
23 voluntary? I guess are you voluntarily appearing here
24 today?

25 A. Yes.

1 Q. Okay. Has anyone made any promise to you for
2 giving statements or offered you any rewards in
3 exchange for making your statement here?

4 A. No.

5 Q. Has anyone threatened you and warned you not to
6 provide these statements?

7 A. No.

8 Q. Has anyone from the company or a person
9 representing the company talked to you concerning the
10 explosion?

11 A. As far as ---?

12 Q. Company people from Massey?

13 A. Oh, no.

14 Q. Did you receive any directions on how to give us
15 testimony here today?

16 A. No.

17 Q. Okay. How many years of mine experience do you
18 have?

19 A. Close to two.

20 Q. Close to two?

21 A. Yeah.

22 Q. Did you work for David Stanley Contractors?

23 A. Yeah, for about 30 days.

24 Q. Thirty (30) days?

25 A. Uh-huh (yes).

1 Q. What job did you perform?

2 A. I was on the move crew.

3 Q. Move crew. Could you give us a brief description
4 of your coal mining background history?

5 A. My dad, my dad's dad, his dad's dad, just about
6 everyone.

7 Q. Your work history at the mine --- in the mines.

8 A. Oh, I'm sorry. I thought you meant as far as my
9 background. I worked at --- when I started out, I
10 worked on Marfork property, and then we started
11 working at UBB and we worked on pretty much every
12 section up there.

13 Q. And do you have any mining certificates?

14 A. No.

15 Q. Are you presently employed?

16 A. Yes.

17 Q. Whereabouts?

18 A. Slip Ridge, Marfork.

19 Q. And when did you start there?

20 A. About two weeks after the accident.

21 Q. What job are you doing for them?

22 A. I'm running the shuttle car.

23 Q. Shuttle car? Okay. The rest of the questions
24 we're going to ask you is not your background, but
25 everything will be about concerning your work at UBB.

1 A. Okay.

2 Q. What's your first date of employment at Upper Big
3 Branch?

4 A. What was that?

5 Q. First date of employment.

6 A. Honestly, I couldn't tell you really even
7 whereabouts. I just can't even really tell you.

8 Q. Well, that's all right. You can tell us a month
9 or year when you started there, first day.

10 A. I'd say most of my time --- let's see. I got my
11 black hat and then I came to Performance, so most of
12 time it was spent down there, so it's been a little
13 over a year, I would say.

14 Q. Little over a year?

15 A. Yeah.

16 Q. What was your first job assignment there?

17 A. Move crew.

18 Q. Move crew. What areas of the mine did you visit
19 in the first shift there?

20 A. When we got there, we was starting out the first
21 Four section in that mine.

22 Q. And did it take you to --- the first shift there,
23 did it take you to any particular areas of the mines?

24 A. Well, we walked out the intake our first night
25 there and we got shown, you know, escapeways, where

1 everything was at and ---.

2 Q. And what training did you receive prior to going
3 to work there at the mines? What kind of training did
4 they give you your first day there?

5 A. Just normal, like, whatever equipment we could
6 run, like for task training, all that, and then we got
7 task trained on walking the escapeways, all that.

8 Q. How did they task train you?

9 A. Our boss walked us out the intake and they kind of
10 --- the superintendent asked, you know, if we knew
11 where everything was at, where all the shelters and
12 stuff was at, and then we signed a paper, a task
13 training paper.

14 Q. Did they go over any plans or mine maps with you?

15 A. Yeah, they showed us the whole way out of the mine
16 and all the escapeways on the map and ventilation
17 plan, their control plan.

18 Q. Okay. Did you receive Massey Initial Training,
19 MIT training?

20 A. Yes.

21 Q. When was your last in refresher training?

22 A. I'd say --- I think it was in February. Yeah.

23 Q. Okay. What job did you have on April 5th, 2010?

24 A. I was moving belt with the move crew.

25 Q. What shift did you work?

1 A. The third shift.

2 Q. Third shift. And what's your start time and
3 ending time on third shift?

4 A. Ending time?

5 Q. First start and ending.

6 A. 11:30 to 8:30.

7 Q. Who was your supervisor?

8 A. Jay Thomas.

9 Q. Jay Thomas? What was the last shift you worked
10 prior to April the 5th?

11 A. That night. This was our Monday shift, and the
12 guys that worked on the tailgate and we got off work.
13 We talked to them and everything as they was coming up
14 on the section as we was going off.

15 Q. Did you work on April the 3rd before?

16 A. We worked on the Friday before, the Friday right
17 before, so I'm not sure what day that'd been on.
18 Let's see. That'd been ---.

19 Q. The 2nd.

20 A. I think the 4th was a Sunday. We came in that
21 Sunday night, which on hoot owl, you know your first
22 shift starts on Sunday night.

23 Q. Yes. Did you work Friday or Saturday prior to
24 that?

25 A. I worked Friday.

1 Q. On Friday. And then what'd you do on that Friday?

2 A. Honestly, I really couldn't tell you. And then I
3 really don't remember.

4 Q. And who do you --- who was your boss that Friday?

5 A. Jay Thomas.

6 Q. Did you notice anything different --- a difference
7 on the section Sunday night when you went to work?

8 A. No, sir.

9 Q. Are you qualified to take methane and oxygen
10 sufficiency examinations?

11 A. As far as, like, a fire boss or anything?

12 Q. No, just examinations.

13 A. Yes, yes.

14 Q. Okay. All right. Do you carry a methane
15 detector?

16 A. No, sir, our boss does.

17 Q. Okay. You said you talked to the other crew
18 coming in.

19 A. Uh-huh (yes).

20 Q. So what all did you all discuss?

21 A. Just really just normal things, nothing really
22 about work, just how you doing, you know? Happy to be
23 here, you know? Just joking around, things like that.

24 Q. When you go on a --- go on a section and, like,
25 your move crew, was the mine curtain up?

1 A. Yes. One of our jobs on the hoot owl is before
2 dayshift comes in, make sure all the ventilation is
3 right. And our boss, Jay Thomas, he checked
4 everything on the section and had the ventilation
5 right.

6 Q. I mean, how many people was on the move crew with
7 you?

8 A. That night there were four of us altogether.

9 Q. What's moved? What do you consist on your move?
10 What do you all put on your move?

11 A. We move power and some spot up equipment and move
12 belt line and feeder.

13 Q. And that's on 22 Headgate?

14 A. And that was on the 22 Tailgate.

15 Q. Twenty-three (23) Tailgate?

16 A. Twenty-two (22).

17 Q. Twenty-two (22) Tailgate.

18 A. Yeah, down here.

19 Q. Okay. Twenty-two (22), okay. Did you notice any
20 methane problems that night?

21 A. No, sir. To my knowledge, we never had no
22 problems with methane on that section.

23 Q. When you made your moves and stuff and took the
24 equipment around, did you roll up the curtain so you
25 could get equipment clear?

1 A. Usually where we had them spot the equipment up,
2 it was in the way, but after we would move, we would
3 go --- all go around the section and make sure
4 everything was right, because like I said, that's part
5 of our job. You get in trouble if you don't.

6 Q. When you went on the section, did you ever go in
7 the face area?

8 A. That night?

9 Q. Yeah.

10 A. Yes.

11 Q. Was the curtains up in the face that night when
12 you got there?

13 A. Yes.

14 Q. And did you notice --- did the air move --- how
15 the air movement was that day?

16 A. The air felt good, and we had plenty of air going
17 across the face. We had a lot of air, just three
18 entries.

19 Q. Say again?

20 A. Just had three entries, you know, so the air was
21 pretty strong on the face.

22 Q. Did you have sweep ventilation?

23 A. Yes.

24 Q. Okay. Have you ever went in and the check curtain
25 was down?

1 A. Unless --- usually the crew that I was on or
2 worked around, they was always real good about keeping
3 the ventilation up and always real good about it. And
4 if somebody tore it down, they put it right back up.
5 Everyone was really good about keeping ventilation up.

6 Q. Have you been trained in the emergency response
7 plan?

8 A. As far as ---?

9 Q. As to response if an emergency happens, what
10 you're supposed to do, evacuation plan?

11 A. Yes.

12 Q. Do you know who the responsible person is on your
13 shift for ---

14 A. Right now?

15 Q. --- emergency response? No, at UBB.

16 A. Oh. We had a hoot owl mine foreman, which was
17 Glenn Allman. And Kenny Farmer was one of the two
18 responsible persons.

19 Q. When you made your move, what was the conditions
20 up around your feeder and tailpiece?

21 A. Water.

22 Q. Water?

23 A. We had a lot, a lot of water on the section.

24 Q. Did you have any bubbling coming out of the water
25 or ---?

1 A. Not to my knowledge.

2 Q. To your knowledge? Was there any accumulations of
3 coal and stuff that you had to clean up?

4 A. Other than --- not as far as the normal, you know.
5 You just --- I mean, the One belt move. You know, we
6 clean the belt entry and make sure everything's
7 cleaned up around the feeder and everything, the belt
8 line looks good.

9 Q. Notice any --- what the rock dust looked like in
10 the area?

11 A. Actually, I --- the night before that we rock
12 dusted the whole belt line. I can actually remember
13 that now that you said that. That's what we done. We
14 hand dusted the whole belt line. We had stoppings on
15 each side of the belt line. You couldn't get the
16 duster to it, so we hand dusted the whole belt line
17 that night.

18 Q. And how did you dust it? The floor, the roof top,
19 floor?

20 A. The ribs and roof.

21 Q. Have you ever seen a foreman conducting an
22 examination on the section?

23 A. What was that?

24 Q. The foreman conducting a pre-shift examination or
25 on-shift examination?

1 A. Yes.

2 Q. When does he usually start his examination?

3 A. Honestly, I really couldn't tell you. Just
4 working and he just says, well, I got to go fire boss,
5 and he takes off, you know. He says, I'll be back in
6 a little bit. I really don't pay --- really what time
7 it is.

8 Q. Have you ever seen him take an air reading with an
9 anemometer?

10 A. Yes.

11 Q. Okay. And where did he take it at?

12 A. Where?

13 Q. Uh-huh (yes).

14 A. In the face. I mean, I guess everywhere he
15 should, you know. I mean, I don't know really how
16 he's supposed to do that. So I trust that he done it
17 right. He was a good boss.

18 Q. Was any radios used on the section?

19 A. We had them until they told us we couldn't bring
20 them past the power center, you know. And we usually,
21 if we was moving belt, we left them on the power
22 center. And if we was outby, we used them. And I
23 don't know as far as the guys on the --- that was
24 running coal.

25 Q. Okay. Who carries the radios?

1 A. Just everyone.

2 Q. Everyone?

3 A. Yeah.

4 Q. When you moved the power on a section, ---

5 A. Uh-huh (yes).

6 Q. --- who took care of knocking the power and
7 hooking it on back up for you?

8 A. An electrician.

9 Q. Electrician; okay. How does the rock duster look
10 on the section when you get there?

11 A. Usually the scoop man, most of the time he would
12 dust the returns on shift and then the rest of the
13 coal crew would leave and then he would dust the rest
14 of the section. He done it about every night, rock
15 dusted.

16 Q. Did they run coal any on shift on the move crew?

17 A. On the hoot owl? No, we even went up and if
18 they'd be a couple rows of bolts or something out,
19 we'd bolt it up for the dayshift. But we never had
20 any miner or anything by then.

21 Q. Did you bolt?

22 A. Yes.

23 Q. Did you ever hit any pockets of methane as you was
24 drilling holes?

25 A. No, sir.

1 Q. Did you hit water on the roof?

2 A. Yeah, there was some water in the roof, not real
3 bad though.

4 Q. Was it on one side of the section or the other?

5 A. No, just here and there all across the section.

6 Q. All across the sections.

7 A. All.

8 Q. Okay. When you're going in the mines there, how
9 many sets of double doors do you go through?

10 A. In Performance it was a lot. Probably about five
11 sets, I would say.

12 Q. Yeah. And what was the condition of these doors
13 when you went through them?

14 A. Some of the sets of doors were in great condition,
15 but they had just brought in new sets of doors, and
16 they was actually setting beside them right there to
17 get ready to get set up. But I guess the motors got
18 loose and stuff, hit them and things before.

19 Q. And did you ever find the doors open?

20 A. No.

21 Q. How would you --- when you went in on your
22 mantrip, did you leave two or three sections going at
23 the same time or how did that --- I mean ---.

24 A. Usually our whole hoot owl crew, which was the
25 move crew and our electricians, we rode in together

1 and we --- the guys off One section which were the
2 Headgate 22, they portalled through the Ellis
3 punch-out. And we off the tailgate, we portalled
4 through the UBB side.

5 Q. Had you ever noticed any air leakages around the
6 doors?

7 A. Not really. Never really examined them.

8 Q. You would just close the doors or ---?

9 A. Yeah, I've gotten out a lot of times and opened
10 them.

11 Q. Now, when you opened the doors, did you notice any
12 pressure differentials, how the air pressure was?

13 A. First when you opened them you could feel the air,
14 you know, come through them. Let's see. The first
15 set that was before Ellis Switch, they had a lot of
16 pressure on them, a lot of pressure on them.

17 Q. Was these doors manual or was it ---?

18 A. Manual.

19 Q. All of them manual?

20 A. Uh-huh (yes).

21 Q. What is the roof and rib conditions of the mines
22 going up your track entry?

23 A. Everything looked all right. We had a big fall
24 before we had went up there. There was a pretty big
25 fall up there that where they cleaned it up in our

1 track. They put our track under ---.

2 Q. When was this?

3 A. I'd say, guessing a month or so before we started
4 up the tailgate.

5 Q. Could you locate that on the map for us?

6 A. Where the fall was?

7 Q. Uh-huh (yes).

8 ATTORNEY HAMPTON:

9 I'm handing you an orange marker. We are
10 looking at the map scaled 1 to 200, which is going to
11 be marked as Exhibit Number One, Griffith, 6/18/10.
12 (Griffith's Exhibit Number One marked for
13 identification.)

14 A. Circle it? It would be ---.

15 BY MR. VANCE:

16 Q. Okay. You traveled in this way; right?

17 A. Yes, we traveled in this way, came down this way
18 towards the tailgate, and the fall was right through
19 here.

20 MR. FARLEY:

21 Would it be in that area where it's
22 marked in red?

23 A. Yes. Well, I went over this map with the Massey
24 lawyers, and I'm pretty sure that it's where they said
25 that that was the reason that that was marked.

1 MR. FARLEY:

2 Okay.

3 ATTORNEY HAMPTON:

4 Could you circle that or make an X or

5 label the area? Would you draw an arrow off to the

6 side?

7 WITNESS COMPLIES

8 ATTORNEY HAMPTON:

9 He just labeled the --- he circled the

10 area and wrote the word fall.

11 BY MR. VANCE:

12 Q. How high was the fall area now?

13 A. I'm guessing 25 feet up. This was a big fall. It
14 was a very big fall.

15 Q. Was you in when they cleaned it up and rebolted
16 it? Did you help with that?

17 A. When we started moving our equipment and
18 everything up on the tailgate, they had a miner and
19 bolt machine down there and was in the process of it.
20 I wasn't never around when they done it. I mean, I
21 was in the area around it.

22 Q. Did you ever hear of anybody say, mention they
23 found methane in that area at all?

24 A. No, sir.

25 Q. All right. You mentioned that when you talked to

1 the Massey lawyers, what did they talk to you about?

2 A. Just asked me questions as far as where I worked
3 in the mine and where all I've ever worked in the mine
4 and if I've noticed any problems or anything I thought
5 was unsafe.

6 Q. Did they give you any direction about coming to
7 this interview?

8 A. No, sir.

9 Q. Did they tell you to report back to them ---

10 A. No, sir.

11 Q. --- after the interview? Okay. You say you ---
12 did you pack a methane detector?

13 A. If our boss left and we were outby, and then
14 legally one of us was supposed to have a spotter, and
15 I usually carried or another guy on the crew carried
16 it. But most of the time if our boss was with us, he
17 had the spotter.

18 Q. Did you ever look at it and see what kind of
19 methane you had in the area?

20 A. No, sir. Like I said, we --- it never went off or
21 anything while we was around. And they never
22 mentioned anything to us about it going off.

23 Q. Okay. You said you don't know how much methane
24 you had up there, if you had any or ---?

25 A. Yeah. As far as I know, we didn't have any.

1 Q. You ever hear anybody say they found methane up
2 there?

3 A. Not on our section.

4 Q. Well, did you hear if they found methane on any
5 other section?

6 A. I know in the past they've had methane on the
7 section, but they took the steps to re-ventilate and
8 got it brushed away, you know.

9 Q. And what kind of steps did they take to
10 re-ventilate it?

11 A. Shut down the power and re-ventilated the section
12 until the readings was right, good enough to start
13 running again.

14 Q. Was this on a production section ---

15 A. Yes, sir.

16 Q. --- that's always producing coal?

17 A. Yes, sir.

18 Q. Do you know what shift that was on?

19 A. No. I wouldn't be right if I said one or the
20 other.

21 Q. Yeah. Did you mention how much methane you found?

22 A. No, they never gave the amount, but I know if they
23 shut down for it, it was a good amount. That was
24 right around the time that I started down there.

25 Q. Now, how long ago has that been now?

1 A. A little over a year.

2 Q. A little over a year ago? Have you heard or ---
3 heard anybody talk in the bath house or in the crew
4 when you're talking about finding methane anyplace
5 else in the mines?

6 A. No, sir.

7 Q. Did you feel the ventilation was adequate at the
8 mines?

9 A. On our section I felt like we had really good air
10 and it was strong. Someplace it felt like it was
11 knock you down.

12 Q. Was any ventilation changes made while you was
13 underground working, or anybody underground?

14 A. When they done the ventilation changes, we usually
15 worked outside, and the president --- or the
16 vice-president and the superintendents worked on the
17 air change.

18 Q. They went in and done the ventilation changes, the
19 president and vice-president?

20 A. As far as I know, as far as I know.

21 Q. And who was they?

22 A. The vice-president was Wayne Persinger and the
23 superintendent and Everett Hager.

24 Q. Yeah. About when was this?

25 A. Again, I wouldn't ---

1 Q. An approximate?

2 A. --- couldn't say. Approximate?

3 Q. Uh-huh (yes).

4 A. We had a few air changes there, and I would say
5 probably four or five months before.

6 Q. Four or five months. How many is a few?

7 A. Two, three at the most.

8 Q. Two or three? And was it the same way every time
9 on the midnight shift?

10 A. Yeah, they've always done it on a midnight shift.

11 Q. Do you know if the belt area was used to ventilate
12 the section?

13 A. Excuse me?

14 Q. Belt air on the belt, was it used to ventilate the
15 working section?

16 A. No, sir.

17 Q. Okay. Have you ever noticed it reversing, going
18 in a different direction? You ever showed up to work
19 and found the air has been reversed on your belt?

20 A. No, sir.

21 Q. Okay. Did you ever see them mine coal without
22 using ventilation or ---?

23 A. No, sir.

24 Q. Did you ever see them mine coal with the check
25 curtains rolled up or took down?

1 A. No, sir.

2 Q. Okay. Have you ever encountered it make any moves
3 up through there at the belt, encounter any floor gas
4 or bottom hooving?

5 A. On some of the older panels we had a lot of it.
6 The bottom hooved up real bad just from where it ---
7 you know, they mined and mined around it and there was
8 a lot of pressure on it, but as far as gas, no.

9 Q. Uh-huh (yes). What was the areas that you noticed
10 the bottom hooving at? Could you tell us?

11 A. On the map?

12 Q. Uh-huh (yes).

13 A. Honestly I couldn't show you on the map, you know.

14 Q. Which area of the mines do --- was you in?

15 A. It was old Two section. That's what we called it.
16 It was the Two section --- Headgate 22 was called Two
17 section, and it was the Two section they drove before
18 they started the tailgate.

19 Q. This section here?

20 A. Yes.

21 ATTORNEY HAMPTON:

22 Can you describe what you mean by here?

23 MR. VANCE:

24 It's the headgate of the longwall
25 entrance.

1 BY MR. VANCE:

2 Q. Okay. Could you show us approximately where that
3 was at?

4 A. The bottom hooving? Like I said, I'm not --- I
5 wouldn't even be able to show you approximate, show it
6 on the map.

7 Q. Okay. Was you working when they drove that
8 headgate section? Was you on that section?

9 A. No, I never was on --- I was on the headgate one
10 time ---

11 Q. One time?

12 A. --- while they was driving it, and that was just
13 to get parts and came back.

14 Q. Yeah. Who was the foreman on that shift?

15 A. On the hoot owl?

16 Q. Uh-huh (yes).

17 A. I can't remember his name. I'm sorry.

18 Q. On the hooving there, did anybody ever say they
19 found any methane coming up from the ---?

20 A. No, sir.

21 Q. All right. Did you say you had water up in the
22 area?

23 A. Uh-huh (yes).

24 Q. Did you ever notice it bubbling?

25 A. No, sir.

1 Q. Okay. Have you ever seen or heard people talking
2 of floor ribs or outbursts of the floor?

3 A. What was that?

4 A. Outbursts on your floor, popping, just pop up?

5 A. Not to my knowledge. I never heard anyone say
6 anything about it.

7 Q. Okay. When was the last time you traveled your
8 primary escapeway?

9 A. When we first --- well, actually a little bit ---.
10 When we started the tailgate, you know, and we would
11 start working on the upper end of the mine, then we
12 had to walk our primary escapeway.

13 Q. And how long has that been?

14 A. An estimate, it was probably about a month or so
15 before that. Well, it was right whenever we started
16 up the tailgate, a little bit after.

17 Q. Do you know approximately when you started that,
18 the dates or months that you started that?

19 A. No, sir. No, sir.

20 Q. Have you ever seen the ribs, your top, roof or
21 anything like that?

22 A. The tailgate we had some bad top, but they --- the
23 bolt men was good about doing what they were supposed
24 to.

25 Q. What are you calling bad top?

1 A. Just when you hear it working a lot, when you
2 hear, you know, roof bolt plates bumping, you know,
3 just from when the top's settling down, things like
4 that.

5 Q. Did you ever go in and there'd be a fall on a
6 section up there?

7 A. We never had a fall on our section. You could
8 hear the ribs working a lot, you know, taking weight,
9 the pillars taking weight.

10 Q. What was the ribs like up there on the section?

11 A. The ribs on the section, they weren't too bad, but
12 you could hear them, you know, taking weight a lot.

13 Q. Did you ever work on the One North, the belt man
14 section?

15 A. What was that?

16 Q. One North, the belt man section.

17 A. No, sir.

18 Q. Was the ventilation plan or any changes to the
19 plan ever discussed with you by management?

20 A. No, sir.

21 Q. Okay. Have you ever reviewed the bulletin board
22 on the surface and found your ventilation plans or any
23 plans at all they've posted on the bulletin board?

24 A. Yeah, I've went and looked at the ventilation
25 plan, things like that and didn't understand a lot of

1 it, to be honest. But you know, I've went over it.

2 Q. And did you take it out of the bulletin board and
3 read or just read what was on the surface?

4 A. I've got the ventilation book. They have a little
5 book there. I've went through it and things and
6 looked.

7 Q. A book, ventilation book?

8 A. Yeah.

9 Q. What are you saying, there was a book, now?

10 A. It's like a little binder.

11 Q. Where is it kept at?

12 A. They kept them --- either they had a copy in the
13 office and then they kept one down in the bath house
14 around the bulletin board.

15 Q. And you say you couldn't really understand it;
16 right?

17 A. No, I didn't understand a lot about it.

18 Q. On or around March 9th, a ventilation change was
19 conducted on the longwall, another section. Could you
20 tell us the problems they had with the ventilation to
21 make the change?

22 A. Honestly, I don't know why they made the changes.
23 From my understanding, it was MSHA's --- that wanted
24 to change the ventilation. They didn't think it was,
25 I guess, adequate.

1 Q. Well, was it due to tailgate air flowing in the
2 wrong direction?

3 A. No, we never had no problems with the air on the
4 section.

5 Q. Was there any difference in the air on the section
6 before they made that change and after they made the
7 change?

8 A. Not really, no.

9 Q. Have you ever discussed safety concerns with mine
10 management?

11 A. No, sir. No, like, other than just, you know,
12 little things, you know, casual conversation. You
13 just say something about the top or anything, but I
14 never felt unsafe in it, you know. It's normal. You
15 get in places with bad top and it's normal.

16 Q. When you made your belt moves and stuff, did you
17 ever notice plastic bags on top of your methane
18 monitor on the miner?

19 A. No, sir. Them guys weren't like that. No, like I
20 said, they were all real good and they all worked
21 safe, everything, all, both crews.

22 Q. Did you ever see them calibrating the methane
23 monitor on the miner?

24 A. No, sir.

25 Q. What was the attitude of the employees concerning

1 reporting bad conditions or hazards to the mine
2 management?

3 A. Now, what was that?

4 Q. What was the attitude of the fellow miners in
5 reporting hazards or bad conditions to the mine?

6 A. If someone had a problem and they felt unsafe,
7 they could --- and the super was very good about, you
8 know, doing what he could do to take care of the
9 problem, you know, if someone had a problem with it.
10 Very open with him. If somebody had a suggestion, he
11 would --- always good to listen to it.

12 Q. And which superintendent's that?

13 A. Gary May.

14 Q. Gary May?

15 A. Uh-huh (yes).

16 Q. Did anybody have any concerns that if they did
17 report a hazard that there'd be some retaliation
18 against them or anything?

19 A. No, sir. Like I said, he was always very
20 understanding about someone that felt unsafe, you
21 know. And so that's part of his job.

22 Q. Do you know of any hazards reported to management
23 and then you come back the next night and they would
24 still be there?

25 A. No, sir.

1 Q. Okay. Have you ever called MSHA's 800 number or
2 MSHA's hotline?

3 A. No, sir.

4 Q. Had you ever been told not to report an accident?

5 A. No, sir.

6 Q. Do you know anyone that had an accident at the
7 mines was not told to report it?

8 A. No, sir.

9 Q. Did you ever discuss any safety issue with MSHA or
10 a State inspector?

11 A. What was that? I'm sorry.

12 Q. Okay. Did you ever discuss safety issues with
13 mine inspector, Federal or State, either one?

14 A. Just --- no, not really.

15 Q. When you was on section, did they know when an
16 inspector was coming in?

17 A. Most of the time, no. Most of the time, unless it
18 was, you know, they got a violation and they knew he
19 was coming back to, you know, make sure it was taken
20 care of and there was inspectors in there just about
21 every day.

22 Q. Did you ever them calling on the telephone and
23 telling that the inspector was on his way in or ---?

24 A. No, sir.

25 Q. Okay. If a safety issue's been reported out to

1 mine management, what would be their reactions to it?

2 A. Most of the time they --- you know, they would
3 discuss it with you and then they'd do what they could
4 do to take care of it, you know. And just, well, we
5 have to see --- we'll see what we can do. And they
6 most of the time would take care of it, you know.

7 Q. Did he have any reaction to the individual if he
8 reported the unsafe condition to them?

9 A. No. Like I said, he was always very understanding
10 if someone felt unsafe, you know?

11 Q. Have you ever reported an unsafe or hazardous
12 condition to management?

13 A. No, sir.

14 Q Okay. Are you aware of any oncoming shifts being
15 cancelled because of safety issues underground at the
16 mine?

17 A. No, sir.

18 Q. Okay. Do you know of any conditions where the
19 mine has to be evacuated, that the miners had to be
20 evacuated?

21 A. No, sir.

22 Q. Okay. Are you aware of any time that the section
23 foreman halted production for a safety issue and
24 management told them to keep on working?

25 A. No, sir.

1 Q. Are you aware of, heard of if the longwall's down
2 for an extended period of time on the day of the 5th?

3 A. No, I have no knowledge of that.

4 Q. Do you know if the longwall was running the shift
5 that you worked?

6 A. On the hoot owl?

7 Q. Uh-huh (yes).

8 A. No. No, they was not running.

9 Q. Do you usually normally run on the hoot owl?

10 A. No, they done all their maintenance on the hoot
11 owl.

12 Q. Have you ever been on the longwall?

13 A. Yes, sir.

14 Q. And then what's the conditions like up there?

15 A. Muddy.

16 Q. Muddy?

17 A. Yeah.

18 Q. Why's that?

19 A. I've been on there several times just --- well,
20 when they first started out, you know, I was curious.
21 I never seen the longwall, so I went and looked at it.
22 Lot of air going across the face of it, a lot of air.

23 Q. Why were you there?

24 A. What was that?

25 Q. Why were you there?

1 A. Well, the tailgate and the longwall was right
2 beside of each other. And like I said, I --- to begin
3 with, I was just curious, you know, what it was like
4 and went over and checked it out. And then we had to
5 go over towards that every --- a lot of time, because
6 we had a neutral where our ---

7 Q. A neutral.

8 A. --- supplies and things were.

9 Q. Did you ever have any dust problems up in there?

10 A. On our section?

11 Q. On the tailgate on North section?

12 A. No, sir.

13 Q. All right. Did you ever wear a dust pump in the
14 mine?

15 A. Not at UBB.

16 Q. Not at UBB? You've seen other people wearing a
17 dust pump?

18 A. Yes.

19 Q. What was the procedure where they wore dust pumps?

20 A. Just make sure their ventilation was up and they
21 do what they knew was right, I guess.

22 Q. Did you ever see anybody leave the dust pumps at
23 the power center?

24 A. No, sir.

25 ATTORNEY HAMPTON:

1 See the dust pumps where?

2 MR. VANCE:

3 At the power center.

4 ATTORNEY HAMPTON:

5 Oh, the power center.

6 BY MR. VANCE:

7 Q. Did you ever see anybody hang them in the intake?

8 A. No, sir.

9 Q. Have you ever been in an area called the Glory
10 Hole?

11 A. Yes.

12 Q. And what was you doing there?

13 A. Honestly, I don't remember. I've been over to the
14 Glory Hole once or twice, not very much.

15 Q. What did you observe over there?

16 A. It's wet and muddy, like, a lot of the area
17 through there was.

18 Q. What is usually rock dusted in there?

19 A. I think that they had two fire bosses that was
20 actually responsible every shift for making sure the
21 rock dusting is kept up over there. But when I went
22 over there it looked fine.

23 Q. And you say you had a lot of water on your belts
24 up there?

25 A. On our belts?

1 Q. Uh-huh (yes).

2 A. We just had a lot of water everywhere, really.

3 Q. How close can you keep the pumps to your
4 tailpiece?

5 A. All the pumps that pump the water?

6 Q. Uh-huh (yes).

7 A. We had two pumps in our return. And that was, I
8 could say, two breaks outby. And then we had, I
9 think, maybe one pump inby that it didn't run very
10 much on account of their equipment going on all over
11 the place.

12 Q. On the section --- one pump on the section ---

13 A. Yeah.

14 Q. --- you're saying?

15 A. Yeah. And we had to use it --- a lot of our job
16 on the hoot owl from all the water was to make sure
17 the pumps, you know, were kept up and running and, you
18 know, all that.

19 Q. Did you have any problems with electrical problems
20 with the pumps?

21 A. No, sir.

22 Q. Did electricians check these pumps out?

23 A. They wired them up. We set them up. They wired
24 them up, and we got everything that we needed, our
25 fire extinguishers and everything for us.

1 Q. In your return where your belts --- where that
2 water was, did you see a lot of coal dust on top of
3 the water?

4 A. A lot of coal dust?

5 Q. Uh-huh (yes).

6 A. No.

7 Q. Did you have any concerns about the ventilation
8 system prior to the accident?

9 A. No, sir.

10 Q. Have you had any thoughts what caused the
11 accident?

12 A. In my opinion, to me it blows my mind. It really
13 does, because I mean there's --- I never seen anything
14 that could cause that kind of, you know ---. Just it
15 don't seem real. It really don't. And still now it
16 don't.

17 Q. Did you ever talk to any of the longwall people?

18 A. Yeah. Yeah, I was friends with a few of them.

19 Q. And did they ever mention any --- having any floor
20 hooving or cracks in the floor around the longwall?

21 A. No, sir.

22 Q. Did they ever mention anything about methane?

23 A. No.

24 Q. Did they ever mention any problems that they had?

25 A. No, no.

1 Q. What was management's attitude toward safety and
2 production?

3 A. Just run as --- you know, they want you --- you
4 know, they want you to run good, but they don't want
5 you to do it unsafe, you know. They always was real
6 big on safety.

7 Q. What was the supervisor's attitude towards
8 management?

9 A. Towards management? To my knowledge, he had no
10 problem. They had no problem with him.

11 Q. Has a State inspector or Federal inspector ever
12 conducted the inspection while you was underground?

13 A. Yes.

14 Q. Okay. When those inspections took place, was they
15 --- did the boss know that they was coming?

16 A. No, we got to work. Most of the time whenever he
17 would come, if it's on the hoot owl, we would just
18 come and he would be there. And then you know, we'd
19 just start talking to him, and he said we're coming
20 with you all.

21 Q. Did you know before he got on the property at the
22 mines at the bath house ---

23 A. No, sir.

24 Q. --- that he was coming? Did the ventilation
25 change any when the inspector was on the section?

1 A. Did the ventilation change?

2 Q. Yeah.

3 A. As far as ---?

4 Q. Your velocities or direction?

5 A. No.

6 Q. And it didn't change when the inspector was on
7 another section?

8 A. Not to my knowledge.

9 Q. Okay. Do you have any reservations about talking
10 to inspectors?

11 A. Reservations?

12 Q. When you're coming around, did you talk to them
13 or ---?

14 A. Yeah. Yeah, just, you know, casually.

15 Q. Casually.

16 A. And just I'd ask about how the section looked and
17 stuff, if I had any problems or anything with it.

18 Q. What do you think the management's attitude was
19 when you and the inspector would talk?

20 A. They never acted like anything. I've sat there
21 and talked with the superintendent and an inspector,
22 you know to all of them, and it seemed like they never
23 had a problem with it. I don't see why they would.

24 Q. Yeah. Did you ever discuss any safety concerns
25 with an inspector?

1 A. Not as far as anything, you know, big, just same
2 thing about the top, roof, something like that.

3 Q. And what was the reaction?

4 A. They just --- my reaction or theirs?

5 Q. Theirs.

6 A. They would just, you know, make a comment on it
7 and say really just nothing, I guess, you know.

8 Q. Yeah. Did anybody else ever raise any concerns to
9 management about the ventilation at the mines?

10 A. I don't believe.

11 Q. Did you hear of any other sections complain that
12 they didn't have enough air or methane on the section?

13 A. No, sir.

14 Q. Okay. They wasn't talking in the bath house about
15 it?

16 A. No, sir.

17 Q. What was the workforce's views on --- concerning
18 management at Upper Big Branch?

19 A. I guess nobody really had a problem with
20 management up there. I mean I didn't. They done a
21 good job.

22 Q. Yeah. Did you ever see upper management in the
23 mines?

24 A. Yes, every day. They usually came underground
25 first thing in the morning. The mine foreman was

1 always underground.

2 Q. Who was he?

3 A. Rick Foster.

4 Q. Anybody else in management come underground?

5 A. Wayne Persinger, the vice-president. He was
6 underground a lot. He stayed underground most of the
7 time up there. He was a good --- he was a good
8 vice-president.

9 Q. Did anybody --- did you see any management above
10 him at the mines or underground?

11 A. In the past I've seen --- I've seen Chris
12 Blanchard underground before.

13 Q. And when was that? How often?

14 A. I'd only seen him there one time, I believe. As
15 far as I know he was only there --- that's the only
16 time I seen him.

17 Q. Was it on the midnight shift or dayshift or ---?

18 A. We was getting off the midnight and we seen him.
19 He came out on dayshift.

20 Q. As for safety, do you have a good or bad
21 impression of upper management?

22 A. Like I said, I never had no problems with and got
23 along with them. They always took care of me, you
24 know. If I had a problem, I felt fine going to them
25 and saying anything I had to say to them.

1 Q. Did you ever have a vacation cancelled because of
2 work at the mines?

3 A. They always would ask for volunteers, but I never
4 volunteered.

5 Q. The weekend prior to the accident, did they ask
6 for volunteers to work?

7 A. I don't believe. Most of the time if it was,
8 like, a scheduled Saturday off, they would ask. They
9 would say, we got to work a Saturday.

10 Q. So they'd be asking people to volunteer on their
11 scheduled Saturdays off?

12 A. No, sir, not that particular.

13 Q. Okay. Do you know of anybody working the weekend
14 prior to the accident, that Saturday and Sunday?

15 A. No, sir.

16 Q. Do you know of anybody else of something else that
17 we should talk to just to help the investigation team
18 with the investigation?

19 A. Anyone that worked there?

20 Q. Yeah.

21 A. Honestly, no.

22 Q. You said earlier you think the accident surprised
23 you.

24 A. It surprised everyone that I've worked with, the
25 people that's worked there before. It does not seem

1 real.

2 Q. Now, when you done roof bolting, who took the
3 methane test?

4 A. Well, whenever I would bolt up there, I hadn't
5 bolted very much and my boss would come up there with
6 us and he had a spotter and stuff with him, so he
7 would conduct it.

8 Q. And how often would he do it?

9 A. Before we bolted.

10 Q. Before you bolted?

11 A. Yeah. I guess he ---.

12 Q. Did he do anymore after you started?

13 A. As far as I know, he done it the way it's supposed
14 to be done, which I'm not really positive, you know,
15 laws on it, but he was always good about doing things
16 like they should be done.

17 Q. Who was that?

18 A. Jay Thomas. He as always good about doing things
19 the way it should be done.

20 Q. And how long would it take you to bolt a place?

21 A. When I first started, a good while. Probably 15,
22 20 minutes.

23 Q. Twenty (20) minutes.

24 A. Yeah. Well, to put up a row of bolts, not a whole
25 place. Usually they left --- most of the time they

1 would only leave, like, one place two or three rows
2 out and we would put them up.

3 Q. Was the ventilation good in the area that you was
4 bolting in?

5 A. Yes.

6 Q. Where were you at the time of the accident?

7 A. Where was I?

8 Q. Uh-huh (yes).

9 A. I was asleep.

10 Q. Asleep? Did you get notified?

11 A. Yes. My dad woke me up because he had heard that
12 something had happened there, and I had two uncles
13 that got killed in it, so he woke me up and we went
14 down there as soon --- as soon as we found out.

15 Q. And about what time was that?

16 A. I'm going to say around 3:30, four o'clock. I
17 mean, I guess as soon as it happened.

18 Q. And you went to the mines, you say?

19 A. Yes.

20 Q. And then what did you do down there?

21 A. I went to --- they wasn't letting anyone through
22 the guard check because they had the first group of
23 guys. They already had them out and they didn't want
24 people up there. So we kind of stayed around there,
25 trying to find someone we could get some information

1 off of, because we still didn't know if it was a fall
2 or an explosion or anything.

3 Q. And how long did you stay there?

4 A. Roughly an hour.

5 MR. VANCE:

6 Okay. That's all I've got right now.

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. Okay. Do you need a break or anything?

10 A. No, I'm fine.

11 Q. Okay. Now, I'm going to ask several things to try
12 to clarify some things. I'll probably be working
13 backwards, so just be patient with me.

14 A. Okay.

15 Q. First of all, I'm truly sorry to hear about your
16 uncles.

17 A. Thank you.

18 Q. You indicated that you had been in the area known
19 as the Glory Hole once or twice.

20 A. Yeah.

21 Q. Can you give me an idea of when you were there?

22 A. Honestly, I'm not --- I mean, I couldn't even give
23 you really a rough estimate.

24 Q. Okay. Let me try and help you. You worked at UBB
25 for about a year?

1 A. Yes.

2 Q. Was it 2010 in there?

3 A. No, sir.

4 Q. Last year sometime?

5 A. Yes, it's last year, sir.

6 Q. Okay. All right. That helps. Same thing for the
7 longwall. You indicated that you were curious about
8 the longwall and that you were there once and you
9 wanted to just --- just get a look at it?

10 A. Uh-huh (yes).

11 Q. Can you tell me when that was?

12 A. I visited it this year, too. I mean where we was
13 so close, we had to go over that area a quite a bit,
14 You know, our ---.

15 Q. Can you give me an idea when the last time was?

16 A. Probably just a couple weeks before the accident.

17 Q. Okay. Now, is it correct that you portalled at
18 the main UB Portal, UBB Portal?

19 A. Yes.

20 Q. Okay. And you were working on Tailgate 22 section
21 for the last --- how long? How long of a period of
22 time before the accident?

23 A. I was there since they started that section up.

24 Q. Okay. And can you tell me when that was?

25 A. Sometime last year.

1 Q. Okay. All right. Take your time. When you
2 traveled 22 Tailgate ---

3 A. Uh-huh (yes).

4 Q. --- section on April 4th, ---

5 A. Uh-huh (yes).

6 Q. --- which would have been around --- your shift
7 started 11:30 p.m. on April 4; right?

8 A. Uh-huh (yes).

9 Q. When you traveled to 22 Tailgate section, once you
10 pass the 78 Switch ---

11 A. Uh-huh (yes).

12 Q. --- and then the next switch which is about, oh,
13 roughly, 100 --- about around Crosscut 101 or 102, ---

14 A. Uh-huh (yes).

15 Q. --- which way did you travel to the tailgate
16 section from that location?

17 A. We went up past the Glory Hole and then came down
18 this way.

19 Q. Okay.

20 ATTORNEY HAMPTON:

21 Okay. Instead of saying this way, could
22 you explain in words or maybe we want to draw on the
23 map?

24 BY MR. FARLEY:

25 Q. Just draw it.

1 ATTORNEY HAMPTON:

2 Would that be helpful?

3 MR. FARLEY:

4 Just let him draw it.

5 ATTORNEY HAMPTON:

6 Okay. I'm handing you a pink marker to
7 show your route. And this is Exhibit One that you're
8 drawing on.

9 A. I'm not sure which one they have the track
10 entry ---.

11 MR. FARLEY:

12 Track entry's probably the one in the
13 middle.

14 A. Came up this way past the Glory Hole, and there's
15 a set of --- through these sets of doors, and then
16 came down through this way.

17 MR. FARLEY:

18 Okay. Go ahead and just draw it all the
19 way to the section, if you would?

20 WITNESS COMPLIES

21 ATTORNEY HAMPTON:

22 Maybe try to darken that a little bit so
23 that it ---

24 MR. FARLEY:

25 Yeah.

1 ATTORNEY HAMPTON:

2 --- sticks out.

3 MR. FARLEY:

4 And don't worry about hurting the map.

5 ATTORNEY HAMPTON:

6 And could you draw an arrow to the side
7 and write maybe path traveled or ---?

8 MR. FARLEY:

9 Travel route.

10 ATTORNEY HAMPTON:

11 Travel route.

12 BY MR. FARLEY:

13 Q. To Tailgate 22 on --- or did you get underground
14 before midnight?

15 A. Yes.

16 Q. Okay. Of course it couldn't been midnight by the
17 time you got to that point, so I mean ---.

18 A. Well, actually it was probably April 5th by the
19 time that we got up.

20 Q. Okay. Put April 5th on there.

21 WITNESS COMPLIES

22 BY MR. FARLEY:

23 Q. Okay. Now, when you traveled the track entry from
24 78 Crosscut inby ---

25 A. Uh-huh (yes).

1 Q. --- and ultimately ending up at 22 Tailgate
2 section, ---

3 A. Uh-huh (yes).

4 Q. --- just try to give me your impression of what it
5 looked like. What was the rock dusting in that track
6 entry like?

7 A. It looked like it was very maintained, kept up.
8 They usually had --- they had a dust crew that worked
9 the hoot owl that had a big duster that pulled with
10 the motor.

11 Q. Uh-huh (yes). Okay.

12 A. They dusted the whole mines every night.

13 Q. Now, did it look that way from 70 way all --- 78
14 all the way to the 22 Tailgate section?

15 A. Yes, the dusting was kept up through there.

16 Q. Okay. Now, when you got --- when you made it to
17 the 22 Tailgate section on April 5th, you indicated
18 that you rock dusted, rock dusted the section belt?

19 A. Yes.

20 Q. In its entirety?

21 A. Yes.

22 Q. Thoroughly?

23 A. We dusted from the head, around the head, around
24 the kVA at the head and then to the feeder.

25 Q. Okay. How many people were assigned to do that

1 rock dusting?

2 A. They were three of us.

3 Q. Three of us.

4 A. And we done that while our boss done his fire run.

5 Q. Now, according to this map, that section belt
6 should have been about roughly one, two, three, four,
7 five or six crosscuts in length for that --- how long
8 was that belt? Is that map accurate?

9 A. Honestly, I couldn't tell you exactly. It was a
10 hundred foot centers.

11 Q. Okay.

12 A. It seemed --- if you walked three or four breaks,
13 it seemed like a long way, you know, with the big
14 breaks, but it seems like it's kept up maybe a break
15 or two behind. I'm not sure.

16 Q. Okay. All right. Now, you rock dusted the mine?

17 A. Yes.

18 Q. Now, before you rock dusted the 22 Tailgate
19 section belt, had it --- did it have any rock dust
20 applied at all, anything at all?

21 A. From what we had done previously in, you know, the
22 past --- since we --- well, we rock dusted after every
23 move and usually on our off nights we would get on the
24 rock dusting, so we took care of that belt line.

25 Q. Okay. And was it ever machine dusted?

1 A. I think they took a fan duster to it maybe twice.
2 And that was --- we had the stoppings on each side of
3 that belt line, so it was hard to get over there, so
4 when the belt line was a little bit shorter, you
5 could, you know, drag your hose to the man door and
6 drag it up and down the belt line. But it got too
7 long.

8 Q. Okay. Now, on your last shift here, April 5th on
9 22 Tailgate section, was there anything different?
10 Did you notice anything unusual about the ventilation,
11 anything at all that was different from your previous
12 shift?

13 A. No, sir.

14 Q. Okay. You indicated that you had pretty good air
15 on 22 Tailgate.

16 A. Uh-huh (yes).

17 Q. Was there ever a time when you did not have pretty
18 good air on 22 Tailgate?

19 A. No, we had a --- since we started that section we
20 always had good air, well above the required amount.

21 Q. Okay. Okay. You pointed out a roof fall in this
22 crossover area between longwall headgate entries
23 traveling north to Tailgate, Headgate 22 section.

24 A. Uh-huh (yes).

25 Q. Did you say when that occurred?

1 A. I would say, roughly, a month or so before we
2 started out.

3 Q. All right. Now, did you assist in clean up with
4 that fall?

5 A. No, sir.

6 Q. Okay. Now, I think you said that it was --- do
7 you think that the material that fell, fell to the
8 depth of maybe 20 to 25 feet? Is that what you think?

9 A. Yes. Maybe a little bit more. It was a very big
10 fall.

11 Q. Okay. After it was cleaned up, how was it
12 re-supported? Or was it?

13 A. Was it re-supported? Yes, it was bolted up.

14 Q. Okay. Were there any timbers, cribs, platforms?

15 A. In these breaks on each side of it, it fell almost
16 two breaks long, so on each crosscut on each side of
17 it they had cribs built right there and timbers.

18 Q. Okay. Now, after it was re-supported, could you
19 stand underneath and see all the way to the roof?

20 A. Yes. It was a long way up there.

21 Q. Okay. So there was no false bottom platform up
22 there?

23 A. No.

24 Q. You know what I'm talking about?

25 A. Yes. Yeah.

1 Q. Okay. You mentioned some water on the Tailgate
2 22.

3 A. Uh-huh (yes).

4 Q. I think you said you had a lot of water on
5 Tailgate 22.

6 A. Uh-huh (yes).

7 Q. Where did the water come from? Did it come from
8 the mine floor or did it come from leaks in the water
9 lines or what?

10 A. Mostly it was coming through our --- through the
11 bottom, and ---

12 Q. Okay.

13 A. --- where ---. And a lot --- and some of it, too,
14 was from the miners, you know, the sprays off the
15 miners. Not usual, but most of it was from the
16 bottom.

17 Q. Did you notice the water coming from the floor?
18 Was it bubbling anytime? Ever notice it bubbling?

19 A. No, sir.

20 Q. Okay. I think he asked you about floor hooving.

21 A. Uh-huh (yes).

22 Q. Any cracks, floor hooving in Tailgate 22?

23 A. No, sir.

24 Q. Okay. Did the floors on 22 break up or sort of
25 chunk out as the equipment passed over it sometimes?

1 A. No, the bottom seemed like it was, you know,
2 pretty solid. Didn't have a problem with it breaking
3 up when, you know, we cleaned it with the scoop or
4 anything.

5 Q. Okay. You had worked on 22 Tailgate section from
6 the time that section started.

7 A. Yes.

8 Q. At any time prior to that, did you work on the 22
9 Headgate section?

10 A. Like I said, I was over there maybe one time.

11 Q. Okay.

12 A. And that was to retrieve parts.

13 Q. Okay. And would that have been this year?

14 A. Yes.

15 Q. And I mean, month before the accident, two months
16 before? Can you give me a month?

17 A. Around January, February.

18 Q. Okay. You indicated that from time to time that
19 you would see a mine foreman and vice-president
20 underground, typically near the end of your shift.

21 A. Yeah.

22 Q. On your last shift on April the 5th, did you see
23 anyone during the night that you wouldn't routinely
24 see?

25 A. No, sir.

1 Q. Okay. When I say, people you wouldn't routinely
2 see, I mean primarily mine management people.

3 A. No, sir.

4 Q. Okay. I think you said it was your crew's job to
5 make sure that the ventilation was right for the
6 dayshift.

7 A. Uh-huh (yes).

8 Q. Was the ventilation usually right when you found
9 it, when you arrived on the section to begin your
10 shift?

11 A. Yes, whenever the evening shift left they was
12 always real good about keeping their ventilation up
13 through the shift and making sure none of it got tore
14 down whenever they left.

15 Q. Okay. Now, I know you rock dusted the Tailgate 22
16 belt on April the 5th. Did you ever walk or travel
17 the entire length of any of the other belts at UBB
18 this year?

19 A. Not by foot. I mean, our track ran right up
20 beside most of the belts through that mine, but I
21 never traveled the length of the ones up in that area.

22 Q. Okay. Who were the other two people that helped
23 you rock dust Tailgate 22 belt on April 5th?

24 A. I'm trying to think what his name --- I'm sorry.
25 He just started with us two or three days before.

1 Q. That's okay.

2 A. The one --- we had a red hat with us. It was John
3 Clemen.

4 Q. John Clemen.

5 A. Yes. And the other boy's name --- honestly, I
6 can't remember. Like I said, he just --- he had just
7 started there.

8 Q. That's okay.

9 A. There's a lot of people in that mine.

10 Q. All right. Now, who else was working on 22
11 Tailgate on April 5th during your last shift there,
12 that you can recall?

13 A. It would have been Jay Thomas, Timmy Daniels,
14 Terry Claypool, you know, and I believe that's it.
15 There was maybe one other electrician. I can't really
16 remember.

17 Q. Okay. As you traveled to and from the 22 Tailgate
18 on your last shift there, or on any shift this year,
19 did you ever experience any problems with the motors
20 running away or derailing, wrecking, anything?
21 Anything like that stand out?

22 A. No, sir.

23 Q. Okay. Do you know if there were any derail
24 devices installed on any of the track?

25 A. Our track to the section?

1 Q. Yes, sir.

2 A. No, sir, other than the dead man at the end of the
3 track.

4 OFF RECORD DISCUSSION

5 A. I'm sorry. I'm just used to talking, you know,
6 like I was at work.

7 BY MR. FARLEY:

8 Q. On April 5th, how did your father learn of the
9 accident before he woke you up? Do you know?

10 A. I think that my aunt had called him, because it
11 was her husband had got --- was one of the first men
12 that they brought out. I believe that she called.

13 Q. Okay. All right.

14 EXAMINATION

15 BY MS. MONFORTON:

16 Q. I'm sorry about your --- you lost two uncles?

17 A. Yes. My aunt's husband was one of them.

18 Q. And who were those men?

19 A. That was Bobby Griffith and Carl Acord.

20 Q. You mentioned on April 5th you were working with a
21 red hat?

22 A. Yes.

23 Q. John Clemens and another. Is that who the move
24 crew was? That was the same crew you worked with or
25 was that ---?

1 A. Yes, and there was a Ryan Music that was on our
2 crew.

3 Q. You indicated that you had some radios that you
4 worked with for a while, but then you were told not to
5 bring them past the power center. Do you know why?

6 A. They said that the frequency --- something about
7 the frequency, would have affected the box on the
8 miner and made the hydraulic stuff work hard.

9 Q. You indicated that you saw an area where there
10 were some new doors kind of placed there, ready to be
11 set up?

12 A. Uh-huh (yes).

13 Q. Do you know what area of the mine that was?

14 A. It was right past 78 Break, going towards the
15 longwall.

16 Q. And can you recall about how long you saw those
17 doors there, ready to be installed?

18 A. They had only been there two or three days.

19 Q. Two or three, okay. Probably because of all the
20 miners in your family, it sounds like you were kind of
21 curious about the ventilation. You looked at the
22 ventilation book.

23 A. Uh-huh (yes).

24 Q. And I'm just trying to get a sense of in your
25 early training as a miner, what do you learn about

1 ventilation in the training?

2 A. It's mostly how to ventilate the section. If you
3 --- you know, if they run split air, you know, how to
4 ventilate off split or sweep air, things like that.

5 Q. Would you have any recommendations, like, for a
6 miner who's maybe worked a few years like to have,
7 what maybe additional training would a miner maybe
8 like to have about ventilation, now that you've been
9 in the mines a little while and you kind of see how it
10 works?

11 A. Nothing that I really could think of. Like, I
12 understand a lot of the section ventilation, but as
13 far as ventilating a whole mine, that's the reason I
14 was looking at it, because, you know, I just didn't
15 understand it.

16 Q. Right.

17 A. And I still really don't understand it. It's all
18 kind of complicated to me.

19 Q. Just because it's such a big space?

20 A. Yeah.

21 Q. Yeah.

22 A. Because it's, like, easy to ventilate a small
23 area, ---

24 Q. Uh-huh (yes).

25 A. --- then the whole mine is a completely different.

1 Q. What would you learn from your uncles and other
2 older miners in the mine?

3 A. Just a lot of tricks, things, and be safer and
4 things that make you faster.

5 Q. Yeah.

6 A. Just things like that.

7 Q. So they would give you some good advice?

8 A. Yeah. Yeah.

9 Q. You indicated that you've met with some Massey
10 attorneys.

11 A. Uh-huh (yes).

12 Q. Do you recall if they offered to make any
13 arrangements to accompany you to the interview?

14 A. They said that it was my option, said whether ---
15 if I wanted them to be there, that they would come.

16 Q. Okay.

17 A. They said if I didn't, then they didn't need to
18 know about it.

19 Q. Okay. Do you remember filling in a survey for
20 Massey maybe earlier this year about your experience
21 at the mine, maybe a confidential survey?

22 A. Yes, yes.

23 Q. Can you tell us a little bit about that?

24 A. They had a lot of questions, some just basically
25 what we're talking about and safety and management and

1 things like that, if we was happy, if we saw things
2 that --- if we noticed problems that didn't get took
3 care of, questions like that.

4 Q. And did they report back to you what the results
5 of that survey were?

6 A. No, ma'am.

7 Q. Do you remember? Okay. Did they ask any
8 questions about MSHA, do you remember?

9 A. On the ---?

10 Q. On the survey?

11 A. Not that I recall.

12 Q. Okay. Do you remember when your last annual
13 refresher training was?

14 A. It was right at the beginning of the year around
15 January, February.

16 Q. Do you remember anything really new or new
17 material that was covered at that annual refresher
18 training that you hadn't learned before?

19 A. No, not really, other than the ---.

20 Q. Okay.

21 A. Maybe the ventilation plan had changed a little
22 bit.

23 Q. Okay. What were your crew's procedures for
24 informing the next shift, the next crew coming in to
25 work on that same area? What were the procedures for

1 letting that crew know, you know, what you had
2 accomplished or any problems you saw?

3 A. Where we had to take care of the pumps, you know,
4 we informed them about, you know, what we had on the
5 pumps and, you know, where we had them, if we had them
6 pulled up out of the water or not or, like, a belt
7 move, you know, whether we had their anchors or things
8 like that, you know.

9 Q. In the area where you said there was a lot of
10 water, about how deep was it? Where did it come up on
11 your leg?

12 A. Some places it was ankle deep, some places it was
13 over --- well above my knees.

14 Q. And did you think about any particular safety or
15 health hazards with regard to working in water of that
16 depth?

17 A. No, I've worked in a lot deeper water than that in
18 the mine.

19 Q. At this mine?

20 A. Yes.

21 Q. Where did you work in where it was deeper?

22 A. It was on --- I wouldn't even ---. I don't even
23 think it's on this map, actually. It was on the first
24 Four section of that mine, which is down close to the
25 UBB Portal. It's a few breaks in.

1 Q. And how deep was the water in that area?

2 A. A lot of places it's waist deep.

3 Q. Waist deep.

4 A. Yeah.

5 Q. So did your section boss talk to you about working
6 in that water and what particular hazards you might
7 encounter when you work in water that deep?

8 A. Not really, just other than that it's not fun.

9 Q. What can you tell us about the S1, Massey S1
10 program?

11 A. Safety first. They just expect you to do your job
12 and work as safe as you can, you know. Just don't do
13 anything that you know can get you hurt or someone
14 else.

15 Q. Uh-huh (yes).

16 A. You know, watch out for each other.

17 Q. Was there a manual or special training that went
18 along with the S1?

19 A. It's like sheets that, like, that our boss went
20 over, like safety meetings, things like that. He had
21 --- every week we had another topic, and he'd always
22 go with us.

23 Q. And so that might have been ---

24 A. And we had to sign a book.

25 Q. --- part of a book that was the S1 book?

1 A. Yeah, I guess it's part of the program.

2 Q. Okay. Did you have one of those books?

3 A. Well, he had a --- they would give them to him at
4 the office ---

5 Q. Okay.

6 A. --- and he would read it to us every ---

7 Q. Okay.

8 A. --- week.

9 MS. MONFORTON:

10 That's all I have.

11 ATTORNEY HAMPTON:

12 Let's take a two-minute break.

13 A. Okay.

14 ATTORNEY HAMPTON:

15 Off the record.

16 SHORT BREAK TAKEN

17 ATTORNEY HAMPTON:

18 Let's go back on the record.

19 RE-EXAMINATION

20 BY MR. VANCE:

21 Q. Jason, when you was on a section, you bolted?

22 A. Yeah.

23 Q. How deep was the cuts, normally, that you had to
24 cut?

25 A. I believe there was only 20-foot cuts.

1 Q. Twenty (20) foot cuts?

2 A. Yeah.

3 Q. Which side of the bolter did you work on?

4 A. Both sides.

5 Q. Both sides? Did they have a methane detector on
6 it?

7 A. Yes.

8 Q. And who took care of it?

9 A. The bolt men on both crews.

10 Q. Did they leave it on the bolter or take it in and
11 out or ---?

12 A. They had a --- I believe they had one that stayed
13 that they kept on the bolt machine, and then they had
14 --- each had one individually.

15 Q. Okay. But the one that they kept on it, do you
16 know who took care of calibrating it?

17 A. I don't really know.

18 Q. How wide was the cuts, usually?

19 A. How wide?

20 Q. Uh-huh (yes).

21 A. Just --- well, they were supposed to be ---.

22 Q. I mean, four rolls, five rolls? How much ---?

23 A. I'm not sure. Honestly I couldn't really tell you
24 how their roof control plan was. I mean, most of it
25 four bolts wide.

1 Q. Uh-huh (yes). What was your bolt pattern?

2 A. All they used was six-foot torque tensions, and I
3 believe they put star patterns in the intersections.

4 Q. What was your distance between your bolts?

5 A. Four foot, five foot. I'm not real sure, to be
6 honest with you.

7 Q. Did anybody ever discuss with you that, what
8 they're supposed to be?

9 A. My boss could, you know. He showed me how to do
10 it from the bolt machine.

11 Q. And how did he show you how to do it from the bolt
12 machine?

13 A. Well, he first told me how to measure it, but like
14 I said, I ain't no bolt man. I can't really --- I
15 don't really remember stuff real well. He showed me
16 how to judge it and what it was supposed to been and
17 all that stuff.

18 Q. Did you ever measure them to see ---?

19 A. Yes, I have. I put them when I first started
20 putting them up, but once I done it a couple times, I
21 figured out how to adjust it from --- judge by the
22 bolt machine.

23 Q. Uh-huh (yes). Did the inspector come up and find
24 any --- give you any citation for the bolts being too
25 wide?

1 A. No, not on our section, they didn't. Good bolt
2 men on our section.

3 Q. All right. Was the curtain --- how close could
4 you keep curtain up when you're bolting initially?

5 A. When I was bolting?

6 Q. Uh-huh (yes).

7 A. We just --- ten foot.

8 Q. Ten foot.

9 A. Or whatever. You kept it right up beside the bolt
10 machine.

11 Q. When you bolted?

12 A. Yeah.

13 Q. When you made the move there --- you know, you
14 move equipment around. I may have asked this before.
15 Did you roll up the curtains there to get your
16 equipment in there so you could have room to make a
17 belt move?

18 A. Most of the time we wasn't really around the
19 curtain, you know, when we was moving belt. And like,
20 if we had to clean the section or something, you know,
21 we'd roll the line curtain up to go down the rib, and
22 then we'd drop it when we was --- and then got done
23 cleaning a place.

24 Q. Now, you said you had water in the return.

25 A. Uh-huh (yes).

1 Q. How deep was that water, usually?

2 A. We had a pump set and it pumped it out all the
3 time, and they usually kept it down, just not over
4 your boots or anything, ankle deep.

5 Q. Have you seen it any deeper?

6 A. I seen it deeper when there was a pump wasn't
7 running. It's, you know, well above your boots, but
8 close to your knees.

9 Q. Do you know who calibrated the methane detectors?

10 A. No, sir.

11 Q. Yeah, who calibrated the methane spotters? Who
12 took care of them?

13 A. I guess the electricians. I don't have any
14 knowledge of the ---.

15 Q. When you worked by yourself, did they furnish you
16 a spotter, methane detector?

17 A. Yes, we usually brought an extra one in if we knew
18 we was going to be separated.

19 Q. All right. Did you have any training on how it
20 worked or ---?

21 A. Yes, we have to personally learn how to do it in
22 our retraining. And so we just had a retraining at
23 the beginning of the year.

24 Q. You mentioned earlier that your uncle and your dad
25 and them taught you some tricks in the mines. What

1 kind of tricks did they teach you, tell you about?

2 A. Just mostly things, you know, watch out for, you
3 know. Don't get around this, you know, things like
4 that, mostly just things about moving belt and how to
5 make it easier on yourself.

6 Q. And what was some of that stuff?

7 A. Just different ways of doing things, you know, how
8 to run your cables different to, you know, make it
9 faster, just some small things like that.

10 Q. How close was your track to the section?

11 A. Honestly, I couldn't tell you exactly, but they
12 was real big. They had got a violation on it before
13 of it not being up enough, so they had been doing a
14 good job of keeping it up there.

15 Q. When did they get the --- do you know,
16 approximately, when they got that violation?

17 A. Sometime last year.

18 Q. Last year.

19 A. Yes.

20 Q. Did you have to build stoppings on your belt
21 lines?

22 A. Yes.

23 Q. How close would they keep the stoppings then?

24 A. We had to keep them up to a break outby the
25 feeder.

1 Q. Break out by the feeder. Did you have any other
2 things you need to do when you made your belt move?

3 A. Dust the belt line, stoppings, make sure your
4 ventilation and things like that.

5 Q. Do you have anything else that we haven't asked
6 that you probably want to tell us that may help us
7 with this investigation?

8 A. Honestly, as far as knowing anything that might
9 help or could possibly cause of the explosion, I have
10 not the slightest clue.

11 Q. Did you provide Massey's attorney with the same
12 information that you gave us today?

13 A. Yes.

14 Q. Do you have anything else that you need to tell
15 us?

16 A. No, sir.

17 RE-EXAMINATION

18 BY MR. FARLEY:

19 Q. Shortly out by the 22 Tailgate section, the map
20 indicates some doors to the south toward the longwall
21 panel and some doors to the north. Are those doors
22 --- is this map accurate? Are those doors there?

23 A. Yes. Yes, because that's what is separating our
24 neutral from our intake.

25 Q. Okay. If you were going to the longwall section

1 from 22 Tailgate, would you have to travel through the
2 doors?

3 A. Now, what was that? I'm sorry.

4 Q. If you were going to travel from 22 Tailgate to
5 the longwall face, would you have to go through doors?

6 A. Yes. Yes, if you was taking a scoop, you could
7 --- you had to go through the doors or, you know, a
8 man door on the stop.

9 Q. Okay. Now, the doors ---? If you were traveling
10 from 22 Tailgate in the outby direction and turning
11 right or turning south toward the longwall face ---

12 A. Uh-huh (yes).

13 Q. --- shows these doors appear to be fairly close
14 together according to the map. Was there enough ---
15 was there sufficient room to pass through the doors
16 with a scoop ---

17 A. Yeah, they had ---.

18 Q. --- or equipment without leaving one of the doors
19 open?

20 A. Yes. They do look real close on that map, yeah,
21 but you could get a scoop --- actually you could get a
22 scoop and a forklift in there and shut the set of
23 doors.

24 Q. Okay. Did you ever encounter the doors left open
25 in that location?

1 A. No, sir.

2 Q. Okay. All right. Thank you.

3 ATTORNEY HAMPTON:

4 Okay. On behalf of MSHA and the Office

5 of Miners' Health, Safety and Training, I want to

6 thank you for appearing and answering questions today.

7 Your cooperation is very important to the

8 investigation as we work to determine the cause of the

9 accident. We request that you not discuss your

10 testimony with any other person other than a personal

11 representative or an attorney. After questioning

12 other witnesses, we may call you if we have any

13 follow-up questions. If at any time you have

14 additional information regarding the accident that you

15 would like to provide us, please contact us at the

16 information that was provided to you in that letter.

17 If you wish, you may now go back over any

18 answer that you've given us or make any other

19 statement. Is there anything else that you'd like to

20 tell us?

21 A. No, ma'am.

22 ATTORNEY HAMPTON:

23 Okay. Again, we want to thank you for

24 your cooperation.

25 A. All right. Thank you.

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EXAMINATION CONCLUDED AT 9:55 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Cynthia Piro Simpson