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Transcript of the Testimony of Lacey Cox

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STATEMENT UNDER OATH
OF
LACEY COX

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Tuesday, July 7, 2010, beginning at 5:50 p.m.

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DEBBIE ROBERTSON

Independent Investigation Team

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P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is July 7th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, 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.

MS. ROBERTSON:

I'm Debbie Robertson with the independent investigation team for the State of West Virginia.

MR. O'BRIEN:

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

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today. Erik Sherer will be conducting initial questioning. All members of the Mine Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big

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

15 Government investigators and specialists

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

24 You may have your personal attorney

25 present during the taking of this statement or another

1 personal representative if MSHA has permitted it, and
2 you may consult with your attorney or representative
3 at any time. Your statement is completely voluntary.
4 You may refuse to answer any question and you may
5 terminate your interview at any time or request a
6 break at any time. For the record, do you have a
7 personal representative with you today?

8 MR. COX:

9 No.

10 ATTORNEY BABINGTON:

11 Your identity and the content of this
12 conversation will be made public at the conclusion of
13 the interview process and may be included in the
14 public report of the accident unless you request your
15 identity remain confidential or your information would
16 otherwise jeopardize a potential criminal
17 investigation. If you request us to keep your
18 identity confidential, we will do so the extent
19 permitted by law.

20 That means that if a judge orders us to
21 reveal your name or if another law requires us to
22 reveal your name or if we need to reveal your name for
23 other law enforcement purposes, we may do so. Also,
24 there may be a need to use the information you provide
25 to us or other information we may ask you to provide

1 in the future in other investigations into and
2 hearings about the explosion. Do you understand?

3 MR. COX:

4 Yes, sir.

5 ATTORNEY BABINGTON:

6 Do you have any questions?

7 MR. COX:

8 No, sir.

9 ATTORNEY BABINGTON:

10 After the investigation is complete, MSHA
11 will issue a public report detailing the nature and
12 causes of the fatalities in the hope that greater
13 awareness about the causes of accidents can reduce
14 their occurrence in the future. Information obtained
15 through witness interviews is frequently included in
16 these reports. Since we will be interviewing other
17 individuals, we ask that you not discuss your
18 testimony with any person aside from a personal
19 representative or counsel.

20 A court reporter will record your
21 interview. Please speak loudly and clearly. If you
22 do not understand a question asked, please ask the
23 interviewer to rephrase it. Please answer each
24 question as fully as you can, including any
25 information you've learned from someone else.

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

5 After we've finished asking questions,
6 you'll have an opportunity to make a statement and
7 provide us with any other information that you believe
8 to be important. If at any time after the interview
9 you recall any additional information that you believe
10 might be useful, please contact any of us at the
11 contact information previously provided to you.

12 Finally, any statements given by miner
13 witnesses to MSHA are considered to be an exercise of
14 statutory rights, protected activity under Section
15 105(c) of the Mine Act. If you believe any discharge,
16 discrimination or other adverse action is taken
17 against you as a result of your cooperation with this
18 investigation, you are encouraged to immediately
19 contact MSHA and file a complaint under Section 105(c)
20 of the Act.

21 MR. O'BRIEN:

22 Mr. Cox, on behalf of the Office of
23 Miners' Health, Safety and Training, I'd like to
24 inform you that you do have rights against
25 discrimination under West Virginia Code, any

1 discrimination stemming from this interview. What I'd
2 like to do is give you some information in case you
3 would incur some discrimination or that would happen.
4 Here's some contact information that you can use.

5 I just would like to mention, though,
6 that you must file complaint within 30 days of the
7 point where the discrimination takes place. Also, I'd
8 like to give you a couple business cards, one from
9 Terry Farley and the other from Bill Tucker. They are
10 our lead investigators, and if you would have any
11 problems or questions, feel free to contact either one
12 of these gentlemen. Any questions? Thank you, sir.

13 -----
14 LACEY COX, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS
15 FOLLOWS:
16 -----

17 EXAMINATION

18 BY MR. SHERER:

19 Q. I want to thank you for coming down here this
20 afternoon, Mr. Cox. We're basically trying to put
21 together what happened at the mine on April the 5th.
22 Can you please state your full name and spell your
23 last name?

24 A. Lacey Cox, Jr. C-O-X.

25 Q. Okay. What's your address and telephone number,

1 please?

2 A. I live in (b) (7)(C) .

3 Telephone number's (b) (7)(C) .

4 Q. Okay. Were you employed at Upper Big Branch prior
5 to the explosion?

6 A. Yes, sir.

7 Q. How long have you been employed there, roughly?

8 A. Contracting-wise or just period?

9 Q. Oh, if you were a contractor, let's try to ---.

10 A. Eleven (11) years.

11 Q. Eleven (11) years total?

12 A. Yeah.

13 Q. Did you start out as a contractor?

14 A. Yes, sir.

15 Q. How long were you a contractor?

16 A. Two and a half years.

17 Q. Okay. So you were at Upper Big Branch almost the
18 entire period of time it was operating?

19 A. On the North side, yes, sir.

20 Q. Okay. Good. What did you do at Upper Big Branch?

21 A. Took care of the outby belts.

22 Q. Okay. Did you fire boss?

23 A. No, sir. I used to. I gave it up. I got in some
24 trouble.

25 Q. Okay.

1 A. Dating up early.

2 Q. Okay. Are you appearing here today voluntarily?

3 A. Yes, sir.

4 Q. Have you been interviewed by anyone else
5 concerning the accident?

6 A. The company talked to me.

7 Q. Do you recall when that was?

8 A. No, sir. It seemed to me like it was about the
9 5th, and the 5th, but now, I could be wrong on that.
10 I don't know. I don't keep up with dates much.

11 Q. Okay. Who interviewed you, somebody ---?

12 A. They said it was company lawyers.

13 Q. Okay. So it was more than one attorney?

14 A. Three of them.

15 Q. Three of them. Where'd they interview you at?

16 A. At the mine office at Elk Run.

17 Q. Okay. What sort of questions did they ask you?

18 A. They just gave me my legal rights, about like what
19 you all did.

20 Q. Sure.

21 A. And if I knowed anything, come forward with it if
22 I thought that anything would help.

23 Q. Sure.

24 A. Just about my legal rights, mostly.

25 Q. Okay.

1 A. The only thing that they did that I didn't approve
2 of is if I come to talk to anybody, they going to be
3 in on it, you know. They wanted me to --- I didn't
4 contact them on this. I'm sort of a freeloader. If I
5 do something, I tell you what I do.

6 Q. Sure. We appreciate that. Are you currently
7 employed?

8 A. Yes, sir, I still work.

9 Q. Where are you working at?

10 A. Logan Fork.

11 Q. Okay. Working on belts up there?

12 A. Everything. I mean, we're recovering the mines,
13 what we're doing. We're taking out equipment. We're
14 taking out belt heads. It's still outby work, not
15 face work.

16 Q. Okay. Everything else I'm going to ask you today
17 is about Upper Big Branch. So you worked on the
18 belts, you maintained the belts. Do you shovel the
19 belts?

20 A. Oh, yeah.

21 Q. Do you rock dust?

22 A. Yes, sir.

23 Q. Any particular belts that you keep up with or all
24 of them?

25 A. It's different responsibilities I had.

1 Q. Okay.

2 A. All the outby belts, if you're familiar with the
3 mines, was six foot and five foot and went out of
4 Ellis Portal. I changed all the rollers and made
5 splices in them, and then I had two belts that I sort
6 of just greased on Ellis Five and Four North.

7 Q. Okay. You were the guy when they wrote something
8 down on the whiteboard, ---

9 A. I took care of it.

10 Q. --- you took care of it. Good. And we've heard
11 about you.

12 A. Yeah.

13 Q. A lot of good things, actually.

14 A. Thank you.

15 Q. Just in general, what was your impression of the
16 belts? Were they in good shape?

17 A. The main line belts, yes, sir. I had to say they
18 was. Our take-ups might've had a little problems
19 where we had so much mud, ---

20 Q. Uh-huh (yes).

21 A. --- but we stayed on it constantly. Check the
22 fire boss book. It'll show you where we cleaned and
23 got unstuck rollers.

24 Q. Sure.

25 A. And all of our outline belts where good shape.

1 Section belts, I can't say much about them, because I
2 didn't go on them much.

3 Q. Sure. Roughly, how many rollers would you place a
4 shift? Do you have any rough idea?

5 A. Well, I got a record of it. It's in the fire boss
6 books. I usually changed at least ---. If I did
7 rollers that night, I would --- we would change 20
8 rollers in a shift.

9 Q. Twenty (20) rollers.

10 A. A shift, yeah. That was about average.

11 Q. That's a lot. Do you ever get a chance to get off
12 in the entries that were parallel to the belt or track
13 that were idle, basically? Do you wonder over there
14 occasionally?

15 A. Yes, sir.

16 Q. What condition were those entries in, do you
17 recall?

18 A. We had a lot of scaly rock. It was a lot of hard
19 walking in that mines. If you didn't walk the
20 escapeways, you had a hard time getting out of that
21 mines.

22 Q. Okay. So you kept --- they kept up the walkways
23 and the escapeways and the other had a lot of draw
24 rock and stuff in it?

25 A. Yes, sir. Sure did.

1 Q. What about the dust back in those entries, how
2 were those?

3 A. It varied. If it was wet, you'd have no dust. It
4 was just ---.

5 Q. Sure.

6 A. If it was dry, it was dusty.

7 Q. Okay. Good. Were they kept pretty bright and
8 white or did they ever get gray on you?

9 A. Yeah, they got gray. I mean, by gray, I meant by
10 the color of the rock, you know. Any neutral entry we
11 had in that mines was wet.

12 Q. Okay.

13 A. Just about all of them.

14 Q. So there was some sufficient rock dust, but the
15 rock dust itself got wet?

16 A. Yeah, you put your hands in it, it was just like
17 raising it up, and it would be stuck to you like
18 putting your hands in plaster.

19 Q. Okay. What about float dust? Was that a problem?

20 A. Yes, sir, I'd say it was, especially around the
21 belt head, three or four breaks from the belt head.
22 Yes, sir, we had problems. We had quite a bit of
23 shoveling on that, quite a bit.

24 Q. Sure. Did you run trickle dusters?

25 A. Every belt, just about, best of my knowledge.

1 Q. Was everybody pretty good about keeping the
2 trickle dusters filled and running or ---?

3 A. Yeah, I didn't like them because I had to work in
4 them all the time, changing rollers.

5 Q. Sure.

6 A. To be honest with you, when I was working in them,
7 I had sense enough to cut them off while I was
8 working.

9 Q. Sure.

10 A. And when I left, I'd turn them back on. Sometimes
11 I wouldn't, you know. Just sometimes you get busy if
12 you get to ---

13 Q. Sure.

14 A. --- do something, but I've been known to not turn
15 them back on.

16 Q. Okay.

17 A. Intentionally and then unintentionally.

18 Q. Sure. Okay. Did you ever come in on the shift
19 and find any black float dust on top of the rock dust?

20 A. Yes, sir.

21 Q. How common was that?

22 A. It just depend on the dust crew. If a dust crew
23 didn't make their normal routines, it would get ---.

24 Q. Sure.

25 A. But if they made their routines regular, we didn't

1 have that problem.

2 Q. Okay. Think back to a week or two prior to the
3 explosion. Did you notice any change in the rock
4 dusting during that time period? Had anything changed
5 at all that you're aware of?

6 A. Just they changed rock dust men around. They put
7 a different fellow on it. I don't know his name. His
8 name's Cliff something, Clifford or Cliff. They
9 changed him around. They was trying to get more dust.
10 They had a black boy doing the dusting, and he seemed
11 like he wasn't satisfied with management, I guess.
12 And he got caught sleeping, so they changed and put
13 another man on it just a little bit prior to this
14 happening.

15 Q. Okay. When you say got caught sleeping, was he
16 fired because of that?

17 A. I think he was.

18 Q. Okay. Do you recall, roughly, when he was fired
19 or discharged?

20 A. I better not say. I'm familiar with the area. I
21 just remember that I didn't see him no more after I
22 heard he got caught ---

23 Q. Okay.

24 A. --- asleep.

25 Q. Do you think that the rock dust was still being

1 applied in, roughly, the same amount immediately prior
2 to the accident?

3 A. Where I changed rollers at, when they dusted, they
4 done a pretty good job, I have to say. But like I
5 say, it's a big mines. I didn't get every place every
6 night.

7 Q. Sure. Well, the reason we're asking a lot of
8 questions about rock dust is we think that was
9 potentially involved in the explosion. We're just
10 trying to put together a picture of what could've
11 happened. Was there much up on the roof, straps,
12 mesh, anything like that that could catch float dust?

13 A. We had wire mesh, but we didn't use wood in that
14 mines that much except for fly boards and --- no,
15 there ---.

16 Q. Okay. What about what was up there? Did you ever
17 rub up against it or knock up against it, notice
18 whether the dust that came off of it was white or was
19 it gray?

20 A. If you're familiar with that mines, it's pretty
21 high. I had a hard time hitting the top anywhere.

22 Q. Okay. That's actually good. I prefer that to low
23 coal, myself.

24 A. I worked low coal. You used to get stuff down
25 your neck all the time up there. That's the only way

1 you got anything down, your neck and back up there.
2 You climb up on the belt and knock it out and get up
3 in there doing something like maybe lifting a belt up,
4 you know, to change a roller, or monkey face come out
5 and you're trying to get up in there and get off the
6 bottom. That's about the time I'd ever get towards
7 the top.

8 Q. Sure. Okay. Do you have any Federal or State
9 mining certificates?

10 A. I had a dust thing at one time. I don't know what
11 that meant, but I didn't like it, having it anyway.

12 Q. Okay.

13 A. I was a certified mine foreman for years. I
14 bossed 31 years in the face and I gave it up, got
15 tired of bossing. About all I've ever done.

16 Q. Okay. What about the crews on the sections? Did
17 you ever talk to those guys?

18 A. All the time.

19 Q. What, you know, just based on your conversations
20 and your gut feeling, if nothing else, what do you
21 think happened to cause this explosion?

22 A. Well, my gut feelings toward my fellow employers
23 ---. Accusations are being made about what some
24 things they said was done that they did or not. I
25 don't know. I ain't going to get into that. I just

1 don't believe it.

2 Q. Sure.

3 A. If it is, I'm one of the stupidest men that work
4 there, I'll be honest with you. I just don't believe
5 nobody put the bags over sniffers, and that boy Dino
6 and them guys, I bossed and trained them as red hats,
7 every one of five of them. I took them in as red
8 hats.

9 Q. Okay.

10 A. I find that hard to believe that they --- some of
11 the accusations they've made. But my honest opinion
12 what happened, if we did hit a gas well or some kind
13 of gas bleeder, this area right here was our problem.

14 Q. And you're pointing to the headgate and back end
15 of the longwall panel.

16 A. To my knowledge, we had one man --- and I don't
17 know what the mine foremans or the coordinators done,
18 but we had this back area here you could travel was my
19 understanding, because I'd asked him all the time, you
20 still getting air back through there? And he said,
21 yeah, yeah. He was worried about the water all the
22 time. And I kept asking him about this area here. I
23 said, you still getting air coming out here? Well,
24 some. I said, some?

25 So I still say this blocked off on us right here,

1 if it wasn't a gas well ---. The magnitude of gas
2 that we had to come out of each one of these portals
3 in this mines, debris, something had to build up.
4 This section run coal all day, this section run coal
5 all day, and this one's running coal. Well, this one
6 done quit, this one done quit, and these guys over
7 here, I don't know what they doing on the south side.
8 But the area happened in here. And this longwall was
9 down until 2:15 that day.

10 Q. Uh-huh (yes).

11 A. And they never mined no more coal and somehow or
12 another where the men was placed at, apparently they
13 wasn't running coal then where they found them. So if
14 they didn't acknowledge something building up out
15 here, coming out here, I just don't believe they had
16 it on the tail.

17 Q. Uh-huh (yes).

18 A. And where they found these guys, it sort of fits
19 my theory. And like I say, it's just a theory.

20 Q. Sure.

21 A. When they found problems to where them men was at
22 or something was down, we'd have never known. Guess
23 maybe you all might come up with something, but I
24 still say this blocked off.

25 Q. Okay. And you're pointing to the ---?

1 A. And this stuff pushed out on the shearer what
2 wasn't going through this gob line.

3 Q. Now, you're pointing to the headgate from the back
4 end of the longwall.

5 A. Well, that's back in --- this is the back end
6 here. This is the head end here.

7 Q. Okay. I'm referring to the ---

8 A. Oh, okay.

9 Q. --- start, near the start of the longwall, 70
10 Break.

11 A. Yeah, the setup.

12 Q. Yeah. Now, when you say it blocked off, what sort
13 of blockage or you referring to?

14 A. Water.

15 Q. Water.

16 A. This rock --- my experience of the mines, they was
17 probably showing rock falls here. I ain't sure, ---

18 Q. Yeah.

19 A. --- but from --- it was about 20 breaks, give or
20 take, from where this cutout was. And I was going
21 back in here helping out some boys put some waterline
22 in. And the top and bottom got so bad, you couldn't
23 get through there. And I had red hats with me and I
24 refused to go.

25 Q. Okay.

1 A. And I come back out. I come out and told my boss.
2 I said, boss, I'm not taking my --- I said, if you
3 want me to go back in there, I'll go back in there
4 check it, I said, but I'm not taking my crew of men
5 back in there with me, the unexperienced men to fix
6 this waterline. The boy that was doing that waterline
7 happened to be off that night.

8 Q. Uh-huh (yes).

9 A. And they asked me to go up there and take care of
10 the water, the other guy that was in charge. I can't
11 remember who. It could've been Glenn Allman or it
12 could've been just who was in charge, but ---. The
13 only thing I'm saying, that the amount of debris that
14 come out of each one of these portals, they ain't
15 enough areas to build up that much ignition to blow
16 out everywhere. And if it wasn't down in this area
17 here, it had to be, unless they hit a gas well.
18 That's my theory.

19 Q. Okay. Now, just to clarify some things here, you
20 were talking about the top and bottom of the headgate
21 was ---?

22 A. No, sir. Here.

23 Q. Oh, this is the parallel ---

24 A. Entries.

25 Q. --- entries, yeah.

1 A. For the tail of the next wall.

2 ATTORNEY BABINGTON:

3 The Tailgate 22 section?

4 A. Yeah.

5 ATTORNEY BABINGTON:

6 That's what you're referring to, these

7 entries here?

8 A. No, these right here, going up beside ---.

9 ATTORNEY BABINGTON:

10 That's the Headgate One North section;

11 right?

12 A. Yeah. This is the head of the wall, these entries

13 right here. See in here?

14 ATTORNEY BABINGTON:

15 Uh-huh (yes).

16 A. And this is where the head was at, this section.

17 This is Dino's section.

18 BY MR. SHERER:

19 Q. Okay. So you're back in the ---?

20 A. Old works here.

21 Q. Okay. The old headgate, let's refer to it.

22 A. I notice I was pointing. I was hitting that

23 there.

24 Q. Yeah.

25 A. This is the area I'm talking about.

1 Q. And then, roughly, from Break, what 45 or 50 ---?

2 A. Yeah, I was in this area here that night. They
3 told me to go in there and check them water, and I
4 didn't go. I told them they ain't no way. I said,
5 you need to go to the top to see what's coming out,
6 because I didn't take my men back there.

7 Q. Okay. So approximately Break 50 or so is where
8 you saw the bad conditions?

9 A. Yeah, yeah. Give or take on that.

10 Q. Sure. Yeah, yeah.

11 A. It was in that area.

12 Q. Okay. Good enough.

13 ATTORNEY BABINGTON:

14 Erik, do you mind if I jump in for ---

15 MR. SHERER:

16 Sure.

17 ATTORNEY BABINGTON:

18 --- clarification real quick?

19 MR. SHERER:

20 Sure.

21 ATTORNEY BABINGTON:

22 Just to go back to what you were

23 referring to, you talked about that you think that
24 something might've happened back in the setup entries
25 on the longwall?

1 A. No, sir. I'm just saying these are supposed to be
2 an impedance regulators. Why air coming out of this
3 area here?

4 ATTORNEY BABINGTON:

5 Air coming through Headgate One North?

6 A. The longwall.

7 ATTORNEY BABINGTON:

8 The longwall headgate?

9 A. Yeah, the head, up where the belts are. All this
10 is supposed to be pulling air through here, and up
11 here was supposed to been checkpoints that one time I
12 was in there. And whoever's in charge of this is
13 supposed to be checking these to make sure this is
14 pulling out there.

15 ATTORNEY BABINGTON:

16 And that individual would have been

17 walking along the longwall tailgate to check ---

18 A. Yeah.

19 ATTORNEY BABINGTON:

20 --- the regulators and to check the air
21 in the setup entries of the longwall?

22 A. They was supposed to been. I was understand --- I
23 kept asking him and he said that was the only way he
24 could get back there. He couldn't travel this way.

25 ATTORNEY BABINGTON:

1 All right.

2 A. But I knew he couldn't travel that way, because I
3 done tried it.

4 ATTORNEY BABINGTON:

5 And so what you were saying is that you
6 believe there might've been some buildup in these
7 longwall headgate entries because of some blockage
8 near the setup entries on the longwall?

9 A. That's my opinion

10 ATTORNEY BABINGTON:

11 All right. And that's based in part on
12 you said that they seemed to be working on the
13 longwall during that day, but both Headgate 22 and
14 Tailgate 22, those sections were not operating at that
15 time?

16 A. No, sir.

17 ATTORNEY BABINGTON:

18 Okay. And sorry, one last one, Erik.

19 MR. SHERER:

20 Sure.

21 ATTORNEY BABINGTON:

22 Is that you also --- you said --- you
23 pointed up at the Eight North section at one point.

24 A. Inby Dino's section.

25 ATTORNEY BABINGTON:

1 Yeah, inby Dino's section, inby past the

2 Glory Hole?

3 A. It's the only area you could have built up that

4 much methane to blow out that much, you know ---.

5 Dust might've contributed to it, but good gracious.

6 I've been in other explosions before. That's big. We

7 had a big pop.

8 MR. SHERER:

9 Sure.

10 ATTORNEY BABINGTON:

11 Uh-huh (yes).

12 A. There ain't no doubt about it.

13 ATTORNEY BABINGTON:

14 So your basis for your saying it near,

15 closer to the longwall rather than Eight North was

16 because the longwall section was still working?

17 A. Only thing working. Like I say, it's hard to say

18 how far these men (b) (7)(C) if it ---.

19 BY MR. SHERER:

20 Q. Sure.

21 A. But where they was at, (b) (7)(C) , they wasn't by

22 no shearers. The shearer was at the tail if the truth

23 was told, you know?

24 Q. Sure.

25 A. That's where they say it was at. The shearer

1 operator's (b) (7)(C) here at Six. He's a long ways
2 from the shearers. I don't think he'd get (b) (7)(C) that
3 far ---

4 Q. Sure.

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

6 Q. Yeah. Let me tell you what we know about the
7 longwall, and let me ask your expert opinion. The
8 shearer was cut out on the tailgate and they done the
9 shuffle in advance of the tail and the longwall. It
10 was still at --- the front drum was still out in the
11 tailgate entry.

12 The water had been cut off at the headgate and
13 that may have been cut off during the rescue and
14 recovery if they thought it was going to flood the
15 longwall. We just don't know. The nearest victims
16 were about mid-face about Shield 100 or so, and the
17 rest of the victims were up near the headgate.

18 A. So what I say, you just don't --- if he didn't
19 find something there coming out or had a problem up
20 there, but where the men was at, they might've found
21 the gas, you know what I mean? You don't know.

22 Q. Sure.

23 A. And something could've --- they sparked it or they
24 might've been up here cutting and welding and didn't
25 know they had that problem. I mean, that's just a

1 theory, but ---

2 Q. Sure.

3 A. --- where the men was at just don't correspond
4 they was even running coal, either.

5 Q. Well, the pan was empty of coal. They had run all
6 the coal off of the pan line except for they said a
7 couple places where the faces sloughed, and probably
8 after the accident.

9 A. Well, I bossed on the longwall. Nine times out of
10 ten, you done --- you cut right at the head, you was
11 going to be down for a little bit, because you usually
12 just did your cutoff on the line. If you just shuffle
13 and getting ready to go back to coal, all you done was
14 bit up.

15 Q. Uh-huh (yes).

16 A. I don't know conditions in the rock right now, but
17 last time I was up there, they was in a lot of rock.
18 It wasn't just a continuous ball of bits hitting in
19 the top ---

20 Q. Sure.

21 A. --- of the rock.

22 Q. We think that they normally changed bits as much
23 as they could near the headgate just to keep from ---.

24 A. Keep from carrying them?

25 Q. Yeah, exactly. Okay. Appreciate your input on

1 that.

2 A. That's just a theory now.

3 Q. Sure.

4 A. I don't know.

5 Q. Oh, yeah, sure.

6 A. But I was at Ittman when they had explosion. I
7 was at Herndon. We had explosion and they would just
8 maintain in behind the walls, you know? We lost five
9 men at Itman that time, one of them was my uncle, but
10 still it had nothing compared to this ---

11 Q. Sure.

12 A. --- coming off the face of it.

13 Q. This was the worst explosion we've had in a long
14 time.

15 A. You asked about the dust. The main line belts,
16 they dusted in the main line track. If you had a way
17 to get a percentage out of that, I'd say you could
18 probably get three inches of dust from the dripping.
19 The Ellis side might've been a little black over there
20 because it wasn't nothing but a ball of water just
21 rolling out of the top from the drift mouth down to
22 the head. That would be the Four Tail. It was Five
23 Ellis Head. Beside that, they dusted, like I say,
24 pretty thick. And other entries, they could've used
25 some dust.

1 Q. Sure.

2 A. They was, like, constantly wet and damp. You
3 couldn't have kept it on there if you --- I don't
4 believe, kept it on there if you had a duster every
5 night.

6 Q. Okay. We certainly appreciate that information.
7 What about equipment doors? We understand there was a
8 lot of equipment doors in this mine instead of
9 overcasts. Did you go through those regularly?

10 A. Not a very good mine practice, is it?

11 Q. No, sure.

12 A. I ain't never liked it since I been there, and why
13 they didn't take time to put them in, I'll never know.
14 I begged that man. I said, what are you doing? And
15 he said, putting in doors. I didn't like it, still
16 don't like it.

17 Q. Who did you beg about that?

18 A. Every mine foreman that was there from back in ---
19 well, Wendell Wills didn't too much of it. Wendell
20 run a tight ship. They done good, but seemed like
21 they felt doors was better than overcasts. I don't
22 now. I just don't. It's like shaking a bottle of
23 pop. When you shake it up, you lose all the strength.
24 When you open them doors, everything in the mines got
25 to build back up before it comes back up.

1 Q. Sure.

2 A. And you got people that might actually leave the
3 doors open, you know what I mean?

4 Q. Sure.

5 A. Like and you're coming behind me. I leave it open
6 for him and he might have a flat, break down. I never
7 did like doors for overcasts.

8 Q. Sure. Did you ever see any of them that needed
9 repair or were they beat up?

10 A. They stayed beat up.

11 Q. Did you ever come up on them and find one of them
12 or more of them open?

13 A. Yes, sir.

14 Q. How common was that?

15 A. In some areas, pretty common. I mean, up next to
16 the longwall it wasn't. They just had put them doors
17 in on the longwall. I don't know how long. I know he
18 had one set of doors there about Nine Break or Ten.
19 My understanding, they had done put up two more sets
20 of doors in that last week. And as for what reason, I
21 don't know. They said they was having problems
22 pulling the air or something. I don't know, but the
23 doors that would mostly come was up next to the drift
24 mouth. Track stayed slick. Everybody hit them and it
25 was hard to keep them shut.

1 Q. Was that around the 78 Break?

2 A. No, it'd been 80. Them there they kept them
3 pretty closed, pretty much. The ones I'm talking
4 about is up next to the drift mouth on the south
5 side, ---

6 Q. Oh, okay.

7 A. --- the north where you come in from UBB.

8 Q. Okay.

9 A. The track's slick and they hit them all the time.

10 Q. Okay. Thank you. What about your --- on your
11 belts, did you check the belt books before you went
12 in?

13 A. Yes, sir.

14 Q. What do you think about those? Did you ever ---
15 did it seem like the conditions in the belt books were
16 representative of what you found in the mine?

17 A. On the rollers? Yeah, they was up to tee on the
18 rollers.

19 Q. Okay.

20 A. But now, I didn't walk against the belts, you
21 know, to ---

22 Q. Sure.

23 A. --- see if they're dusted right or not. I just
24 went to the area where I had the problem.

25 Q. Okay. Did you carry a methane detector?

1 A. Yes, sir.

2 Q. Did you ever find any methane?

3 A. Yes, sir.

4 Q. What sort of levels did you find?

5 A. The most on it that I ever found --- I nearly got
6 two percent in this area here a few times on the Glory
7 Hole belt, this little short belt here when they dump
8 in from Logan's Fork. The belt wasn't three or four
9 breaks long. Didn't have much air up in there at this
10 particular time I was --- I can't remember what day it
11 was, what year it was. But anyway, we was in there
12 and we was changing rollers and --- can't remember the
13 individual --- had a scale man come in. He wanted to
14 do some work up there and they had to do some cutting
15 for him.

16 We took a gas test and got .8, and I come out and
17 started outby from there and went to the belt head and
18 got 0.4, so then I went back towards the Glory Hole.
19 And I found a little over one percent, so I started
20 getting me some air and I'd flush it out. And once
21 I'd flushed it out, I called --- I can't remember who
22 was in charge, but I called and told them what I'd
23 done. I left a door open so it would flush it out.
24 I went back 20 minutes later and the gas was gone
25 and I shut the door and told them what I'd done and

1 went back about 25 minutes later, give or take on the
2 time, and the methane never did build up no more. But
3 just that time, and other times on these other panels
4 over here in the black from Headgate 11 back this way.

5 Q. Uh-huh (yes).

6 A. There'd been a time or two I've shut the belts off
7 on the longwall and told them I felt --- I used to be
8 in charge of longwall belts ---

9 Q. Oh, okay.

10 A. --- when I fire bossed.

11 Q. Sure, uh-huh (yes).

12 A. And I'd call Ben Hogan or whoever it was in the
13 boss, I found some methane down here. And I did the
14 same thing. A couple times I couldn't get rid of it
15 and I had to get help.

16 Q. Sure.

17 A. What I meant by that, I could've got rid of it,
18 but I took air from the section.

19 Q. Sure, uh-huh (yes).

20 A. So to keep from doing that I brought the boss down
21 and let him ---.

22 Q. Sure.

23 A. And we assisted and got rid of it most of the
24 time. Well, not most of the time. We got rid of it.

25 Q. Sure, uh-huh (yes). And that's the area that's

1 currently sealed?

2 A. Yes, sir. That's our sealed area.

3 Q. Now, when you found the methane up near the Glory
4 Hole, was that when they were bringing the coal down
5 form the upper mine?

6 A. Logan's Fork.

7 Q. Okay.

8 A. Yeah.

9 Q. Have you been back up in this area since they
10 plugged this hole, this Glory Hole up?

11 A. Yes, sir.

12 Q. Have you noticed any methane up there in that time
13 period?

14 A. My detector didn't go off, but now, I did not go
15 to the longwall --- I mean, the Glory Hole. I went by
16 there. My belts go up to right here. This belt here
17 dumps off. These two sections here, these two
18 sections here are dumping on the same belt duster.

19 Q. And you're pointing to the tailgate?

20 A. We call it Seven North.

21 Q. Yeah, Seven North, Tailgate 22 and Headgate 22
22 sections?

23 A. Yes.

24 Q. But you didn't notice any --- enough methane
25 to ---?

1 A. It didn't put my detector off.

2 Q. Okay. Did you ever just look down and notice what
3 a detector was reading? You ever --- did you find
4 much methane out on the belt?

5 A. No, sir.

6 Q. All right.

7 A. In this area here is the only place besides the
8 longwall that I ever found gas in the mines ---

9 Q. Okay.

10 A. --- besides hitting --- we hit main bleeders on
11 the other panels. We'd be down for weeks at a time.
12 I know ---. I can't remember what the dates were, but
13 ---. I can't even remember what panels it was, but I
14 know me and Wendell --- some of us had to work some
15 extra hours to get rid of these bleeders.

16 Q. And we know about a bleeder they hit in 2004.
17 Would that be about right?

18 A. Probably you could tell me it was 2010. I mean, I
19 couldn't tell you when it was.

20 Q. Okay.

21 A. I know it --- I know we hit gas and we had to take
22 care of it. We was down working shifts. When you
23 missed working shifts for producing, you usually knew
24 it ---

25 Q. Sure.

1 A. --- because everybody's looking at them, why are
2 we down? When are we going to get in coal? What's
3 the problem?

4 Q. Now, we've heard reports that when they hit that
5 one that it sounded like a jet engine. Do you recall
6 that?

7 A. We didn't hear that, but I can put it this much.
8 We had all the gas I wanted to be up there working in.
9 I've been in gassy mines all my life and that's about
10 --- that was the worst I ever seen. They brought in
11 things in there detected up to 19 percent at best, if
12 I was told the truth. I didn't even know how to read
13 the thing they had, but I do know I jerked two
14 spotters out and they didn't last no time. Just
15 they're gone.

16 Q. Yeah. Was it one of the old Riken meters you had
17 to look through?

18 A. No, it was a G70 and an Explorer at that
19 particular time. I like the Explorer.

20 Q. Me, too.

21 A. It ain't like the ones that, you know, you had to
22 turn it on when you wanted to use it, you know,
23 so ---.

24 Q. Uh-huh (yes), sure.

25 A. These he got now, they constantly run all the

1 time.

2 Q. Sure. Okay. Bear with me just a sec. Was there
3 much water along those beltways?

4 A. Yeah. Yes, sir.

5 Q. Do you have to maintain your pumps?

6 A. Well, I wasn't supposed to, but I did. When water
7 was up, I got rid of it.

8 Q. Sure, uh-huh (yes).

9 A. It was either that or walk through it, so ---.

10 Q. Sure.

11 A. The fire boss didn't have time to pump it and fire
12 boss, too, so ---. If I had water, I'd turn the pump
13 on. I knew how much time it took to get rid of it and
14 I'd come back and cut it off.

15 Q. Okay, sure.

16 A. If I didn't cut it off and it needed to run, I'd
17 pass it on to the next fellow who'd cut it off.

18 Q. Okay. What about the roof and ribs in the
19 beltways?

20 A. We had a lot of timbers on them. We scaled them.
21 You can probably check fire boss books. He'd tell you
22 how much they did on it. It was pretty well timbered
23 and cribbed. And then we had --- some guys had rabbit
24 gloves on, the fire bosses. They didn't like to be by
25 theirselves, so they wrote up a few things that looked

1 unreasonable to fix, but you know, they wrote it up so
2 you had to fix it, but still you had to ---.

3 Q. It was maintained pretty well?

4 A. Yes, sir.

5 Q. Okay.

6 A. The main line belts.

7 Q. Sure, uh-huh (yes). What about the ventilation
8 in the mine? We've heard a lot of different stories
9 about that. I assume that the ventilation on the
10 beltline was adequate.

11 A. Well, we had good air on the main lines. I
12 thought we had too much, myself, but that's just my
13 opinion.

14 Q. Sure.

15 A. Because we couldn't keep a lot of the dust down
16 that would blow off the airlocks. I'd tell them that
17 anytime you had to go shovel the airlock three or four
18 times a week, there's too much air, you know what I
19 mean?

20 Q. Uh-huh (yes).

21 A. If you have to go shovel it, there's too much air
22 on the airlocks.

23 Q. You ever notice if that air varied when you got to
24 come in one day and there'd be more; another day,
25 there might be less?

1 A. It varied due to if you was off. Like I say, (b)
2 (b) , and I've been missing a little bit of time here.

3 (b)(7)(C) and
4 everything, I guess, you know. I miss a lot of work
5 and you come back and they change things.

6 Q. Okay.

7 A. And I'm not aware of it, and I like to keep up
8 with what I'm working in and where I'm at ---

9 Q. Sure.

10 A. --- and what's going on, so I know. I used to
11 keep a group of men with me. I want them to know how
12 to get me out of there, because I'm disabled, so ---

13 Q. Sure.

14 A. --- I'd walk in the intakes a lot. I didn't
15 document a lot of things I did, but I did it for my
16 own, my own curiosity.

17 Q. Sure. So there were changes to the ventilation in
18 the mine. Was that frequent?

19 A. Well, when you set up a new section, you'd have
20 ---. You know, we went through two or three air
21 changes right here shortly, because when the longwall
22 got up to this point, this section was dumping onto
23 the longwall belt, so they had to change that. And
24 then they combined this down here, so they had to
25 change this where they put the air dumping here.

1 Then they done away with the Glory Hole, so they
2 had to make a air change there to make the air pass
3 around and ---. And when the longwall got down here
4 and they had too much air, they had to come in here
5 and, my understanding, done some ventilation in around
6 10 Break, my understanding. And there was a lot of
7 air changes going on. And these other sections up
8 here, it don't show on this map, but they had to put
9 doors in up here, what they call the Ellis Switch.
10 And it changes air a lot, because, like, we're --- for
11 a little ways there the frequency if these doors was
12 left open or whatever, ---

13 Q. Uh-huh (yes).

14 A. --- it'd make the air draw a little ways for a
15 little ways or a little ways this way a little way.
16 And right at last they was getting ready to put doors
17 in where you go out Ellis. They already had the doors
18 up. They just hadn't --- wasn't using them yet.

19 Q. Okay. You need to explain that for the record.

20 ATTORNEY BABINGTON:

21 Mind if I jump in for a second ---

22 MR. SHERER:

23 Sure.

24 ATTORNEY BABINGTON:

25 --- or do you want to take it?

1 MR. SHERER:

2 Go ahead.

3 ATTORNEY BABINGTON:

4 So you identified that there was some
5 kind of air change when they did work right at the ---
6 right at the mouth of Tailgate 22?

7 A. Yeah, this beltline, this section here was going
8 this way and going this way. All right. When they
9 cut into this over here, they had to quit dumping on
10 this belt here. All this coal comes --- they wasn't
11 dumping over here. He was Dino's coal in this section
12 here. This coal wasn't coming this way; it was coming
13 this way.

14 When the longwall got up to this point here where
15 they had to do it, they had some distance there, I
16 guess maybe by law or requirements or whatever. I
17 don't keep up with most of that kind of stuff, but you
18 had to change it to make your airway, your air change
19 here. See what I mean? If you put doors in here to
20 isolate your belt and force your air up through here,
21 then this would've been open, so they had to do
22 something.

23 ATTORNEY BABINGTON:

24 Okay. So as they changed --- once the
25 longwall face reached around the mouth of that

1 Tailgate 22 section, they had to change where the coal
2 --- they had to change the direction of the belt so
3 that ---

4 A. Yeah.

5 ATTORNEY BABINGTON:

6 --- they went to different belts. And
7 because of that change, they had to change --- do an
8 air change in that section?

9 A. You would have to.

10 ATTORNEY BABINGTON:

11 Okay. And you also identified an air
12 change right here at the mouth of the Headgate 22
13 section, as well?

14 A. Yeah, you had to block this off to isolate your
15 belt mostly, or whatever you're isolating. Yeah, see,
16 you're using the belt entry here. Looked to me like
17 it was intake of belt, too, so you had to build
18 stoppings across your overcast here to isolate them.

19 ATTORNEY BABINGTON:

20 Okay. And that was, again, because the
21 belt had to then go a different direction ---

22 A. Yeah.

23 ATTORNEY BABINGTON:

24 --- than it had been before? Okay.

25 A. Yeah.

1 ATTORNEY BABINGTON:

2 And then you spotted another air change
3 over here in the Glory Hole section.

4 A. Well, when you put this Number Seven belt up here,
5 it never hit --- it only went to the Glory Hole, right
6 --- you know what I mean? It might've been a --- take
7 a break or two above the tailpiece, I mean where the
8 belt dumped on, but once you done that, you still had
9 to make a circuit for that air to come all the way
10 around this area here.

11 So these areas was open, because I used a forklift
12 in here sometimes, taking my rollers up in here for
13 this belt because there wasn't no track. The track
14 only come out here to 27 Break, and you'd had to yo-yo
15 everything over there. So we had a forklift we used
16 to --- well, we actually would use all the way to the
17 Glory Hole where the coal come out, which is one break
18 over. So for that to be maintained, they'd had to
19 build some kind of airway to cause blockage for the
20 return or the intake, whichever way they was bringing
21 it.

22 I'm not familiar which way they brought the air
23 there. I'd say, just looking at this, it come up
24 through here. That's what I say. According to this,
25 it looks like they're using the belt entry and the

1 belt entry Four.

2 MR. SHERER:

3 Okay.

4 ATTORNEY BABINGTON:

5 Okay. And that last one, you also

6 mentioned you thought an air change was done down here
7 in Tailgate One North because they were getting too
8 much air down here?

9 A. Evidently. They come in here and put something
10 across the track here. There it shows you right
11 there. The air's going that way. And it don't show
12 what I was told, but I was told they put a stopping
13 across it. The only reason you would do that is if
14 you open the area, you're going to put more out here
15 to force it out. If you're trying to draw air, you
16 would block it.

17 BY MR. SHERER:

18 Q. Sure.

19 A. So it'd pull out, so one or the other. They
20 must've had trouble some way or another. Like I say,
21 I don't --- you just estimate.

22 Q. Sure, uh-huh (yes).

23 A. If you put a stopping, it would been working all
24 the time. Either you got too close and had too much
25 air, and they wanted to lower it or pick it up,

1 whatever.

2 Q. Do you recall when, approximately when they built
3 that stopping on the tailgate?

4 A. The week prior to that I asked Burkholder. Like I
5 say, I asked him every day how the air was going, and
6 he said that --- they said they put a stopping across
7 the track. He had to walk from that point from then
8 on. I said, you go, son. That's a long walk every
9 day. He said, yeah, it's tough. And I said, because
10 see, you could take it and drive all the way up to
11 about 50-some Break on this side if I was told the
12 truth.

13 Q. Sure.

14 A. And if he had to walk from there up there, he had
15 a pretty good hoof every day.

16 Q. That's the one way. And that was about a week
17 before the explosion?

18 A. Yes, sir.

19 Q. What was the shift that you normally worked?

20 A. I worked hoot owl.

21 Q. Hoot owl; okay. Did you work Sunday night prior
22 to the explosion?

23 A. I was on my three days off. I was supposed to
24 been back that night.

25 Q. Okay. What was the last shift you worked, do you

1 recall, prior to the explosion?

2 A. If it happened on the 5th, it'd have been the 1st.

3 Q. Okay.

4 A. Three days prior to that.

5 Q. So you worked Friday night?

6 A. Something like that.

7 Q. Okay.

8 A. I could be wrong on them dates and times, buddy,
9 but I ---.

10 Q. Okay, sure. That's good enough for what we're
11 looking for. That last shift or two you worked, do
12 you recall anything that seemed different, anything
13 unusual? And it could be something you heard,
14 somebody you noticed in the mine that you never saw in
15 the mine much, something that smelled different, just
16 anything?

17 A. No.

18 Q. Okay.

19 A. I have to admit. I never did smell nothing like
20 coming out of any mines ever been blowed up before
21 like that smell there. I don't know what that was,
22 but that was --- I had to go over to the fan and
23 monitor it.

24 Q. Uh-huh (yes), yeah.

25 A. My clothes, even after I'd stand in front of the

1 fan and monitor it, I didn't never smell nothing like
2 it. I don't know what it was. I don't know if it was
3 that nitrogen they put in there or ---. I don't know
4 what it was.

5 Q. Could you describe the smell? Was it a sharp,
6 irritating smell or ---?

7 A. Oh, yeah. You could even taste it. I had bubble
8 gum in my mouth and I got rid of it the first night I
9 was over there. I mean, after that I sort of put my
10 head around. You didn't put --- you know what a pole
11 cat or a skunk?

12 Q. Yeah.

13 A. Well, it ain't too far from that.

14 Q. Okay. That's pretty bad.

15 A. It was unbearable.

16 Q. Yeah. Did it burn your eyes, do you recall?

17 A. Yeah. Yes, sir. It burned the eyes. Could make
18 your nose run, too.

19 Q. Okay.

20 A. Something did.

21 Q. And that was coming out of the Bandytown fan
22 after ---?

23 A. After this explosion. Never was over there until
24 that happened. Well, I fibbed. I was over there,
25 too. I was over there for some boreholes ---

1 Q. Oh, okay.

2 A. --- pumping them when they was drilling for water.

3 Q. Okay. What about rock locker or some sort of
4 glue? Are you aware of anything like that being done
5 prior to the explosion, going up the roof on the ---
6 think it was the headgate side.

7 A. Years ago on the other panels we glued the top up.

8 Q. Okay.

9 A. Water. I wasn't aware of anything going on this,
10 on this side here where we're at now, ---

11 Q. Okay.

12 A. --- but it works.

13 Q. Sure. You ever seen a combination door and
14 regulator, equipment door and regulator?

15 A. Equipment door and regulator.

16 Q. We understand ---.

17 A. A permanent one?

18 Q. Yeah, uh-huh (yes).

19 A. I don't believe I've --- unless if somebody was
20 using it and didn't tell us what they was doing, know
21 what I mean?

22 Q. We've heard that there was some doors put in in
23 the headgate of the longwall that supposedly the door
24 didn't --- doors didn't go all the way across the
25 entry, but on the one side they had block, and it was

1 only up about halfway. So there was doors and then
2 there was an open area.

3 A. Well, them last doors that was put in here, I
4 didn't get to see them, but I heard they put two sets
5 of doors prior to the ones they had at the mouth of
6 the longwall area where they turn to go up --- I think
7 it's 113 Break where you turn to go up on the wall, in
8 that area. And we had a set of doors there on that
9 curve.

10 Q. Uh-huh (yes).

11 A. And that was the only set of doors I knew we had
12 until you got up here 78 Break or they call it 78. I
13 don't know why, but it's down about 84 or something.

14 Q. Uh-huh (yes), sure.

15 A. And but I was told prior to this, two or three
16 days before this happened, they had put doors in here.
17 I never did get to see them doors. But I had to say
18 doors, that mines is hard to keep blocked in. The
19 velocity of air that's on the main line, if you got
20 somebody hasn't ever opened them too much and shutting
21 them, they would jerk them out of their hands or just
22 let them go.

23 Q. Sure.

24 A. It's hard to keep block in them.

25 Q. Okay. What about air changes, do you know if air

1 changes were made in the week or so or even over the
2 weekend prior to the explosion?

3 A. I wasn't there to --- like I say, two or three
4 days before that happened, but they made air changes
5 quite frequently, you know, if they had problems. I
6 don't know if they had any problems. I hadn't heard
7 of any. Like I was telling you earlier, all the
8 things I hear that was going on with that mine, I
9 must've been the dumbest coal miner there was there
10 myself, so ---. It just hard for me to believe some
11 of the accusations was made.

12 Q. Sure. Did you ever hear of any of the production
13 sections gassing off?

14 A. I've heard them call out and say they had
15 ventilation problem. Most of the time that's a good
16 sign. That's what it is, but they --- you know, a lot
17 of people don't like to mention that word on the mine
18 phone.

19 Q. Sure, uh-huh (yes). Did you hear of anything like
20 that a few days before the explosion?

21 A. No, sir.

22 Q. Okay. What about advance notice of inspectors on
23 the property? Did you ever, ever hear anything like
24 that?

25 A. Say again?

1 Q. Did you ever hear anybody calling in on the mine
2 phone that there were inspectors on the property?

3 A. Yeah, I've done it myself.

4 Q. How common was that?

5 A. About any time you had inspectors you'd say,
6 inspector coming in.

7 Q. Okay. Did the people on the sections, did they do
8 anything different when the inspector was on the
9 property?

10 A. I didn't work a section.

11 Q. Okay. Did you do anything different when the
12 inspector was there?

13 A. Yeah, I put my glasses on.

14 Q. Okay. That's a good thing to do. Do you think
15 that the mine ventilation was adequate at all times?

16 A. You ain't never going to be adequate when you got
17 doors for overcasts, partner.

18 Q. Okay.

19 A. But I just don't believe in it.

20 Q. Sure. Did you ever hear of ventilation changes,
21 major ventilation changes being made while miners were
22 underground?

23 A. Just the ones working on them.

24 Q. Okay.

25 A. I mean, the ones I --- I've used men to do it, you

1 know. Years ago --- well, not years ago, but you have
2 to help every now and then.

3 Q. Sure.

4 A. You got no choice but using men to help you build
5 overcasts or build doors. Most the time, way we
6 always did it, we would get everything pretty well
7 pinpoint except the last part we was going to do.
8 Then everybody would go out of the mine except, except
9 the bosses or fire bosses that was going to do it, you
10 know.

11 Q. Uh-huh (yes).

12 A. And like I say, since this new management took
13 over, I ain't had much say-so about nothing hardly.

14 Q. Do you think they did the air changes the same way
15 you're describing? They'd get things set up and then
16 try to do it in off shifts or down shifts, something
17 like that or ---?

18 A. I better not say. I really don't know. It took
19 them longer to do it than what we did, you know? We
20 would prepare for it, you know? Like I say, we know
21 we was going to do it, we'd do it a week in advance,
22 get everything ready.

23 Q. Sure.

24 A. When they went to make air change here in the last
25 --- seemed like it took them forever. I don't know.

1 Most of the time we did it overnight. We'd tell the
2 hoot owl to stay outside until we get the air changed
3 and then go in. That last --- it seemed to me like it
4 was taking a little bit more time than it should to
5 make a air change.

6 Q. Okay.

7 A. You make an air change, you --- the air you fixed,
8 you go in there and make sure that your air is doing
9 what it's supposed to do.

10 Q. Sure.

11 A. Evidently it must not have been doing what they
12 wanted to do. It took them too long. Well, that's my
13 opinion.

14 Q. Okay. When you say that it took them too long,
15 any specific incident that stands out?

16 A. Yeah, when you stay outside and don't want to stay
17 out there and you had to go home on account of them
18 doing it, you know. You should've went home to start
19 with, the way I look at.

20 Q. Okay. Do you recall when that happened?

21 A. Since we moved to Ellis. I don't know when we
22 went to Ellis but --- it's ---. You figure that time
23 there. I knew there was two times we had to set
24 outside and wait until they got it done and we never
25 did make it underground, so ---. I don't even know

1 what area they was working on.

2 Q. Oh, okay. What about regulators? Did you ever
3 hear of people messing with the regulators, trying to
4 get air up on the particular section?

5 A. I haven't heard of anybody, except for myself,
6 maybe. Might've, like I say, hit a little pocket of
7 gas or something when I was fire bossing, though. To
8 get rid of gas, I'd do whatever it took to get rid of
9 the gas, just ---. If I knowed it was affecting
10 somebody inby me where they was at, I would tell the
11 foreman ---

12 Q. Sure.

13 A. --- to come down and help me or told him what I
14 done.

15 Q. Okay.

16 A. I never left nothing that --- I didn't feel like
17 it was unsafe or I'd turn it over to somebody else.

18 Q. Sure. Did you ever hear of anybody running a
19 section without curtains in this mine?

20 A. No. Like I say, I didn't work the face.

21 Q. Sure, uh-huh (yes). What about --- you mentioned
22 methane monitors before with gas over them. Did you
23 ever hear about that or ---?

24 A. Yeah, since the explosion I've heard of that, but
25 I know them men personally, and I trained a lot of

1 them as red hats.

2 Q. Sure.

3 A. And some of them I --- we took them in the mines
4 when they was kids just for Daddy to show them so they
5 wouldn't end up there.

6 Q. Sure.

7 A. I just don't believe nobody would do that. I find
8 it hard to believe.

9 Q. Okay. So you don't think that there were any
10 methane monitors bridged out or anything like that?

11 A. I just don't believe none of them boys would do
12 it. Might've been somebody else somewhere else, but
13 not them boys.

14 Q. Do you think ---?

15 A. Find that hard to believe.

16 Q. Do you think there's some way to defeat a methane
17 monitor without putting a bag over it or putting a
18 bridge wire on it? Did you ever hear of anything like
19 that?

20 A. I've heard them talk about bridging them out, but
21 I don't ---. When I was on a section we had a --- a
22 monitor went down on one ---. I don't know what the
23 law is on it, but the miner didn't run for me. If my
24 monitor didn't work, that miner didn't work for me. I
25 ain't like most of these guys. You don't make me do

1 nothing I don't want to do. I'd speak up. That's
2 just the way it was. But we have years ago. I didn't
3 do it, but I guess I'm just guilty. I was the foreman
4 when we had to do it to get the miner out to work on
5 it ---

6 Q. Sure.

7 A. --- to be out from under support. Looked to me
8 like it's a whole lot easier to get it out from under
9 support than have to put all that support up in there
10 and get everybody where they had to work out from
11 under support. Made common sense to me, but it would
12 be uncommon to go in there and run coal without one.

13 Q. Sure. Okay. Now, you mentioned folks did things
14 that you wouldn't do. Anything particular?

15 A. That's what I'm saying. All these accusations
16 that people are saying went on at that mines when I
17 was there, I'm way behind. I just find it hard to
18 believe.

19 Q. What about the kind of the atmosphere in the mine?
20 Do you think people were scared to make --- to report
21 safety-type issues, ventilation, methane, anything
22 like that?

23 A. I wasn't. If I had a problem with you, I'd come
24 and tell you.

25 Q. Okay.

1 A. As a matter of fact, probably some of them foremen
2 probably done told you that. I stayed on them all the
3 time about something.

4 Q. That's good. Did you ever hear of anybody been
5 threatened or retaliated against if they did, say,
6 shut a section down because of insufficient
7 ventilation or anything like that?

8 A. I've heard the people say it, but not me, not to
9 me.

10 Q. Okay.

11 A. I just heard accusations that they was told to get
12 in the coal, somehow or another get in coal. I don't
13 know if it was a ventilation problem or production was
14 just rock or whatever, but I do know that any
15 statement was made that I want my --- I want my
16 section in the coal. Maybe if they get a good reason
17 they wouldn't have had to done that, but maybe they
18 --- just some people might not even know what's ---.
19 I don't know ---

20 Q. Okay.

21 A. --- about them situations. You had to be up there
22 to know what's going on.

23 Q. Sure, uh-huh (yes). Did you ever hear of any sort
24 of little pop-offs or flames around the cutter heads?

25 A. No, but they was a ball of fire all the time

1 anyway just from the ripper heads cutting up the
2 mines. It's nothing but rock. It's just one constant
3 ball of fire. You might think it's a fire. Then
4 again, it could've been a pop-off, but ---. I
5 remember heads up there, you know, where they're just
6 one big ball of fire all shift long where the rock
7 ---. We'd run anywhere from 42 to 53 inches of
8 nothing but solid sandstone, so you ---

9 Q. Jeez.

10 A. --- you got any coal mine experience, you know
11 what that is. But I've never heard of --- I believe
12 if you'd have had one, I believe everybody would've
13 knowed it. You get too many young people. You get
14 too many older fellows cautious now. I believe they'd
15 have said something.

16 Q. Okay. You mentioned you were off for three days
17 and you were scheduled to go back in on the hoot owl
18 the night of the explosion.

19 A. Yeah.

20 Q. Where were you when you first heard of the
21 explosion?

22 A. Going in my door as a state trooper or something
23 went down the road. And my son was unloading the
24 groceries.

25 Q. Okay.

1 A. And he said, boy, that cop was flying. And then a
2 couple ambulances went by. And then here come a fire
3 truck, a rescue truck and I --- and hear come another
4 fire truck, some more ambulances. I said, well,
5 Whitesville must be on fire. And about that time the
6 phone rung. My brother said, brother, your mines just
7 blowed up. It's on the news. So I just took off,
8 went to the mines. I stayed there 28 hours.

9 Q. Jeez. You mentioned you went over to the
10 Bandytown fan and then took some samples. Did you do
11 anything else in the rescue and recovery effort?

12 A. No, sir. I tried to. They wouldn't let me on the
13 hill.

14 Q. Okay.

15 A. They said the feds took over, to get out, so
16 that's all I know. I wanted to. Probably glad I
17 didn't. I would've probably went in there. It's hard
18 to take your brother, your buddies just ---.

19 Q. Sure. It's rough.

20 ATTORNEY BABINGTON:

21 Would you like to take a break, sir?

22 A. No. No, I'm fine, son.

23 BY MR. SHERER:

24 Q. What about what was going on in the mine after the
25 explosion when you first went up there? Did it seem

1 like things were under control and ---?

2 A. Chaos, mostly.

3 Q. It was chaos?

4 A. Yes, sir. Everybody, wives, daughters, children
5 got on the property and it was --- you hear this, you
6 heard that. It was a lot of chaos. And you're trying
7 to comfort people and tell them. Then you're reaching
8 over and patting somebody on the side and trying to
9 comfort them. Then oh, your daddy's dead.

10 It's hard to --- like Jack Martin. He was still
11 underground. I think he was assisting getting some of
12 the guys out that made it out. And his (b)(7)(C) I
13 met him at the gate and he was trying to get through.
14 And we was trying to comfort him.

15 And Scott Halstead's wife come up and we was
16 trying to --- I mean, the daughters come up and just
17 people just telling things that they didn't even know
18 that didn't take place. Some of them was true, but
19 the best thing to do is just keep your mouth shut when
20 you got people died like that.

21 And all we knew is we had people killed with the
22 first bunch that come out, the first mantrip. We knew
23 there was six on it didn't make it right off the bat.
24 So not counting the ones that were scattered all over
25 the mines we hadn't even accounted for at that

1 particular time. Like I say, I got set to the gate
2 and I didn't get to get up there.

3 Q. Did you know who was in charge in the mine at that
4 point in time?

5 A. You mean the boss?

6 Q. Yeah, uh-huh (yes).

7 A. Everett Hager should've been boss. He was there,
8 went in and got, got the first men out he found. Him
9 and Rick Foster, to my understanding.

10 Q. Okay.

11 A. I think Wayne was with them. I'm not sure on
12 that. I haven't got to talk to Wayne, but I know
13 Everett. He's old fashioned and I like Everett. I
14 wish he'd have been there at that mines a whole lot
15 longer before this happened. He was a good man.

16 Q. How long had he been at the mine?

17 A. Everett?

18 Q. Uh-huh (yes).

19 A. He hadn't been there a year yet, I don't believe.

20 Q. Okay.

21 A. Seemed like the man wanted to do the right thing.

22 MR. SHERER:

23 That's good. Well, I appreciate your
24 information. That's all the questions I've got.

25 EXAMINATION

1 BY MR. O'BRIEN:

2 Q. Okay. First of all, I'd like to say I appreciate
3 your help. I really do. Second of all, I might ask,
4 ask your indulgence. I might bounce around here a
5 little bit.

6 A. Go right ahead, partner. I've been bounced all my
7 life.

8 Q. That makes two of us. When you took care of the
9 belts, did you always have enough supplies, like rock
10 dust and ---?

11 A. No, you always run out, you know? You had to
12 reorder.

13 Q. Yeah. Do they order it in the timely manner that
14 you'd call for it, get it in, like, the next shift
15 or ---?

16 A. When I put my own order in, I had to go get it
17 myself.

18 Q. They always had it outside?

19 A. Yes.

20 Q. Did you ever get to the point where you needed
21 help and they'd give you help or didn't give you help?

22 A. On take-ups? Yes, sir. It's hard to keep up on
23 take-ups. They're so low to the ground that if you
24 ever been in that mines --- I could explain to you if
25 that'll help you any. I can almost crawl under a

1 belt. Some of them I've walked under, but on these
2 take-ups, they're on the ground bottom. You ain't got
3 six inches clearance, if you go that. So they don't
4 last too long, them rollers in the take-up, so ---.
5 They get pretty dirty.

6 Q. Okay. I think you mentioned, correct me if I'm
7 wrong, that you helped with the pumps because the fire
8 bosses didn't have enough time?

9 A. That was my opinion. I ---.

10 Q. Oh, yeah. I understand.

11 A. If you walk by water and you can't get through it,
12 you either had time for it or you liked to wade in
13 water.

14 Q. Fire bosses ever ask you for your help, like, to
15 pump the water?

16 A. Yes, sir, yeah. They come by and tell me, Lacey,
17 I got a pump up there ain't pumping. Just make a long
18 story short, with me, everybody wants something done
19 at the mine, they usually come to me for outby work on
20 the belts, pumps, discharge lines, putting water. I
21 usually do a lot of the ventilation, too, but when I
22 lost my papers, I got away from that part of the
23 mines.

24 Q. Do you think the fire bosses that you had there
25 had enough time to cover all the areas that they had

1 to cover?

2 A. If they was all there, they would, if they was all
3 there.

4 Q. When was the last time you fire bossed?

5 A. Two years ago.

6 Q. Well, back then did you have enough time to
7 do ---?

8 A. No. That's what got me in trouble, doing it
9 early. I got accused of double dating. I didn't
10 double date. I dated up early.

11 Q. All right. Did you ever have to shut a belt down
12 to work on it? I guess they were idle on the third
13 shift or ---.

14 A. Oh, yeah, if I had a belt --- if I had a belt that
15 rollers was sparking, shooting out fire, yeah, I'd
16 shut it --- find them and shut them down.

17 Q. Okay.

18 A. If they needed a splice made, you don't want the
19 belt to break. When you got it together, you shut
20 them down. I've shut --- I mean, I'd shut them down.

21 Q. Anybody say anything good or bad about you at the
22 time?

23 A. Oh, yeah. Yeah.

24 Q. Okay.

25 A. Any way you can run it a little while longer, you

1 know what I mean?

2 Q. Yeah.

3 A. Not only the management, even the men, you know?

4 Hey, Lacey, how long you going to have us down? I
5 guess maybe they want to piss horseshoes or something.
6 I don't know what they want to do, but they want to do
7 something. Maybe they had plans to do something.

8 Q. You were talking about, I guess back in 2000,
9 early 2008, bleeders in the methane floor.

10 A. Yeah.

11 Q. Methane coming out of the floor. When that
12 happened, did any --- did you all do anything
13 different to try to take care of it?

14 A. Yeah, we did a whole lot. We shut the whole mines
15 down. And we tried --- at that particular time we was
16 carrying about 70,000 or 80,000 on the longwall. I
17 don't know why they went up to this 120,000 now or
18 170,000, but it ain't none of my business. But we had
19 70,000 coming up the belt in the intake itself
20 combined. And this bleeder come out. We went and
21 took everything the fan had, just more or less short
22 circuited the whole mines, just trying to get rid of
23 this bleeder, and we just couldn't get rid of it. I
24 don't know. It probably just bled out, the best I can
25 remember.

1 Me and Wendell stayed up there so long, and Homer.
2 We just exhausted. And at that time we had a feller
3 called Bill Downing. He called ---

4 BRIEF INTERRUPTION

5 A. Bill Downing was the coordinator. Bill called and
6 said, the gas is gone. So Wendell put on his --- he
7 didn't call me. I'm glad. They called and said the
8 gas was gone. And at that particular time we had
9 these walls. It was on them walls over there. You
10 could travel in behind them. We took care of them
11 then.

12 And you could go in behind it, so we went in
13 behind the wall and methane flushed out. From where
14 we was at, it went anywhere from one percent to two
15 percent. It flushed out. And to make sure that it
16 wasn't doing it, me and Wendell --- well, we shouldn't
17 have really went to make sure that it wasn't coming
18 out on the tail side, but see, you could travel that
19 back then. This longwall we got here you can't travel
20 the sucker. Just wasn't maintained right, I guess. I
21 don't know.

22 BY MR. O'BRIEN:

23 Q. Talking about air on the longwall, it's my
24 understanding that in early March there was, like,
25 113,000 on the head of the longwall.

1 A. The head?

2 Q. Yeah, on the headgate side? But then by the end
3 of March it was down to about 50,000, what I
4 understand. Do you have any ---

5 A. About a week?

6 Q. --- knowledge of that?

7 A. If it had 170,000 on this tail side up here where
8 they was talking about this stopping was put in ---
9 and I asked why he put it in there and he didn't know,
10 but ---. Prior to that there was 170,000 right here,
11 but I was with the man when he took the reading in two
12 different entries to get it. That was on this tail
13 entry here. This is the head. And my understanding,
14 they kept losing a lot of air that they was getting up
15 here. I don't know if it was leaking out in these
16 entries and coming back out over here, if they had
17 established that way. I thought they had it all
18 established to go that way. Like I say, I didn't work
19 up there, so I don't know what went on, just what I
20 heard.

21 But I heard that boy tell --- I asked him and he
22 said they put a stopping down here where you had to
23 walk all the way in. And I said, why? And he didn't
24 know, so my opinion then, they either done it, try to
25 make it pull in here more or they had too much air up

1 here. I don't know which. I never did get around to
2 asking them why --- I'm nosey. It comes with coal
3 mining. I like to know where to go and how to get out
4 of the mines.

5 Q. You were talking about, along those lines, talking
6 about there was a problem with water. And you said
7 you were up there helping them.

8 A. In this area here.

9 Q. Could you possibly mark that on --- just general
10 area, mark a circle in the general area?

11 A. Well, 50 Break's here. Inby there's water.

12 ATTORNEY BABINGTON:

13 With this pink highlighter, could you
14 draw a big circle around that area?

15 A. The whole thing?

16 ATTORNEY BABINGTON:

17 Yep, whole thing.

18 A. Where did I travel? I went up the track. Well,
19 it would be hard to do if you had to walk all three
20 entries. You already had to zigzag to get up through
21 there.

22 BY MR. O'BRIEN:

23 Q. Sure. Just circle the whole area.

24 A. Well, just at the time I was right in here, so I'm
25 going to put it like this.

1 Q. Okay. Now, for my benefit again, what was the
2 problems?

3 A. Water and top was hooving.

4 Q. Top was bad --- or the bottom was hooving and ---?

5 A. Top was bad, too.

6 Q. And water?

7 A. Water.

8 Q. Top, bottom and ---?

9 A. Where you had to get down to get through the where
10 the top hooved or the bottom, whatever it was, you had
11 to crawl in water. Matter of fact, I had an
12 inspector. I met him in there and he told me he wasn't
13 going back in there and he don't want nobody else
14 going back in there. A little short fellow. I forget
15 what his name was. But he said they ain't got no ---
16 nobody got no business in there, and I said, well,
17 danger it off. Don't put me back there.

18 Q. Do you think it was totally blocked off at one
19 point?

20 A. No, it wasn't blocked off then. They was air
21 going by you, you know? You could feel it hitting you
22 on the back.

23 Q. All right. Appreciate that. Oh, going back to on
24 the belts. The belts that you were taking care of,
25 was anybody else on the other shifts working on those

1 belts or was it ---

2 A. Yeah, they run coal.

3 Q. --- strictly yours?

4 A. They run coal.

5 Q. Nobody ever rock dusted on the other shifts?

6 A. Oh, yes. Yeah, they had rock dust machines. We
7 had what they called a track duster, and you'd hook a
8 motor to it and they had leads. You hook it up to
9 your motor batteries and you dusted. Our belts you
10 could dust with a hose on the track. Some of them you
11 could go right up beside the belt. From Ellis Portal,
12 what part we had of it, all the way down to Ellis Five
13 Head, you --- the belt went right beside the track.

14 Actually, you didn't even have to have a hose.

15 You turned that thing on the back and it trickled it
16 out. I've used it many times through there, but you
17 --- like I say, you could dust up through there today
18 and three days later you couldn't tell because they
19 were so wet.

20 Q. So they primarily used that on, what, the owl
21 shift or all three shifts or ---?

22 A. It's been used on all three shifts.

23 Q. Okay.

24 A. Most of the times it was used on all three shifts.

25 We had sort of got a little violation when they'd use

1 it then. But it was usually --- it was supposed to
2 been run every night somewhere on the hoot owl. If it
3 was done every night, I don't know, but it was
4 supposed to have been.

5 See, there is other part of this mines that I took
6 care of that don't show on this map here. See, I had
7 One South and One North, six foot belts, too, so I had
8 to go over there, too. And there was a lot of pumping
9 going on over there.

10 And where that mines was so old, the younger guys
11 didn't know what to do with the water, so somebody had
12 to go over there and know what to do with the water.
13 Even some of the mine foremen didn't know what to do
14 with the water over there. Rick Foster, Gary May,
15 they would call me, want to know where I could put
16 this water, what to do with it to get it out of the
17 mines or how to get it out of the mine. The easiest
18 way to tell is just put a discharge line to get it
19 out, but they wanted another way, you know, tap in
20 another line that was coming out.

21 MR. O'BRIEN:

22 All right. Well, I appreciated it.

23 That's all I have right now.

24 MS. ROBERTSON:

25 I just want to thank you for your

1 testimony today. I don't have any questions.

2 A. I'm free. Oh.

3 ATTORNEY BABINGTON:

4 Not yet. Hold on. We got a couple ---

5 we've got a follow-up here. Let's go off the record
6 for one minute.

7 OFF RECORD DISCUSSION

8 RE-EXAMINATION

9 BY MR. SHERER:

10 Q. I got a few follow-up questions. When they had
11 the big blowout you were talking about, do you recall
12 if there was any changes made after that was cleared
13 up?

14 A. You mean ventilation?

15 Q. Yeah, ventilation or any sort of changes?

16 A. You talking about the one where we had to --- you
17 was talking about ---

18 Q. Yeah.

19 A. --- the North?

20 Q. Uh-huh (yes).

21 A. I wasn't there to correct the ones we did but we
22 made some ventilation changes, trying to get rid of
23 that gas. We shut the other operations down ---

24 Q. Sure.

25 A. --- to get more air up to the bleeder. We didn't

1 take all the air from the other, the other section.

2 We just used enough to comply with the law ---

3 Q. Sure.

4 A. --- is what Wendell wanted to do.

5 Q. Yeah. Well, once you and Wendell made those
6 changes and flushed the gas out, say, six months later
7 had anything changed that you know of?

8 A. No. Run a tight ship back in them --- ship
9 (changes pronunciation) back in them days, partner.

10 Q. Okay. But there's still about the same amount of
11 air on the face?

12 A. If Wendell Wills was involved, it was right.

13 Q. Okay, okay.

14 A. That's my opinion.

15 Q. It looks like panels 11 and 12 ---.

16 A. Them is the first 2 on the north side.

17 Q. Do you know why those were stopped short?

18 A. Yeah, the rock.

19 Q. Okay. Was the coal seam full of rock or pinched
20 out?

21 A. There was no coal. It all went to rock. Headgate
22 11 when we went in there, you could see where we set
23 up three different times, trying to get what little
24 bit we got.

25 Q. Uh-huh (yes).

1 A. Twelve (12) ---- this one down here on 12, that
2 was a gas well ---

3 Q. Okay.

4 A. --- that first spot there. That's what I was told
5 it was. Now, if it was or not, I don't know. Just
6 it's like you tell --- being my boss and telling me
7 something, only way I know is what you tell me.

8 Q. Sure.

9 A. That's all I was told. That was a gas well and
10 they had to go around it.

11 Q. Okay.

12 A. The one on Headgate --- I think that's Headgate 14
13 I'm looking at. I ain't for sure.

14 Q. Okay. Appreciate that. Do you recall when they
15 were mining those panels that stopped short if there
16 was any problems with the roof or floor?

17 A. Oh, yeah. You had problems with that mines
18 everywhere hooving. That's the reason we took so much
19 height. You know, you were talking about me reaching
20 that belt a while ago. I couldn't reach. That was
21 the reason why we took so much height, because the
22 bottom hooved so much.

23 Q. Okay.

24 A. And our last change of management, we don't take
25 the top like we used to or the bottom, whatever

1 they're taking, and don't have the height no more like
2 we used to.

3 Q. Do you think that contributed to the loss of some
4 of these entries you were talking about?

5 A. To the loss of all of them. You don't take enough
6 height, they get hooved out. And I know these rock
7 falls here --- I don't understand that. That's
8 probably some kind of, I don't know, bad fault there.
9 It looks like a whole lot of faulting going on down
10 there with all them rock falls.

11 Q. Sure.

12 A. Any mine if I ever went to and you had accident,
13 you just said rock falls.

14 Q. Uh-huh (yes).

15 A. If we had that many rock falls, we had some kind
16 of problem.

17 Q. Okay.

18 A. And I heard --- I do know that the top got so bad
19 in there when I was in there trying to help out on the
20 pumps, I didn't like it. And anybody --- you talk to
21 anybody that's ever been around me, I --- if you work
22 for me, you do as I tell you. Don't do what I do and
23 watch what I do, you know. That's my memo. I didn't
24 want nobody ever taking chances except me.

25 Q. Okay.

1 A. That's my opinion, other than just something
2 happened to the glue bolt or we didn't bolt it right
3 or didn't support it right. In these other panels
4 over here, the ones that don't show on this map, we
5 trust bolted and put up --- staggered our timbers and
6 stuff. We didn't do that in here, I don't think. The
7 top really got bad. Why, I don't know, but ---. The
8 other mines, part of the mine was done to where you
9 could --- like I say, you could get in behind the
10 walls and examine it, see which way your air was
11 going, the way it should be, ---

12 Q. Sure.

13 A. --- to be honest with you.

14 Q. And you say that most of those entries in the back
15 side of the panels, those were trust bolted?

16 A. Yeah, and timbered.

17 Q. And timbered.

18 A. Part of it's right here from Headgate 20. Me and
19 Wendell Wills, we walked every bit of that all the way
20 down to Headgate 11, the back end of it, but we got in
21 some bad top there. Had a fellow named Clarence
22 Dishman. I was with him and it ripped up there, and
23 to my knowledge there ain't nobody ever been back
24 since, because it fell in. But that was on Headgate
25 20 and the reason it ripped is same reason they ripped

1 up on here. We didn't maintain it too good. We kind
2 of short stroked it, if you want my honest opinion.

3 Q. Sure. And those panels that were cut short, you
4 mentioned it was primarily because of rock in the coal
5 or ---

6 A. Rock.

7 Q. --- rock replacing the coal seam.

8 A. Yeah.

9 Q. Do you recall if there was any problems with
10 methane around that area?

11 A. Well, we had --- they keep telling me one. You
12 talking about that --- sound like the storm or the
13 train coming out of there?

14 Q. Yeah.

15 A. Well, I knew about that. But we had another one.
16 We gassed off for a little while, too. I don't know
17 which one it was, but it was the same thing. It was a
18 bleeder. And we just kept flushing and flushing until
19 we --- matter of fact we had a inspector there on one
20 of them. And it was a black man, Moore.

21 Q. Uh-huh (yes).

22 A. He was there because he come up there and said,
23 Lacey, what are we going to do? And I said, well,
24 boss, if you going to run any coal, you're going to
25 have to put curtain all the way across that face of

1 that jack line to get air to go down enough to flush
2 that gas out.

3 Q. Sure.

4 A. And we end up doing it. To tell the truth, I
5 wasn't even bossing up there then. But we had took
6 care of the gas and put it in behind the gob area, but
7 we still wouldn't mine because we didn't want the gas
8 to get out on us ---

9 Q. Sure.

10 A. --- where we was at.

11 Q. Was that prior to the big one you were talking
12 about?

13 A. I couldn't remember which one was which ---

14 Q. Okay.

15 A. --- which one come first.

16 Q. I've noticed that myself lately. Yeah.

17 A. Like I told you, I first started this
18 conversation, the time and dates, I ain't good at that
19 junk.

20 Q. Sure.

21 A. But I can remember a lot of things, but I can't
22 remember times and dates at all.

23 MR. SHERER:

24 Okay. That's all the questions I've got.

25 ATTORNEY BABINGTON:

1 Okay. Well, we've marked up --- we
2 marked up one map. That'll be labeled L. Cox One.
3 It's a Bandytown Fan map.
4 (L. Cox Exhibit One marked for
5 identification.)

6 ATTORNEY BABINGTON:

7 On behalf of MSHA and the Office of
8 Miners' Health, Safety and Training, I want to thank
9 you for appearing and answering questions today. Your
10 cooperation is very important in the investigation as
11 we work to determine the cause of the accident. We
12 request that you not discuss your testimony with any
13 person aside from your personal representative or
14 Counsel. After questioning other witnesses, we may
15 call you if we have any follow-up questions. If at
16 any time you have additional information regarding the
17 accident that you'd like to provide us, please contact
18 us at the contact information previously provided to
19 you.

20 If you wish, you may now go back over any
21 answer you've given during this interview. You may
22 also make any statement that you'd like to make at
23 this time.

24 A. Would it help?

25 ATTORNEY BABINGTON:

1 Well, if you have anything you'd like to
2 say, anything you'd like to add, this is your
3 opportunity.

4 A. It might not pertain to this explosion. I don't
5 know what you fellows all do here, what your job
6 position is or nothing. I'm on my way out of coal
7 mines and you all just getting started, looking at
8 some of your ages. But something that people need to
9 look at as far as making rules and regulations, you go
10 in this mines every day and you go to these sealed
11 areas. You go by them. I've drove by them seals
12 right there for ten years, however long ---. And I
13 don't know what's going on in behind them, and you
14 don't and nobody else does. There ought to be some
15 way not to seal that mine, seal that to where you know
16 what's going on in behind there. Somehow you need to
17 know what's going on. If they can drill that many
18 holes for the lives that they tried to save at UBB to
19 get rid of gas and that stuff, they can drill a hole
20 to get rid of some of the stuff so we know what's
21 going on. We had to go by every day.

22 And I got one other thing I'd like to say. I
23 don't know. This might not mean nothing to this
24 explosion, but you got too many young people coming in
25 this mines trying to tell people how to mine coal.

1 And they ain't even got to have mine certificate. I
2 mean, they have the mine --- they have mine
3 certificate. They ain't got any mine papers.
4 I don't like taking orders from somebody that
5 ain't got --- ain't been in the dirt. That's just my
6 opinion. It might not mean nothing to you all, but
7 you all might be on a panel somewhere one day. You
8 all might help somebody.

9 ATTORNEY BABINGTON:

10 Sure.

11 A. And that's just the opinion I got.

12 ATTORNEY BABINGTON:

13 Well, thank you. And again, I want to
14 thank you for cooperation in this matter.

15 A. Yes, sir.

16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 7:14 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards