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Transcript of the Testimony of Danny Laverty

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STATEMENT UNDER OATH
OF
DANNY LAVERTY

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 Wednesday, July 28, 2010, beginning at 1:10 p.m.

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I am with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an investigator with the Mine Safety and Health Administration. Also present are individuals with the State of West Virginia. I'll ask that they state their appearance.

MR. FARLEY:

I'm Terry Farley with the 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. SPENCE:

I'm Beth Spence with the Governor's Independent Investigation.

ATTORNEY BABINGTON:

Today is July 28th, 2010, and we are here on this afternoon to conduct an interview of Danny Laverty in connection with the investigation of the explosion that occurred at the Upper Big Branch Mine on April 5th, 2010. There are other individuals

1 present in the room.

2 All members of the Mine Safety and Health

3 Administration Accident Investigation Team and all

4 members of the State of West Virginia Investigation

5 Teams participating in the investigation of the Upper

6 Big Branch Mine explosion shall keep confidential all

7 information that is gathered from each witness who

8 voluntarily provides a statement until witness

9 statements are officially released. MSHA and the

10 State of West Virginia shall keep this information

11 confidential so that other ongoing enforcement

12 activities are not prejudiced or jeopardizes by a

13 premature release of information. This

14 confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. Everyone's participation in this interview

18 constitutes their agreement to keep this information

19 confidential.

20 Mr. Laverty, the government investigators

21 and specialists have been assigned to investigate the

22 conditions, events and circumstances surrounding the

23 fatalities that occurred at the Upper Big Branch Mine-

24 South on April 5th, 2010. The investigation is being

25 conducted by MSHA pursuant to Section 103(a) of the

1 Federal Mine Safety and Health Act and by the West
2 Virginia Office of Miners' Health, Safety and
3 Training. We all appreciate your assistance in this
4 investigation and your appearance here today.

5 You may have a personal attorney present
6 during the taking of this statement and you may
7 consult with that attorney at any time. Your
8 statement is voluntary. You may refuse to answer any
9 question and you may terminate your interview at any
10 time. Also, you may request a break at any time.
11 Just let me know and we'll go off the record.

12 This is not an adversarial proceeding.

13 Formal Cross Examination will not be permitted.

14 However, appropriate follow-up questions by each of
15 the parties will be allowed.

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

1 There may be a need to use the
2 information that you provide to us or other
3 information that you may provide in the future in
4 other investigations or hearings concerning the
5 explosions. Do you understand your rights to request
6 confidentiality?

7 MR. LAVERTY:

8 Yes.

9 ATTORNEY WILSON:

10 All right. Do you have any questions
11 about that?

12 MR. LAVERTY:

13 Well, you've made mention after ---
14 everything would be released after the investigation
15 procedure. Do you mean this particular interview or
16 you mean once you have interviews and so forth from
17 everyone?

18 ATTORNEY WILSON:

19 We've interviewed over 140 people and
20 we're not sure exactly how many more we have to go,
21 but we expect that we'll have interviewed over 200
22 people by the time we complete the interview process.

23 MR. LAVERTY:

24 Uh-huh (yes).

25 ATTORNEY WILSON:

1 When we complete the interview process

2 --- I mean, as you know, there's a lot of public
3 interest in this investigation. At the conclusion of
4 the interview process, the plan is that all of the
5 interview transcripts will be made public.

6 In the Sago investigation, all the
7 transcripts were put on MSHA's website and they were
8 available to anybody who went on to the website. I'm
9 not sure the procedure for releasing the transcripts
10 in this case, but they will be made available to the
11 public.

12 Now, as I said, if you specifically
13 request that your interview be held confidential, we
14 will do so to the extent permitted by law. In other
15 words, if somebody files a Freedom of Information Act
16 request or a judge orders us to turn it over, we may
17 turn it over.

18 MR. LAVERTY:

19 Can I wait and see how stupid I look
20 through this before I answer that question ---

21 ATTORNEY WILSON:

22 Well ---.

23 MR. LAVERTY:

24 --- make that decision?

25 ATTORNEY WILSON:

1 Yes, you can at any time request
2 confidentiality. If you want to, you know, at the end
3 of the interview here today on the record make that
4 request or if you want to follow it up with a letter,
5 you can do that.

6 MR. LAVERTY:

7 All right. Well, let me ask you if I
8 come across as an idiot, in that case let's keep it
9 under wraps; okay?

10 ATTORNEY WILSON:

11 Yeah.

12 MR. SHERER:

13 Sure.

14 ATTORNEY WILSON:

15 Now, as I told you before we started ---
16 we met out in the hall --- you are the most --- you're
17 the smartest person in this room, because the reason
18 we're here today that we want to know what you know.

19 MR. LAVERTY:

20 Okay.

21 ATTORNEY WILSON:

22 That makes you the smartest person in the
23 room.

24 MR. LAVERTY:

25 Okay. I do understand that.

1 ATTORNEY WILSON:

2 All right. After the investigation is
3 complete, MSHA will issue a public report detailing
4 the nature and the causes of the fatalities in the
5 hope that greater awareness about the causes of
6 accidents can reduce their occurrence in the future.
7 Information obtained through these witness interviews
8 is vital to our reaching those conclusions.

9 We will be interviewing other
10 individuals. Therefore, we request that you not
11 discuss your testimony with any other person other
12 than with Mr. Hardy or anyone else in this room.

13 A court reporter will be recording the
14 interview today, so please speak loudly and clearly.
15 Shaking your head yes or no is not going to be
16 reflected in the transcript, so please speak your
17 answers out loud. And as I said, if we're referring
18 to the map that's on the table, if you could describe
19 what you're referring to, that would help make sure we
20 have a clear transcript.

21 MR. LAVERTY:

22 Okay. I understand.

23 ATTORNEY WILSON:

24 If we ask a question that you do not
25 understand, please ask that the question be rephrased.

1 Again, I want to thank you in advance for your
2 appearance here today. We appreciate your assistance
3 in this investigation.

4 After we have asked --- finished asking
5 questions, we will provide you an opportunity to make
6 a statement or provide us with any other information
7 that you think may be important to the investigation.
8 If at any time after the interview you recall
9 additional information that you would like to provide
10 us, you can contact Norman Page, who is MSHA's lead
11 accident investigator, and his contact information is
12 contained in the letter that we had sent to you,
13 requesting your appearance here today. And I'm giving
14 you another copy.

15 MR. LAVERTY:

16 Yes.

17 ATTORNEY WILSON:

18 Or you can go through Mr. Hardy and
19 provide that information to us through him.

20 MR. LAVERTY:

21 I haven't received this yet. Is this
22 something I need to read before we proceed?

23 ATTORNEY WILSON:

24 I mean, we can go off the record for a
25 moment if you want to look through it. It's just ---

1 it just requests your appearance here today. It
2 provides you with information pertaining to your
3 rights as a miner under the Mine Act and it gives
4 contact information in case you want to get in touch
5 with us after the interview today.

6 MR. LAVERTY:

7 That's okay. I'm fine with that.

8 ATTORNEY WILSON:

9 Now, I do want to inform you of your
10 rights under the Mine Act. As a miner you have the
11 right to talk with MSHA about conditions relating to
12 your employment. Any statements given by miner
13 witnesses to MSHA are considered to be an exercise of
14 statutory rights under the Mine Act and protected
15 activity under Section 105(c) of the Mine Act.

16 If you believe that any type of adverse
17 action was taken against you as a result of your
18 cooperation with the investigation, you should
19 immediately contact MSHA and file a complaint under
20 Section 105(c) of the Act. Your remedies under the
21 Act would include immediate temporary reinstatement
22 pending a complete investigation and also a permanent
23 reinstatement and back wages.

24 And the contact information for MSHA is
25 contained in that letter for the finding out the

1 procedures for filing complaint. You can find that
2 information at MSHA's website at www.msha.gov.

3 MR. LAVERTY:

4 Okay.

5 ATTORNEY WILSON:

6 Terry, did you have anything you wanted
7 to add before we proceed?

8 MR. FARLEY:

9 Yes. Mr. Laverty, on behalf of the
10 Office of Miners' Health, Safety and Training I want
11 to advise you that the West Virginia Coal Mine Health
12 and Safety Regulations also provide protection against
13 potential discrimination resulting from participation
14 in these type of interviews. I want to pass along
15 some contact information to you for the West Virginia
16 Board of Appeals, which hears discrimination
17 complaints for the miners. Also, I want to include my
18 business card, and there's also a phone number there
19 for Mr. Bill Tucker, who's our lead investigator for
20 the underground part of this investigation.

21 And we would caution you that should you
22 need to file claim, you would need to do it within 30
23 days of the time the discriminatory action occurs.
24 Also, on the subject of confidentiality, from our
25 perspective with the State and once we get to the end

1 of our investigation and the transcripts are released,
2 we don't really have any ability to withhold anything.
3 It would all be available under the Freedom of
4 Information Act.

5 MR. LAVERTY:

6 Okay.

7 ATTORNEY WILSON:

8 Beth, did you have anything you wanted to
9 add?

10 MS. SPENCE:

11 No.

12 ATTORNEY WILSON:

13 Okay. Mr. Laverty, I'll ask that you ---
14 if you'd face the court reporter, she'll swear you in.

15 -----

16 DANNY LAVERTY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
17 AS FOLLOWS:

18 -----

19 ATTORNEY WILSON:

20 Okay. Would you please state your full
21 name for the record?

22 A. Danny Lee Laverty.

23 ATTORNEY WILSON:

24 And would you state your address, mailing
25 address and telephone number?

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

2 (b) (7)(C)

3 ATTORNEY WILSON:

4 Mr. Lavery, as I indicated earlier, you

5 have the right to have a representative present with

6 you here today. Do you have a representative?

7 A. Yes, I do.

8 ATTORNEY WILSON:

9 All right. And Dave, would you state

10 your appearance for the record?

11 ATTORNEY HARDY:

12 Yes. I'm David Jimmy Hardy, H-A-R-D-Y.

13 ATTORNEY WILSON:

14 And Mr. Hardy, as I understand it, you

15 represent Massey in this investigation; correct?

16 ATTORNEY HARDY:

17 Yeah, correct. Performance.

18 ATTORNEY WILSON:

19 Performance.

20 ATTORNEY HARDY:

21 Yeah, which is Massey. Yeah.

22 ATTORNEY WILSON:

23 Okay.

24 ATTORNEY HARDY:

25 Yeah, Performance Coal.

1 ATTORNEY WILSON:

2 All right. Mr. Lavery, can you tell us
3 what your job title is?

4 A. Longwall chief electrician.

5 ATTORNEY WILSON:

6 And could you give us a brief description
7 of what your job duties are and what your
8 responsibilities entail?

9 A. I delegate work orders to the electricians or the
10 maintenance foremen, who usually have electricians
11 with them, plan preventative maintenance, you know,
12 trying to look ahead at when some part is going to be
13 changed or a good available time to do that. Also
14 have a certain amount of duties as far as equipment
15 rebuild. The stuff that we've sent off, you know,
16 that we're going to need in the future to have
17 rebuilt, I have to look at.

18 Ordering parts, keeping track of our parts. I'm
19 mainly the one that does that, go through the
20 warehouse and see what we're low on as far as work
21 supplies, different stuff needed for maintenance type
22 work. Most all of my work has to do with the
23 maintenance of the longwall.

24 ATTORNEY WILSON:

25 And you said, mentioned rebuilds; is that

1 right?

2 A. Uh-huh (yes).

3 ATTORNEY WILSON:

4 All right. So do you interact with other

5 companies to have ---

6 A. Yes, I do.

7 ATTORNEY WILSON:

8 --- work like that performed?

9 A. Yes, yes.

10 ATTORNEY WILSON:

11 All right. And do you consider yourself

12 a part of mine management?

13 A. Yes.

14 ATTORNEY WILSON:

15 Okay. And do you consent to having Mr.

16 Hardy present during the interview?

17 A. Yes, I do.

18 ATTORNEY WILSON:

19 Okay. At this time I'm going to pass it

20 over to Erik Sherer and he's going to start with the

21 substantive questions on behalf of MSHA.

22 A. Okay.

23 EXAMINATION

24 BY MR. SHERER:

25 Q. Thanks for coming down this afternoon, Mr.

1 Lavery. Let's start on some background. Roughly how
2 many years' mining experience do you have?

3 A. Approximately 35 years.

4 Q. Thirty-five (35) years. Roughly, who have you
5 worked for during that time period?

6 A. I worked for Westmoreland at Eccles Five and
7 Eccles Six. I worked for Pickands Mathers at the
8 Beckley Mine. I worked for Maple Meadow and I guess
9 that would've been Cyprus Amax. They started a
10 weekend warrior project when I went to work there. It
11 was close to home and I got lots of time off. I've
12 worked at a couple of different little Wilcox mines
13 for smalltime operators. And Massey Energy, I've
14 worked with them through Independence Coal and
15 Performance Coal and Marfork at different mines and so
16 forth.

17 Q. Okay. When did you first go to work for Massey?

18 A. 1993. It was in March.

19 Q. Okay. When did you go to work up at Upper Big
20 Branch?

21 A. As best I can remember it was in 2001.

22 Q. Okay. That's close enough.

23 A. I also worked for somebody else. I'd forgot. Who
24 was it? Oh, Maven Energy.

25 Q. Okay.

1 A. I worked for Maven Energy about six years.

2 Q. Okay. So you started with UBB about 2001. Did
3 you go with the longwall when that was transferred?

4 A. Yes, I did.

5 Q. Okay. And then when did you come back to UBB,
6 come back from Marsh Fork, I guess, or Marfork?

7 A. No. I did come back to UBB, but it was --- let's
8 see. I started at UBB Performance in 2001, as best I
9 can remember. It was along in there.

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

11 A. And we worked there several years and then went to
12 Logan's Fork, down ---

13 Q. Oh, Logan.

14 A. --- at Elk Run. Yes, and then we came back last
15 summer. I'm going to say maybe August, or it may've
16 been earlier than August. It might've been --- it
17 was. It was probably in the last part of June ---

18 Q. Okay.

19 A. --- when we came back up there.

20 Q. Okay. And that was prior to the current longwall
21 being set up?

22 A. I missed part of that question.

23 Q. Was that prior to the setup of the current
24 longwall?

25 A. No, they were setting it up when I ---

1 Q. Okay.

2 A. --- came up. There was some that went ahead of me
3 because I had to stay at Logan Fork with tearing down
4 the longwall, removing stuff from that to a certain
5 point. Then I was moved back up to UBB, but some of
6 it had already occurred.

7 Q. Sure. Were you involved in any of the planning of
8 the current panel?

9 A. No.

10 Q. Okay. Do you have any Federal or State mining
11 certificates?

12 A. I have a mine foreman certificate. And well, I
13 have the electrical, you know, my electrical card.

14 Q. Sure. How long have you been a certified
15 electrician?

16 A. I think since 1976. I have high voltage, low
17 voltage, surface, tipple ---

18 Q. Sure.

19 A. --- underground.

20 Q. Sound like a very experienced individual.

21 A. That just means I'm old.

22 Q. That makes two of us. Are you appearing here
23 today voluntarily?

24 A. Yes.

25 Q. Has anyone with the company interviewed you

1 concerning this accident?

2 A. With the company or representing the company?

3 Q. Or representing, either one.

4 A. Yes, they have.

5 Q. When was that, please, roughly?

6 A. I would say probably in May.

7 Q. Okay. Where'd that interview take place?

8 A. At the mine I'm currently at, Revolution.

9 Q. Okay. Thank you. About how long did that
10 interview take?

11 A. Hour and a half.

12 Q. Okay. Has anyone from the company or their
13 representatives interviewed you since then?

14 A. Yes.

15 Q. Who was that, please?

16 A. I don't know the names. It was the same lady. It
17 was some lawyers.

18 Q. Oh, okay. Same bunch you talked to before?

19 A. Yes, probably.

20 Q. Okay.

21 A. It might've been different people, but I think it
22 was basically the same thing.

23 Q. Okay. Was that a week later or two weeks later?

24 A. And then you might have a record of this. Two
25 MSHA representatives came to my house and talked to

1 me. Shortly thereafter I was asked to talk to the
2 lawyers, and so if you can find out what day it was
3 that Mr. Mike Belcher talked to me, then it would've
4 been within a few days after that.

5 Q. Okay, all right.

6 OFF RECORD DISCUSSION

7 A. Uh-huh (yes), yeah, he was a MSHA special
8 investigator.

9 BY MR. SHERER:

10 Q. Okay. Appreciate that information. And where did
11 you say you're currently employed?

12 A. Well, I am still employed by Performance Coal, but
13 I am currently working at the Revolution Mine in Boone
14 County ---

15 Q. Okay.

16 A. --- which is another one of Massey's mines. I
17 think it's with Independence Coal, but I'm still under
18 the payroll of Performance Coal.

19 Q. Okay. Now, let's talk about your --- what you did
20 at UBB specifically. You mentioned you were the
21 longwall chief electrician ---

22 A. Yeah.

23 Q. --- on the longwall? Did you have people that
24 report to you?

25 A. Yeah.

1 Q. Who were those people, please?

2 A. They would be the shift maintenance foreman and
3 their electricians and/or their electrician.

4 Q. Sure.

5 A. Each --- for instance, on each production shift
6 you had one maintenance foreman and he had an
7 electrician, and they would both --- they would both
8 come in. If I had any work orders for them, something
9 that they needed to repair or fix or to do they would
10 come to me for.

11 Q. Okay. Who were those people? Do you recall?

12 A. Yeah, I can start naming them, but ---.

13 Q. Yeah, if you don't mind.

14 A. Okay. Grover Skeens, ---

15 Q. Okay.

16 A. --- which is one of the deceased, Nick McCroskey,
17 which is also one of the deceased, Dustin Ross, Luke
18 Ford, Tommy Estep, Shannon Dickens, Greg Meadows,
19 Kelton Cozort, Chad Neil, Robert Hale, Dilbert Bailey,
20 Steve Gration, and I know I'm missing somebody. Let
21 me think.

22 Q. All right. That gives us a good idea. Who did
23 you report to?

24 A. I didn't really report to anybody on a regular
25 basis. Now, there was a fellow named Bobby Gollus was

1 there. He was with Massey Coal Service. He was under
2 their payroll and he was there most of the time. He
3 would've actually been authority over me, but it
4 wasn't like I really had to report to him, because he
5 pretty much was there enough to know what all was
6 going on, too, and also helped me and some of the
7 maintenance decision making.

8 As far as answering to, we also have a longwall
9 coordinator, which actually overall have more
10 authority over things than I would. Then naturally
11 you would have the superintendent, the mine foreman,
12 which didn't generally, as far as my end of it, affect
13 me much.

14 Q. Okay.

15 A. And then you would have your vice-president and
16 president and so forth.

17 Q. Okay. And who was the longwall coordinator?

18 A. Jack Roles.

19 Q. Okay. Sounds to a certain degree you were kind of
20 independent. You were in charge of keeping the
21 longwall running, and you probably had to coordinate
22 downtime and such with the production people.

23 A. Correct. Yeah, I couldn't just up and --- unless
24 it was something, a major safety issue or something
25 like that, say, just regular maintenance or so forth.

1 Then I needed to, like, for instance, talk with the
2 coordinator to find out when the best, the best time
3 this would be, both to allow me the maximum amount of
4 time to get the job done without cutting into the
5 production time if possible. Or at least to give him
6 an idea of how long it was going to take to do the
7 type of work that needed to be done.

8 Q. Okay.

9 A. But there had to be some, you know, some
10 coordination between those.

11 Q. How did that typically work? Did you regularly
12 meet with the production people or did you ---? Did
13 they have some, like, a white board or ---? How did
14 you do that? Or did you just run into them and say, I
15 need ---?

16 A. No, our offices actually adjoined for the most
17 part, you know? If there was something come up, I
18 could just walk down the hall or across the room and
19 say, hey. I've got this I need to do. And most of it
20 he would probably already have a pretty good idea of
21 what kind of time we were looking at on it, and it was
22 just a matter of ---. And then there was particular
23 times we might have to go together and look at the
24 particular situations, the conditions, because there
25 were certain times, certain jobs to be done that even

1 the conditions wouldn't allow it. We'd have to wait
2 maybe until things were looking better on the face or
3 something like that before we could plan the job.

4 Q. Okay, sure.

5 A. And then there were certain times, you know, where
6 something big and heavy --- we had to get the parts,
7 say, for instance, cut our drums on the shearer, you
8 know, big. And he has to notify his crew that
9 transferred those parts underground, you know, when to
10 take them in or what to do with them when they get
11 there and so forth. Just pretty much, you know, just
12 routine, hey. I've got this going on. And we'd try
13 to plan out when the best time to do it would be.

14 Q. Sure.

15 A. And I hope I answered your question.

16 Q. You did an excellent job, sir.

17 A. Okay.

18 Q. Just in general, what did you think about this
19 particular panel of this longwall compared to the
20 other panels and other walls that you've worked on?

21 A. It was kind of a tough panel, which we've worked a
22 lot of tough panels. We had quite a few tough panels
23 at Logan's Fork, because we was cutting a lot of rock
24 and stuff and there were things I didn't like about
25 that panel. A lot of it made the maintenance of it

1 harder to do. There was some of it I didn't like, for
2 instance, where their return entry was on one side of
3 a stopping and our intake was on the other. I never
4 did care for that.

5 Q. Sure.

6 A. And a lot of the ventilation system, you know,
7 required a lot of closer attention to keep up with it
8 for the --- like, for instance, the CO monitors, what
9 was allowed inby, you know, a certain area and what
10 wasn't allowed. And just it just made it more tedious
11 to fool with everything, getting it all right ---

12 Q. Sure.

13 A. --- and keeping it that way.

14 Q. Sure. Now, you mentioned they were cutting a lot
15 of rock. I guess that was --- resulted in more wear
16 to the wall?

17 A. Yeah.

18 Q. What about water? Was water a problem on this
19 panel?

20 A. Yes. At one point in particular, yes.

21 Q. Which point was that, please?

22 A. We had water break through from the top and it was
23 running in. Possibly --- you can't really see behind
24 what's behind the shield, but we started really all of
25 a sudden getting quite a bit of water. And a lot of

1 it was up close enough where you could see it was
2 coming out of the top, because it was like rain coming
3 down, you know, to go down the face.

4 There was lots of pumps had to be set. We had to
5 run, you know, piping down the face to pump the water
6 out and so forth, and that was probably --- and I do
7 say probably. I'm not sure of the date, but I'm
8 thinking that was probably around November, in that
9 area, November, December of last year.

10 Q. Okay. Did you take off for Thanksgiving?

11 A. No, I did not. We were dealing with something,
12 and then I don't remember if it was a rock fall we had
13 at --- see, we had a rock fall in our --- in one of
14 our entries, our track entry actually. It had to be
15 cleaned up. Plus along pretty close in that same area
16 we had all the pumping and so forth going on. I did
17 take two days off, but it was mainly --- it was, like,
18 Thanksgiving and the day after, but I was sick at the
19 time, too.

20 Q. Oh, jeez.

21 A. But they were people working there.

22 Q. Okay. Do you think that the water incident was
23 before you took those two days off or after?

24 A. I really don't know. I can't answer that ---

25 Q. Okay, sure.

1 A. --- because I'm not sure.

2 Q. Okay.

3 A. I think it was before, but that's thinking, you
4 know? To say for sure, I don't know.

5 Q. Okay. Now, we understand at one point in this
6 face there was a roll or something that they had to
7 walk the shields up over? Do you recall that?

8 A. No.

9 Q. Okay. Do you see in the map in front of you
10 there's a little, little teeny slice for December as
11 far as the movement of the face?

12 A. Uh-uh (no). That was probably in the --- that
13 would probably ---. Well, January doesn't look very
14 good, either. Those two time frames was close enough.
15 That could've been the water and the rock or ---.

16 Now, wait a minute. This is December ---

17 Q. Yeah.

18 A. --- and November, and November wasn't too bad. I
19 mean, on this area here and this --- are these lines
20 designating that it is December, ---

21 Q. Well ---.

22 A. --- because here's the dividing line here?

23 Q. Yeah. If you notice, there's the first half of
24 December, which is about an inch, maybe an inch and a
25 quarter. And then there's the second half of

1 December, which is ---

2 A. Okay.

3 Q. --- maybe three-eighths of an inch.

4 A. And you're speaking on the list?

5 Q. Yeah.

6 A. It's in the second half of December.

7 Q. Yeah. And similarly with January there's --- the
8 first half is ---.

9 A. Oh, yeah. Hadn't noticed that. Yeah.

10 Q. And then you see November they covered five or six
11 breaks, yeah.

12 A. Yeah. Yeah, for a while we did good. And then it
13 kind of came to a complete stop.

14 Q. Do you recall, roughly, what happened when it came
15 to a stop, as you referred to it?

16 A. Another thing at the time that was in the same
17 time frame --- well, you know, I told you about the
18 water.

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

20 A. You know, we had the water. And we had the fall.
21 And also we had ---. They were cutting a lot of rock
22 and they were told to come down out of the rock.

23 Q. Oh, okay.

24 A. Come down out of the rock and take the coal. They
25 was cutting through --- they felt like they were

1 cutting too much rock, I think. Maybe Chris

2 Blanchard ---

3 Q. Sure.

4 A. --- told them that. But they really did it too
5 fast, and this may be what you were referring to as
6 the roll thing.

7 Q. Uh-huh (yes).

8 A. They turned --- is anybody here familiar with the
9 longwall?

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

11 A. I mean, well, they turned --- they turned the pan
12 line over too quick, which when that happens ---. I
13 want to use my hands to show you this, but when that
14 happens the front of the pan tends to --- when they're
15 pushing with the shields on their end, it has a
16 tendency to try to dig into the bottom ---

17 Q. Okay.

18 A. --- rather than slide forward.

19 Q. Okay.

20 A. So sometimes you even have to, like, pick up ---
21 use the shield tips to pick up on the ---

22 Q. Okay.

23 A. --- front of the pan so they can go ahead and push
24 them forward.

25 Q. Okay.

1 A. And that takes some time.

2 Q. And I've actually heard that --- from someone that
3 they'd had to chain the shields together. Maybe they
4 were just picking up the pan with ---.

5 A. That's probably what it was, because I don't know
6 any reason they had to chain the ---- I hate this
7 chair --- we had to chain the ---.

8 Q. We can get you another chair.

9 A. No, I just need to quit trying to lean back in it.

10 Q. Okay.

11 MR. FARLEY:

12 Seriously, we can get you another one.

13 MR. SHERER:

14 Yeah. Well, let's --- can we go off the
15 record a second?

16 SHORT BREAK TAKEN

17 A. But in regards to that, as far as they roll,
18 unless that is --- unless that is what they're talking
19 about, because we dig our coal ---. You know, the
20 height of the coal did change quite a bit and we were
21 still cutting rock to maintain a reasonable amount of
22 height. And if you get down into the bottom too much
23 and you take that coal up, you can end up with kind of
24 a situation where your shields are not wanting to ---
25 they're not wanting to reach the top like they should.

1 BY MR. SHERER:

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

3 A. And you have trouble reaching everything.

4 Q. Uh-huh (yes), okay. Okay. That helps quite a
5 bit. So you got through that around the first of the
6 year, and it looks like the wall was making some
7 fairly good progress, particularly February, and then
8 March it looks like it slowed down again. Does
9 anything stand out?

10 A. Well, they were cutting more rock.

11 Q. Okay, more rock.

12 A. And they got into some sandstone and stuff.

13 Q. Uh-huh (yes).

14 A. Yeah, we had --- I want to call it gravy. I've
15 seen a lot better, but we kind of had some gravy there
16 back in here. And we had all of those problems, and
17 it was picking up but we were still having to cut
18 rock.

19 Q. Okay. That helps quite a bit. Once you got
20 through that water incident you were talking about,
21 had water been a problem since then?

22 A. Not that I'm aware of.

23 Q. Okay. Where were you at the time of the
24 explosion, please?

25 A. I was in my office outside.

1 Q. Okay. Let's talk about --- when was the last
2 shift you worked prior to that explosion?

3 A. The Friday before.

4 Q. Okay. So you took Saturday and Sunday off?

5 A. Uh-huh (yes).

6 Q. Okay.

7 A. Well, no, no. I'll correct myself on that,
8 because I was off three days that week.

9 Q. Okay. So you took Friday, Saturday, so that's
10 even better. That's good. And that was Easter
11 weekend. I understand that the mine was idle on
12 Sunday, I think?

13 A. Yeah. They let everybody have Easter off.

14 Q. Okay. That's good. Did you go into --- go on the
15 wall on that last shift you worked on Thursday?

16 A. No.

17 Q. Do you remember if anything seemed out of the
18 ordinary on Thursday or Monday?

19 A. No.

20 Q. Okay. Now, we understand that the wall was down
21 most of the day on dayshift on Monday.

22 A. Yes.

23 Q. Do you know what was going on with it?

24 A. Yeah, the tailing ranging arm had a keeper, it's
25 called. It's referred to as a feather ring or a B

1 lock, which is a taper lock clamping type device that
2 holds your hinge pins on the ranging arm in place.

3 And they had lost one of those.

4 Q. Okay.

5 A. And they had a lot of trouble getting it lined
6 back up.

7 Q. Now, that ranging arm hinge pin, was that a normal
8 maintenance type item? Was that something that you
9 would typically see fail like that?

10 A. I won't say typically. With this particular
11 shearer, it had happened before. That pin came out
12 and Joy kind of did a little change on their normal,
13 because we actually broke one of the hinge ears that
14 holds that pins to at Logan's Fork. We were cutting a
15 lot of rock and they kind of added a third ear, but
16 when they did that, it ended up ---. But normally
17 those clamps were on each end of that pin and when
18 they made this change, they want to put a clamp on one
19 end of it, which I could illustrate that by however
20 you can picture it in your mind. It's clamped on one
21 end. As that arm goes up and down it kind of lets the
22 pin wobble back and forth a little bit, and it gives
23 it more of a tendency to work itself apart.

24 Q. Okay.

25 A. So you know, before that we had never lost any

1 pins on those shearers once they went to this type of
2 keeper system for it, but when they did, we'd had
3 probably --- that was probably the third time. I
4 think we'd lost one on the other end of the shearer
5 and it had come out before on this end of the shearer.

6 Q. Okay. Now, what were you guys doing to fix that?
7 Do you know?

8 A. Well, they would have to line it back up and put
9 the keeper back in place and tighten all the bolts
10 back up in it.

11 Q. Okay.

12 A. And we were that night --- well, Jack Roles called
13 me and wanted me to get the stuff out and ready, and
14 he wanted to put a new pin, a new keeper in it that
15 night on third shift.

16 Q. Okay. Did you have all the parts you needed to do
17 that?

18 A. Yeah.

19 Q. Okay.

20 A. Yeah, I actually had to leave. My office was at
21 the Ellis Portal so I had to drive up the road to UBB
22 where our, well, warehousing area was, dig around in
23 there and find the stuff. Had it laying in the floor.

24 Q. Okay. So you're planning to do that on the hoot
25 owl shift?

1 A. Yes, they go in from that side.

2 Q. Okay. Now, do you know, in lining it up and
3 placing the keeper would you have had to heat it, heat
4 something up or burn anything?

5 A. No.

6 Q. Strictly a mechanical process?

7 A. Yes.

8 Q. Okay.

9 A. And just like any other things lining up,
10 sometimes you might get lucky and it just, you know,
11 accidentally right in place. There it is. Put it
12 together. And sometimes you can fight it.

13 Q. Sure.

14 A. You know, and it goes too far this way. Move it
15 and goes too far that way and it takes a long time,
16 and this was one of those cases. It didn't just fall
17 into place.

18 Q. Sure. Now, we also understand that the wall
19 started back up at about 2:30?

20 A. I think that's about right. It was later on in
21 the day. I was thinking it was more like 1:00 or
22 1:30. It may've been 2:00 or 2:30.

23 Q. Okay. Do you know --- had they made any passes
24 across the face that day? We know it was down the
25 tail. Had they produced much coal, I guess, is the

1 question?

2 A. No, they hadn't produced much. They ran --- you
3 know, they ran for a while that morning. They got
4 started producing that morning, you know, once they
5 got up there for a while before they found that this
6 keeper had come out of the pin.

7 Q. Okay.

8 A. And then they were down the biggest part of the
9 day after that. I know they got started back up after
10 that, because I think they were on the --- in this. I
11 think they were up --- the best I can recollect, they
12 were on the head when they were putting that pin on
13 the keeper back --- you know, lining them back up to
14 get them in place. And then they started mining up
15 toward the tail.

16 Q. Okay. So they fixed it up on the head, so we know
17 they made at least one pass on the face?

18 A. Yeah.

19 Q. Okay. Now, let me tell you what we know at this
20 point in time. You probably --- you may know a lot
21 more about this than we do, so help us out if you can.
22 We know that the shearer was almost cut out on the
23 tail, and we've heard various estimates and maybe it
24 was another two or three feet, maybe four feet at the
25 most to be at the end of the track there.

1 A. But if I might interrupt.

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

3 A. All right. I did hear that the drum is actually
4 cut out and is out in the entry.

5 Q. Okay. We're not exactly sure because we don't
6 know where you guys turn them around.

7 A. Well, I mean, you don't --- that's what I mean.
8 You don't have to go all the way.

9 Q. Okay.

10 A. You know, that's you're goal there, is to cut out.
11 You don't want to leave any hump or anything ---

12 Q. Sure.

13 A. --- where you didn't cut out all the way, because
14 that tail drive ---

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

16 A. --- has got to go down through there. So all you
17 need to do is cut it flat to where the tail drive goes
18 by, you know, and you've opened a hole up to where
19 you've got your ventilation. You don't have to
20 go ---.

21 Q. Okay.

22 A. You don't have to go all the way.

23 Q. So you don't have to run it entirely to the
24 end ---

25 A. No.

1 Q. --- end of the rack?

2 A. No, you can turn around. Once you get what you
3 needed to do done there, you can turn around and go
4 the other way.

5 Q. Okay. Now, we know it was down there. We know
6 that they water had been shut off, which we understand
7 was done up on the headgate.

8 A. Uh-huh (yes), that's where they would do that.

9 Q. We also understand that the high voltage to the
10 shearer had been disconnected. We know that the --- I
11 think three or maybe four of the victims were about
12 mid-face.

13 A. Okay.

14 Q. We know everybody else was up near the headgate
15 itself.

16 A. Okay.

17 Q. We don't know much else at this point in time.

18 A. Now, when you say the shear disconnected ---

19 Q. Yeah.

20 A. --- may I ask where it was disconnected at?

21 Q. You'd probably have to talk to Jason Maggard. He
22 was talking about some 485 something.

23 A. I mean at the head drive at the ---

24 Q. Yeah.

25 A. --- head box there are visible disconnects there.

1 Q. Yeah, it was a visible disconnect.

2 A. Okay.

3 MR. FARLEY:

4 Excuse me. I understand it was a
5 disconnect where it had to be done manually?

6 MR. SHERER:

7 Yes, it was a manual disconnect.

8 A. Yeah.

9 BY MR. SHERER:

10 Q. As I understand it.

11 A. Right, yeah. And there was actually kind of a
12 locking mechanism where you had to push a button in to
13 do ---. I don't know ---.

14 BRIEF INTERRUPTION

15 A. On that unless it would've been broken by the
16 explosion or whatever, that there's a button that ---.
17 And this button actually breaks the monitor into the
18 power circuit for that so that you can't pull that
19 switch out under a load and cause a big flash boom ---

20 BY MR. SHERER:

21 Q. Sure.

22 A. --- inside of that. But you have to push that
23 button in before that disconnect handle will turn and
24 bring the blades out.

25 Q. Okay. I understand that --- my understanding is

1 it had been manually disconnected.

2 A. Yeah, that's what I'm getting at. It's not
3 something like ---. Now, you know there's been a ---
4 there was an explosive force went through there.

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

6 A. It shouldn't have been able to, say, the force of
7 that hitting that and knock it over without, you know,
8 that button being pushed in without doing damage, you
9 know, actually breaking that mechanism or something.

10 Q. Yeah. Yeah, I understand that area is in fairly
11 good shape, so ---

12 A. Okay.

13 Q. --- we think it ---. And that's all that we know,
14 is we think it was done manually.

15 A. Uh-huh (yes).

16 Q. That's our best information. Do you have any idea
17 what could have been going on with that wall at that
18 point in time?

19 A. Well, it doesn't sound like they were running.
20 Now, I also heard that the conveyer chain was empty.

21 Q. Yeah, I was fixing to say that. We found that
22 there was no coal on the chain. It didn't look like
23 there was any --- any excess coal had been blown off
24 the chain.

25 A. Right.

1 Q. So it looks like it had been cleared. I think
2 somebody mentioned there was just a couple places on
3 the face where it had sloughed off a bit.

4 A. Right. Well, that's natural.

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

6 A. Who was at mid-face? The chief electrician?

7 Q. I don't know.

8 A. Didn't you say there was four around the mid-face
9 there?

10 Q. There was three or four. Do you know Norman?

11 A. Okay. So if the shearer's on the --- if the
12 shearer's on the tail, ---

13 Q. Uh-huh (yes).

14 A. --- because that's what I've been told, the
15 shearer's down on the tail ---

16 Q. Sure.

17 A. --- and the drum's out in the entry, then the ---
18 really the only reason I know why they would have
19 those disconnects pulled is if they were having cable
20 trouble.

21 Q. Okay.

22 A. If it was something somebody hollered or seen
23 something, you know, and said, kill the power, or
24 whatever, there's E-stop buttons on the gate box that
25 they could smash, you know ---

1 Q. Sure.

2 A. --- and it killed everything.

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

4 A. The disconnects are a more conscious effort where
5 they have to go back in, hold a button, pull the
6 blade. It would've been quicker to hit the E-stop
7 unless somebody just didn't make theirsself clear of
8 what they wanted.

9 Q. Sure.

10 A. But just going by the blades being pulled, it
11 sounds like they were having some cable trouble.

12 Q. Okay. We appreciate that information.

13 A. But that's from ---- you know, the cable had
14 actually run from the mid-face to the tail or it
15 wouldn't ---. You know, as far as the normal ---

16 Q. Uh-huh (yes).

17 A. --- the normal of what to use, there would be
18 cable naturally running from the, you know, from,
19 well, all the way from the mule train up to the stage
20 loader and the gate boxes. And it would go underneath
21 there inside of all of the backboard covers and so
22 forth that ---

23 Q. Uh-huh (yes).

24 A. --- generally the part that goes back and forth
25 and receives the wear and tear. You know, the most

1 --- you know, the most vulnerable ---

2 Q. Sure.

3 A. --- part of the cable would be from mid-face to
4 the tail where the shearer was at.

5 Q. Now, do you recall if that was an old cable or
6 relatively new?

7 A. It was pretty new.

8 Q. Pretty new.

9 A. Pretty new, yes. That cable was changed out,
10 well, maybe in January or something like that, or
11 maybe even later than that, which I may have that
12 wrote down in one of my books, wherever they're at
13 now, but ---.

14 Q. Sure.

15 A. But you know, it was fairly new. We changed the
16 cable handler and the cable ---

17 Q. Okay.

18 A. --- both.

19 Q. What sort of shape was the britby in?

20 A. It was changes when the cable was.

21 Q. Okay.

22 A. It should've been in pretty decent shape.

23 Q. Did you change the water line, also?

24 A. Yes.

25 Q. Okay. So everything should've been ---?

1 A. We actually had someone put that all together for
2 us ---

3 Q. Okay.

4 A. --- you know, put the --- to make the changeover
5 quick.

6 Q. Uh-huh (yes).

7 A. You know, they had the cable installed a long with
8 the water hose in it, and we just, you know, pulled
9 the old stuff off and the new stuff in.

10 Q. Okay. Do you know if you'd been having any
11 problems with that assembly?

12 A. Not that I'm aware.

13 Q. Okay. That just makes it a little more
14 complicated.

15 A. Yeah, yeah. But you know, that ---

16 Q. Sure.

17 A. --- can happen on a moment's notice, ---

18 Q. Sure.

19 A. --- you know, with cables.

20 Q. Sure.

21 A. But nobody had informed me that, like, the ---
22 even as far as anything intermittent, you know.

23 Nobody said, like, you know, we're having --- every
24 now and then our power's knocking, or anything like
25 that. And they usually do something like that so I

1 can have our third shift go in there, you know, check
2 everything they can, you know, read the cable, see if
3 they're getting anything at all on them, you know,
4 just trying to ---. Because it's lot's of --- it's
5 aggravating and a pain to have to keep setting
6 everything back up and starting the shearer back
7 up ---

8 Q. Sure.

9 A. --- and so forth. So that would be something they
10 would normally let me know.

11 Q. Sure. Now, do you know on that wall if you got
12 the visible disconnects pulled like that, does --- can
13 the pan line still run or does that kill the power to
14 the pan line?

15 A. No, the pan line still runs.

16 Q. Okay.

17 A. Now, there's another disconnect just like that
18 that takes out the tail drive.

19 Q. Okay.

20 A. I mean, it's exactly the same, the same box, you
21 know. It's just used as a disconnect for the tail
22 drive cable, and it would take out your face conveyor.

23 Q. Oh, okay. What about if the water line broke?

24 Would you have to pull that manual disconnect to work
25 on that?

1 A. No.

2 Q. Okay.

3 A. I wouldn't say that that wouldn't be advisable,
4 you know.

5 Q. Sure.

6 A. You know, because you wouldn't want to --- for
7 instance, in that cable handler your water line and
8 your hose are in there together ---

9 Q. Sure.

10 A. --- and if I were going to work on that, I would
11 want the power off of that cable. But as far as
12 having to do that, no.

13 Q. Okay. What about when they get down near the end
14 of the wall like that? Is there normally some slack
15 in that britby assembly or do you occasionally pull on
16 it when it gets down that far? In other words, that
17 thing feeds down the face so that when the shearer is
18 right at the tail, do you have a fair amount of slack
19 left in it or does it get pretty tight on average?

20 A. If the shearer has cut out to the stop, it's going
21 to be as stretched as tight as it should've unless it
22 hung up somewhere down, you know, back toward mid-
23 face.

24 Q. Okay.

25 A. Then it would stretch it tight.

1 Q. Okay.

2 A. Well, you may know. It's designed and set up.

3 You actually ---. If you change that cable or even if
4 you reenter the cable --- for instance, it was damaged
5 and you had to re-enter it at the shearer, then you
6 would have to re-adjust. You would have to add more
7 slack to it down at mid-face, you know, to --- I hate
8 this card --- you know, to make up the difference of
9 what you see. You might've cut out 15 feet of it at
10 the shearer. Then you would have to kind of work it
11 through the --- out of the backboard, back into where
12 your cable handler can make up for it.

13 Q. Okay.

14 A. But can I ask you a question?

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

16 A. Is the cable stretched real tight?

17 Q. Don't know. Haven't been on it myself.

18 A. I mean, if it --- is it, like, four foot? If it
19 --- like, four foot and that cable's stretched tight,
20 it sound like it would be found on something.

21 Q. Yeah, okay.

22 A. Which could've caused a ground, which could've
23 been the reason the disconnect was pulled.

24 Q. Okay. Appreciate that. We're still trying to put
25 the pieces of the puzzle together, so anything you can

1 do to help us, ---

2 A. Well, you know, ---

3 Q. --- we appreciate.

4 A. --- if a rock fell out in there or a pile of rock
5 got in there, it could hang that, or if a sandwich
6 blade, you know, the ---

7 Q. Sure.

8 A. --- blades between the sections of the pan were to
9 have gotten bent ---

10 Q. Sure.

11 A. --- or the cable handler hooked on it. There are
12 different reasons ---

13 Q. Sure.

14 A. --- that that could happen. Sometimes it'll
15 stretch tight and they'll keep it going and they'll
16 jerk theirselves loose and it'd kind of slingshot a
17 little bit. But --- I'm rambling so you go ahead.

18 Q. No, no, that's very, very pertinent information.

19 Okay. So that's what we know and we appreciate your
20 thoughts about the matter, and we may be getting back
21 to you about that, in fact.

22 A. Okay.

23 Q. So you didn't go in on the wall on Thursday?

24 A. No.

25 Q. And you didn't go into the wall on Monday, either?

1 A. No, no.

2 Q. Did you talk to anybody that worked on the wall on
3 Monday?

4 A. Yes, Rex Mullens, the headgate operator.

5 Q. Okay. About when did you speak with Mr. Mullens?

6 A. It was at the time that they found the hinge
7 pin deal.

8 Q. Okay. And about when was that?

9 A. It was in the morning. I can't remember exact
10 times.

11 Q. That's okay.

12 A. I'm just --- I'm thinking 10:00, 10:30 something
13 like that.

14 Q. Yeah, yeah, that's plenty enough. So you spoke
15 with him then about the hinge pin. Did he mention
16 anything else?

17 A. No.

18 Q. Okay.

19 A. No, and I spoke to him at different times through
20 the day, just asked him to give me some kind of
21 update, and you know, what was causing it to take so
22 long. And he contacted Grover at one point and then
23 called me back and he said he's just having trouble
24 lining up. It was not wanting to line up, and that's
25 really the only thing that I ever found out about it

1 until --- and then when they started back, he called
2 me and said, the longwall is running.

3 Q. Okay. Did he mention anything like it smells
4 funny in here or ---?

5 A. No.

6 Q. Okay. Did you talk to anybody else that could've
7 been up on the longwall that day?

8 A. Jack Roles, and then the whole deal on that was he
9 told me that he wanted the third shift to change out
10 that pin and keeper, and that was it. That's really
11 all I talked to him about that.

12 Q. Okay. Do you know about when he went into the
13 longwall?

14 A. Jack?

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

16 A. No.

17 Q. Okay.

18 A. I may have not even been over there at the time,
19 or I might've been out ---. I also --- I was out
20 working on their ---. They had a forklift, a Manitou
21 forklift up there at one point during the day. I was
22 out there working on it and they may've even went in
23 then. I don't remember him going in. Just at some
24 point he called me from underground and was telling me
25 to get that, you know, to get that stuff laid out for

1 him.

2 Q. Okay. So he'd gone in and actually observed the
3 hinge pin?

4 A. No, I can't say that. That would be just
5 speculating.

6 Q. Okay; sure.

7 A. I don't know. He may've just talked to ---

8 Q. Okay.

9 A. --- the boss up there or something like that.

10 Q. Okay.

11 A. But I'm sure he would've been aware that that had
12 came out before, ---

13 Q. Okay.

14 A. --- you know, which it's probably why he said, I
15 want a new one put in, and you know, he wanted one.

16 Q. Okay.

17 ATTORNEY WILSON:

18 Erik, just to follow up on something.

19 You said that when you spoke to Mr. Mullens, he called
20 out to tell you the longwall was running; is that
21 right?

22 A. Yes.

23 ATTORNEY WILSON:

24 Is that the last time you spoke with him?

25 A. Yes.

1 ATTORNEY WILSON:

2 Do you recall approximately what time
3 that was?

4 A. Not really, no. It was late. That's what I'm
5 thinking. It was around 1:30 or two o'clock. I think
6 you all --- you made a statement about 2:30, and it
7 may've been, but I really didn't just look at my watch
8 to see what time it was. I was just kind of relieved
9 it was running, because I was kind of hanging there on
10 the edge to find out. The best I can give you is an
11 approximate. It was probably somewhere between 1:30
12 and 2:30.

13 ATTORNEY WILSON:

14 Thank you.

15 BY MR. SHERER:

16 Q. Now, you mentioned ventilation issues. Does
17 anything stand out ventilation-wise in the week or so
18 before the explosion?

19 A. Well, other than --- other than the fact that, I
20 mean, we were shut down for that period of time. It
21 was probably a couple of weeks, maybe, something like
22 that. And they shut us down and made some changes on
23 it. I think MSHA, MSHA put a order on it or whatever,
24 and they had to do a bunch of changes, but as far as
25 anybody saying anything or particular about the

1 ventilation, no.

2 Q. Okay. Now, we put an order on the wall because of
3 the air reversal, I think, on March the 9th. Does
4 that sound about right?

5 A. It was in March.

6 Q. Okay. So that would've been about three weeks
7 prior to the accident.

8 A. Yeah, okay. Yeah, that sounds reasonable.

9 Q. Okay.

10 A. But I mean, as far as me hearing anything about
11 the ventilation, you know, that's the last I know of
12 anything as far as ventilation.

13 Q. Sure. Do you recall about the last time you were
14 actually on the wall?

15 A. Not exactly. It had probably been, I'm going to
16 say probably about three weeks before I'd been up
17 there.

18 Q. Okay.

19 A. We were in the process of ---. As you probably
20 know, they had a little short longwall panel they were
21 going to get stuff ready for ---

22 Q. Sure.

23 A. --- you know, equipment in. Like, they needed
24 belt stuff and I was involved in some of that, you
25 know, trying to get things together for that, so it

1 had been probably three weeks, I would say.

2 Q. Okay. The last time you were up there did
3 anything seem to be out of the ordinary?

4 A. No.

5 Q. Okay. Did you notice if there was any problem
6 with floor hoove anywhere along the wall?

7 A. No.

8 Q. Okay.

9 A. But as far as the ventilation and me, what I
10 mainly noted when I come up there was it was windy.

11 Q. Oh, sure.

12 A. It was pretty breezy there. You'd get up there
13 and work and get sweating a little bit and you'd
14 freeze, you know? It was a lot of air going across
15 there, especially out around the head drive, you know?

16 Q. Uh-huh (yes).

17 A. You know, that area was the last big job I was on
18 up there, you know. It was mainly --- you know, the
19 stage loader chain was hung up and there was a lot of
20 air right there.

21 Q. Okay. That's just what you want.

22 A. Yeah.

23 Q. Unless you have to work on it.

24 A. Yeah.

25 Q. Did you carry a methane detector?

1 A. Yeah.

2 Q. What's the highest concentration of methane you
3 recall anywhere along the longwall?

4 A. That I picked up on?

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

6 A. Zero.

7 Q. Zero, okay. Even working back around the shields,
8 back in there?

9 A. Zero.

10 Q. Okay.

11 A. And I've never heard anybody else say otherwise.

12 I mean, as far as, you know, every now and then I
13 would have to ---. Like, the section boss --- for
14 instance, the evening shift hadn't got there yet and
15 they would be trying to call out a report, so I
16 wouldn't take their report. And you know, I've never
17 heard anything that I can recall other than zero
18 percent.

19 Q. Okay. Did you ever hear of methane anywhere else
20 in the mine being a problem?

21 A. Well, do you mean in this particular time frame?

22 Q. Yeah.

23 A. No, no.

24 Q. Okay. Were you at the mine when there were
25 methane outbursts? I think that was in 2003 and 2004.

1 A. Uh-huh (yes).

2 Q. Were you involved in those?

3 A. Not very much. One of them, me and a couple other
4 guys ---. At that time I was like a --- and I'm not
5 even sure if at that particular time I was a
6 maintenance foreman. I was on the third shift. I
7 might've been a maintenance foreman or --- but anyway,
8 there was two other guys with me and we was trying to
9 build a stopping. I think they were trying to direct
10 more airflow into the area to try to sweep that
11 methane, dilute it down and stuff. But that was the
12 only day that I was helping build that stopping.

13 Q. Okay. Did you actually see or hear the methane?

14 A. No, I did not.

15 Q. Okay.

16 A. Which was okay with me. I mean, some of them
17 actually had to go up in there to check on it, but I
18 wasn't asked to and I was glad of it.

19 Q. I could imagine. A lot of methane is a good thing
20 to stay away from.

21 A. Yeah.

22 Q. Who was the mine foreman then, Wendell Wills?

23 A. Probably, yeah. He was either a mine foreman or a
24 superintendent, yeah.

25 Q. Okay. He spoke to us and he said you could

1 actually see the methane.

2 A. That's bad.

3 Q. He said you could shine your cap lamp down and
4 look at a reflector on the shield and it looked
5 like ---.

6 A. See, like, heat waves and stuff?

7 Q. Yeah, exactly. That's a lot of methane.

8 A. Yep.

9 Q. Okay. Were you ever underground and got some
10 notice that MSHA or State inspector were on the
11 property?

12 A. Uh-huh (yes).

13 Q. How common was ---?

14 ATTORNEY WILSON:

15 Is that a yes? I'm sorry. You just need
16 to say yes or no.

17 A. Oh, yes, yes.

18 ATTORNEY WILSON:

19 Okay.

20 BY MR. SHERER:

21 Q. How common was that?

22 A. It was fairly common.

23 Q. Okay. In the month or so preceding the explosion,
24 do you think the mine ventilation was adequate?

25 A. Adequate to ---?

1 Q. Just adequate so that it would render ---

2 A. Well, no.

3 Q. --- dilute and render harmless?

4 A. As far as the mine, I don't really know. I wasn't
5 that broadly into it. As far as the longwall, ---

6 Q. Sure.

7 A. --- I think so.

8 Q. Okay.

9 A. I'm not a big ventilation expert or nothing, but I
10 think we had, you know, we had the air required going
11 across the face to keep the dust or any methane, you
12 know, swept out of there.

13 Q. Okay. Now, who was in charge of ventilation?

14 A. I'm not really sure as far as any particular
15 person. I mean, as far as along the face area during
16 the production, I suppose it would be the section boss
17 that would be up there to make sure his curtains were
18 across the entries, you know, to keep it turned, tied
19 into the shields or whatever. That would, I'm
20 assuming, be the section boss's job.

21 Q. Okay, okay. Were miners pulled out of the mine
22 for major ventilation changes?

23 A. Yes, that happened.

24 Q. Oh, okay.

25 A. Yeah, miners were pulled out of the mines for

1 major ventilation changes.

2 Q. Okay. Do you know if mining ever took place
3 without ventilation curtains?

4 A. Not that I'm aware of, no.

5 Q. Okay. Did you ever hear of methane monitors being
6 bridged out?

7 A. Me personally, no, I have not.

8 Q. Okay. How many methane monitors were on the
9 longwall?

10 A. You're talking about the machine? You're not
11 talking about the Solaris handhelds; you're talking
12 about ---?

13 Q. Yeah. Yeah, fixed methane monitors.

14 A. Two.

15 Q. Where were those at, please?

16 A. There was one on the shearer.

17 Q. Uh-huh (yes).

18 A. All right. And the other one, the sensor for it
19 was on the tail and the readout for it was at the
20 headgate box.

21 Q. Okay. Would both those sensors shut off the same
22 circuits?

23 A. No.

24 Q. Can you explain what the difference would be?

25 A. The shearer, all that does is it would shut off

1 the shearer.

2 Q. Okay.

3 A. It's completely integral to that particular
4 machine. It would shut it off and break the control
5 relay in it and shut the shear off. The faces --- the
6 face would actually --- I say face. That's the one
7 that's mounted on the tail drive. It would actually
8 shut your power off on outby everything. It would
9 take out everything, including the shearer ---

10 Q. Okay.

11 A. --- and knock it down to the starter box at the
12 mule train.

13 Q. Okay. Go ahead.

14 A. Well, that's good.

15 Q. Okay. Had you had any problems with those, either
16 of those two methane monitoring systems during this
17 current panel?

18 A. No. This panel probably --- even in being in that
19 shearer itself was probably one of the better shearers
20 that we've had in a long time. We had very little
21 trouble out of it or the methane monitor.

22 Q. Okay. Come a long way from the old days of the
23 Ikos and Anderson meters.

24 A. I never was around. That was around, but when we
25 started out we had the M.S.A. monitor, which is pretty

1 antique now, I guess.

2 Q. Sure. Okay. Did you ever here of anybody being
3 threatened or retaliated against for reporting safety
4 issues or concerns?

5 A. No.

6 Q. Okay.

7 A. Definitely not.

8 MR. SHERER:

9 Okay. That's all the questions I've got
10 for right now.

11 ATTORNEY WILSON:

12 Do you want to --- are you okay or you
13 want to take a short break before we ---?

14 A. No, I'm okay.

15 ATTORNEY WILSON:

16 Okay.

17 MR. O'BRIEN:

18 Bob, do you mind if we take a two or
19 three-minute break?

20 ATTORNEY WILSON:

21 Sure. All right. Let's go off record.

22 SHORT BREAK TAKEN

23 ATTORNEY WILSON:

24 Terry?

25 EXAMINATION

1 BY MR. FARLEY:

2 Q. Okay. Mr. Laverty, prior to the explosion at UBB
3 on April 5th, would it have been normal routine for
4 the longwall to call out at 30-minute intervals to
5 report production and downtime?

6 A. Yes.

7 Q. Okay. Who would they routinely call those reports
8 to?

9 A. The purchasing agent, which would be Greg Clay.

10 Q. Okay. Did you monitor those reports personally?

11 A. If I heard --- if I heard them, you know, but most
12 the time they would page, get on the page phone. And
13 if I wasn't on the phone, talking to somebody, like,
14 oh, the C and P or whatever and it wasn't too involved
15 or something else, sure. I would pick up the phone
16 and listen to see how they were doing or if they were
17 having any problems.

18 Q. Okay.

19 A. I would even at some point, you know, if I hadn't
20 heard anything from them in a while, call Greg Clay
21 and ask him what they had turned in or if they were
22 having any problems.

23 Q. Okay. Now, on April 5th this year, did you know
24 that the longwall has a problem? It was down sometime
25 in the morning, 10:00 or 10:30, roughly?

1 A. That's what I heard.

2 Q. Have you seen any documents since involving
3 callout reports as to what --- precisely what time the
4 breakdown occurred?

5 A. Since that day?

6 Q. Yes, sir.

7 A. No. The next day after that happened, I got a
8 call that evening and they told me and I think --- and
9 probably about everybody else that worked on the
10 longwall to go to Revolution, to be at Revolution
11 then, the following day.

12 Q. Uh-huh (yes).

13 A. And after that I don't know. I went up to, you
14 know, to my office and a lot of the stuff that ---
15 papers and stuff that I had there, you know, weren't
16 there any more. Of course that was quite a bit of
17 time afterwards, you know. I had to go up there and
18 get a tool box, I think. I had to get permission to
19 go get that, but as far as any of that, I haven't seen
20 it.

21 Q. Okay. Now ---?

22 A. I assumed, actually, that MSHA or somebody had
23 confiscated it or something.

24 Q. Could be. I don't know.

25 A. Yeah.

1 Q. I don't know. Now, on April 5th at the moment of
2 the explosion, where precisely were you? What was
3 your location?

4 A. I'm sitting in my office behind my desk.

5 Q. I'm sorry. I think you told us that already.
6 From that point on throughout the evening, did you
7 take any personal notes?

8 A. No.

9 Q. Okay. Now, your estimation as to when the
10 longwall restarted on April 5th after the repairs were
11 made is 1:30 to 2:30, something like that?

12 A. I think so.

13 Q. According to Greg Clay when we interviewed him, it
14 was around 2:42. Does that seem possible?

15 A. I guess it's possible. I thought it was sooner
16 than that.

17 Q. Well, I think what Mr. Clay's actual exact words
18 were that he received a call around 2:42, indicating
19 that they were --- the longwall was running, you know.
20 And it's possible, I suppose, that they began
21 producing before 2:42.

22 A. Yeah. I know I thought it was earlier than that,
23 but I could be wrong.

24 Q. Okay.

25 A. There was some point in time, like I was telling

1 him, that I had actually left there and went over to
2 the other side, you know, the UBB side, and dug those
3 parts out for them and so forth.

4 Q. Okay.

5 A. You kind of, like, get busy like that and kind of
6 lose track. I suppose I should've looked at my watch
7 when Rex told me that they were running again, and I
8 may have. You know, if I did, I just don't recall
9 what time it was.

10 Q. Okay. Now, I think you indicated Mr. Roles may've
11 gone underground?

12 A. Yeah, he called me from underground. I don't know
13 his exact whereabouts, but apparently he'd either been
14 there or talked to someone on the phone, because he
15 knew about the pin coming out.

16 Q. Okay. The problem involving the pin on the
17 longwall panel, who would've been doing the work on
18 the longwall face to do the repairs?

19 A. Grover Skeens and Nick McCroskey and whoever else
20 on the face that they might've needed for help or a
21 gopher or whatever.

22 Q. Okay. Other than Mr. --- other than possibly Mr.
23 Roles, do you know if anyone other --- anyone else
24 went to the longwall that day?

25 A. Not that I'm aware of, no.

1 Q. Okay. Were you underground at all that day
2 anywhere?

3 A. No. No, I had actually considered, you know,
4 should I go up there and help those guys? But I had a
5 lot of stuff to take care of. And that type of job
6 you've got --- which probably one of the shearer
7 operators would've been there with the remote control,
8 operating the ranging arm back and forth, trying to
9 line up the pin. Grover and/or Nick would've been
10 there watching to see, you know, see if it was going
11 to line up where they could get it back into place to
12 get the keeper back in there.

13 Q. Okay. In reading the longwall pre-shift/on-shift
14 report book for the month of March 2010, the entries
15 in the exam book indicate that the longwall face
16 ventilation or the quantity of air in cubic feet per
17 minute around the 1st of March, first week or so of
18 March, was around 115,000 cubic feet per minute. Now,
19 sometime between then and the latter part of March the
20 entries reduced to somewhere in the range of 55,000 to
21 60,000, indicating a fairly significant decrease in
22 the quantity of air on the longwall face in cubic feet
23 per minute. Do you recall hearing about any details
24 of how that might've occurred?

25 A. No. The only thing I know about that is I know

1 that we did have --- everybody was complaining about
2 way too much air, and then after that I heard, you
3 know, that we didn't have as much air as they did, but
4 they still had plenty of air.

5 Q. Uh-huh (yes).

6 A. As far as quantities and stuff, no, I didn't hear
7 anybody talking about any of the air quantity. But
8 you should be --- you should be able to determine that
9 from their pre-shift, you know, fire boss reports,
10 because I'm thinking that kind of coincided with that
11 air change that was made, you know, what you was
12 talking about the air where we were actually down for
13 the order and stuff. I think that coincided together
14 time-wise or real close, anyway.

15 Q. Do you think that air change --- would that air
16 change have specifically been made to improve the
17 ventilation on the two miner sections, Headgate 22 and
18 Tailgate 22?

19 A. I don't know.

20 Q. Okay.

21 A. What I was thing is that whatever they did --- and
22 this is just me and I'm not the ventilation guy, but I
23 thought that that air change --- that difference in
24 that air came --- just came about in order to fix
25 whatever that was, the air going outby on the tail.

1 And I know they had to build some stoppings and stuff
2 like that, but I thought that was part of that. I
3 don't know.

4 Q. Okay.

5 A. I may've been wrongfully assuming that.

6 MR. FARLEY:

7 Okay.

8 EXAMINATION

9 BY MS. SPENCE:

10 Q. I just have a couple. Who did the ventilation
11 plan for the mine? Do you know?

12 A. No.

13 Q. And did you ever hear anybody complain about not
14 enough air, anybody on any section?

15 A. Let me be careful how I say this; okay? I heard a
16 complaint, but that was not --- and I'm a little
17 touchy about that. The guy did not say not enough
18 air. It was Boone Payne. He was also a victim from
19 Headgate 22 up there, and he made it --- and he ran a
20 roof bolter and it gets hot around those roof bolters.
21 One evening ---. And I also spoke to Mike Belcher
22 about this, but you know, it was quitting time and I
23 told him that, well ---. What I told Mike Belcher was
24 what Boone had said as he was getting changed and
25 getting a shower or else he'd done took that shower,

1 but he said he wished they get him more air up there
2 because he was burning up around that bolter.

3 He did not say he did not have enough air.

4 Whatever amount of air he had, though, he wanted more.

5 And he did say they were working on it and it was
6 better than what it was. I do remember him saying
7 that. I don't know what they were working on or where
8 they were doing it, but he did say it was better than
9 --- and this was at a later time; okay? Now, when he
10 said they were working on it, it was better than what
11 it was, that was probably a few days later. So they
12 did something to help the air is the only thing I can
13 say out of that. He was wanting more air to help him
14 keep cool.

15 Q. Do you know approximately when that was, like, an
16 approximate date?

17 A. It was February or March.

18 Q. Okay. And when he said it was better when he ---?

19 A. Well, just a few days later, and I don't think he
20 was even talking to me. He was talking to somebody
21 else. I was just in proximity to him.

22 Q. Did you participate in the rescue or recovery ---

23 A. No.

24 Q. --- on April 5th?

25 A. No.

1 MS. SPENCE:

2 Thank you.

3 A. The only thing I really did in that is when
4 brought the first mantrip out with those guys, I
5 helped move some of them around. That was all.

6 ATTORNEY WILSON:

7 Is that it? Do you have anything?

8 RE-EXAMINATION

9 BY MR. SHERER:

10 Q. One last question, Mr. Laverty. Given everything
11 you know about the circumstances and conditions, what
12 would you recommend that we do, that we look at to try
13 to figure out what happened up there?

14 A. To try to figure out what happened. Well, you
15 know, the interesting parts about all that is to me, I
16 think --- or it seems to me like that everybody has
17 been saying or talking at least like this probably
18 started up on the longwall. And I don't know. Maybe
19 it did. But in light of, you know, some things that
20 you guys have spoke about, especially with the shear
21 designator, the water valves being turned off, I don't
22 know.

23 You know, it seems more --- it seemed to me like
24 everything was shut off up there, so you know, I can't
25 say that it come from the wall. I know about the

1 crack that they found there up the tail entry; okay.

2 I'm sure you know about the crack found in it.

3 Q. Sure.

4 A. That's what I would be looking at and see if that
5 was a source for the methane. I know that's what
6 happened when we had those inundations before. The
7 bottom busted open and you got this.

8 Q. Sure.

9 A. So I think that that's a very significant
10 possibility that that's where it come from. As far
11 the ignition source, if everything was turned off, the
12 guys were even maybe possibly ---- there was nobody
13 back there at the shearer; right? The closest was
14 probably around the mid face area. Were they walking
15 off the line? Was possibly Grover down there going to
16 check the --- check on the place in the cable? Maybe
17 he hadn't even found the place in the cable. I would
18 look at that cable ---

19 Q. Sure.

20 A. --- and take meters and have electricians check it
21 and see if it reads grounded. Or you know, or maybe
22 he had started --- and it might be hard to discern
23 whether explosive force blew the cable handler apart
24 or did he find a place where the cable handler had
25 hung on something and broke it apart? Look for a

1 damaged place in the cable there.

2 Q. Sure.

3 A. And I'm sure you guys has already thought of all
4 of this.

5 Q. Well, we haven't thought of all of it, and ---.

6 A. The ignition source, I don't know if there's any
7 way. Can you determine ---? All right. We've talked
8 about how the air was moving on the tail. When we got
9 that violation and were shut down, it was moving
10 outby; right? How was it moving the day this
11 happened?

12 Q. Well, that's ---.

13 A. Is there any way to determine that? Is there any
14 way --- is there any over on that side? Is there any
15 other directions it could've took to get to an
16 ignition point? You know, possibly --- and you know,
17 I spoke to Mike at this time. Of course there's a lot
18 of stuff come to light then. I thought maybe they had
19 had a crack outby somewhere ---

20 Q. Sure.

21 A. --- and an inundation like that, and you know,
22 those belt heads, the Mother Drive belt heads are D.C.
23 motors. They're not really explosion proof.

24 Q. Sure.

25 A. They're not really atmospheric proof, other than,

1 you know, some minimal stuff to keep the dust out of
2 them.

3 Q. Sure.

4 A. But you have D.C., you know, brushes and armature
5 and commentators that naturally have a tendency to
6 make sparks at least periodically or from time to
7 time. Is there any way at either one of those that
8 this explosive atmosphere could have reached those
9 points?

10 ATTORNEY WILSON:

11 Are you talking about on the headgate
12 side, the belt?

13 A. Well, either way. You have two Mother Drives.
14 You had that one at the Glory Hole area was the same
15 type.

16 MR. SHERER:

17 Okay.

18 A. But you know, depending on how that methane
19 traveled ---

20 ATTORNEY WILSON:

21 Yeah.

22 A. --- yeah, your ---. Where is your Mother Drive on
23 here; right here?

24 ATTORNEY WILSON:

25 Around Break 100.

1 A. All right. Now, is there any way it could've
2 reached this point or even this point over here, I
3 guess, probably here?

4 ATTORNEY WILSON:

5 By the Glory Hole?

6 MR. SHERER:

7 Yeah.

8 ATTORNEY WILSON:

9 Towards that?

10 A. Then there's a lot of electrical installations in
11 between them.

12 BY MR. SHERER:

13 Q. Oh, sure.

14 A. And there's power boxes and ---.

15 Q. Yeah.

16 A. I don't know if you know. How was this area fire
17 bossed? Did they have any kind of grind that they
18 fire bossed any of that with? Where was it at?

19 ATTORNEY WILSON:

20 And you're pointing to the tailgate of
21 the longwall?

22 A. Yeah, the tailgate entries and stuff.

23 BY MR. SHERER:

24 Q. That's something we're checking up on. To be
25 quite honest with you, the source of the methane we

1 don't know. We're still trying to investigate that.

2 A. Right.

3 Q. If the crack --- if there was an outburst in a
4 crack in the tailgate, that's a big question, because
5 it should've gone inby ---

6 A. Inby; right.

7 Q. --- and then out of the Bandytown fan.

8 A. And my question --- well ---.

9 Q. I mean, this longwall should've been the best
10 ventilated part of the coal mine.

11 A. Yeah. And I think the face was. I just don't
12 know about --- what about this area here? How well is
13 it ventilated?

14 ATTORNEY WILSON:

15 You're pointing to the crossover
16 between ---?

17 A. Yeah, at one time that was Headgate One. It had a
18 miner section there ---

19 ATTORNEY WILSON:

20 Uh-huh (yes); okay.

21 A. --- you know, driving across there. Has it been
22 looked at? Is there any kind of cracks or anything
23 over in there at the tail?

24 BY MR. SHERER:

25 Q. We have been up through there with several

1 different teams. Nothing has really stood out up in
2 this area that I know of.

3 A. Was it fairly clean?

4 ATTORNEY WILSON:

5 Tell you what. Why don't we --- let's
6 not get into a ---. Off the record ---

7 MR. SHERER:

8 Sure.

9 ATTORNEY WILSON:

10 --- we can talk about that.

11 A. Okay.

12 MR. SHERER:

13 Yeah, all right.

14 ATTORNEY WILSON:

15 But just finish up with the questioning.

16 MR. SHERER:

17 Okay, sure.

18 A. I'm probably working your fingers to the bone.

19 ATTORNEY WILSON:

20 Yeah.

21 MR. SHERER:

22 Yeah.

23 ATTORNEY WILSON:

24 Sorry about that.

25 A. I'm sorry.

1 ATTORNEY WILSON:

2 No, that's fine. We can talk about it
3 off the record.

4 A. Sure.

5 MR. SHERER:

6 Okay. I don't have any more questions.

7 ATTORNEY WILSON:

8 Terry, anything?

9 MR. FARLEY:

10 A couple, three.

11 RE-EXAMINATION

12 BY MR. FARLEY:

13 Q. I think earlier you may've indicated that --- you
14 speculated that maybe there was a cable problem
15 resulting in someone pulling the power disconnecter on
16 the longwall?

17 A. Right.

18 Q. If that were the case, would it have been typical
19 for the longwall personnel to have called out, called
20 the problem outside as soon as possible? How quickly
21 would they get around to making the call outside?

22 A. They should've. They didn't always do that.

23 Sometimes you had to fuss at them a little bit. I
24 want to know --- if that's down I'd like to know, you
25 know, why, how long and so forth. Sometimes if it was

1 going to be a small job or something, they wouldn't
2 call, you know, other than until it got to their
3 normal, you know, their half hour callout time. But
4 that doesn't mean that every time that they stopped
5 they'd call it out, you know. That could've happened
6 and, for instance, Grover wanted to take a look at it
7 so he could give them some kind of estimate of how
8 long it was going to be, you know. So he would've
9 waited before he told the headgate boss guy to go
10 ahead and call out and tell them it was going to be a
11 hour or two hours or whatever. You'd just hate to
12 miss a call out, we're down. That's all I know, you
13 know.

14 Q. Okay. All right. I think earlier Erik asked you
15 if you were aware of methane floor outbursts on
16 previous longwall panels in 2003 and 2004 at UBB.

17 A. Uh-huh (yes).

18 Q. Other than those two events he referred to, have
19 you heard of any other such events at UBB Mine?

20 A. No.

21 Q. Okay.

22 A. Unless, you know, we were away from them at
23 Logan's Fork for a while. You know, I don't know
24 really what went on there during that time frame, but
25 I would think that I would hear about it. But you

1 know, we never heard anything.

2 Q. Okay. Since you returned to UBB in the summer of
3 2009, have you personally participated in any major
4 equipment moves? Now, let me define that. Major
5 equipment move would involve transporting something
6 like a continuous miner or section equipment on a
7 track mounted or rubber tired cars towed by a mantrip
8 or ---

9 A. No.

10 Q. --- pushed. Have you participated in such moves?

11 A. No.

12 MR. FARLEY:

13 Okay. I'm done, too.

14 ATTORNEY WILSON:

15 All right. Let's go off the record.

16 OFF RECORD DISCUSSION

17 ATTORNEY WILSON:

18 Can you go back on?

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. Okay. Mr. Laverty, were you involved in the
22 weekly electrical exams?

23 A. No, not really, other than, you know, when I
24 could. I would try to go through to make sure they
25 had been done or try to remind the guys, hey, your

1 permissibility's due, but not as far as me going in.
2 Every now and then, you know, I would see where
3 somebody had missed something and if it was within the
4 time frame I could do it, I would go try to pick up
5 the slack on something; okay. Or if I just happened
6 to be around there looking at something, you know, to
7 see what kind of shape it was in, I'd go ahead and
8 check around on it and, you know, put it in the book
9 or something, but ---

10 Q. Sure.

11 A. --- day to day, week to week, no, that wasn't.

12 MR. FARLEY:

13 Okay. Thank you. That's all I got.

14 EXAMINATION

15 BY ATTORNEY WILSON:

16 Q. Just one follow-up. Who was some of the people
17 that you can recall that did the weekly examinations
18 on the longwall?

19 A. Grover Skeens. Well, any of the electricians,
20 Tommy Estep. They all kind of had stuff, and
21 sometimes I would see, you know, looking through and
22 say, well, Grover didn't get it. Well, maybe
23 something was down. And he was working the dayshift
24 and I said, you know, if he didn't get this, you need
25 to get that this evening or whatever. But any of the

1 electricians could've been working on it.
2 The third shift guys, for instance, Shannon
3 Dickens or Chad Neil, would primarily take care of ---
4 we tried to work it out where they had mostly the
5 stuff that you would actually have --- that would shut
6 down production, to do that on the idle shift, you
7 know, like the shearer or the tail drive or the head
8 drive, stuff like that. Other things like the scoops
9 or the haulers and chargers, stuff like that could've
10 been done. While they were running coal we tried to
11 get it to the production, the guys that was up there
12 on production shift.

13 ATTORNEY WILSON:

14 Terry, anything?

15 MR. FARLEY:

16 I don't think so. Thank you.

17 MS. SPENCE:

18 I don't have anything.

19 ATTORNEY WILSON:

20 No? All right. Then I think those are
21 all our questions. On behalf of MSHA and the Office
22 of Miner's Health, Safety and Training, I want to
23 thank you for appearing today and answering questions.
24 Your cooperation is very important as we work to
25 determine the cause of the accident. Again, because

1 we will be interviewing additional witnesses, we
2 request that you not discuss your testimony with
3 anyone outside of this room.

4 After questioning other witnesses, we may
5 call you or Mr. Hardy if we have any follow-up
6 questions that we feel that we need to ask you. Also,
7 if you do think of any additional information that you
8 think may be helpful, please contact us or the State
9 at the contact information that we've provided, either
10 directly or through Mr. Hardy. Before we go off the
11 record, I promised that would give you opportunity.
12 If there was anything that you wanted to add to the
13 record or any statement that you wanted to make, you'd
14 have that opportunity, and you can do that now.

15 A. Has anyone went in at Headgate 22 yet? Are they
16 checking anything or hitting very hard?

17 ATTORNEY WILSON:

18 Well ---.

19 A. Have they been able to get in there? At one time
20 I heard it was flooded and they haven't been able to
21 do much.

22 ATTORNEY WILSON:

23 You know, again, I'd rather ---.

24 A. Okay.

25 ATTORNEY WILSON:

1 We can talk about stuff off the record as
2 far as answering questions you might have, but at this
3 point, you know, if there's anything else that you
4 want to add to the record, we can do that now. And
5 then after we go off the record, if we want to --- you
6 want to talk about stuff, we can do that. Is there
7 anything else that you want to add at this point?

8 A. No, no, I think that, you know, as far as what I
9 can tell you, you know, that I've told you pretty
10 much.

11 ATTORNEY WILSON:

12 All right. Again, we appreciate that.

13 All right. Thank you. Then we'll conclude and we'll
14 go off the record.

15 * * * * *

16 STATEMENT UNDER OATH CONCLUDED AT 2:50 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