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Statement Under Oath of **Mitchell Williams**

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STATEMENT UNDER OATH

OF

MITCHELL WILLIAMS

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 Thursday, August 12, 2010, beginning at 8:08 a.m.

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

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KATHERINE WILLIAMS (WIFE)

PERSONAL REPRESENTATIVE

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. Today is August 12, 2010. We're here this morning to conduct an interview of Mitchell Williams. Mr. Williams, thank you for coming in this morning. Also present are individuals with the State of West Virginia, and I will go around the table and ask everyone to identify themselves, starting with Barry.

MR. KOERBER:

My name is Barry Koerber. I'm the Assistant Attorney General assigned to represent the Office of Miners' Health, Safety and Training.

MR. O'BRIEN:

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

MR. FARLEY:

I'm Terry Farley, also with Miners' Health, Safety and Training.

MR. SHERER:

Erik Sherer with MSHA.

MS. SPENCE:

1 Beth Spence with the Governor's  
2 independent investigation.

3 ATTORNEY WILSON:

4 Good. Thank you. At this point I'll  
5 turn it over to Mr. Koerber, who's going to go through  
6 some preliminaries relating to the subpoena that was  
7 served.

8 OFF RECORD DISCUSSION

9 -----

10 MITCHELL WILLIAMS, HAVING FIRST BEEN DULY SWORN,  
11 TESTIFIED AS FOLLOWS:

12 -----

13 ATTORNEY KOERBER:

14 Sir, would you please state your full  
15 name for the record and spell your last name?

16 A. Mitchell J. Williams, W-I-L-L-I-A-M-S.

17 ATTORNEY KOERBER:

18 And would you please state your address  
19 and your telephone number, please?

20 A. (b) (7)(C)

21 (b) (7)(C)

22 ATTORNEY KOERBER:

23 And are you here, appearing here today  
24 pursuant to a subpoena?

25 A. Yes, sir.

1 ATTORNEY KOERBER:

2 I'm going to hand you a copy of the  
3 subpoena that was served upon you. Take a look at  
4 that and make sure that is a true copy. And I'd ask  
5 that that be made Exhibit One.

6 (Williams Exhibit One marked for  
7 identification.)

8 ATTORNEY KOERBER:

9 And I'm also going to hand you a copy of  
10 the return of service that the Sheriff's office filled  
11 out after they served you, together with a copy of the  
12 same subpoena, and ask that that be marked as Exhibit  
13 Two.

14 (Williams Exhibit Two marked for  
15 identification.)

16 ATTORNEY KOERBER:

17 And then I had a telephone conversation  
18 with your wife earlier this week, requesting a change  
19 in the subpoenaed to time. Would that be a correct  
20 statement, sir?

21 A. That's correct.

22 ATTORNEY KOERBER:

23 And we agreed upon today at 8:00 a.m. ;  
24 correct?

25 A. Correct.

1 ATTORNEY KOERBER:

2 And that's what time you appeared;

3 correct?

4 A. Yes.

5 ATTORNEY KOERBER:

6 And I sent you a confirmation letter to

7 that effect; correct?

8 A. Correct.

9 ATTORNEY KOERBER:

10 And would you take a look at that letter

11 and make sure that that's a copy of the letter you

12 received?

13 A. Same one.

14 ATTORNEY KOERBER:

15 Okay.

16 ATTORNEY KOERBER:

17 I'd ask that that be marked as Exhibit

18 Three.

19 (Williams Exhibit Three marked for

20 identification.)

21 ATTORNEY KOERBER:

22 Sir, do you have an attorney with you

23 here today?

24 A. No, sir. I have a personal representative.

25 ATTORNEY KOERBER:

1 Okay. And would you identify who your  
2 personal representative is?

3 A. It's my wife, Katherine Williams.

4 ATTORNEY KOERBER:

5 Ma'am, would you state your name for the  
6 record?

7 MRS. WILLIAMS:

8 It's Katherine Williams.

9 ATTORNEY KOERBER:

10 Sir, I spoke to you earlier before the  
11 interview began, but as I explained earlier, the  
12 statute that gives the director the authority to  
13 subpoena witnesses requires the director to pay a \$40  
14 a day witness fee, plus mileage. I have two forms  
15 that must be filled out in order for you to receive  
16 the witness fee and the mileage. One of those forms  
17 require you to present your Social Security Number.  
18 Would you like to fill those documents out and receive  
19 payment, or do you decline payment?

20 A. I decline payment.

21 ATTORNEY KOERBER:

22 Thank you, sir. I'm passing it back over  
23 to Mr. Wilson.

24 ATTORNEY WILSON:

25 Thank you. Mr. Williams, there are

1 another member of MSHA's team here in the room. I  
2 just want to let you know that. The only people that  
3 are present are with the three government entities.

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

22 Government investigators and specialists  
23 have been assigned to investigate the conditions,  
24 events and circumstances surrounding the fatalities  
25 that occurred at the Upper Big Branch Mine-South on

1 April 5th, 2010. The investigation is being conducted  
2 by MSHA pursuant to Section 103(a) of the Federal Mine  
3 Safety and Health Act and by the West Virginia Office  
4 of Miners' Health, Safety and Training. I want to  
5 thank you for your appearance here this morning and  
6 your assistance in this investigation.

7 This is not an adversarial proceeding.

8 Formal Cross Examination is not permitted; however,  
9 each of the parties will be able to ask follow-up,  
10 clarifying questions as we proceed.

11 Your identity and the content of this  
12 interview will be made public at the conclusion of the  
13 interview process and may be included in a public  
14 report of the accident. You may request that your  
15 identity be held confidential, and to the extent that  
16 we are permitted by law to do so, we will hold that  
17 --- respect that confidentiality request. However, if  
18 a judge or some other law requires that we reveal your  
19 name, we may be compelled to do so. Also, there may be  
20 a need to use the information that you provide to us  
21 and other information --- or other information that  
22 you may provide to us in the future in other  
23 investigations or hearings concerning the explosion.  
24 Do you understand your right to request  
25 confidentiality?

1 A. Yes.

2 ATTORNEY WILSON:

3 Do you have any questions about that?

4 A. No.

5 ATTORNEY WILSON:

6 All right. After the investigation is

7 complete, MSHA will issue a public report detailing

8 the nature and the cause of the fatalities in the hope

9 that greater awareness about the causes of accidents

10 can reduce their occurrence in the future.

11 Information obtained through witness interviews is

12 frequently included in the reports. We will be

13 interviewing additional witnesses, so we ask that you

14 not discuss your testimony with anyone outside of this

15 room.

16 A court reporter will be recording the

17 interview, so please speak loudly and clearly in

18 answering the questions. If you do not understand a

19 question asked, please ask that it be rephrased.

20 Please answer each question as fully as you can,

21 including information that you may have learned from

22 someone else.

23 Again, I want to thank you for appearing

24 this morning. Your cooperation is critical in making

25 the nation's mines safer.

1 After we have finished questions, we will  
2 provide you with an opportunity to make a statement or  
3 provide any additional information that you think  
4 might be helpful to our investigation. If after the  
5 interview today you think of any additional  
6 information that you would like to provide to us,  
7 please contact us.

8 I'm going to hand you a letter that  
9 requested, formally requested your appearance here  
10 today. Of course, you've been subpoenaed. That  
11 letter contains contact information where you can  
12 reach us here at the Mine Academy. You've been sworn  
13 in. I'm going to pass over now to Terry Farley to  
14 begin the questioning for the State.

15 MR. FARLEY:

16 Mr. Williams, first I'd like to advise  
17 you that on behalf of the Office of Miners' Health,  
18 Safety and Training that the West Virginia Mine Health  
19 and Safety Regulations also provide protection against  
20 potential discrimination resulting from participation  
21 in these kind of interviews. I would pass along some  
22 contact information to you for the West Virginia Board  
23 of Appeals which hears appeals from miners concerning  
24 potential discrimination. Also, you see a phone  
25 number for Mr. Bill Tucker and myself, who would also

1 try to help you if need be.

2 EXAMINATION

3 BY MR. FARLEY:

4 Q. Mr. Williams, how long have you been a coal miner?

5 A. About going on four --- four or five years.

6 Q. Four or five years? Okay. How long have you been  
7 with Massey?

8 A. All that time.

9 Q. Okay. All your four or five years with Massey?

10 A. Yes.

11 Q. Okay. Now, where exactly are you working now?

12 A. Down the Elk Run Roundbottom, Shonk One, the mines  
13 they had opened up three years ago.

14 Q. Okay. All right. Now, prior to April 5th, was  
15 all of your four or five years with Upper Big Branch  
16 Mine?

17 A. Yes, yes.

18 Q. Okay. When you first started with UBB, did you  
19 start as a contractor?

20 A. No, sir.

21 Q. And were you hired initially as a member?

22 A. Yes, sir.

23 Q. Okay. And I take it you were a red hat then?

24 A. Yes, sir.

25 Q. Okay. As of April 5th, 2010, what was your job

1 assignment at UBB?

2 A. I was a bolter operator.

3 Q. Okay. What part of the mine were you working in  
4 prior to April 5th?

5 A. I was on the north side. We was working on the  
6 new section about ten breaks from Ellis Portal.

7 Q. Okay. Now, were you working on April 5th?

8 A. On April 5th? No, sir.

9 Q. Okay.

10 A. I was getting ready to come in on that shift, so  
11 that's --- I worked the Easter Holiday. We was  
12 cutting out a belt channel, me and this other guy, the  
13 miner operator. We stayed back and cut a belt channel  
14 out and that was Saturday morning. We worked Friday  
15 and Saturday morning while everybody else was on  
16 vacation, and we come in on evening shift that Monday.  
17 They let us have Sunday off.

18 Q. Who was the fellow that you worked with on Friday  
19 and Saturday when you cut the belt channel?

20 A. Kenny Thompson.

21 Q. Kenny Thompson; okay. Anybody else assist you  
22 with that project?

23 A. It was just me and Kenny. Well, Terry Moore come  
24 down there and overlooked us a couple times ---

25 Q. Okay.

1 A. --- to see what we was doing and went back up.  
2 He's the mine foreman for that side.

3 Q. Okay. Now, how long had you been working in that  
4 area of the mine where you cut the belt channel?

5 A. We started over there about three weeks, three  
6 weeks prior to that.

7 Q. Okay.

8 A. We was building that.

9 Q. Okay. Now, was the purpose of that work to  
10 prepare for a new longwall panel in that area of the  
11 mine?

12 A. No. We just cutting out some coal that we had  
13 left over there from LBB.

14 Q. Okay.

15 A. Lower Big Branch.

16 Q. Now, prior to coming to the construction site near  
17 Ellis Portal where you worked for about three weeks  
18 prior to April 5th, where did you work prior to that  
19 in the mine?

20 A. On the south side.

21 Q. Would that have been on what was called the Portal  
22 section?

23 A. Yeah. Yeah, it's from UBB side.

24 Q. Okay.

25 A. But before I went to Three section I worked on Two

1 section up in the north side. I worked on Two section  
2 first, then went to Three section.

3 Q. Okay. Now, when you say Two section in the north  
4 part of the mine, would that have been the longwall  
5 tailgate development entries?

6 A. Yes. Right before --- right before they moved the  
7 longwall in there, I got moved to Three section  
8 because they needed another bolt man on ---

9 Q. Okay.

10 A. --- Three section.

11 Q. You've got a map in front of you, I think, which  
12 would show the existing longwall panel at the time of  
13 the --- time of the explosion.

14 A. Uh-huh (yes).

15 Q. Now, can you indicate where you started working in  
16 the Two section or late development area?

17 A. Yes. We was driving this panel up right here.

18 Q. Okay. Now, this panel, you're referring to the  
19 longwall tailgate entries, starting about ---?

20 A. Seventy-two (72) Break all the way up to, like,  
21 108, 120 Break. That's where I stopped.

22 Q. Here's 100.

23 A. Yeah. Yeah, we was driving up to the tailgate.

24 Q. Okay. Now, do you recall approximately when you  
25 started in that area, where you were driving these

1 gate entries?

2 A. When I started?

3 Q. Yes, sir.

4 A. It was about three years ago.

5 Q. Okay. All right. Were you a roof bolter then,  
6 too?

7 A. Then I was a ---- I started --- that's where I  
8 started red hat.

9 Q. Okay.

10 A. On the section. Ventilation, I'd done ventilation  
11 and got trained on that, and then scoop and then the  
12 buggy, and then bolting.

13 Q. Okay. Now, when you say you did ventilation, does  
14 that mean that your job classification was ventilation  
15 man or ventilation person on the working section crew?

16 A. Yes, I would ventilate a section.

17 Q. Okay. Did the UBB Mine or the Massey Mines in  
18 general ever stop allowing each section to have a  
19 person designated to take care of ventilation?

20 A. Rephrase that?

21 Q. Okay. Had the UBB Mine always had a ventilation  
22 man on each working section?

23 A. No, sir. We ventilated as we went up. Everybody  
24 took --- everybody ventilated together.

25 Q. Okay.

1 A. Just one --- like, we got running real fast or  
2 something, they had one guy pull back just to put your  
3 check curtains and your ---

4 Q. Okay.

5 A. --- backup curtains and stuff and make sure the  
6 were up.

7 Q. Okay. All right. As you were driving Two  
8 section, how often did you encounter any methane? How  
9 often did your boss or other people on your section  
10 detect any methane?

11 A. At that time, it was always clear. It was always  
12 good.

13 Q. Okay.

14 A. We did a check. We did a pre-op check or ---. We  
15 did a check every ---. They always did a check on it.

16 Q. Okay. Did you recall ever encountering any high  
17 --- any explosive concentrations of methane as you  
18 were driving those entries?

19 A. No, sir.

20 Q. Okay. Now, you indicated that you worked at Two  
21 section until you got to about Crosscut 120.

22 A. Uh-huh (yes).

23 Q. Now, where'd you go then?

24 A. Well, I went to --- they sent me to Three section  
25 on the south side.

1 Q. Okay. Now, did you ever come back to that area of  
2 the mine ---

3 A. Yes, I did.

4 Q. --- as it advanced?

5 A. Well, I come back when we had that flood. The Old  
6 --- we called it the Old Two section then. And they  
7 had that flood come in, so we stopped, put the  
8 sections on idle. Well, I went up there to help them  
9 on Old Two section on that flood. It was, like, two  
10 weeks, and that's what my main concern was, because we  
11 had a lot of people we had carrying Solarises. They  
12 would stick them down in the water and they'd get some  
13 methane on it. And they kept talking to --- I think  
14 it was the fire boss now, is Jeremy Burdoff. He was  
15 the one that was over the water.

16 And prior to this, about a couple weeks, a couple  
17 weeks before the explosion they were taking --- they  
18 was shutting off the Old Two section. Now, see, I was  
19 back on Three section.

20 I got a twin brother that worked as a contractor  
21 at this time, and he was up here on the water detail,  
22 and they --- he knew a lot about it. He was the one  
23 that was telling me that they was shutting off ---  
24 they was putting Kennedy stoppings around the fan,  
25 cutting off the air. They was cutting ---. They was

1 building ---. Across the tracks they built a stopping  
2 and they started --- all these regulators that we made  
3 for this flood that we had, they started sealing  
4 everything back up. And he said it was getting real  
5 hot in there and he ---. Now, he told me they was  
6 getting high methane in there.

7 Q. Okay. Let me back up a little bit. What's your  
8 brother's name?

9 A. Michael Williams.

10 Q. Michael. Okay. Now, when did the flood you were  
11 talking about occur?

12 A. It was back in November 2009.

13 Q. Okay.

14 A. October.

15 Q. Now, when did you have your conversation with  
16 Michael?

17 A. After the explosion he ---. See, he got laid off  
18 a week before the explosion. And he also was a setup  
19 crew for the longwall. And he was telling me ---- he  
20 was telling me that they was, like, barricading,  
21 barricading where the water was with building  
22 stoppings in Old Two section.

23 Now, he was telling me he thinks that ---. You  
24 know how the longwall shearer is right beside the Old  
25 Two section. He thinks that the gas build up so much

1 pressure in there that when the shearer come through,  
2 it had gas that's build up in that --- up in that  
3 room. And we was trying to figure --- that's what we  
4 was figuring out on the fan part, because why would  
5 they block the fan when the air was trying to come  
6 through there?

7 Q. Okay. Now, was he of the opinion that maybe the  
8 water had roofed, causing some sort of methane  
9 buildup?

10 A. Uh-huh (yes). Yes, sir.

11 Q. Okay. And he would've been in the area where the  
12 water was in the headgate entries about a week prior  
13 to the explosion; is that correct?

14 A. Yes.

15 Q. Okay.

16 A. That was his main --- that was one of his jobs,  
17 besides the longwall setup, was to work on that water.

18 Q. Okay. You indicated Michael was laid off. Where  
19 is he working now?

20 A. ICG.

21 Q. Okay. Any particular reason why he was laid off  
22 that you know of?

23 A. He worked as a contractor and they wouldn't hire  
24 him on fast enough, you know. So he needed a better  
25 pay. And he couldn't take that \$15 an hour thing,

1 so ---.

2 Q. Oh, jeez.

3 A. He had a family to support.

4 Q. Sure.

5 A. ICG offered him more money.

6 Q. Okay. Which ICG operation does he work at?

7 A. The one up here in ---

8 Q. Is it the one near Eccles?

9 A. --- Route 3, yeah.

10 Q. The one at Eccles?

11 A. Yes, sir.

12 Q. Okay. We may want to talk to Michael.

13 Q. He knows more about that side than I do.

14 Q. Okay.

15 A. About the water side, Old Two section. He's the  
16 one that built the stopping across the track and  
17 everything. He couldn't understand why we was doing  
18 it because he was saying it was blocking air.

19 Q. Where is this stopping that you're talking about  
20 that he built across the track?

21 A. Okay. Let me see here. They put double doors  
22 at ---.

23 Q. Would those double doors have been on the longwall  
24 headgate side?

25 A. Well, we had double doors on the Old Two section

1 and going up towards One section.

2 Q. Now, these doors you're referring to, when did  
3 Michael help build them?

4 A. He built them 2009. Let me see. I'm trying to  
5 remember when he built these doors, ---

6 Q. Right.

7 A. --- because he was the one that put them up.

8 Q. You got doors at ---

9 A. Right.

10 Q. --- 78, and the map indicates there are doors over  
11 on the tailgate side, too ---

12 A. Yeah, he built the --- he built the ones on the  
13 tailgate side.

14 Q. Okay.

15 A. These right here was already up.

16 Q. Okay. Now, are the ones on the tailgate side the  
17 ones you're referring to that Michael helped build?

18 A. Right. Yes, sir.

19 Q. Okay. Do you know if Michael helped build any  
20 other doors?

21 A. He said he's been putting up doors. He don't know  
22 why they're putting them ---. He said he's been  
23 putting up a lot of doors.

24 Q. They've got a lot of doors ---.

25 A. Yeah. He said he's put a lot of them. And then

1 he said he started taking some of them down, something  
2 about the water. He said he was taking them down and  
3 then he started putting stoppings on the tracks.

4 Q. Okay.

5 A. See, that's what confused everybody, why they was  
6 doing that.

7 Q. Okay. Now, in the area of the flood where you  
8 indicated you went to help, as we understand it, the  
9 area of the water problem was from about on the  
10 headgate side of the longwall from about 65 and inby  
11 towards 95 and 100; is that about right?

12 A. Yes, sir. It went deeper than that.

13 Q. It went farther?

14 A. Yes, sir.

15 Q. Okay. Any idea about how much farther it went?

16 A. About 120.

17 Q. Okay. That would be about ---.

18 A. Yeah, because it almost --- it almost went up to  
19 the fan, because that's where we were walking up to.

20 Q. Okay. Now, as you were trying to deal with this  
21 water and proceed toward the Bandytown fan, how many  
22 of the entries had water that was roofed?

23 A. I'd say about ten.

24 Q. Okay. Now, let me help you out here. You've got  
25 --- now, you've got ---. From 60 --- from about 65

1 here you've got three ---. You got three gate entries  
2 on this side. Now, down when you get further towards  
3 the Bandytown fan you've got five.

4 A. Right.

5 Q. All right? Now, how many of them were roofed as  
6 you traveled through that area, where the water was  
7 completely against ---?

8 A. It was going back this way towards ---. It was  
9 going outby the ---. Like, you'd go from 100. Then  
10 when it got to --- when it got to, like, 88 Break it  
11 was roofed out and you couldn't go back up in there.

12 Q. Okay.

13 A. We just couldn't get up in there. Like, it went  
14 across the track, above the track, went above the belt  
15 line, the old head.

16 Q. Okay. How deep was the water that you had to wade  
17 past through here.

18 A. Up by my chest.

19 Q. Okay. All right. Okay.

20 A. About four foot.

21 Q. Okay. Now, if I understood you correctly, this  
22 was --- with the flood that you helped with is  
23 sometime in the latter part of 2009?

24 A. Yes.

25 Q. Okay. Now, if I understood you correctly, you

1 spent about two weeks helping take care of the water?

2 A. Two weeks or more.

3 Q. Okay. All right. After you helped to take care  
4 of the water, did you go back to the Three section on  
5 the south side of the mine?

6 A. Yes, sir.

7 Q. Okay. All right. Let me move now to the Ellis  
8 Portal map if we can. Can you take one of these  
9 colored markers and show me about where you and Mr.  
10 Thompson were cutting the belt channel on the Friday  
11 and Saturday before April 5th? Show me the general  
12 area, if you can. You can circle general area. If you  
13 don't know the actual, precise location, that's okay.

14 WITNESS COMPLIES

15 A. Let's see. We had the doors here. Right there  
16 are the doors. It was about right in here.

17 BY MR. FARLEY:

18 Q. Okay. All right. Why don't you, if you would,  
19 just draw a line out here and write, belt channel, and  
20 put your initials and today's date, if you don't mind,  
21 please?

22 WITNESS COMPLIES

23 ATTORNEY WILSON:

24 And we'll mark this map as Exhibit  
25 Williams Four.

1 (William's Exhibit Four marked for  
2 identification.)

3 BY MR. FARLEY:

4 Q. Okay.

5 A. Okay. And that's where we broke the track.

6 Q. Okay. Did you break the track on Saturday ---

7 A. Yes, sir.

8 Q. --- before April 5th? Okay. Did that hold up any  
9 of the people trying to get into the mine at that  
10 point?

11 A. Well, I went out ---. Well, after that I walked  
12 up here after we broke the track and I grabbed the  
13 mantrip and put it right there in front so in case we  
14 had an emergency ride, and then ---. See, that's one  
15 thing. Kenny, he was a --- also, he had his papers as  
16 a boss.

17 And it was close to the end of the shift where the  
18 longwall was coming out, and first person we seen was  
19 --- I think it was Cory Davis and his uncle or ---.  
20 They come running down. They had to talk to Terry  
21 Moore about something. I can't remember what  
22 happened. They was in a hurry to see Terry. And they  
23 was the only two we seen come from, down from the  
24 longwall. The first --- them two first and they left  
25 --- I guess they left the other crew, but they were

1 the first ones that showed up. They come down there  
2 to talk to Terry, but Terry was already gone.

3 Q. Okay. Now, on Saturday, April the 3rd, did you  
4 and Mr. Thompson finish the work at the belt channel?

5 A. No, we still had ---. Yeah. Yeah. Yes, we did.  
6 While it was broke we wanted to get it bolted up real  
7 quick, so we had a track bolter. So we bolted it up  
8 and we backed off of it, and then we went back and  
9 welded it, welded the track back together and put a  
10 new piece in.

11 Q. Okay.

12 A. Because Terry said to put a --- like, a temporary  
13 until Monday morning. So we had the track crew come  
14 in there and replace the track for us ---

15 Q. Okay.

16 A. --- so that we can have rides coming in and out,  
17 because they was all getting ready to come off the  
18 section. The longwall was. That's the only one that  
19 was working.

20 Q. Okay. Now, prior to April 5th, were you involved  
21 in moving any equipment into the mine at the Ellis  
22 Portal?

23 A. April 5th? No. They put me on evening shift that  
24 Monday. The Three section went to evening shift. We  
25 was on swing.

1 Q. All right. Now, what about the week or two before  
2 April 5th?

3 A. No. No, I didn't move no equipment. The only  
4 thing, a week before that ---

5 Q. Okay.

6 A. --- I went to the barrier section and we was  
7 moving equipment up there.

8 Q. Okay. All right. The equipment you were moving  
9 on the barrier section, where were you moving it to?

10 A. Well, we was moving it from Four section, which is  
11 --- you go ---. I'm trying to think of its name at  
12 the time they named it. It's been so long since I've  
13 been up there. We was moving it from Four section. I  
14 was just helping them out, moving it from Four section  
15 to the barrier section. We was on 52 Break and we was  
16 moving, like ---. They was opening up the new section  
17 up there and we was moving bolters and getting them a  
18 miner up there. That was the only time I was moving  
19 equipment.

20 There was already equipment up there. Where I was  
21 going there was already equipment up there.

22 Q. Okay. Now, when you were working on the track  
23 here where you broke it near the cutout, who came down  
24 from the longwall looking for Terry Moore?

25 A. Cory Davis and another Davis. Somebody came to

1 him, another Davis guy.

2 Q. Tim Davis?

3 A. Timmy Davis. It was Timmy and Cory. I guess it  
4 was Timmy. It was somebody he was kin to. They was  
5 riding together.

6 Q. Okay. Now, there was a Davis father and son combo  
7 there.

8 A. Something like that, yeah.

9 Q. Did they say why they were looking for Mr. Moore?

10 A. No. They said they needed to talk to him. And  
11 Cory was a red hat and the other guy --- I think it  
12 was Timmy. He talked to Kenny and they said, and we  
13 need to talk to Terry. And we said, well, he done  
14 left.

15 Q. Okay. Now, did they go outside at that point ---

16 A. They walked outside.

17 Q. --- or did they go back to the longwall?

18 A. They walked on outside.

19 Q. Okay.

20 A. They left the mantrip on top the hill.

21 Q. Okay. Did you see them again that day?

22 A. Huh? No.

23 Q. Did you see them again?

24 A. They left, and then that's when the other half of  
25 the longwall ---. About half an hour later the

1 longwall, the other half of the longwall showed up.

2 Q. Okay. About your brother Mark, is it possible  
3 that you ---?

4 A. Mike.

5 Q. Excuse me, Mike. Beg your pardon.

6 A. Michael.

7 Q. Michael. We may want to talk to him. Is it  
8 possible for you to give us his address?

9 A. I can give you his phone number. What is his  
10 address? Do you know?

11 MRS. WILLIAMS:

12 No.

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

14 BY MR. FARLEY:

15 Q. (b) (7)(C) .

16 A. He was wondering why you all didn't contact him  
17 yet. He just figured since he was a contractor,  
18 that ---

19 Q. Yeah.

20 A. --- he wasn't ---.

21 Q. Well, the information we've had on who did or did  
22 not work where and when has not been entirely perfect,  
23 so we've come up with a handful of people along the  
24 way.

25 A. I understand.

1 MR. FARLEY:

2 All right. Erik, do you have anything?

3 MR. SHERER:

4 Yeah; sure.

5 EXAMINATION

6 BY MR. SHERER:

7 Q. First of all, we appreciate your coming down and  
8 talking to us about this. We especially appreciate  
9 you telling us about the situation with the water and  
10 the Bandytown fan and the stoppings and such. This is  
11 the first time we've heard of that. Now, you were  
12 talking about the Cory Davis and one of his relatives  
13 coming out early from the longwall. There's a guy  
14 named Dakota Davis. Do you think that was the guy  
15 that came out with Cory Davis?

16 A. I couldn't ---. I knew Cory. I didn't know the  
17 other guy that was with him, but I knew he was related  
18 to him, because the way Kenny was talking to them, ---

19 Q. Okay.

20 A. --- I just knew they were related.

21 Q. Sure, uh-huh (yes). Was it an older gentleman?

22 A. Yes, sir.

23 Q. Okay. Probably Mr. Timmy Davis.

24 A. He had a nickname and I can't remember what it  
25 was.

1 Q. Yeah, we've had a lot of fun trying to track down  
2 some of these nicknames. The best one was Doughnut,  
3 though. I've got to ---.

4 A. Yeah.

5 Q. Now, you say they talked to Kenny Thompson.

6 A. Yes.

7 Q. Do you have any indication what they talked about?

8 A. No, they just --- they come out looking, trying to  
9 find Terry real fast, Terry Moore and ---.

10 Q. Okay. That's of concern because that indicates  
11 something was wrong. I mean it might've been  
12 something as mundane as something broke on the  
13 longwall.

14 A. Yes, because they were the only two that showed up  
15 first.

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

17 A. And because they didn't come out with the rest of  
18 the crew, ---

19 Q. Sure.

20 A. --- which, you know, was odd.

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

22 A. And it was close to the end of the shift and they  
23 was the only ones that come down.

24 Q. Now, when the rest of the crew came out, did you  
25 talk to any of those folks?

1 A. No, they was in a hurry. They just --- they  
2 parked the mantrip and they just took off.

3 Q. Okay. Thank you. Now, you were talking about the  
4 flood that you --- that occurred sometime in November  
5 and you had to go up there a couple weeks and work on  
6 it. Do you know about when in November that happened?

7 A. No.

8 Q. Were you still working up there on around  
9 Thanksgiving?

10 A. Yes.

11 Q. Okay. So maybe it occurred about mid November?  
12 Go back about two weeks before Thanksgiving.

13 A. I'd say about a week before Thanksgiving.

14 Q. All right.

15 A. Because people was talking about Thanksgiving. I  
16 remember they were trying to get off, trying to get  
17 off that day or something.

18 Q. Okay. Appreciate that. Do you know --- did  
19 anybody talk about why that flood occurred?

20 A. They said something come out from the top of where  
21 --- I can't remember who they said was above us. They  
22 just said it come from the top.

23 Q. Okay.

24 A. As I was talking to somebody. I don't know where  
25 it was coming from.

1 Q. Uh-huh (yes). Now, we understand there was a  
2 mined out area of the Powellton seam. I think it was  
3 the --- I can't remember the name of the mine that was  
4 up there, the Ellis or one of the Eagle. No.

5 ATTORNEY WILSON:

6 Black night?

7 MR. SHERER:

8 Black night, yeah. Black ---.

9 BY MR. SHERER:

10 Q. Does that sound familiar?

11 A. No, I can't recall that.

12 Q. Okay. Thank you. Now, when you were on the Two  
13 section driving what's now the tailgate of the current  
14 longwall panel, when you started driving that did you  
15 know that there was going to be a longwall built in  
16 there?

17 A. I didn't know at the time, no.

18 Q. Okay. Were you under the impression you were just  
19 driving it up to do rooms and pillars?

20 A. Yes, that's what I was thinking.

21 Q. Okay. Do you recall what size belt you had in  
22 there?

23 A. Five foot belt.

24 Q. Okay. What size of belt did you have down on  
25 Three section?

1 A. Five.

2 Q. Okay. Have you ever been underground and either  
3 heard on the mine phone or somebody come up and tell  
4 you, be careful; we got inspectors on the property?

5 A. Why, yeah.

6 Q. How common was that?

7 A. Well, when you show up they'll tell us we got  
8 inspectors inside, or we had inspectors where we call  
9 it company.

10 Q. Sure.

11 A. And you know, they'd tell us if we have somebody  
12 coming. Make sure everything's right.

13 Q. Sure, uh-huh (yes). Okay. Thank you. Did you  
14 think the ventilation in this mine was adequate?

15 A. At first I did. I thought everything was good  
16 until --- well, the last couple weeks, last couple  
17 weeks before the explosion we had the inspectors shut  
18 the mine down a couple times for us to go through  
19 there and redo their ventilation.

20 Q. Did you actually work on some of the crews, making  
21 the changes?

22 A. No.

23 Q. Okay. Did you have to stay out of the mine ---

24 A. Yes.

25 Q. --- because of those changes?

1 A. They just let fire bosses and bosses go in and do  
2 all that.

3 Q. Okay. Did you ever see anybody running a miner  
4 without curtains?

5 A. Sometimes, when the buggy man goes in there and  
6 tears it down.

7 Q. Sure.

8 A. They would just --- sometimes they would just keep  
9 going. And then some of them --- just some guys were  
10 good about putting it back up and ---

11 Q. Okay.

12 A. --- they was good about that.

13 Q. Okay. Now, you mentioned you started off on the  
14 Two section, working on the ventilation. And I think  
15 you also said that you had good air.

16 A. Yes, we did.

17 Q. Have you ever heard of anybody or have you  
18 yourself been on a section where you didn't have good  
19 air?

20 A. Sometimes you can set up there and not feel it.  
21 And then the boss would go around and he'll go to each  
22 side with the anemometer and making a check. And then  
23 we'll go through and check and try to put back up  
24 stuff or tighten up the curtains.

25 Q. Sure. Have you always been successful in getting

1 the air back up there?

2 A. Yeah. Yes, sir. The bosses I've had from Three  
3 section and Two section, like Smurf and all them, they  
4 were really good about getting --- I mean, he would  
5 tighten everything up to make sure we always had air  
6 before we run. He'll shut the section down to make  
7 sure we got everything up, putting flies up.

8 Q. Sure.

9 A. Putting fly boards up.

10 Q. You know, Smurf's a good nickname, too.

11 A. His name's Richard, Richard Hutchens. He works at  
12 Speed now. He was a good boss.

13 Q. Yeah. I've met him. He is a good gentleman.  
14 When you were working up near the Ellis Portal that  
15 last couple days, did you notice anything that seemed  
16 unusual?

17 A. No.

18 Q. Okay. Did you hear anybody talking about anything  
19 that seemed unusual?

20 A. No, not at that time we didn't.

21 Q. Okay. Did you ever hear of anybody bridging out a  
22 methane monitor?

23 A. I heard about it but I didn't think that we've  
24 ever done it, bridging out to keep the methane from  
25 showing up on the --- what do you all call it, the

1       sniffer?

2       Q. How about doing something else with a sniffer,  
3       like putting a bag over it or ---?

4       A. No, I never heard about that.

5       Q. Okay.

6       A. I never seen that done.

7       Q. Okay. Have you seen a monitor bridged out?

8       A. No, I've never seen it done. I just heard about  
9       it.

10      Q. Okay.

11      A. I never seen it done.

12      MR. SHERER:

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

14      Thank you.

15      EXAMINATION

16      BY ATTORNEY WILSON:

17      Q. Just a real quick follow-up. You said that you  
18      had heard about methane monitors being bridged out.  
19      Can you explain for us where you heard that, who you  
20      heard it from?

21      A. Just people talking about it. It was, like, they  
22      can't get the --- like, the sniffer running or  
23      something. And they'll say we'll just bridge it out.  
24      You know, I didn't really know what they were talking  
25      about at the time. I just remember hearing about it.

1 Q. And this is before the accident?

2 A. Yeah. Yes, sir.

3 Q. Do you recall any specific individuals talking  
4 about that?

5 A. No, I cannot remember that. It's been, like, a  
6 year ago or something. It's people talking. I went  
7 through a lot of --- I seen a lot of people come and  
8 go, and it's just ---- I can't remember.

9 Q. Okay.

10 A. It had to be electricians, electricians. I just  
11 can't remember who they were.

12 ATTORNEY WILSON:

13 All right. Thank you.

14 EXAMINATION

15 BY MS. SPENCE:

16 Q. I just wanted to ask. I got confused. What day  
17 did you say that the track was broken?

18 A. It was on Saturday. It was Easter holiday. It  
19 would be on the third.

20 Q. So it was the Saturday?

21 A. It was Saturday morning, because we was getting  
22 ready to come home. We was trying to get that last  
23 cut in before the shift was over.

24 MS. SPENCE:

25 Okay. Thank you.

1 MR. FARLEY:

2 Can we get the Bandytown map back,  
3 please?

4 MR. SHERER:

5 Sure, no problem.

6 RE-EXAMINATION

7 BY MR. FARLEY:

8 Q. Turn it around. Now, I don't want to keep you any  
9 longer than necessary, because sometimes during these  
10 interviews I can get lost; okay? So just forgive me.  
11 Now, I'd like for you to repeat what your brother told  
12 you about stoppings being built in the entries toward  
13 the Bandytown fan that would've been inby where the  
14 longwall started. And can you go through that again  
15 for me, please?

16 A. Yeah, he said they were putting Kennedy stoppings  
17 around the fan. He said it was, like, barricading the  
18 fan. And then he'll build stoppings outby the fan on  
19 the track, and then in the --- putting, I think it was  
20 neutral. How do you say that? And then the Old Two  
21 section down here, right after you come from 72 Break  
22 they was building stoppings. Took the doors out and  
23 built stoppings back in there.

24 And he told me that they act like they was  
25 barricading the fan from air, because he couldn't

1 understand why they were doing it. He said it's like  
2 the fan had no purpose after that.

3 Q. Okay. Now, is it possible they were replacing  
4 stoppings that had been damaged?

5 A. I don't know. He was telling me that's what he  
6 thinks. That's where he thinks it's a methane  
7 buildup, what he told me.

8 Q. Okay.

9 A. But he was mostly concerned about that part.

10 Q. Okay. Now, if the fan --- if the entries to the  
11 fan were blocked, there would be no air coming out the  
12 fan?

13 A. There'd be no air at all.

14 Q. All right. Now ---.

15 A. And they would just use the one on UBB Portal.

16 MR. FARLEY:

17 Okay. All right. Can we take a real  
18 quick short break?

19 ATTORNEY WILSON:

20 Sure.

21 ATTORNEY WILSON:

22 Let's go off the record.

23 SHORT BREAK TAKEN

24 ATTORNEY HAMPTON:

25 We are just returning from a short break.

1 This is Polly Hampton. Bob Wilson had to step out, so  
2 I am replacing him in the interview. Go ahead.

3 BY MR. FARLEY:

4 Q. Excuse me. Mr. Williams, in conversation with  
5 your brother and your description of what he told you  
6 about the installation of Kennedy stoppings in the  
7 area near the Bandytown fan, when did that work to  
8 install those stoppings occur, as best you can  
9 remember what he said?

10 A. I was thinking a week, like a week prior to where  
11 he got ---. Where he got laid off, that's where he  
12 was last working.

13 Q. Okay.

14 A. I'm pretty sure. I'm trying to remember. It's  
15 been a while. It's been a couple months, about three  
16 months, probably, or something ---

17 Q. Sure.

18 A. --- like that. It's hard to remember, though.

19 Q. Sure. And you know, based on your description, it  
20 appeared to him that they were almost barricading  
21 the ---

22 A. Yes. He said it was real hot.

23 Q. --- airways to the Bandytown fan?

24 A. He said that it was real hot in there when they  
25 went behind the wall. Where it was, he said you could

1 almost go back there and immediately start sweating.  
2 And this guy Dave that was working with him, he also  
3 was trying to tell him that it was real hot. And I  
4 think he's the one that was --- the day before it  
5 exploded, Dave was telling Burdoff about what happened  
6 about the methane or something.

7 Q. Okay. Now, who else was working with your brother  
8 at the time?

9 A. I can't remember his last name. Dave --- my  
10 brother knows him. My brother can probably tell you  
11 everybody that was working up there that day. I just  
12 know it --- I just knew Dave because I've worked with  
13 him on the water. I just knew his first name, Dave.

14 Q. Okay. And Burdoff was the boss?

15 A. Jeremy Burdoff. They took him off of ---. He was  
16 our Three section belt move and they took him off,  
17 because Jaybird --- Jaybird was on the water and they  
18 took him off, because he wasn't getting the water down  
19 fast enough or something. So they put Burdoff on  
20 there and they put --- they just, like, switched them  
21 places.

22 MR. FARLEY:

23 Okay. All right. Erik?

24 RE-EXAMINATION

25 BY MR. SHERER:

1 Q. Did your brother express any concerns about  
2 building those Kennedy stoppings to Mr. Burdoff?

3 A. Yes.

4 Q. Do you recall what he may've said to him?

5 A. He just thought they were blocking the air.

6 Q. Okay. Did he say it was real hot methane back  
7 there? Did your brother talk about how they traveled  
8 back there? Was it hard to get back there?

9 A. Walked.

10 Q. Walked.

11 A. They parked the --- there was another part of Two  
12 section that went back where we was driving, where we  
13 turned right.

14 Q. Uh-huh (yes).

15 A. That's where they parked it. They parked the  
16 mantrip and they walked, like, 20 breaks down to the  
17 water.

18 Q. Okay. Did you get the impression that there was  
19 only maybe one entry they could walk in? The rest of  
20 them may've been flooded out?

21 A. We walked the intake.

22 Q. Okay.

23 A. Intake down.

24 Q. Okay. So there was an intake back into the back  
25 end?

1 A. From where the ---. Yeah, because I remember  
2 getting off ---let's see, what I can remember. We got  
3 off on the track side. What we would call is Number  
4 Three was always the intake at UBB.

5 Q. Okay.

6 A. And I remember getting in Three and going straight  
7 down, all the way down to the water ---

8 Q. Okay, okay.

9 A. --- where the lifeline was.

10 Q. Okay. Thank you. And that was the escapeway back  
11 out

12 A. Yeah, primary.

13 Q. Okay. Who's Jaybird?

14 A. He was one of the bosses they had that was on that  
15 water crew. He works somewhere in Sand Creek. I  
16 don't know what you call it. It's one up further from  
17 Sand Creek around Round Bottom.

18 Q. I'm not sure, sir.

19 A. I can't remember what it's called.

20 Q. Did you ever hear him called anything besides  
21 Jaybird?

22 A. I think that's his name, something Jaybird.

23 Q. Oh, okay. Okay. I thought that might've been a  
24 nickname.

25 A. No, I think that's his last name, is Jaybird.

1 Q. Okay. Thank you.

2 A. He works for Elk Run now.

3 MR. SHERER:

4 Oh, okay. Thank you. And more  
5 questions, Terry?

6 MR. FARLEY:

7 I don't think so.

8 MR. SHERER:

9 Okay.

10 MS. SPENCE:

11 No.

12 ATTORNEY HAMPTON:

13 Okay. On behalf of MSHA and the Office  
14 of the Miners' Health, Safety and Training we'd like  
15 to thank you for appearing and answering questions  
16 here today. Your cooperation is very important to the  
17 investigation as we work to determine the cause of the  
18 accident.

19 We do request that you not discuss your  
20 testimony with any other person other than your  
21 representative you brought today. Also, after asking  
22 questions of other witnesses, we might have some  
23 follow-up questions for you, so if we do, we'll reach  
24 out to you.

25 The other thing is, if after you leave

1 here today you think of something else you'd like to  
2 share with the team, don't hesitate to contact us. I  
3 think you were given Norm Page's contact information  
4 in a letter before we started the interview.

5 A. Yes, ma'am.

6 ATTORNEY HAMPTON:

7 So you can e-mail us or write us or give  
8 us a call and let us know if there's anything else  
9 that you think of that you would like to share. So  
10 now at this point if you would like, you can go over  
11 any answer that you've given to us or you can make a  
12 statement or share any other information that you  
13 think is relevant. Is there anything you'd like to  
14 say?

15 A. There's nothing I can think of.

16 ATTORNEY HAMPTON:

17 Okay. Thank you very much for your  
18 cooperation.

19 \* \* \* \* \*

20 STATEMENT UNDER OATH CONCLUDED AT 9:08 A.M.

21 \* \* \* \* \*

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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*