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**Transcript of the Testimony of Christopher Allen**

**Date:** August 14, 2010

**Case:**

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STATEMENT UNDER OATH  
OF  
CHRISTOPHER ALLEN

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 Saturday, August 14, 2010, beginning at 8:36 a.m.

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

2

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8

9     TAMMY ALLEN (WIFE)

10           PERSONAL REPRESENTATIVE

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EXHIBIT PAGE

PAGE

NUMBER	DESCRIPTION	IDENTIFIED
One	Subpoena	8*
Two	Green Card	9*

\* Exhibit not attached

## P R O C E E D I N G S

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. Today is August 14, 2010. We're here this morning to conduct an interview of Christopher Allen. With me is Dave Steffey, 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 for the record.

MR. KOERBER:

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

MR. FARLEY:

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

MS. SPENCE:

I'm Beth Spence with the Governor's independent investigation.

ATTORNEY WILSON:

Mr. Allen, before we go further, I'm going to ask that you face the court reporter and

1 allow her to swear you in.

2 -----

3 CHRISTOPHER ALLEN, HAVING FIRST BEEN DULY SWORN,

4 TESTIFIED AS FOLLOWS:

5 -----

6 ATTORNEY WILSON:

7 All right. Barry, did you want to

8 address some matters ---

9 ATTORNEY KOERBER:

10 Yes.

11 ATTORNEY WILSON:

12 --- pertaining to the subpoena?

13 ATTORNEY KOERBER:

14 Would you swear the witness? Oh, you

15 just did. Sir, would you please state your name for

16 the record and spell your last name?

17 A. Christopher Michael Allen, A-L-L-E-N.

18 ATTORNEY KOERBER:

19 And your address is?

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

21 ATTORNEY KOERBER:

22 And your telephone number?

23 A. (b) (7)(C)

24 ATTORNEY KOERBER:

25 And do you have an attorney present with

1           you here today?

2           A. No, but I have my wife with me, Tammy Allen.

3   ATTORNEY KOERBER:

4   Would you like her to be your personal  
5       representative?

6           A. Yeah, she can sit here with me.

7   ATTORNEY KOERBER:

8   Okay. And ma'am, could you just identify  
9       yourself for the record, please? Speak your name.

10   MRS. ALLEN:

11   I'm Tammy Allen.

12   ATTORNEY KOERBER:

13   Sir, are you here today pursuant to a  
14       subpoena?

15           A. Yeah.

16   ATTORNEY KOERBER:

17   This is a copy of that subpoena. Would  
18       you take a look at it, and do you agree that that's a  
19       copy?

20       WITNESS REVIEWS DOCUMENT

21           A. Yes, sir.

22   ATTORNEY KOERBER:

23   Okay. I'd like that marked as Exhibit  
24       One.

25       (Allen Exhibit One marked for

1 identification.)

2 ATTORNEY KOERBER:

3 And this is a copy of a green card that

4 your wife, Tammy, signed for on 8 --- on August 5th?

5 A. Uh-huh (yes).

6 ATTORNEY KOERBER:

7 I'd like that to be marked as Exhibit

8 Two.

9 (Allen Exhibit Two marked for

10 identification.)

11 ATTORNEY KOERBER:

12 I turn the proceedings back over to you,

13 Bob.

14 ATTORNEY WILSON:

15 Okay. Thank you. Mr. Allen, all members

16 of the Mine Safety and Health Administration Accident

17 Investigation Team and all members of the State of

18 West Virginia participating in this interview shall

19 keep all information confidential that is gathered

20 from each witness until witness statements are

21 officially released. MSHA and the State of West

22 Virginia shall keep this information confidential so

23 that other ongoing enforcement activities are not

24 prejudiced or jeopardized by a premature release of

25 information. This confidentiality requirement shall

1 not preclude investigation team members from sharing  
2 information with each other or with other law  
3 enforcement officials. Everyone's participation in  
4 this interview constitutes their agreement to keep  
5 this information confidential.

6 Government investigators and specialists

7 have been assigned to conduct an investigation of the  
8 conditions, the events and the circumstances  
9 surrounding the fatalities that occurred at the Upper  
10 Big Branch Mine-South on April 5th, 2010. The  
11 investigation is being conducted by MSHA pursuant to  
12 Section 103(a) of the Federal Mine Safety and Health  
13 Act and by the West Virginia Office of Miners' Health,  
14 Safety and Training. We appreciate your assistance in  
15 this investigation.

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 your identity would  
21 otherwise jeopardize a potential criminal  
22 investigation. If you request us to keep your  
23 identity confidential, we will do so to the extent  
24 permitted by law. In other words, if a judge or some  
25 law like the Freedom of Information Act requires us to

1 reveal your identity, we will have to do so. There  
2 may be a need to use the information that you provide  
3 to us or any information that you may provide in the  
4 future in other investigations or hearings concerning  
5 the explosion. Do you understand your right to  
6 request confidentiality?

7 A. Uh-huh (yes).

8 ATTORNEY WILSON:

9 And do you have any questions concerning  
10 that?

11 A. No, sir.

12 ATTORNEY WILSON:

13 After the investigation is complete, MSHA  
14 will issue a public report detailing the nature and  
15 causes of the fatalities in the hope that greater  
16 awareness about the causes of accidents can reduce  
17 their occurrence in the future. Information obtained  
18 through witness interviews is frequently included in  
19 these reports. We will be interviewing additional  
20 witnesses, and so we ask that you not discuss your  
21 testimony with anyone other than your wife.

22 A court reporter will be recording the  
23 interview. Please speak loudly and clearly so that  
24 she can take everything down. If you do not  
25 understand a question asked, please ask that the

1 question be rephrased. Please answer each question as  
2 fully as you can, including information that you may  
3 have learned from someone else.

4 After we have finished asking questions,  
5 we will provide you an opportunity to add anything  
6 else to the record that you think would be helpful to  
7 our investigation. If at any time after the interview  
8 you recall any additional information that you believe  
9 may be helpful, we ask that you please contact Norman  
10 Page, who is MSHA's lead accident investigator.

11 And I'll provide you with a copy of a  
12 letter requesting your appearance here today, and this  
13 letter contains contact information for Mr. Page.  
14 That letter also includes information relating to your  
15 rights as a miner under the Federal Mine Safety and  
16 Health Act. Terry, is there anything else you wanted  
17 to add before we begin?

18 BY MR. FARLEY:

19 Yes. Mr. Allen, on behalf of the Office  
20 of Miners' Health, Safety and Training, I want to  
21 advise you that the West Virginia State Mining  
22 Regulations also provide protection against potential  
23 discrimination for participating in these interviews.  
24 I want to pass along some contact information for the  
25 West Virginia Board of Appeals, which hears complaints

1 from miners about discrimination, along with my  
2 business card and phone numbers for myself and Bill  
3 Tucker, our lead underground investigator. I would  
4 advise you that if you need to file a complaint, you'd  
5 need to do so within 30 days of the time it occurs.

6 ATTORNEY WILSON:

7 All right. Thank you.

8 MR. FARLEY:

9 Go ahead.

10 ATTORNEY WILSON:

11 All right. The witness has been sworn in  
12 and we'll go ahead and start with the questioning.  
13 I'll pass it over to Dave Steffey, who will start the  
14 questioning for MSHA.

15 EXAMINATION

16 BY MR. STEFFEY:

17 Q. Good morning.

18 A. Good morning.

19 Q. Mr. Allen, has anyone given you anything in  
20 exchange for the testimony you're about to give?

21 A. No, sir.

22 Q. Okay. Anybody promised you anything?

23 A. No, sir.

24 Q. Anybody made any threats?

25 A. No.

1 Q. Has anybody else interviewed you concerning the  
2 accident or your knowledge of the conditions in the  
3 mine?

4 A. We just had some lawyers come in up at the main  
5 office in Marfork and ---.

6 Q. Okay. And by lawyers, these are company lawyers  
7 or ---?

8 A. I'm not really sure. I just know they was  
9 attorneys from, you know what I mean?

10 Q. Sure, okay. Do you remember what kind of  
11 questions they asked?

12 A. Stuff like if I was ever told to do anything  
13 unsafe or what I thought about conditions in the mine,  
14 if I knew anything at all affiliated with it.

15 Q. Did they give you any instructions on interviewing  
16 with us or caution you or in any way?

17 A. No.

18 Q. And did they tell you anything else, any other  
19 instructions?

20 A. Uh-uh (no).

21 ATTORNEY WILSON:

22 That's a no ---?

23 A. No, sir.

24 ATTORNEY WILSON:

25 She needs to ---

1 A. Oh, okay.

2 ATTORNEY WILSON:

3 --- for you to say yes or no.

4 BY MR. STEFFEY:

5 Q. Did anyone ask to interview you after this  
6 interview?

7 A. No.

8 Q. Okay. Mr. Allen, how many years of mining  
9 experience do you have?

10 A. About 15, 16, something around there.

11 Q. Okay. Could you give us a brief description of  
12 your coal mine employment history?

13 A. Like what? I mean ---.

14 Q. Just brief, just dates that you can remember, when  
15 you started in the mines.

16 A. I started in '93.

17 Q. '93. And where did you start at?

18 A. I was 18 in Kentucky at --- it was a contractor's  
19 for Pontiki Coal Company.

20 Q. Okay. And when did you start with Massey?

21 A. March the 9th.

22 Q. Of what year?

23 A. Of '10.

24 Q. 2010?

25 A. 2010.

1 Q. And that's when you were hired at Upper Big  
2 Branch?

3 A. Yeah.

4 Q. Okay. Did you work anywhere for Massey prior to  
5 that?

6 A. No.

7 Q. Okay. Do you have any mining certifications?

8 A. I just recently got my foreman papers and gas  
9 card.

10 Q. Okay. Are you presently employed?

11 A. Yeah.

12 Q. Where at?

13 A. Yes, sir.

14 Q. Where at?

15 A. At Marfork.

16 Q. And when did you start there?

17 A. Two weeks after the UBB explosion.

18 Q. Okay. And what's your present job title?

19 A. Management trainee program, time study.

20 Q. Okay. Where'd you work at immediately,  
21 immediately prior to being hired at Upper Big Branch?

22 A. Maple Coal.

23 Q. Okay. And how long did you work there?

24 A. Eight months.

25 Q. Eight months? Okay. So you've got, what did you

1 say, about 15 years of mining experience?

2 A. Yeah. I've worked in a lot of different mines.

3 Q. And but your mining history with Massey is since  
4 March of this year?

5 A. Yeah. Yes, sir.

6 Q. And you mentioned --- what was your first day of  
7 employment at Upper Big Branch, again?

8 A. The 9th.

9 Q. The 9th of March?

10 A. Of March.

11 Q. Okay. Did you receive the Massey Initial  
12 Training?

13 A. Yes.

14 Q. Okay. And when did you receive that?

15 A. What was it, two days prior to that? Do you  
16 remember? I told you I had to go sit in class for  
17 eight hours?

18 MRS. ALLEN:

19 You went one full week and, like, a bunch  
20 of orientations and everything. And then you  
21 went ---.

22 A. Like, two or three regular classes.

23 MRS. ALLEN:

24 And then you actually started in the  
25 mine.

1 A. Okay. Did that answer your question?

2 BY MR. STEFFEY:

3 Q. Yeah, yeah, more or less. Yeah. What subjects  
4 did they cover during that Massey Initial Training?

5 A. Basically everything, their First Aid and MSDS,  
6 conditions.

7 Q. So did it seem ---

8 A. Went over maps.

9 Q. --- seem more safety-oriented?

10 A. Oh, yes, by far probably the safest one that I  
11 ever been to.

12 Q. Okay. What was your first job assignment? Or  
13 what was your job assignment on your first shift at  
14 Upper Big Branch Mine?

15 A. My very first day I worked outby with Everett  
16 Hager.

17 Q. Okay. And what were you doing outby?

18 A. Just working on stoppings.

19 Q. Working on the stoppings? Okay. When you went in  
20 the mine the first day, did you go straight to work?  
21 Did they take you straight to the location you was  
22 going to be working? What'd you do your first day  
23 inside the mine?

24 A. The very first day when ---

25 Q. Right.

1 A. --- I showed up they went over the maps and  
2 everything with me and I got task trained on ---.  
3 They took me --- well, no, I didn't task train. They  
4 didn't sign it yet until I went and done it.  
5 Basically I just went up there and went to work.

6 Q. Okay. Anybody go over escapeways with you or  
7 anything?

8 A. Yeah, they did that the first thing in the morning  
9 before I even went underground.

10 Q. Okay. And how'd they do that?

11 A. Took me to the map that was on the wall and showed  
12 me where their intakes and returns and secondaries and  
13 track entry and all that.

14 Q. Okay. Did you receive any other kind of training?  
15 Was there any other training that they gave you?

16 A. Well, the First Aid training, and we also went  
17 over the fresh air base, too.

18 Q. Are you qualified by MSHA to conduct methane and  
19 oxygen deficiency checks underground?

20 A. No.

21 Q. Did you ever participate in an evacuation drill  
22 while you were there?

23 A. Yeah.

24 Q. Okay. When was that?

25 A. Oh, God. I'm not good with dates.

1 Q. Approximate.

2 A. Probably three weeks after I started there.

3 Q. Okay. And how was this drill performed?

4 A. We all gathered at the power center and put those  
5 little breathing things on the rescuer --- yeah.

6 Q. Yeah, the expectation monitors?

7 A. And then walk our main escapeway.

8 Q. Okay.

9 A. Simulated they was a fire and all that stuff, you  
10 know what I mean?

11 Q. Okay. Who was the designated as the --- who was  
12 designated as the responsible person for each shift?

13 A. What do you mean, like, overall on that whole  
14 shift?

15 Q. Yeah, there has to be a responsible person at the  
16 mine, and that person ---.

17 A. They had it posted on the board. I'm almost  
18 positive one of them was my section foreman, Brandon  
19 Bowling.

20 Q. Okay. Now, how'd they inform you if this person  
21 changed?

22 A. They would change it on the board and then tell  
23 everybody.

24 Q. Okay. Now, you worked on the Headgate 22 section;  
25 right?

1 A. Yes.

2 Q. Okay. Was that also called the 029-0 MMU?

3 A. Never even --- never heard that before.

4 Q. Never heard that before? Okay. How many miners  
5 typically worked on your section?

6 A. We had three bolt men, scoop man, two miner men  
7 and two shuttle car operators and an electrician and a  
8 foreman.

9 Q. Okay. Which portal did you enter traveling to the  
10 section?

11 A. Ellis.

12 Q. Okay. Who did the pre-op check on the mantrip  
13 prior to going in?

14 A. Brandon Bowling.

15 Q. And who was he?

16 A. Section foreman.

17 Q. Okay. Approximately how long was your travel time  
18 to the section?

19 A. Oh, about 30 minutes.

20 Q. Okay. Did you travel through any equipment doors  
21 while going to the section?

22 A. Airlock doors?

23 Q. Uh-huh (yes).

24 A. Yeah.

25 Q. Do you remember where these doors were?

1 A. No. I mean not breaks or none of that.

2 Q. If you look at them on the map, could you  
3 identify?

4 A. Probably not.

5 Q. Probably not?

6 A. It's been so long and I hadn't worked there but a  
7 couple --- not even two months.

8 Q. Okay. Do you remember if these doors were  
9 automatic or did they have to be opened by hand?

10 A. Some of them was automatic, some of them had to be  
11 opened by hand.

12 Q. Okay. What condition were these doors in?

13 A. Good condition.

14 Q. Did you ever find a set of doors open?

15 A. No.

16 Q. Okay. When you approached the door, could you  
17 feel an air pressure change when it was open? Well,  
18 could you tell me about when the door was open? What  
19 could you --- could you tell anything about how the  
20 air was moving?

21 A. A little pressure in your ear, you know what I'm  
22 saying?

23 Q. Okay. Do you recall a set of equipment doors at  
24 approximately Break 78? Did you ever anybody talk  
25 about those doors?

1 A. Where's that at?

2 Q. It's right in there, where the intake crosses the  
3 track. Did anybody ever talk about that?

4 A. Uh-uh (no).

5 ATTORNEY WILSON:

6 Was that a no?

7 A. No.

8 BY MR. STEFFEY:

9 Q. Did anybody ever go over the approved ventilation  
10 plan with you?

11 A. Yeah.

12 Q. Okay. How did they do that?

13 A. They did it by everybody on that shift ---

14 Q. Okay.

15 A. --- had a, like, a safety meeting.

16 Q. Okay. And what about the maps? Did they ever go  
17 over ventilation changes that were being made?

18 A. Oh, yeah, if they made it. Yeah. We was informed  
19 of any changes and where they was at, and that's ---  
20 you know what I'm saying?

21 Q. And how'd they do that?

22 A. They go up here on the map and say, for instance,  
23 we had to add another door or something right here.

24 And if anything changed like your route or anything,  
25 they'd tell you to go around it, you know what I'm

1 saying, your route?

2 Q. Did you know prior to a ventilation change being  
3 made that it was going to be made? Did they post  
4 anything on the board?

5 A. No, I don't remember.

6 Q. You don't remember?

7 A. I don't remember that.

8 Q. What about the plans and the maps? Were they  
9 posted on the bulletin board?

10 A. Yeah, yeah, the maps was always --- even the new  
11 ones. If they had a new one, they updated it and  
12 changed it, you know.

13 Q. Okay. You said these equipment doors --- you said  
14 they were in good shape. Did you ever notice that  
15 being changed?

16 A. Yeah, the motor had tore a set out, and they  
17 replaced them.

18 Q. When did they replace them? Did they have a  
19 procedure? Do you know anything about that?

20 A. Oh, it was changed immediately.

21 Q. Okay. Were persons inby working at the time?

22 A. No, I think they ---. It was, like, at a shift  
23 change, you know what I'm saying?

24 Q. Okay. Approximately how long were the doors tore  
25 up before they were changed?

1 A. A couple hours.

2 Q. And was this during the production shift?

3 A. They was toward the end of the shift. It was a  
4 shift change.

5 Q. Okay. Did they finish the production shift,  
6 though? Did the men continue working inby?

7 A. No, we was on our way out.

8 Q. Okay.

9 A. Like, the supply --- you know. Do you know what  
10 I'm saying?

11 Q. Uh-huh (yes).

12 A. Like, it just happened, like, a little bit before  
13 we got there.

14 Q. Okay.

15 A. I mean, like, not --- no time, really.

16 Q. Okay. Let's talk about 22 Headgate. That's  
17 primarily where you were at.

18 A. Yeah.

19 Q. Primary before the explosion and that's where most  
20 of your knowledge is going to be; would that be ---  
21 would that statement be a correct assessment?

22 A. Yes.

23 Q. Okay.

24 A. That'd be the only think I know about.

25 Q. All right. And how long have you ran a roof

1 bolter? It's my understanding you ran a roof bolter;  
2 is that correct?

3 A. Uh-huh (yes).

4 ATTORNEY WILSON:

5 Yes?

6 A. Yes. The majority of the time that I've been in  
7 the mines has been on a roof bolter.

8 BY MR. STEFFEY:

9 Q. Okay. How would you describe the roof, rib and  
10 floor conditions on the current Headgate 22 Section?

11 A. It was a little ragged. That's why we had to cut  
12 it so high.

13 Q. Okay. Ever have ---?

14 A. They took out everything that they thought would  
15 fall, you know what I mean?

16 Q. Did you ever still have any falls?

17 A. No.

18 Q. What about your rib conditions?

19 A. They seemed good ---

20 Q. Did you ever ---?

21 A. --- even though it was high. I mean it was pretty  
22 good.

23 Q. Did you ever have to bolt the ribs?

24 A. Every other row, every other row, every place.

25 Q. So you put in the rib bolts ---

1 A. Yeah.

2 Q. --- every other row?

3 A. Uh-huh (yes).

4 Q. Okay. What about your floor?

5 A. It was good.

6 Q. Did you ever have any problems with water or  
7 anything coming up through the floor?

8 A. Yeah, over in Three.

9 Q. Over in Three? Okay.

10 A. Yeah, we had to move a pump up all the time ---

11 Q. Okay.

12 A. --- to keep the water, because that's where all  
13 the water comes in.

14 Q. Ever build up in the face on you?

15 A. No. It would try to, but we'd always keep a pump  
16 over there, and if we wasn't mining ---. We never  
17 mined it if it had a bunch of water in it, you know  
18 what I'm saying? We'd go over here to One or Two and  
19 mine until we got the water pumped down, and then we'd  
20 go over there.

21 Q. So you'd set a pump up in the face?

22 A. Yes, yeah.

23 Q. Okay. What kind of pump was this?

24 A. You know, the face would be up here, and you know  
25 this last crosscut?

1 Q. Uh-huh (yes).

2 A. You know, we'd always set it right there at that  
3 crosscut outby so it wouldn't be in the way of shuttle  
4 cars hauling up into the face.

5 Q. Okay. Now, what if the water was actually up in  
6 the face? How did you remove that water then?

7 A. I don't know. Basically the whole time I've been  
8 there, it was all, like, kind of uphill. Everything  
9 would stay in like a roll right in the intersection  
10 right there.

11 Q. Anybody ever go over the dip of the coal seam with  
12 you, how this coal seam dips? Did they ever cover  
13 that?

14 A. No, I don't recall it.

15 Q. They never ever went over that with you?

16 A. Uh-uh (no).

17 Q. Okay. Every coal seam has a dip, including this  
18 one. Now, generally water collects at that low point.

19 A. Yeah.

20 Q. Right? But you guys had some localized rolls up  
21 there, too; is that correct?

22 A. Yeah.

23 Q. Did you ever see any methane bubbling up through  
24 that water?

25 A. Yeah.

1 Q. How often did that happen?

2 A. Every day.

3 Q. Every day? Did you have a methane detector?

4 A. Oh, yeah.

5 Q. Okay.

6 A. Everybody up there had one. You know what I'm  
7 saying? I mean, because you'd be running around  
8 outby, getting supplies and everything, so everybody  
9 individual had the --- besides the bolt crew. They  
10 shared one, you know what I mean?

11 I was the third bolt man, but basically what I  
12 always did was I'd only bolt every now and then. I  
13 would help the scoop man and rock dust, you know what  
14 I mean?

15 Q. Basically you would come in and set up the bolter;  
16 is that what you claim you did?

17 A. Yeah, yeah.

18 Q. Yeah.

19 A. Yes.

20 Q. Okay. Did they take a methane check? Did you  
21 take a methane check before you set the bolter up?

22 A. Oh, yeah.

23 Q. How'd you do this?

24 A. You take your probe and extend it out and check  
25 it, you know what I mean?

1 Q. Where would you ---?

2 A. One foot from the top.

3 Q. Okay. And you just mentioned, everybody on the  
4 section had a spotter, had a methane detector.

5 A. (Indicates yes.)

6 Q. Okay. Did you all take your methane detectors  
7 home or did you keep them at the mine?

8 A. At the mines.

9 Q. Okay. Do you know how --- who calibrated them and  
10 maintained them?

11 A. No, I don't know who did. Mine was always right,  
12 though.

13 Q. Okay. Let's go back and talk about this methane  
14 coming through the water in the floor. Did it ever  
15 seem like it was worse on some days than it was on  
16 others?

17 A. No.

18 Q. Always ---?

19 A. Yeah, about the same.

20 Q. About the same?

21 A. Yeah.

22 Q. Okay. Did you detect any methane on the section  
23 at all? Did your spotter ever pick up anything when  
24 you put it to the mine roof?

25 A. Yeah.

1 Q. Or within a foot of the mine roof?

2 A. Uh-huh (yes).

3 Q. Typically, what would you get?

4 A. It was real low. I mean, it wasn't even a one  
5 percent.

6 Q. Okay. When you'd go in this mine, now, did you  
7 hot seat with the crew working prior to you if you  
8 were working second shift?

9 A. Basically, I guess. Yeah, we did.

10 Q. So you all ---?

11 A. At the end of the track. We'd meet at the end of  
12 the track.

13 Q. Okay.

14 A. You know what I'm saying? We would arrive and  
15 they would depart.

16 Q. Okay. All right. So you guys --- you guys would  
17 arrive at the end of the track, and then they would  
18 come out and you guys would go up there and you would  
19 start?

20 A. Yeah.

21 Q. Pre-shift. Anybody ever go over what was in the  
22 pre-shift book with you?

23 A. Yeah, Brandon, the section foreman.

24 Q. Okay. And how often did he do this?

25 A. Every day.

1 Q. Every day? Okay.

2 A. Every day when we arrived we always had a safety  
3 meeting at the end of the track as soon as we got off  
4 the mantrip. We'd go over the roof control plan, S1,  
5 P2. And we would know --- you remember. I told you  
6 several times. We'd know exactly what was going on in  
7 the section even before we got there, where your miner  
8 was, if we needed to move a pump, et cetera. Anything  
9 going on, we was informed of it.

10 Q. Okay. So they informed you of any hazards ---

11 A. Yeah.

12 Q. --- that were up there?

13 A. Yes.

14 Q. Who did the pre-shift for your oncoming shift?

15 A. Well, I worked three days, days and three days  
16 evening. Then I was off three days.

17 Q. Because you know, that pre-shift's supposed to be  
18 done prior to your oncoming shift; right?

19 A. Yeah. Yes.

20 Q. Did anybody ever go over that book with you before  
21 you went in the mine?

22 A. If there was a condition that had to be put in  
23 that book, we knew about it.

24 Q. Was it put in the book?

25 A. Yes.

1 Q. Okay. Did you ever go up to the section and find  
2 something that you hadn't been made aware of?

3 A. No.

4 Q. Okay. Did you ever have any problems with gas  
5 wells, known or unknown?

6 A. No.

7 Q. Do you recall any?

8 A. Uh-uh (no).

9 Q. You ever heard of this miner mining through a gas  
10 well, known or unknown?

11 A. No.

12 Q. There's a seam under you called the Little Eagle  
13 Seam. Anybody ever discuss that, how far under you it  
14 was?

15 A. No.

16 Q. Nobody ever discussed that with you?

17 A. No.

18 Q. Okay. They never discussed any problems  
19 associated with this seam?

20 A. No.

21 Q. Okay. How often did the water appear on the  
22 section?

23 A. We always had water in Number Three.

24 Q. Okay. Did you ever have a situation where you had  
25 water and then the floor would crack or something and

1 the water would disappear?

2 A. No.

3 Q. You never had nothing like that happen?

4 A. No.

5 Q. What about methane outburst? Do you ever recall  
6 those?

7 A. No.

8 Q. Just a sudden outburst of methane?

9 A. No, just a slow, like, you know --- little  
10 bubbles.

11 Q. Okay. Primarily, did those come out of the floor,  
12 these little bubbles?

13 A. Yeah.

14 Q. Okay.

15 A. Yes.

16 Q. Was mine management aware of these?

17 A. Yes.

18 Q. What'd they have to say about it?

19 A. Make sure your curtains are always tight.

20 Q. Okay. How much air did you have to have in your  
21 last open crosscut?

22 A. Every section's different. Man, I've been on so  
23 many different sections in ---. Massey's policy is  
24 20,000.

25 Q. Okay. Anybody ever go over what was required in

1 the plan?

2 A. Yeah, Brandon did, the section foreman.

3 Q. All right.

4 A. Like I say, he's probably, like I told you, wasn't  
5 it, Tammy, that he's probably the best section foreman  
6 I've ever had as far as going over and covering  
7 everything that he needs to do. I mean ---.

8 Q. Okay. What about your mine roof? What kind of  
9 problems did you have with it? Were there any  
10 problems that you knew of?

11 A. No.

12 Q. What kind of top did you have? Was it sandstone,  
13 shale?

14 A. It was sandstone up there so far, and sometime  
15 it'd want to fall out all the way to the sandstone.

16 Q. Okay. Now, it was what, again? You said it was  
17 sandstone so far and then it would fall out?

18 A. It was sandstone up above the shale ---

19 Q. Okay.

20 A. --- slate and stuff, you know what I mean?

21 Q. Okay. Any cracks in the roof? Did you ever find  
22 any cracks when you were drilling?

23 A. No.

24 Q. Did you ever pick up any methane coming out of  
25 test holes or anything?

1 A. No.

2 Q. Do you know who took the methane check prior to  
3 the miner cutting coal?

4 A. The mine man.

5 Q. Do you know if any other checks were taking during  
6 the cut?

7 A. I'm not always up there with the miner man.

8 Q. Okay. Do you know if the continuous miner was  
9 equipped with a methane sensor?

10 A. Oh, yeah.

11 Q. Did you ever see it pick up any methane?

12 A. No, I haven't.

13 Q. Did you ever see the methane monitor on the miner  
14 in the malfunction mode?

15 A. No.

16 Q. Have you ever seen or heard of anybody bridging  
17 out a methane sensor in this mine?

18 A. No.

19 Q. Okay. Did you ever ---?

20 A. Our electrician and foreman --- nobody would allow  
21 that.

22 Q. Have you ever heard of them disabling it in any  
23 other way?

24 A. No.

25 Q. Okay. Do you know when the section boss would

1 typically do his on-shift exam?

2 A. No, I wouldn't know when he did it.

3 Q. Okay. How many production shifts ran on the  
4 Headgate 22 section?

5 A. Two.

6 Q. Two? And how many maintenance shifts did you  
7 have?

8 A. Just one, ---

9 Q. Just one?

10 A. --- third shift.

11 Q. Did they ever run coal on the maintenance shift?

12 A. No, not that I know of. No.

13 Q. Okay. How often did they make a belt move?

14 A. Well, we only had three entries. I guess it would  
15 be about every two days.

16 Q. Okay. Did you ever find any cracks in the floor  
17 around the feeder?

18 A. No.

19 Q. Do you know if your feeder was permissible?

20 A. I wouldn't know.

21 Q. Wouldn't know? When you arrived on the section,  
22 typically what's the first thing you'd do after  
23 discussing with the other crew the hazards that were  
24 there?

25 A. My first job on the section as I arrived would be

1 check the bolter for supplies, ---

2 Q. Okay.

3 A. --- because I would help the coop man get supplies  
4 for the bolters.

5 Q. Okay. And you mentioned that you had three  
6 entries on your section, so you'd go ahead up there  
7 and you'd make sure the bolter had supplies, and then  
8 what would you do?

9 A. I'd have to get supplies every day. I mean, we'd  
10 get supplies and then get a scoop and go outby and get  
11 them.

12 Q. Okay. And how many roof bolters did you have on  
13 your section?

14 A. Two.

15 Q. Okay. How many continuous miners?

16 A. Two.

17 Q. How many shuttle cars?

18 A. Two.

19 Q. Two shuttle cars?

20 A. (Indicates yes.)

21 Q. Okay. How many scoops did you have?

22 A. Two.

23 Q. Two? Any other equipment?

24 A. The little emergency ride we had ---

25 Q. Okay.

1 A. --- behind the power center.

2 Q. Did you have a gaiter up there or anything?

3 A. Oh, we had a forklift outby, yeah.

4 Q. Well, diesel power?

5 A. Yeah.

6 Q. Was it diesel powered or was it electric?

7 A. No, it was electric.

8 Q. Electric. I've seen them in Kentucky and they're  
9 typically diesel.

10 A. Yeah, I've run diesel, too.

11 Q. Yeah. All right. You had a three-entry system  
12 here. Do you know where your intake came up?

13 A. The intake come up the middle.

14 Q. Okay.

15 A. Two.

16 Q. Okay. It came up Number Two. And where was your  
17 belt, belt air course and your belt course?

18 A. In One.

19 Q. In One? And what entry was your return?

20 A. Three.

21 Q. In Three. Okay. And you said your section had  
22 two continuous miners?

23 A. Yes.

24 Q. Did you have two miner men or just one?

25 A. We had two miner men.

1 Q. Okay. Did they ever go over a cut sequence  
2 outside or anything before they went underground?

3 A. He always marked his map up on the whiteboard,  
4 what he's going to cut.

5 Q. Okay. Did you ever have to --- did you ever see  
6 them cut into your intake air?

7 A. No.

8 Q. Did you ever see them run both miners at the same  
9 time?

10 A. No.

11 Q. Okay. What about when the cleanup car was being  
12 loaded? Did they go ahead and ---

13 A. No.

14 Q. --- start the other miner?

15 A. Uh-uh (no).

16 Q. How many shuttle cars would typically run to each  
17 miner?

18 A. Two, if you can get it. Sometimes you couldn't  
19 get it because of your ventilation, as far as trying  
20 to get your air, you know, get your air to where you  
21 were working.

22 Q. Where was the change-out point for the miner?  
23 Where did they try to put it, the shuttle cars going  
24 to the miner?

25 A. Mainly in the belt entry.

1 Q. Mainly in the belt entry?

2 A. (Indicates yes.)

3 Q. Okay. And typically after a belt move, how many  
4 breaks out by the face was the feeder?

5 A. Three.

6 Q. Did you use exhausting or blowing face  
7 ventilation?

8 A. What do you mean? I mean all I know is my air  
9 comes up here and then it would go over to the belt  
10 entry and then circle across the face.

11 Q. Okay. But you never actually was with them when  
12 they were cutting coal, as far as with the miner?

13 A. No, not much. I mean I never would care to hang  
14 out or nothing.

15 Q. Okay. Did you ever see them take a cut?

16 A. I've seen them cut a little bit and then walk off.  
17 I just basically got what they wanted.

18 Q. Which side of the entry was the curtain on?

19 A. The right side.

20 Q. The right side? Okay. So if they took their air  
21 over to Number One and brought it back across, then  
22 the curtain was on the right side in the face; right?

23 A. Uh-huh (yes).

24 Q. Okay.

25 ATTORNEY WILSON:

1 Yes?

2 A. Yes.

3 BY MR. STEFFEY:

4 Q. Did the miner use a scrubber on your section?

5 A. I don't think so.

6 Q. Okay.

7 A. It's been so long I don't really remember, where I  
8 was only there briefly.

9 Q. Okay. Have you ever been working underground when  
10 a ventilation change was being made?

11 A. No, not that I'm aware of.

12 Q. Okay. Do you remember any air reversals of any  
13 kind in the air courses when you were working in this  
14 mine?

15 A. When I first started there, the longwall was shut  
16 down due to ventilation, but I think Federal had them  
17 shut down until they got something worked out and then  
18 they turned them loose.

19 Q. Okay. Did you ever --- did you ever hear of any  
20 air reversals? What were they down on? Were they  
21 just down on ventilation, but you never knew exactly  
22 what happened?

23 A. Not enough air ---

24 Q. Not enough air.

25 A. --- going across the longwall.

1 Q. Okay. How was the air on your section? How much  
2 air did you have?

3 A. The boss never really come out and told me,  
4 personally. That I can remember, he never, but he  
5 could have, you know what I'm saying told me on how  
6 much air that we had.

7 Q. Did it feel warm up there? I mean, was there  
8 enough air to where you could feel it moving?

9 A. Oh, there was enough air because we had to really  
10 use the stuff to put on top of the curtain to hold it  
11 down. You had plenty of air.

12 Q. Pogo sticks?

13 A. Yeah.

14 Q. Okay.

15 A. And rocks, whatever we could get, or boards, nail  
16 boards down or whatever to get your curtain to stay  
17 down.

18 Q. Did you ever remember your --- you don't remember  
19 anything about an air reversal or anything ever  
20 happening in this area ---

21 A. Uh-uh (no).

22 Q. --- right here at all? Okay.

23 A. No.

24 Q. What about inspectors? How often did you see  
25 them?

1 A. They was there pretty regular, seemed like to me.

2 Q. Did you ever talk to them?

3 A. Yeah, every now and then, briefly, like how you  
4 doing, you know.

5 Q. Did you ever talk about plans or anything? Did  
6 they ever discuss that kind of thing with you?

7 A. No.

8 Q. When this inspector would come underground, did he  
9 just come up to your section? Did you know he was  
10 coming?

11 A. Sometimes you did and sometimes you didn't.

12 Q. Okay. How would you know he was coming?

13 A. Either see him outside before you go in, you know  
14 what I mean?

15 Q. Anybody ever ---?

16 A. That's how you knew. He was like, I'm coming up,  
17 you know what I'm saying?

18 Q. Anybody ever call underground and tell you they  
19 were coming?

20 A. Not that I remember.

21 Q. Okay. Did you ever hear of anybody calling  
22 underground and telling them an inspector's coming?

23 A. Uh-uh (no.)

24 ATTORNEY WILSON:

25 That's a no?

1 A. No.

2 BY MR. STEFFEY:

3 Q. Did anybody in management ever tell you to be  
4 careful what you say to an inspector?

5 A. No. Wouldn't nobody trying to pull you off the  
6 side and say, don't talk to him, or nothing like that.

7 Q. Do you know of any complaints about unsafe  
8 conditions ever made against his mine?

9 A. No. Like I say, I felt that it was the safest  
10 mines I'd ever been in. As far as preaching safety,  
11 they was always safety, safety, safety, always, wasn't  
12 it? Didn't I tell you that?

13 Q. Do they practice what they preach?

14 A. Yeah.

15 Q. Okay.

16 A. My section foreman did.

17 Q. Okay.

18 A. And ever since I've been at Marfork, all them do,  
19 too. I can only speak for who I know, you know what  
20 I'm saying?

21 MRS. ALLEN:

22 They give you a big safety manual.

23 A. Yeah.

24 MRS. ALLEN:

25 A big binder.

1 BY MR. STEFFEY:

2 Q. All right. So they gave you the S1 manual?

3 A. Oh, yeah.

4 Q. Were you ever on a section when a citation was  
5 issued?

6 A. No. Every time the inspector come to our section,  
7 it was pretty good, you know what I mean? He never  
8 really ---. Never no ventilation violation or ---.

9 Q. Do you know of any ventilation problems in this  
10 mine?

11 A. Not other than that one day they was trying to  
12 work the air out for the longwall. That's all that I  
13 know of.

14 Q. Have you ever been withdrawn from this mine due to  
15 an unsafe condition?

16 A. No.

17 Q. Have you ever had an upcoming work shift that's  
18 been delayed or cancelled due to an unsafe condition?

19 A. No.

20 Q. Did you have any concerns prior to the explosion  
21 about what happened?

22 A. No. About what happened to the --- at the ---?

23 Q. Did you have any concerns prior to the explosion  
24 about ventilation or any other problems?

25 A. No.

1 Q. No.

2 A. No. If I did I'm not a bit shy about it. I'll  
3 talk, you know what I mean? I'm not bashful.

4 Q. Now, your current job is --- you said as a  
5 management trainee in time study.

6 A. Uh-huh (yes).

7 Q. Now, who's your boss right now?

8 A. Jamie Ferguson.

9 Q. Jamie Ferguson. Okay. Now, who's he?

10 A. The president of Marfork.

11 Q. Okay. What typically do you do?

12 A. Go around mines to mines and check for --- make  
13 sure they're in compliance.

14 Q. In compliance with what?

15 A. Make sure their section foreman's always doing  
16 what they need to do.

17 Q. As far as ---?

18 A. You know, clean, dust and make sure they're  
19 ventilated right. And I time study the miners and  
20 buggies and roof bolters.

21 Q. So you check and make sure they're following S1  
22 and P2?

23 A. Yes.

24 Q. So have you received any training in S1 and P2?

25 A. I've got the manuals, and that's what we do every

1 Saturday. Like today I would've been there. Every  
2 Saturday that we have to work for four hours, we set  
3 at the office and Ferguson goes over all the material.

4 Q. Okay. Carbon monoxide monitoring system in this  
5 mine, did you ever know of it going into the alarm or  
6 the alert mode?

7 A. No. CO monitors, uh-uh (no).

8 Q. How was your primary escapeway maintained?

9 A. Good.

10 Q. Did you ever travel it?

11 A. Yeah.

12 Q. Okay. As far as pressure at this mine goes, did  
13 you feel like that was a lot of pressure to run coal?

14 A. No. If there was on my end, you wouldn't know it,  
15 because we never produced big numbers.

16 Q. Did you ever ---?

17 A. Ours was just mainly to get this ready.

18 Q. Did you ever see Chris Blanchard or Jason  
19 Whitehead underground?

20 A. Yeah.

21 Q. What were they doing?

22 A. I don't know. Just mainly seen them ---. Like,  
23 when you're going in you could see them standing there  
24 beside the track, you know what I'm saying?

25 Q. Did you talk to them?

1 A. No. I don't know Blanchard.

2 Q. All right. So you said there wasn't a lot of  
3 pressure on you, because you were mainly just to get  
4 this ready for the longwall?

5 A. Everything needed to be done correctly, like all  
6 the extra bolts and everything that you needed.

7 Q. Were you guys going to be ready for the longwall  
8 then they got done there? Was this panel going to be  
9 ready?

10 A. I don't think so, no.

11 Q. Was there anyplace else for that longwall to go?

12 A. I think they had had it set up, like, over here  
13 somewhere, where we'd first went underground. They  
14 was supposed to have another one setting up over to  
15 the left.

16 Q. Was that panel going to be ready?

17 A. I'm not really sure.

18 Q. You're not sure.

19 A. No, I'm not really sure.

20 Q. Has anybody ever talked about --- in your time  
21 study about how much money this longwall loses for  
22 every minute it's down?

23 A. No. I would imagine it would be a lot.

24 Q. Yeah. Nobody's ever gone over that with you?

25 A. No.

1 Q. Have you ever time studied the longwall?

2 A. No.

3 Q. Well, not this longwall, but any longwall?

4 A. No, I've never worked on a longwall section.

5 Q. You never worked on a longwall; okay. What about

6 Chris Adkins or Don Blankenship? Did you ever see

7 them at the mine?

8 A. I've seen Don at the main office down there,

9 briefly. I never spoke to him or nothing.

10 Q. Never spoke to him?

11 A. Uh-uh (no).

12 Q. Any idea what he was there for?

13 A. This was after the explosion had happened.

14 MR. STEFFEY:

15 Okay. Have you got any --- you guys got

16 any follow-up questions?

17 MR. FARLEY:

18 Yeah, a few.

19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Mr. Allen, I think you indicated you started March

22 9th at UBB, and that's the first day you had ever

23 worked for Massey. Now, the information that they

24 provided to us showed us a hire date of June 2007. Do

25 you have any idea why they would ---?

1 A. What, that I hired in at June?

2 Q. Yeah. Is it possible there's another person there  
3 by the same name?

4 A. It has to be, because there ain't no way it was  
5 me. I was working.

6 Q. Okay. Well, the reason I ask is not all of the  
7 information we received about what people do and when  
8 they were hired and so forth has been correct, so ---.

9 A. Oh, I got you.

10 Q. So it's just not to question you at all. Now,  
11 when I was trying to understand your shift, you said  
12 something earlier that you worked three days in the  
13 evening, three days on dayshift, and then you were off  
14 for three days.

15 A. Three days.

16 Q. So it was three days, three evening, off three  
17 days; is that how it was?

18 A. Yes.

19 Q. Okay. If you started --- you indicated your first  
20 day at UBB was with Everett Hager and working on some  
21 stoppings. When did you first go to Headgate 22?

22 A. The very next day after that.

23 Q. Okay.

24 A. At 10:00 or 11:00, whatever.

25 Q. Okay.

1 A. My crew that I was going to be on was actually off  
2 that day.

3 Q. Okay.

4 A. That was their last day off, is the reason why I  
5 was with Everett, so I could go ahead and start work.  
6 And then the next day they would return and then I  
7 would go with them.

8 Q. Okay. Now, the way I understand what you said  
9 earlier was that the ventilation on the 22 Headgate  
10 section was okay as far as you knew?

11 A. Yes.

12 Q. Okay. Now, did you have reason to believe that it  
13 had recently been improved or had it --- or did you  
14 hear stories about it being not good before you  
15 arrived?

16 A. They was having some kind of problems with it, I  
17 was aware of, before I came there, but when I was  
18 there I never knew of any problems.

19 Q. Okay. All right.

20 A. We always had air, and then like I say, we've  
21 never been shut down when the inspector come up there  
22 to check, you know what I mean?

23 Q. Okay. Now, when you went to get supplies for your  
24 roof bolter, were the supplies at the end of the track  
25 offloaded into the return?

1 A. Some supplies were.

2 Q. Okay.

3 A. Like, in between the doors.

4 Q. Okay. When you went to get supplies, was it  
5 necessary to travel the return in a scoop or a  
6 forklift?

7 A. Forklift, we never had a forklift over there, but  
8 our scoop, we'd go down and get them, you know what I  
9 mean?

10 Q. Okay.

11 ATTORNEY WILSON:

12 And Terry, I'm not sure --- I'm not sure  
13 if he answered the ---. I think the question was did  
14 you travel down the return entry in the scoop?

15 A. Yes, or if we wanted to get over in this entry,  
16 there was a set of air doors.

17 ATTORNEY WILSON:

18 This entry, you're pointing to the  
19 intake?

20 A. Yeah, in between Two and Three. You had a set of  
21 doors that you could go through if you was in Three to  
22 get over into your return. That was the only way you  
23 had, really, to get on the section.

24 BY MR. FARLEY:

25 Q. Okay. Now, did you travel down the track entry in

1 the scoop when you want to go --- when you wanted to  
2 get supplies?

3 A. If I was on the section and I wanted to get  
4 supplies, I would go down the return.

5 MR. FARLEY:

6 Okay. All right. I got you. Beth?

7 ATTORNEY WILSON:

8 Beth?

9 EXAMINATION

10 BY MS. SPENCE:

11 Q. Did you work straight evening shifts or did you  
12 swing?

13 A. I swang three days on days and then three days on  
14 evenings.

15 Q. Okay.

16 A. And then I'd be off for three days, and then when  
17 I come back, the cycle would start over. I'd be on  
18 three days days, three days evenings and off three  
19 days.

20 MS. SPENCE:

21 Okay. Thank you.

22 RE-EXAMINATION

23 BY MR. STEFFEY:

24 Q. You mentioned that ---.

25 ATTORNEY WILSON:

1 I'm sorry. Are you doing okay or do you  
2 want to take a short five-minute break or ---?

3 A. I'm fine.

4 ATTORNEY WILSON:

5 You okay?

6 A. Yeah.

7 BY MR. STEFFEY:

8 Q. You mentioned you had to go down this --- you'd  
9 take the scoop down this return to get your supplies.  
10 How far back was the track, typically, from behind the  
11 feeder?

12 A. There for a while it was a ways. That's why we  
13 had the emergency ride sitting behind the power  
14 center.

15 Q. Okay. Did you have an extra set of batteries up  
16 there for the scoop or did you have problems keeping  
17 it charged or have to continually keep it on charge?

18 A. We always had one scoop on charge while we was  
19 using the other one, pretty much, trying to keep  
20 batteries.

21 Q. When the track was back behind the section, how'd  
22 they offload supplies off the flat car?

23 A. Way down here, like, we had the set of doors up  
24 here close, closer to the section that you'd go  
25 through and get over into this entry and get on the

1 section. And then, also, down here in the supply hole  
2 you had airlock doors between Two and Three to get  
3 over ---. They would mainly unload the supplies right  
4 here.

5 Q. Okay. How would they unload them?

6 A. They would open this set of doors, set the  
7 supplies in between the doors.

8 Q. And what did they use to get it off the flat car  
9 there?

10 A. Forklift.

11 Q. Forklift; okay. Was this forklift permissible?

12 A. I wouldn't know.

13 Q. You wouldn't know?

14 A. I wouldn't know if it was or not.

15 Q. Because you indicated they'd set them over here in  
16 the return; right? Through the airlock doors; is that  
17 what you said?

18 A. Yeah, they never opened the second set. They'd  
19 open the first set, which are only there, and then you  
20 had another set of doors over here.

21 Q. Yeah, because they installed the power ---.

22 A. Yeah, yeah.

23 Q. So then they'd use that forklift and they would  
24 set the ---

25 A. Yeah.

1 Q. --- supplies off?

2 A. Yeah. And then these doors would be shut, and  
3 then we'd open these doors, go in and get our  
4 supplies.

5 Q. Okay.

6 A. You know what I'm saying?

7 Q. Okay. So you don't never know if that forklift's  
8 ever been in the return?

9 A. Not that I know of. I never had it up there, and  
10 I've never seen it there at any time I was there.

11 Q. Okay. What do you know about the longwall?

12 A. They run good. That's all I know.

13 Q. Did you ever hear of any problems with ventilation  
14 on the longwall?

15 A. Other than, like I say, when I first came there.  
16 They was having issues with --- they was shut down.

17 Q. Did you ever talk to those guys that worked on the  
18 longwall?

19 A. Every now and then I talked to one guy. What was  
20 his name or what was his ---?

21 MRS. ALLEN:

22 Josh.

23 A. Yeah, Josh Napper.

24 BY MR. STEFFEY:

25 Q. Okay. And what did he do?

1 A. He was a red hat. He was, like, utility or  
2 something.

3 Q. Okay.

4 A. Built cribs and knocked stoppings and stuff, et  
5 cetera.

6 Q. Okay. Did you ever hear --- did you ever hear of  
7 any methane outbursts on the longwall or them ever  
8 having methane problems or anything? Did they ever  
9 talk about that?

10 A. No. No, I've never heard of them having problems  
11 with that. It was my understanding that we had talked  
12 around to everybody. The only section that really had  
13 any gas on it was our section.

14 Q. Sure. The mine map shows a three-year gap in the  
15 longwall production. Did you ever hear why they had a  
16 three-year gap?

17 A. Uh-uh (no), I wasn't even aware that they had ---.  
18 What do you mean, three-year gap?

19 Q For three years the longwall didn't run at UBB.  
20 Any reason way?

21 A No.

22 Q Also, on my map there's various portions of  
23 previous longwall panels that were skipped. Did  
24 anybody ever say why they skipped those portions of  
25 the longwall panel?

1 A. No. I never heard of it.

2 Q. Okay. Do you know if the longwall ever mined  
3 through any gas wells?

4 A. No, I wouldn't know.

5 Q. Okay. So you said they'd never really talked  
6 about methane being on the longwall. What about water  
7 accumulations? Did they talk about that? Josh Napper  
8 ever say anything about they were having problems with  
9 water?

10 A. Every --- no, he never, but I remembered some past  
11 people tell me that they had some water problems,  
12 like, over in these entries, I believe.

13 Q. Uh-huh (yes).

14 ATTORNEY WILSON:

15 You're pointing to the headgate on the  
16 longwall; is that right?

17 A. Yeah, like, over in here, I think on the tailgate  
18 side or whatever, on the headgate, yeah.

19 BY MR. STEFFEY:

20 Q. Headgate Number One?

21 A. Yeah, yeah, headgate.

22 Q. Okay. When did you hear that they had problems  
23 with water there?

24 A. A buddy of mine, Jason Thomas, was working. He  
25 said --- when did he get his papers? He had his

1 papers when he went there, didn't he?

2 MRS. ALLEN:

3 Yeah, he had them for a long time.

4 A. He was like a little boss crew leader over a team  
5 that would do some pumping in there.

6 BY MR. STEFFEY:

7 Q. Okay. How often would they have to pump water out  
8 of there?

9 A. I'm not really sure on how often.

10 Q. Did he ever say anything about the water roofing  
11 out?

12 A. No, I've never heard nothing about --- I heard it  
13 was real deep, though.

14 Q. Well, how deep did he say?

15 A. I mean it was up to your knees.

16 Q. Did it ever get any deeper?

17 A. Not that I know of.

18 Q. Do you know if this longwall ever experienced any  
19 blockage on the headgate or tailgate?

20 A. No.

21 Q. What about floor gas or methane feeders coming out  
22 of the floor? Did you ever hear of any of those?

23 A. No.

24 Q. What about on the previous panels? Anybody ever  
25 talk about them?

1 A. No.

2 Q. Let's talk about the day of the accident. Where  
3 were you when the accident occurred?

4 A. Calhoun County.

5 Q. Calhoun County? Okay. How'd you find out that  
6 there had been an accident?

7 A. The news.

8 Q. The news? Okay. About what time did you --- what  
9 time did you hear that there had been an accident?

10 A. What time was it I called you, about?

11 MRS. ALLEN:

12 I didn't know about it until 8:30 that  
13 evening, at night.

14 A. I guess it was around 3:00, 4:00. No, it had to  
15 be in the evening. That's be around ---

16 MRS. ALLEN:

17 Mom said you called about ---

18 A. --- 6:00.

19 MRS. ALLEN:

20 --- 5:30, 6:00.

21 A. Yeah, about 6:00.

22 BY MR. STEFFEY:

23 Q. And after you found out there had been an accident  
24 and talked to your wife, then what'd you do?

25 A. I was shocked, you know what I mean? They was all

1 kinds of people calling the house and everything,  
2 wasn't there?

3 Q. Did you ever go back to the mine property?

4 A. Just to the bathhouse to get my stuff two weeks  
5 after the explosion.

6 Q. Okay. So you never went back and assisted with  
7 the --- and worked outside with recovery  
8 operations ---

9 A. No.

10 Q. --- or anything like that?

11 A. No, I wouldn't. Uh-uh (no).

12 Q. Okay. So you were shocked ---

13 A. Uh-huh (yes).

14 Q. --- by what happened?

15 A. (Indicates yes.)

16 Q. What about other people? I know coal miners  
17 typically talk. Were other people shocked?

18 A. Oh, yeah, yeah. Everybody was.

19 Q. Okay. Did you ever hear of anybody going  
20 underground right after the accident occurred?

21 A. No.

22 Q. Ever talk about that?

23 A. Uh-uh (no).

24 Q. Okay. Now, you said earlier that this was the  
25 safest mine that you've ever worked in.

1 A. In my opinion, I thought it was.

2 Q. Or you thought it was?

3 A. Yeah.

4 Q. Now, Josh Napper, from what I have read about this  
5 young man, sent a letter to his family just prior to  
6 the explosion that if --- basically if something  
7 happened to him, he wanted them to know that he loved  
8 them. Now, if this mine was --- you know, was safe in  
9 everyone's opinion, why would he send a letter like  
10 that?

11 A. I don't know, because he never said nothing to me  
12 about that.

13 Q. You know, that's the kind of stuff that you hear  
14 of people in wartime sending, you know, not somebody  
15 that's just going to work to make a living.

16 A. If he had problems like that he never mentioned it  
17 to me. Like I say, I never knew him real good, other  
18 than just what little time I was there.

19 Q. What do you think happened here? Do you have any  
20 ideas?

21 A. No, other than just a rush of gas had come in  
22 there so quick from somewhere, you know what I mean?  
23 It's the only thing I can think of. I mean, because  
24 we was always big on rock dusting on our section. We  
25 dusted all the time. The section was clean,

1 ventilated.

2 Q. Now, let's talk about rock dusting. You said you  
3 all rock dusted. Now, how did you do that? How did  
4 you typically rock dust? Did you do it by hand? Did  
5 you have a bucket duster or ---?

6 A. Little bucket duster.

7 Q. Bucket Duster on that scoop?

8 A. Uh-huh (yes).

9 Q. Okay. And how much rock dust did you typically  
10 use when you ---?

11 A. One load?

12 Q. Yeah.

13 A. About three bulk bags.

14 Q. Three of the big brown bulk bags.

15 A. Yeah.

16 Q. You mean the big bags that you ---?

17 A. The big bags that you hang up, yeah.

18 Q. Okay. What about outby? Do you know how they're  
19 dusted outby?

20 A. The same way.

21 Q. The same way?

22 A. We had trickle dusters on, like, so far on the  
23 belt lines, you know what I'm saying? They had, like,  
24 one down here and then another one up here. And I  
25 would fill those up. Usually at the first of every

1 shift. Everett would tell me, be sure and fill those  
2 up.

3 Q. Did you ever --- when you were driving out, when  
4 you were going in or out of the mines, did you ever  
5 happen to go by any belt drives or anything or happen  
6 to notice any belt drives when you were going in or  
7 out of the mine?

8 A. It seems like to me there was a real big one right  
9 down here, like, a real big one on the way in.

10 Q. Yeah.

11 A. We'd pass it, so you know what I mean. There was  
12 a real big one down there and I don't ---.

13 Q. How was the rock dusting around it? Could you  
14 tell?

15 A. You know, I've never really looked at any place in  
16 that mine. I haven't been in a lot of places in that  
17 mine that didn't look good, pretty good, you know what  
18 I mean? It looked good and clean.

19 Q. Do you know of any problems with this area back in  
20 here going toward the Bandytown fan behind the  
21 longwall? Anybody ever talk about any issues back in  
22 there?

23 A. I never knew nothing about it.

24 Q. Never knew nothing about it? And do you know if  
25 there was ---? Did you hear of any ventilation

1 changes that were made in the weekend prior to the  
2 explosion? Anybody ever say anything?

3 A. No, I don't remember nothing.

4 Q. Do you know if there was any problems associated  
5 with the tracking system? Anybody ever say --- did  
6 you ever hear of anything?

7 A. No, I wasn't aware of anything with the tracking  
8 system.

9 Q. Did the company have an incentive program in place  
10 in regard to production, bonus system?

11 A. No, we never got no bonuses.

12 Q. What about ---?

13 A. The longwall did, but we didn't.

14 Q. What about for safety?

15 A. Oh, yeah, we got the Raymond points.

16 Q. And what are Raymond points?

17 A. You get so many points a month for being safe, you  
18 know what I mean, individually and then as a crew you  
19 get so many. And then if you was an EMT, you got  
20 more.

21 Q. Everybody benefit from that equally, salary  
22 and ---

23 A. Oh, yeah.

24 Q. --- hourly guys? Okay. Did you ever travel to  
25 the top end of Eight North?

1 A. No, I never --- I've never even heard of it, not  
2 Eight North.

3 Q. It's this area up in here at the north end of the  
4 mine.

5 A. No, I've never been past the mouth of this.

6 Q. Never been past the mouth of 22 Headgate?

7 A. Uh-uh (no), never been up in there.

8 Q. What about the Glory Hole? Did you ever go ---  
9 ever been over to the Glory Hole?

10 A. No, I heard them talk about it, but I'd never,  
11 never got to go over there.

12 Q. And what'd they say about it?

13 A. That it was real neat how they had that set up.  
14 It was unique, you know what I'm saying?

15 Q. Did you ever hear about how it was sealed or  
16 anything? Did anybody ever talk about it?

17 A. Uh-uh (no).

18 Q. Thank you.

19 OFF RECORD DISCUSSION

20 A. No.

21 BY MR. STEFFEY:

22 Q. Did you ever now anybody at this mine that got  
23 injured?

24 A. No.

25 Q. Did you ever hear of anybody that was encouraged

1 to take light duty instead of turning in a lost-time  
2 accident?

3 A. Uh-uh (no), no.

4 Q. Do you still feel that Upper Big Branch was a safe  
5 mine?

6 A. Yeah, I think something off the wall happened, you  
7 know what I'm saying? I feel like it was --- from  
8 what I knew, I felt that it was.

9 Q. What do you feel about the attitude of production  
10 versus safety at this mine? What came first?

11 A. Safety. It was on our end. I don't know if  
12 everywhere else, you know what I'm saying?

13 Q. Did you have anything that --- because we're  
14 really --- we're searching for answers and we're  
15 trying to ---

16 A. No.

17 Q. --- determine what happened here. We don't want  
18 this happening anywhere ever again.

19 A. I understand that. Nobody wants it to happen.

20 Q. Do you have anything that you could tell us that  
21 may give us some indication as to what may have  
22 happened here that ---?

23 A. I really don't, you know. I wished I could give  
24 you something, but I don't really know nothing. I  
25 wasn't there long enough to really --- I never even

1 really knew everybody, except for my crew.

2 Q. Okay.

3 A. You know what I'm saying? I never even knew  
4 Blanchard. I know I never heard nothing good about  
5 him, other than just he was a --- I ain't going to  
6 say.

7 Q. I understand.

8 A. But I mean, I never knew him, so I can't judge a  
9 guy. I'm the type of person that I'll talk to you  
10 myself and then I'll gather what I think of you  
11 personally before I throw a judgment on you, you know  
12 what I mean?

13 MR. STEFFEY:

14 I understand. I don't have anything  
15 else.

16 ATTORNEY WILSON:

17 Terry, any follow-up?

18 MR. FARLEY:

19 One, one follow-up here.

20 RE-EXAMINATION

21 BY MR. FARLEY:

22 Q. On April 5th, you were in Calhoun County when you  
23 heard about this. What was actually the last shift  
24 you worked at UBB?

25 A. Wouldn't that have been Saturday, because I was

1 off Sunday because it was Easter, wasn't it?

2 MRS. ALLEN:

3 Two days before.

4 A. Yeah, two days prior.

5 BY MR. FARLEY:

6 Q. Okay.

7 A. The second day prior?

8 Q. Does that mean Friday, the Friday before? April

9 5th was on a Monday.

10 MRS. ALLEN:

11 Well, if it happened on a Monday.

12 A. Was I off two days?

13 MRS. ALLEN:

14 Yeah, it had to be the ---.

15 A. Yeah, we had a four-day weekend because of Easter.

16 Yeah, yes.

17 MRS. ALLEN:

18 Because we talked about if it would've

19 been two days before or two days, three days after

20 and ---?

21 BY MR. FARLEY:

22 Q. When were you due to come back to work?

23 MRS. ALLEN:

24 Thursday.

25 A. No, I wasn't. Monday was the fourth, my fourth

1 day. Would've been my fourth day. Are you sure?

2 MRS. ALLEN:

3 Yeah.

4 A. Yeah, because Monday would've been my ---.

5 MRS. ALLEN:

6 Monday, because it would've been ---.

7 Because remember, we talked about it and if it had  
8 happened two days prior ---.

9 A. My actual scheduled day off was ---.

10 ATTORNEY WILSON:

11 Well, yeah, why don't we --- let's go off  
12 the record.

13 OFF RECORD DISCUSSION

14 ATTORNEY WILSON:

15 If you're not sure, I mean ---.

16 A. I'm not really sure here. I mean ---

17 ATTORNEY WILSON:

18 Okay, that's fine.

19 A. --- I know it was ---. I know I had four days  
20 off, because I had my three days off and plus the  
21 holiday, which would've been Easter.

22 MR. FARLEY:

23 If you don't know, I don't want you to  
24 guess.

25 A. Okay.

1 MR. FARLEY:

2 I mean, we'll just figure --- I'll just

3 pretty well figured that it was probably --- Thursday

4 or Friday was probably your last day at work.

5 A. Yeah, approximately.

6 MR. FARLEY:

7 --- or something like that.

8 A. Approximately, yeah.

9 OFF RECORD DISCUSSION

10 ATTORNEY WILSON:

11 Okay. Is that it?

12 MR. FARLEY:

13 Yes.

14 ATTORNEY WILSON:

15 Okay. All right. Anything?

16 MS. SPENCE:

17 No.

18 ATTORNEY WILSON:

19 All right, okay. Okay.

20 MR. STEFFEY:

21 Yeah.

22 ATTORNEY WILSON:

23 Was there any follow-ups?

24 MR. STEFFEY:

25 Okay. Go back on the record.

1 ATTORNEY WILSON:

2 Yeah, we're on.

3 MR. STEFFEY:

4 Okay.

5 RE-EXAMINATION

6 BY MR. STEFFEY:

7 Q. Let's go back to your first day when you started  
8 at UBB. And you mentioned you worked on stoppings the  
9 first day. Were you building stoppings, plastering  
10 stoppings? What were you doing?

11 A. They had had man doors, like, for the longwall,  
12 that was running on the tailgate side. They wasn't  
13 sufficient as bleeders ---

14 Q. Okay.

15 A. --- so we had to take the doors out and fill it  
16 back in and, like, take the corners of them out  
17 because they wasn't ---. The Federal or the State,  
18 --- I'm not sure which one, but they wouldn't allow  
19 that to be used as a bleeder, as a man door being  
20 open.

21 Q. Okay.

22 A. So all we did was either take it out.

23 Q. Okay. And where was this at? Can you indicate on  
24 the map? Give him ---.

25 A. I know it was on the tailgate side of --- I'm

1 almost positive it was on the tailgate side.

2 Q. Now, you mentioned that this was what, March 5th,  
3 I believe it was. That was your first day you  
4 started?

5 A. No, the 9th.

6 Q. March 9th. If you'll notice here on this map  
7 here, this is the first half of March. Now, this is  
8 the posting for the longwall for that month. Now,  
9 were you directly across from the shearer on the  
10 tailgate side or just inby that?

11 A. I was outby all of that.

12 Q. Outby all that?

13 A. I'm pretty sure, yeah.

14 Q. So you were outby that on the tailgate side,  
15 Tailgate Number One of the current longwall panel;  
16 right? Is that where you were working?

17 A. To be honest with you, I'm not really sure which  
18 side I was on, because it was my first day, you know  
19 what I mean?

20 Q. Uh-huh (yes).

21 A. I mean, he had showed me on the map where we was  
22 going to be, but I'm not --- I don't remember exactly  
23 which side.

24 Q. Okay.

25 A. I know the longwall people was down there helping

1 us, and then once they got everything ready and the  
2 inspector come back and approved everything, then they  
3 went back to running, so they left us ---.

4 Q. So you were down when all this ---?

5 A. Yeah.

6 Q. The longwall was down when all this was going on?

7 A. Yeah, uh-huh (yes).

8 Q. Okay. And that was on March 9th?

9 A. Yes.

10 Q. When you were working on these stoppings, who all  
11 was there? Was anybody there from mine management?

12 A. Everett Hager.

13 Q. Everett Hager was there. And what was he saying?

14 A. Nothing other than just telling us what he wanted  
15 done.

16 Q. Okay. Did you ever see the inspector come back?

17 A. Yeah.

18 Q. Was this on the same day?

19 A. Yes.

20 Q. Okay.

21 A. Because he was the one that had to release them to  
22 run.

23 Q. Okay. Did you ever find out specifically what it  
24 was for, because typically the bleeder's back behind  
25 the longwall, and you said it was that they couldn't

1 use that as a bleeder? Now, if you're outby --- and  
2 I'm not sure if that was it or ---.

3 A. Well, I'm not really sure, you know what I'm  
4 saying? I mean, I don't want to lie to you, you know  
5 what I mean?

6 Q. I understand. I'm just trying to --- I'm just  
7 trying to piece it together, you know?

8 A. Uh-huh (yes).

9 Q. I'm not throwing anything at you there on that.  
10 Let's talk about up here on Headgate 22, because, you  
11 know, I've got dates here. I can go back. I can  
12 track that information down. On Headgate 22, did you  
13 ever have a problem up there with your eyes burning?

14 A. No.

15 Q. No? Did anybody ever talk about their eyes  
16 burning?

17 A. Not that I know of.

18 Q. Okay. And you mentioned Jamie Ferguson. Now, did  
19 he work at UBB at the time of the accident?

20 A. I've never seen him there.

21 Q. Okay.

22 A. No, I wasn't aware of him being there.

23 Q. Okay. So you're not aware if he worked there or  
24 not or ---?

25 A. No, I'm not sure.

1 Q. Okay. Now, how many times did you work on  
2 ventilation issues such as preparing stoppings or  
3 anything like that?

4 A. Just that one time.

5 Q. Just that one time? Okay.

6 A. Other than just being on the section as you're  
7 advancing from then on.

8 Q. Did you use hollow block or did you use solid  
9 block?

10 A. Hollow block.

11 Q. What about spray foam? Did you plaster them or  
12 did you spray them down with foam or both?

13 A. B-bond.

14 Q. B-bond?

15 A. B-bond.

16 MR. STEFFEY:

17 Okay. All right. That's all I got.

18 ATTORNEY WILSON:

19 All right, then. That's all the  
20 questions we have. On behalf of MSHA and the Office  
21 of the Miners' Health, Safety and Training I want to  
22 thank you for appearing today and answering our  
23 questions. Your cooperation is very important as we  
24 work to determine the cause of the accident.

25 As I indicated earlier, we will be

1 interviewing additional witnesses, so we ask that you  
2 not talk with anyone else about your interview today.  
3 After questioning other witnesses, we may call you if  
4 we have any follow-up questions, and as I indicated  
5 earlier, if you think of any additional information  
6 that you think would be useful, please contact us at  
7 the contact information that was provided.

8 I do want to inform you of your rights  
9 under the Mine Act. As a miner, any statements given  
10 to MSHA are considered protected activity. If anyone  
11 were to ever take any type of adverse action against  
12 you, any type of discrimination, that would be a  
13 violation of the Mine Act and you would be encouraged  
14 to contact MSHA in that event and file a complaint.  
15 And you can contact the MSHA district office in Mount  
16 Hope, and you can also find additional information  
17 concerning your rights under the Mine Act at MSHA's  
18 website. And that is [www.msha.gov](http://www.msha.gov).

19 At this time before we finish up, I just  
20 want to give you one last opportunity. If there's  
21 anything else that you would like to add to the  
22 record, you may do so at this time.

23 A. I don't have anything.

24 ATTORNEY WILSON:

25 Okay. Then again, thank you for your

1 cooperation in this matter. Go off the record.

2 \* \* \* \* \*

3 STATEMENT UNDER OATH CONCLUDED AT 9:52 P.M.

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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*