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**Transcript of the Testimony of Wesley Honaker**

**Date:** October 6, 2011

**Case:**

**Printed On:** October 12, 2011

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Phone: 814-536-8908

Fax: 814-536-4968

Email: [schedule@sargents.com](mailto:schedule@sargents.com)

Internet: [www.sargents.com](http://www.sargents.com)

EXAMINATION UNDER OATH  
OF  
WESLEY HONAKER

taken pursuant to Notice by Resa Hall, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Safety and Health Academy, 1301 Airport Road, Beaver, West Virginia, on Thursday, October 6, 2011, beginning at 1:16 p.m.

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MATTHEW N. BABINGTON, ESQUIRE

U.S. Department of Labor

Office of the Solicitor

1100 Wilson Boulevard

22nd Floor

Arlington, VA 22209

COUNSEL FOR MSHA

BARRY KOERBER, ESQUIRE

Assistant Attorney General

1615 Washington Street, East

Charleston, WV 25311

COUNSEL FOR MSHA

THOMAS MORLEY

MSHA Approval & Certification Center

765 Technology Drive

Triadelphia, WV 26059

REPRESENTATIVE FOR MSHA

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

BILL TUCKER

Office of Miners' Health, Safety and Training

Administrator

1615 Washington Street, East

Charleston, WV 25311

REPRESENTATIVE FOR MSHA

WILLIAM FRANCAERT, PE

DENNIS SWENTOSKY

Pittsburgh Safety & Health Technology Center

Ventilation Division

Bruceton, PA

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is October 6th, 2011. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Tom Morley, an accident investigator with the Mine, Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

ATTORNEY KOERBER:

My name is Barry Koerber. I'm the attorney for the Office of Miners' Health, Safety and Training, and I'm assigned to the UBB accident investigation team.

MR. TUCKER:

Bill Tucker with the West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

There are also several members from MSHA present in the room today. Tom Morley will be conducting the questioning.

All members of the Mine, Safety and Health accident investigation team and all members of

1 the State of West Virginia accident investigation team  
2 participating in the investigation of the Upper Big  
3 Branch mine explosion shall keep confidential all  
4 information that is gathered from each witness who  
5 voluntarily provides a statement, until the witness  
6 statements are officially released.

7 MSHA and the State of West Virginia shall

8 keep this information confidential so that other  
9 ongoing enforcement activities are not prejudiced or  
10 jeopardized by premature release of information. This  
11 confidentiality requirement shall not preclude  
12 investigation team members from sharing information  
13 with each other or with other law enforcement  
14 officials. Team members' participation in this  
15 interview constitutes their agreement to keep this  
16 information confidential.

17 Government investigators and specialists

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

25 We appreciate your assistance in this

1 investigation. You may have your personal attorney  
2 present during the taking of this statement or another  
3 personal representative, if MSHA has permitted it.  
4 And you may consult with your attorney or  
5 representative at any time. Can you swear in the  
6 witness, please?

7 -----

8 WESLEY HONAKER, HAVING FIRST BEEN DULY SWORN,  
9 TESTIFIED AS FOLLOWS:

10 -----

11 ATTORNEY BABINGTON:

12 Mr. Honaker, do you have an attorney with  
13 you here today?

14 A. No, I don't.

15 ATTORNEY BABINGTON:

16 Your statement is completely voluntary.

17 You may refuse to answer any question and you may  
18 terminate your interview at any time, or request a  
19 break at any time. Since this is not an adversarial  
20 proceeding, formal Cross Examination will not be  
21 permitted. However, your personal legal  
22 representative, who you don't have one, may ask  
23 clarifying questions as appropriate. In this case, if  
24 you have clarifying questions you'd like to ask,  
25 please do.

1 Your identity and the content of this  
2 conversation will be made public at the conclusion of  
3 the interview process and may be included in the  
4 public report of the accident, unless you request that  
5 your identity remain confidential or your information  
6 would otherwise jeopardize a potential criminal  
7 investigation. If you request us to keep your  
8 identity confidential, we will do so to the extent  
9 permitted by law. That means that if the judge orders  
10 us to reveal your name, or if another law requires us  
11 to reveal your name, or if we need to reveal your name  
12 for other law enforcement purposes, we may do so.

13 Also there may be a need to use the  
14 information you provide to us, or other information we  
15 may ask you provide in the future in other  
16 investigations into and hearings about the explosion.  
17 Do you understand?

18 A. Yes, I do.

19 ATTORNEY BABINGTON:

20 Do you have any questions?

21 A. Not at all.

22 ATTORNEY BABINGTON:

23 After the investigation is complete, MSHA  
24 will issue a public report detailing the nature and  
25 causes of the fatalities in the hope that greater

1 awareness about the causes of accidents can reduce  
2 their occurrence in the future. Information obtained  
3 through witness interviews is frequently included in  
4 these reports.

5 Since we will be interviewing other  
6 individuals, we request that you not discuss your  
7 testimony with any person aside from the personal  
8 representative or counsel. A court reporter will  
9 record your interview. Please speak loudly and  
10 clearly. If you do not understand a question, please  
11 ask the interviewer to rephrase it. Please answer  
12 each question as fully as you can, including any  
13 information you've learned from someone else. I'd  
14 like to thank you in advance for your appearance here.  
15 We appreciate your assistance. Your cooperation is  
16 critical in making the Nation's mines safer.

17 After we've finished asking questions,  
18 you'll have an opportunity to make a statement and  
19 provide us with any other information that you believe  
20 to be important. If at any time after the interview  
21 you recall any additional information that you believe  
22 might be useful, please contact or have your  
23 representative contact Norman Page, who is MSHA's  
24 chief accident investigator. I have contact  
25 information that I'll provide to you.

1 Finally, any statements given by miner  
2 witnesses to MSHA are considered to be an exercise in  
3 statutory rights and protected activity under Section  
4 105(c) of the Mine Act. If you believe any discharge,  
5 discrimination or other adverse actions are taken  
6 against you as a result of your cooperation with this  
7 investigation, you're encouraged to immediately  
8 contact MSHA and file a complaint under Section 105(c)  
9 of the Act. Thank you. Barry, do you have a  
10 statement?

11 ATTORNEY KOERBER:

12 Yes. Just two things, sir. The West  
13 Virginia Code also provides protection against coal  
14 miners who are discriminated against for participating  
15 in interviews such as this. I will give you a  
16 memorandum that contains the address for the West  
17 Virginia Board of Appeals. They're the administrative  
18 agency that hears complaints on coal miner  
19 discrimination. In the event you feel that you have  
20 been discriminated against for participating in this  
21 interview, this is the agency which you would contact  
22 to file your complaint.

23 I would caution you; however, under the  
24 statute you only have 30 days from the day of the  
25 discriminatory event to file your complaint with the

1 Board of Appeals. And the complaint does not have to  
2 be anything elaborate. It can be a handwritten  
3 letter. Okay? And I'm also going to give you Mr.  
4 Tucker's business card. If anything comes to you  
5 after the interview is over that you think would be  
6 helpful to shed light on what happened on April the  
7 5th, 2010 at UBB and you'd like to contact somebody  
8 with the State, Mr. Tucker's telephone number and  
9 address is on this card.

10 A. Thank you.

11 EXAMINATION

12 BY MR. MORLEY:

13 Q. Hi, Wes. Thanks for being here today. Can you  
14 please state your full name and spell your last name?

15 A. Wesley Dean Honaker, H-O-N-A-K-E-R.

16 Q. And please state your address and phone number.

17 A. (b) (7)(C) My phone number's (b) (7)(C)

18 Q. Is that (b) (7)(C)?

19 A. Yeah.

20 Q. Okay. You're appearing here today voluntarily?

21 A. Yes.

22 Q. Has anyone, other than a government official,  
23 interviewed you concerning the accident?

24 A. No.

25 Q. Are you presently employed?

1 A. No.

2 Q. How many years of mining experience do you have?

3 A. Two.

4 Q. Can you give me a brief description of your mining  
5 history?

6 A. Just mostly general labor until I got my black  
7 hat. I'm bolting since I got my black hat.

8 Q. When and where did you work?

9 A. Where have I worked?

10 Q. Yeah.

11 A. ICG and Speed mostly.

12 Q. Okay. And where did you start at?

13 A. I started at Marfork at Massey and shortly after  
14 went to UBB. I spent five or so months there.

15 Q. Okay. And then you moved onto ICG and Speed after  
16 that?

17 A. Yes.

18 Q. Do you have any mining certifications?

19 A. No.

20 Q. So if I understand your mining history with Massey  
21 was about five months?

22 A. Yes.

23 Q. What was your job assignment on your first shift  
24 with UBB? Do you remember?

25 A. yes, to pump water. Pretty much all it's ever

1       been the whole time I was there was just pumping  
2       water.

3       Q. What area of the mines did you visit or travel to?

4       A. Just right around the Bandytown fan.

5       Q. Okay. Did you receive any training at UBB prior  
6       to being assigned that work?

7       A. No.

8       Q. None at all?

9       A. No.

10      Q. Okay. Did you receive Massey initial training?

11      A. Yes, I did.

12      Q. And do you know when that was?

13      A. I couldn't tell you exactly.

14      Q. Do you know what the dates were that you worked  
15      for Massey? Or UBB. Let's just go with UBB.

16      A. Not right offhand. Just pretty much, I guess,  
17      November to March. That's about the best estimate I  
18      could give you.

19      Q. Okay. And that would be March of 2010?

20      A. Yes.

21      Q. About how many weeks before the accident, do you  
22      remember, did you leave?

23      A. It was March 27th.

24      Q. Okay. So that was only about a week before that  
25      accident?

1 A. Yes.

2 Q. Did you do any other jobs at UBB besides pumping?

3 A. I was a scoop man on one section for a little  
4 while.

5 Q. Okay. Did you get any formal training on that?

6 A. No.

7 Q. Okay. Are qualified with MSHA to make methane or  
8 oxygen efficiency checks?

9 A. No.

10 Q. Did you participate in quarterly evacuation drills  
11 from your work area?

12 A. No.

13 Q. So you were no longer employed at the time of the  
14 accident?

15 A. That's correct.

16 Q. Okay. In the area that you worked at pumping, can  
17 you show me on the map exactly which areas you worked  
18 in? Can you discern it?

19 A. Yeah. It's just pretty much from right here all  
20 the way to the Bandytown fan. Right here at the  
21 Bandytown fan is just where the sump is, so we just  
22 pumped everything right here all the way down.

23 Q. Okay. Were you doing --- the witness is  
24 indication from approximately Crosscut 115 to 120 to  
25 Bandytown fan.

1 A. Yeah. We pumped somewhat toward this way, 88.  
2 Ninety-two (92) is where you'd come through double  
3 doors. We pumped both directions. We had a discharge  
4 line running all the way up.

5 Q. So this is Headgate 1 North?

6 A. Yes.

7 Q. So you pretty much pumped everywhere in Headgate 1  
8 North?

9 A. Yeah. Just everything out there, we just pumped  
10 one direction all the way down to the Bandytown fan.

11 Q. Were there any problems in those entries?

12 A. A lot of them were just completely roofed out with  
13 water and taking weight. All of them got crushed out.  
14 About every entry you can see the crushing out and  
15 just roofed out with water.

16 Q. When you say crushed out, can you be a little more  
17 descriptive of what you saw?

18 A. Yes. More or less the top was coming in and the  
19 bottom was coming up. I mean, where your ribs are  
20 taking weight, it was hoofing up the bottom and the  
21 top was coming in at the same time.

22 Q. Was there a lot of spalling and sloughing off the  
23 sides of the pillars?

24 A. Yes. It was --- the only thing holding it up was  
25 an old belt structure. That was the only thing

1 holding the top up. That was the only thing holding  
2 it up. About that whole entry, that was the only  
3 thing holding it up.

4 Q. Is that like a floor-mounted structure?

5 A. No. It broke it off the chains and the insert was  
6 smashing it. They just let --- I don't know why they  
7 left it there, but that's what they did, just left it  
8 in there.

9 Q. Do you remember where the water accumulations  
10 were, or were there --- can you identify them?

11 A. The water?

12 Q. Yeah. The places where it would have been roofed?

13 A. Yes. All the way --- let's see. Right here in  
14 100. It was 100 and 101, it was every entry roofed  
15 all the way across. This whole entry. All the way  
16 across 100. Everything was roofed out straight  
17 across. Once you come up to 100 and 101, that's as  
18 far as you could go for awhile.

19 Q. When you say roofed out, was it actually to the  
20 roof or close? Because --- did you have airflow going  
21 over top of the water?

22 A. Yes. And that's where you would have your water  
23 parted. The water would actually part because of the  
24 air flow. It was completely roofed out, but the only  
25 way you could make it through there is --- there was

1 so much air flow, it'd just part the water like that,  
2 just holding it open. And the water --- the air  
3 really choked down, and right here is where me and my  
4 friends called it the hurricane hole.

5 Q. And was that a one-time occurrence, or was that  
6 all the time?

7 A. It was like that for, I'd say, three months.

8 Q. What time period, if you remember?

9 A. That was when I first started. It took us about  
10 three months to actually get 100 pumped down.

11 Q. Okay. In like --- in November of 2009?

12 A. Yes.

13 Q. Okay. Once you got 100 pumped down, were there  
14 any other locations where it could roof? Any other  
15 locations where it would roof completely across?

16 A. Right down here about 88 and down constantly  
17 stayed like that. We never had --- by the time I left  
18 there, that wasn't pumped out still.

19 Q. Okay. Now, was it some of the entries roofed and  
20 some of them partially open, or were they all  
21 completely water to the roof?

22 A. None of them were actually roofed, but about all  
23 of them was about neck deep, every one of them.

24 Q. Okay. So was there airflow continuing to flow  
25 over top of those?

1 A. Yes.

2 Q. Okay. And that is around Crosscut 88 you said?

3 A. Yes.

4 Q. Do you know where the --- you traveled back there.  
5 Did you know where the bleeder evaluation points were  
6 for that area?

7 A. No.

8 Q. Any day boards that you saw or anything like that?

9 A. Only day boards I seen is, I'd say, right as you  
10 got --- you'd come to the end of the track. Over this  
11 way'd be a day board. And I believe when you're  
12 walking down, I remember one about halfway down. And  
13 I believe there was one at 92 Break when you walked  
14 through the airlock doors. There was a day board by  
15 the phone.

16 Q. Okay. So in November it roofed at 100, and then  
17 88 was always very deep but maybe not completely  
18 roofed. What other major water holes did you  
19 encounter, if you remember?

20 A. Pretty much anything past 100 constantly had a  
21 water hole. Just more or less we got the belt line  
22 entry pumped down, and that's the way we traveled. If  
23 it was anything that's not in the belt line entry, we  
24 didn't worry about. Had a pump in there all the time,  
25 but as long as you could walk back to the fan they

1 didn't really say anything.

2 Q. Was that one entry fairly dry?

3 A. Yes.

4 Q. Once you got it pumped out?

5 A. Yes.

6 Q. So you had at least one --- other than the  
7 November event, you had one walkable entry back to the  
8 fan?

9 A. Yes.

10 Q. Did you ever hear or encounter any methane feeders  
11 or methane back in those entries?

12 A. No.

13 Q. Who made the examinations before you went back  
14 there?

15 A. Nobody.

16 Q. Did you have a boss?

17 A. Yes, I did.

18 Q. And who was your foreman?

19 A. My foreman?

20 Q. Your boss.

21 A. Jeremy Burghduff was just a fire boss. That's who  
22 they sent us with all the time. Jeremy Burghduff.

23 Q. He direct you?

24 A. Yes. Just told us what we had to do for the day  
25 pretty much.

1 Q. Well, he's your boss. Did he make examinations in  
2 the areas before you went into them?

3 A. No.

4 Q. Did he ever make examinations?

5 A. No.

6 Q. Did you ever see Jeremy Burghduff make a gas check  
7 in five months?

8 A. No.

9 Q. Test roof or rib or any --- warn you about any  
10 conditions he observed?

11 A. No.

12 Q. What kind of pumps did you utilize to pump down  
13 these areas?

14 A. Just air pumps.

15 Q. Can you estimate how many air pumps were there?

16 A. At the very least, I'd say 30.

17 Q. Thirty (30) air pumps?

18 A. Yeah.

19 Q. Is there enough air supply to run 30 air pumps at  
20 once?

21 A. Yes.

22 Q. Was that like multiple pumps in the same hole, or  
23 was there 30 different holes you had to keep pumped?

24 A. I'd say from 88 on this side is --- we'd have six  
25 alone, and from 88 all the way up to Bandytown fan

1       there'd be pumps. All different entries all over the  
2       place. Eighty-eight (88) would have had the most  
3       pumps. I think there were maybe seven or eight there  
4       alone.

5       Q. Right in this water hole from like 85 to 88?

6       A. Yeah. We had them --- 88, I believe, is right at  
7       the edge of the water. And that's where we had our  
8       line. We just had them all hung up on chains at 88.

9       Q. Oh, okay. They were all in 88.

10      A. And then we had some in 100. Just a little bit of  
11      everywhere, just wherever it floods some. You just  
12      have one pump here, one pump there. It was just kind  
13      of all over the place.

14      Q. So on your typical work day, if no one made any  
15      examinations beforehand, like what --- can you just  
16      take me through a typical work day, like what time you  
17      went in the mine, who you rode with and where you  
18      parked at?

19      A. We all just --- we come in about six o'clock in  
20      the morning. Me, Jeremy Burghduff, Andrew Dinner and  
21      Jason Stamron, we'd all just --- we'd drive all the  
22      down 'til you couldn't drive no more on the end of the  
23      track. Just ---.

24      Q. If I could ask you, do you have any idea where the  
25      end of the track was?

1 A. I couldn't actually tell you right offhand.

2 Q. Did you go past the longwall?

3 A. Yes, every day.

4 Q. You could see the longwall as you went past?

5 A. Yeah.

6 Q. So you were inby the longwall on the track  
7 equipment?

8 A. Yes.

9 Q. Was it permissible track equipment or just a  
10 regular track ---?

11 A. No, it was just a regular mantrip. We were told  
12 not to go past the longwall.

13 Q. Okay.

14 A. But Jeremy Burghduff, he's the only one that rode,  
15 so he --- run the mantrip every day, so he'd part  
16 wherever he wanted to park.

17 Q. Okay. Do you have an idea of like what crosscut,  
18 looking at the map, you may have parked at?

19 A. I couldn't actually tell you. Just basically we  
20 all just slept until he got to the end of the track.

21 Q. Do you remember what doors you went through or  
22 anything?

23 A. What doors?

24 Q. Like did you walk down --- how did you travel once  
25 you parked? Let me ask you that.

1 A. We just walked straight down where the old track  
2 line used to be. We'd walked down there and you'd  
3 jump over, you'd take a left through the first set of  
4 doors. It was probably, I'd say, two breaks down  
5 after the end of the track. You take a left and shoot  
6 over in another entry, and you'd walk all the way down  
7 there.

8 Q. Okay. You're not certain where you ended?

9 A. I'm not positive.

10 Q. Okay. That's fine. So about six o'clock you  
11 start from the outside?

12 A. Uh-huh (yes).

13 Q. About what time do you think you got to the ---  
14 when you parked, do you know?

15 A. It'd probably take a half hour to get where we  
16 were going.

17 Q. Okay. And then you'd walk up. Do you know what  
18 time you'd get to the pumps?

19 A. There's no way of telling. We took breaks all the  
20 way down through there, five or six breaks. Everybody  
21 would sit down. We weren't in no rush because half  
22 the time when we'd go down there --- half the time  
23 you'd go down there, there was nothing wrong. We just  
24 watched the pumps all day.

25 Q. Okay. So if you could continue taking me through

1 a regular day, if you would?

2 A. That's about it. You come to the end of the  
3 track, you walk down there and check pumps. If  
4 they're leaking, you'd fix them.

5 Q. Did you guys travel down to Bandytown fan every  
6 day?

7 A. Yes. The majority of us walked down there. The  
8 other guys pretty much would --- like I said, right  
9 around 92 Break would sleep. But Jeremy Burghduff  
10 would make at least two of us go with him every day.

11 Q. You said you never saw Mr. Burghduff make a  
12 methane check. Did you ever see him take air  
13 readings?

14 A. Yes, I have.

15 Q. And do you have any idea where that might have  
16 been?

17 A. I couldn't actually tell you. All I remember is  
18 we were all standing around a stopping one day. It  
19 had a hole in it and he was taking air readings.

20 Q. Okay. Just give me a minute. Did anybody else  
21 direct you guys on what to do, or was that just kind  
22 of a standing order that you just went back and  
23 checked the pumps?

24 A. That was just our main job. Obviously it was a  
25 very important job because they didn't want the

1 longwall flooded out.

2 Q. Okay. Did you --- were ever involved in making  
3 air changes or anything like that back there? Did you  
4 ever build stoppings or take stoppings down?

5 A. No. We've rebuilt stoppings that were already  
6 there. They made us load a bunch of cinder blocks,  
7 and if there was just stoppings along the roadway that  
8 was crushing out ---. Because Everett Hager was back  
9 there every little bit saying that they were losing  
10 air and stuff back there. I think we knocked out a  
11 stopping --- let me see. Yeah, knocked out a  
12 stopping. I can't tell you right where about. I  
13 remember we cut down toward 88. He had us knock out a  
14 stopping that was in the belt entry because it was a  
15 stopping that goes straight across the belt. I  
16 remember when we knocked it, all that water come  
17 flooding in there.

18 Q. So that would have been old One North belt entry?

19 A. Yes.

20 Q. Around Crosscut 88 somewhere?

21 A. It was down that way. I couldn't tell you where.

22 Q. Okay. Did anyone ever --- did they ever tell you  
23 what ventilation --- like in that case, did they ever  
24 tell you about any ventilation changes they were  
25 making in the mine?

1 A. They never told you anything. They just ---.

2 Q. They never trained you on any ventilation changes  
3 that were being implemented?

4 A. No, they just tell you to do something, do it.  
5 Don't ask any questions about it. That's just the way  
6 they acted.

7 Q. Okay. Are you familiar with the longwall at all?

8 A. No.

9 Q. The track entry from inby the longwall to the end  
10 of the track there, can you give your description of  
11 what the condition of the mine dust was like? Was it  
12 rock dust, was it white, was it black, was it gray?  
13 Do you have a recollection?

14 A. I would say it was gray. I wouldn't say that it  
15 didn't have no rock dust, but I wouldn't also say that  
16 it was very well rock dusted. Nowhere in that mine  
17 was. I mean, I was just --- you could see coal. It's  
18 not like mines I've worked in. It was just --- looked  
19 like snow down through there. It was really white.  
20 That place never has been.

21 Q. You've worked at some other mines since this. How  
22 would you compare them to the other mines?

23 A. From working here, I would say I can't believe I  
24 worked there. How they treated you and just  
25 everything about that mine, how unsafe they were.

1 That was early in my mining career, so I didn't really  
2 think about it. I thought that's what coal mining  
3 was.

4 Q. Didn't know any better?

5 A. That's more or less.

6 Q. Okay. Did you ever witness anybody ever rock  
7 dusting behind the longwall?

8 A. No.

9 Q. Okay. And you were back there pretty much every  
10 day for the five months you were employed there?

11 A. Yes.

12 Q. Did you ever notice any change in the dust like  
13 someone had rock dusted on another shift or anything?

14 A. No.

15 Q. Okay. What portal did you enter the mine from?

16 A. I used to --- when I first started there, it was  
17 the UBB side we went in. I think I'd say a few months  
18 prior to that, that's when we started coming in the  
19 Ellis pump shaft.

20 Q. Okay. How did they keep track of who's in the  
21 mine or not?

22 A. That's --- I believe, a few months prior to that,  
23 that's when they gave us a tracker and all that stuff.

24 Q. And did you have a tracking tag?

25 A. Yes.

1 Q. What did you do before the tracking tag?

2 A. Nothing pretty much.

3 Q. Did you have a check-in, check-out board?

4 A. We had one, nobody ever used it. There was just  
5 so many people that worked there. I mean, there were  
6 tags that thick on the outside on the others, and I  
7 guess --- there was just so many people that worked  
8 there, you couldn't even get your tag on there. So  
9 everybody just went over --- nobody, nobody checked in  
10 or checked out on it.

11 Q. Did anybody at the mine ever go over any mining  
12 plans, MSHA-approved mining plans, inform you or train  
13 you on?

14 A. No.

15 Q. Okay. Are you aware of any conditions that  
16 required all or part of the mines to be evacuated  
17 during the time you were there?

18 A. I believe that only time we were evacuated were  
19 they just made us get out when an inspector shut us  
20 down for being no air on one section or something.  
21 Something about like the longwall's return was running  
22 across one section's face is what it shown on the map.

23 Q. Do you remember what time frame that was?

24 A. I'd say probably right around January or February  
25 because it was right before I got laid off there.

1 About maybe a month prior to me getting laid off  
2 there.

3 Q. Could it have been March 9th?

4 A. Yes, it could have.

5 Q. There was a problem with the longwall tailgate air  
6 on March 9th?

7 A. Yeah. That could be right around the time. I  
8 remember it was just close to when I got laid off.

9 Q. Did they ever cancel or delay your shift due to  
10 conditions in the mine that you know of?

11 A. No.

12 Q. Okay. I would like to ask you about the airlock  
13 doors they had on the track. What kind of condition  
14 were those doors in? Do you know? Do you remember?

15 A. The doors that were on the track. I remember they  
16 had so much air on them the only way you could open  
17 them was with a pull rope, and you'd have to back a  
18 mantrip up to pull the doors open.

19 Q. Could you tell me where those doors were at?

20 A. Actually, I couldn't tell you right off. It was  
21 shortly after 78 Break where you ---.

22 Q. Somewhere in the tailgate?

23 A. Yeah. It was right --- once you passed here a  
24 little bit, it was right in this area because that  
25 would take you at 78 Break where you had to switch,

1 and it was right above the track. Somewhere in this  
2 region. It was shortly after 78 Break.

3 Q. Okay. What about the doors between 78 switch and  
4 --- did you ever travel up in those mains or not? Or  
5 did you usually just go straight down the tailgate?

6 A. When I first --- like the first day I started  
7 there, the very first day, that's the way we went. We  
8 got down here beside the longwall and it was falling  
9 out really bad, so then that's when they had to start  
10 coming this way.

11 Q. Okay. Can you elaborate on that? So you were ---  
12 you actually traveled down ---

13 A. Yeah, very first day I started.

14 Q. --- Headgate 1 North all the way to the back?

15 A. Yeah, that's a --- and it had a crib on both sides  
16 all the way down the entry. That's the way we  
17 traveled the first day. We wore waders. When we were  
18 coming back out, it was falling really bad back there.  
19 And I believe a week or so after that, that's when  
20 they had a big fall down there.

21 Q. That would have been in perhaps --- you said you  
22 started ---?

23 A. Right around November. Probably late November  
24 they had a fall out. A guy told me it was like 27  
25 feet high was how big the hole was when it fell out.

1 Q. What were the conditions of the pillars that were  
2 alongside the longwall?

3 A. Everything this way had weight on it. Everything  
4 was taken away. You just hear it cracking and popping  
5 everywhere you go down there.

6 Q. So you were saying from the longwall face back to  
7 the ---

8 A. Yeah.

9 Q. --- back end of the panel?

10 A. Yeah. And this side over here relatively looked  
11 the exact opposite from that. Nothing over this way  
12 was taken away.

13 Q. By that you mean the tailgate?

14 A. Yes.

15 Q. The tailgate was --- nothing was taking weight on  
16 the headgate? On the headgate where all the pillars  
17 sloughed? Were they ---

18 A. Yeah, headgate ---.

19 Q. --- sliding off?

20 A. Everything looked like it was just going to fall  
21 in. All the ribs were cracking and popping and the  
22 bottom was hoofing over there. It was kind of scary  
23 over there.

24 Q. Okay. So is that the only time you really  
25 traveled up North Four mains?

1 A. Yeah. I believe, if I'm not mistaken, I traveled  
2 it one day and they said not to travel it no more.  
3 Because we had to work between them cribs. They said  
4 they didn't want anybody walking up through there. I  
5 wasn't complaining.

6 Q. And were there any other doors from 78 outby that  
7 you had to travel through on your way into the mine  
8 that you recall?

9 A. If I'm not mistaken, right before I got laid off,  
10 they just had put in a set of double doors. But that  
11 was right when you come in Ellis punch out. As soon  
12 as you come in, they put in a set of doors. It was  
13 that week prior to me getting laid off.

14 Q. Were they normally opened or closed?

15 A. They were normally opened because people's  
16 traveling through all that. That's why we would all  
17 laugh about them putting in doors and everybody  
18 leaving them open and traveling through them all the  
19 time.

20 Q. Do you know if they were supposed to be open or  
21 closed?

22 A. I would assume be closed or they wouldn't have put  
23 the doors in there. That's just the way I ---.

24 Q. But you don't really know?

25 A. No, I have no clue.

1 Q. Okay. Let's see.

2 A. I know that was Marvin Perdue that put in them  
3 doors. We drove by when he was putting them in.

4 Q. There's supposed to be a responsible person  
5 designated at the mine that's in charge of the mine.

6 Do you have any idea who that was?

7 A. No.

8 Q. Do you have any knowledge of an advance notice  
9 given to the --- by the mine operator to the mine to  
10 MSHA inspections ---

11 A. Yes.

12 Q. --- to avoid enforcement action?

13 A. Yes.

14 Q. Can you relate your history there?

15 A. I don't know who it was or anything like that that  
16 was on the phone, but you'd always know prior that ---  
17 the way they put it is there's company. There's  
18 company in the mines or there's company on the  
19 property.

20 Q. Okay. Would they like just page it or would they  
21 call specific places?

22 A. They just kind of yell it over your L3 pretty  
23 much.

24 Q. What's the L3?

25 A. Just a handheld radio.

1 Q. Okay.

2 A. You'd hear them just kind of --- everybody always  
3 listened on them radios constantly anyway , but you  
4 hear them talking with the mine operator or something  
5 saying he needed curtain or something like that.  
6 Well, you better get it taken care of because you got  
7 company.

8 Q. So was that something that everybody with a radio  
9 would hear?

10 A. Yeah. Because everybody would put on --- or more  
11 or less. You don't even have to listen to your radio.  
12 You'd see --- just start noticing things. Everybody's  
13 wearing their safety glasses. You know obviously  
14 there's someone coming there.

15 Q. Was the ventilation adequate in the mine, as far  
16 as you know?

17 A. Personally I thought we had a whole lot of air. I  
18 don't know how they were losing it or where it was  
19 going, but ---.

20 Q. Are you aware of any deficiency?

21 A. No. I come down here and they'd freeze you to  
22 death, and they were saying they had no air up this  
23 way. So I don't know what was going on.

24 Q. Do you know of any major ventilation changes made  
25 while miners were underground? Did you ever hear of

1 any?

2 A. No.

3 Q. I'm sure you talked with the other miners that  
4 were on the producing sections. Did you ever hear any  
5 stories about methane miners ever being bridged out on  
6 the sections?

7 A. No.

8 Q. Did you ever hear of anybody talking about mining  
9 without ventilation curtains in place?

10 A. No.

11 Q. Do you think at this mine that the miners were  
12 subjected to retaliation and threats for reporting  
13 safety issues and other concerns?

14 A. Yes.

15 Q. Do you have any specific instances?

16 A. No specifics. Just more or less what you  
17 understood was if you'd call or they had any  
18 suspicions you called Everett would fire you  
19 personally.

20 Q. Did you feel that if you had made a call, he would  
21 fire you?

22 A. Yes. I was more or less putting all this stuff  
23 off 'til my black hat. When I got my black hat, I was  
24 planning on quitting there.

25 Q. Okay.

1 A. It was just more or less when I went with my black  
2 hat.

3 MR. MORLEY:

4 Okay. I'd like to take a break and let  
5 Bill go for awhile and see if there's anything I  
6 missed.

7 MR. TUCKER:

8 All right. I'll just be bouncing around  
9 a little bit. Just got a couple clarification  
10 questions.

11 EXAMINATION

12 BY MR. TUCKER:

13 Q. Was you working for a contractor at the time?

14 A. Davis Stanley.

15 Q. Davis Stanley. Okay. You said you got laid off  
16 toward the end of March?

17 A. March 27th.

18 Q. Okay. Just trying to remember back during that  
19 time period, you know, just say right around the time  
20 before you got laid off, how do you recall the water  
21 up toward Bandytown at that point?

22 A. Everything from 92 to the Bandytown fan was pumped  
23 down.

24 Q. Was that all entries? Do you have a couple  
25 entries you could travel?

1 A. Yeah, all entries were --- the majority was you  
2 could walk through it with just regular work boots.

3 Q. Okay.

4 A. But anything from, I'd say, 92 back toward 88 and  
5 back this way, we never got pumped down.

6 Q. Now, you're talking about on the headgate side?

7 A. Yes.

8 Q. You mentioned that you would drive down to the end  
9 of the track and then you'd go down a couple breaks  
10 and go through some doors. Was that just like a man  
11 door and a stopping, or just ---?

12 A. No. It was airlock doors, double set of those  
13 metal doors that you'd have to go through.

14 Q. Okay. Supply doors?

15 A. Yeah.

16 Q. The big doors?

17 A. Uh-huh (yes).

18 Q. Okay. And then you would --- you said you'd take  
19 a left, so that'd put you over like in the Number One  
20 entry that you had solid rib. Is that the way you  
21 traveled?

22 A. Yes.

23 Q. Okay. When you went by the longwall and you're  
24 going up the track, could you ever look over and  
25 actually see the shearer, see dust coming off the

1 longwall face or ---?

2 A. No, you could just hear it.

3 Q. You could hear it when you went by?

4 A. Yeah, you couldn't see nothing. I mean, it  
5 was ---.

6 Q. Okay. Was it dusty on after you went up through  
7 there? Was it ---?

8 A. I wouldn't consider it dusty. You could more or  
9 less just smell it. You couldn't really see any dust.  
10 I didn't think it was dusty when we went by. All that  
11 time I worked there, I never seen a longwall run. I  
12 couldn't tell what a shearer was if I wanted to. I  
13 never seen it.

14 Q. So when you come by --- inby 78 and you're coming  
15 on up the track, did you come up on a set of airlock  
16 doors on the track that you had to go through?

17 A. Yes.

18 Q. You said those had a lot of pressure on them?

19 A. Yes.

20 Q. The last day that you worked, did you still travel  
21 through those doors, or could you still go all the way  
22 up the end of the track, or had they blocked you from  
23 going through them doors? Or where did you go the  
24 last --- right there at the last?

25 A. We done the same thing as usual. I went all the

1 way --- we went all the way to the end of the track,  
2 and that day we set up some props where top was  
3 hoofing real --- the top was coming in real bad and  
4 rebuilt a stop the day we were there. So everything  
5 --- we had to drag off the mantrip. We just hooked a  
6 bunch of rope hangers and they --- I don't know what  
7 they're called, big props that are precut and the  
8 bottom hoofs out. They got rings around. Just big  
9 props. We had to drag them all the way down here.

10 Q. Prop setters?

11 A. I'm not sure what they're called. I never seen  
12 anything like it. It's just got rings around.  
13 They're made to --- the bottom smash out.

14 Q. And how far do you --- do you recall about what  
15 break you drug those and set them? Do you remember  
16 where that was at?

17 A. I believe, if I'm not mistaken, from the end of  
18 the track to where we're going, I believe I counted it  
19 when we were doing it the first ten breaks down in  
20 there. I believe it was right around 20 breaks to get  
21 down there.

22 Q. Okay. And I don't know if you noticed it. At the  
23 end of the tailgate here you got this diagonal that  
24 comes across and connects. Would you --- do you think  
25 you was down to that point or was it on by toward the

1 longwall face? Did you come all the way to the back  
2 of the longwall to sit those props or have any idea  
3 where that ---?

4 A. Yeah, right around back of the longwall. That's  
5 what we were doing the very last day I was there.

6 Yeah, it was right around the back of the longwall.

7 Q. Who usually opened the doors there? You said a  
8 lot of times you'd try to sleep on the way in, which  
9 that's pretty common, but who would usually get out  
10 and open the doors when you went through those airlock  
11 doors?

12 A. Most of the time it was me that opened them.

13 Q. Okay. And you think, though, you was still  
14 traveling through there on March --- into March?

15 A. Yeah, I'm positive we were.

16 Q. Okay. Did you ever travel all the way to the  
17 Bandytown fan with Jeremy?

18 A. Yes.

19 Q. Did you ever see him take an air reading at the  
20 fan?

21 A. No.

22 Q. Did he carry his detector with him in his rescuer,  
23 or did he --- what did he do with those?

24 A. I personally never seen him with a detector once,  
25 but I know that he'd leave his belt with the rescuer

1 and everything on it at 92. And he'd walk all over  
2 the place without his rescuer, or a belt for that  
3 matter. So when we'd come through 92, he'd just take  
4 all his stuff off and hide it under a piece of fly  
5 pad.

6 Q. Okay. Did everybody else wear their rescuers?

7 A. No. We just kind of like, if he ain't carrying  
8 it, we're not either. Those SCSR 100s are pretty  
9 heavy, so everybody just kind of --- for that matter,  
10 nobody in that mine really wore them.

11 Q. Would they, the pump crew usually leave them at  
12 the same place or ---?

13 A. Yeah, we'd all just leave ours right around 92.  
14 Everybody would. I mean, I'm not going to lie and  
15 say, yeah, we wore ours when he didn't. So I'm not  
16 going to lie to you. None of us wore it.

17 Q. Well, how did you carry your mine light? Did you  
18 just stick in your pocket?

19 A. Yeah, I stuck it in my back pocket all the time.

20 Q. You had one of the big batteries or small battery?  
21 Big batteries?

22 A. It was perfectly wide enough for back of the  
23 pockets.

24 Q. Okay. You mentioned there was a phone there at  
25 92. Best that you can remember on your last day or

1 right there the last week or so, was that phone  
2 working or was there any issues with that phone?

3 A. I believe we had some issues with it a week or so  
4 prior to that. I believe we had a line cut somewhere.  
5 We traced it all over trying to fix it. To my  
6 recollection, the phone was working the last day I was  
7 there.

8 Q. You're just not sure? You know they did have some  
9 problems?

10 A. Yeah, I know it was having problems. I think  
11 something had failed on the line and tore it, tore the  
12 line in half.

13 Q. We was talking about checking in and out. Did you  
14 have a tag to use to check in and out on the board?

15 A. Yes.

16 Q. Okay. When y'all would park at the end of the  
17 track, would somebody call back out and tell the  
18 dispatcher, we're going back in behind the longwall?

19 A. No.

20 Q. Okay. And when you come out, where would you  
21 usually be when you would call for the road?

22 A. Seventy-eight (78). Just when we'd come to that  
23 first switch like you're going to the glory hole,  
24 you'd have to call. Because anything from here pretty  
25 much, there's nothing back here. So your radios don't

1 work and neither does your little spotter thing where  
2 they can see where you are, your little rescuer thing,  
3 all that new crap they gave us. Anything pretty much  
4 past 78 they can't see you.

5 Q. They didn't have a means of tracking you back  
6 there other than you calling?

7 A. Yeah, because there wasn't nothing supposed to be  
8 back there. They had no way of tracking you. Your  
9 radios didn't work, so ---. And everybody was too  
10 lazy to walk back there. That's why we didn't wear  
11 our rescuers. Nobody was going to get you because  
12 they were too lazy to walk all the way back there.

13 Q. Have you heard any talk or any rumors about an air  
14 change maybe that took place on Easter Sunday?

15 A. I believe I heard about an air change. But said  
16 that all I got out of it, said they didn't want any  
17 red hats down there. So I was more than happy to ---  
18 I'd heard about it.

19 Q. You don't know any details on ---?

20 A. Yeah, it was, I believe --- I don't know where it  
21 was, but I believe it was right up here around 78  
22 because I seen a bunch of people there. And a buddy  
23 of mine was trying to get me to stay. He was a black  
24 hat and he was trying to get me to stay and help him  
25 do that air change. And Terry Moore told me to leave,

1 that he didn't want any red hats down there.

2 Q. Do you remember when that was?

3 A. I believe probably right around the time I was  
4 getting ready to get laid off. It was about the same  
5 time when the inspector shut us down there that time.  
6 Right around the same time frame there.

7 MR. TUCKER:

8 I believe that's all I have for now. I  
9 appreciate it.

10 RE-EXAMINATION

11 BY MR. MORLEY:

12 Q. Would that have possibly been in early March?

13 A. Yes.

14 Q. So the last day you guys rode in on --- all the  
15 way to the end of the track. Were you quite a ways  
16 inby the longwall at that point?

17 A. Yes.

18 Q. The doors in the tailgate, you said you had to use  
19 the mantrip chains to pull them open. Was that  
20 pressure usually about the same, or was there any  
21 change towards the end there? Or was it all about the  
22 same?

23 A. It changed all of a sudden. I don't know what  
24 happened to the air, but you used to be able to just  
25 open them. You could hear air when you pulled it. It

1 wasn't no strain to open them doors. And one day that  
2 Stanley, that Jason Stanley was opening the doors. He  
3 got about halfway open and it slammed on his arm,  
4 about broke his arm. So that's when we started using  
5 a pull rope. It was just all of a sudden all that air  
6 came.

7 Q. Okay. You said you saw Jeremy take air readings  
8 at a stopping. Did you ever see him take readings  
9 anywhere else?

10 A. No.

11 Q. Nowhere else?

12 A. Nowhere.

13 Q. When he went back to the fan, did he ever go back  
14 alone, or do you usually go with him?

15 A. The majority of the time I'd walk all the way up  
16 to the bridge that was up here, but I wouldn't walk  
17 all the way up to the fan.

18 Q. You said there was about 30 pumps in the --- from  
19 88 Break --- or actually, there were a few inby that  
20 88?

21 A. Uh-huh (yes).

22 Q. And were the rest just kind of spread all the way  
23 down to the fan?

24 A. Yes. I believe --- I know for sure we had one  
25 pump that was on the opposite side of that bridge.

1       There was just a puddle that'd be there every day.  
2       You come in and turn that pump on for a few minutes  
3       and turn it back off when you're leaving.

4       Q. Where's the bridge?

5       A. A bridge ---.

6       Q. Is it near the turbo pump --- sump?

7       A. Yeah, it's like right around 130.

8       Q. Okay.

9       A. Right up that way. I mean, you could hear the fan  
10      because you were right up on it pretty much. A bridge  
11      pretty much going across the sump, and all that stuff  
12      is why it was there.

13     Q. Out of these 30 pumps, were all 30 needed? Did  
14     all 30 have to be running?

15     A. Yes.

16     Q. So you couldn't have done it with just five pumps  
17     or something?

18     A. No.

19     Q. Okay. You said that they called all the time and  
20     told the sections and everybody that company was  
21     coming and they had company?

22     A. Yeah.

23     Q. Do you know what action --- are you aware of what  
24     actions they would take?

25     A. I couldn't tell you. I'd say --- I'd say a lot

1 because the way I understood the rumors, they never  
2 run right up there.

3 Q. Did you guys ever take any actions?

4 A. Safety glasses.

5 Q. Okay.

6 A. Everybody would start heading toward our rescuers  
7 if we heard --- because right around 92 we're sitting  
8 on top our rescuers, but that's where our phone was  
9 that ---. We'd just kind of go up real quick, check  
10 the pumps. If nothing was leaking real bad, we didn't  
11 care. We'd sit right there, down there around the  
12 phone, so we heard everything that was going on in the  
13 mines the whole time.

14 MR. MORLEY:

15 I think that's all I have. Do you want  
16 to take a short break or do you ---?

17 MR. TUCKER:

18 Just one thing to clear up in my mind.

19 Well, let's take a short break and then do it.

20 SHORT BREAK TAKEN

21 BY MR. MORLEY:

22 Q. In the tailgate around here, we've just circled  
23 two airlock doors around Crosscut Number 10. And  
24 shown on the map is another set right at the --- about  
25 Crosscut 33. Did you go through two sets of doors

1 going to the tailgate, or do you have any idea which  
2 was the set that you traveled through? These are  
3 right before a bend in the track, and these are right  
4 at these overcasts.

5 A. Yeah, that's right.

6 Q. Did you go through both sets or ---

7 A. Yeah.

8 Q. --- just one?

9 A. You'd go through both sets. I remember those  
10 doors right there at that bend. Because that's where  
11 we'd always pop off the track.

12 Q. So that's these --- could you go ahead and circle  
13 where you think the doors are at. You can circle over  
14 top me.

15 A. Big circle right here.

16 Q. And then the other set of doors? Here's the ---  
17 here's these overcasts coming down through.

18 A. It'd be right there.

19 Q. And there's a pair of doors on the map at  
20 approximately Crosscut 33 and you circled those as  
21 well. Did one set of doors have a lot more pressure  
22 than the other?

23 A. Yes. If I'm not mistaken, those you could just  
24 open. These --- this one right here at the big S-  
25 curve, those are the one I was telling you about that

1 had all that pressure behind it. You'd have to pull  
2 with the mantrip.

3 Q. That's Crosscut 10?

4 A. Yes.

5 Q. Okay. And did that stay the same up until the  
6 last day, even after that day they made the change?  
7 Were you still traveling through both sets of doors?

8 A. Yes.

9 MR. MORLEY:

10 Okay.

11 RE-EXAMINATION

12 BY MR. TUCKER:

13 Q. Okay. You say as soon as you go by 78, that's the  
14 one you said you hooked the rope to?

15 A. Yeah.

16 Q. And then you traveled, what, another 20 breaks  
17 until you come to another set of double doors?

18 A. Yes.

19 Q. And on the last day that you worked, to the best  
20 of your recollection, did you go through the second  
21 set of double doors?

22 A. Yes.

23 Q. How much farther did you go after you went through  
24 those doors?

25 A. Went all the way to the end of the track the way

1       we normally go. I believe the end of the track is  
2       right there.

3   MR. MORLEY:

4   Did they ever take out ---?

5   ATTORNEY KOERBER:

6   Have him circle that, too, please.

7   MR. TUCKER:

8   That's all the way on the ---.

9   ATTORNEY BABINGTON:

10   You mind writing in end of track, as  
11   well, please?

12   A. Here in the clear draw an arrow to it.

13   RE-EXAMINATION

14   BY MR. MORLEY:

15   Q. And the map shows the end of the track at  
16   approximately Crosscut --- Headgate Crosscut 82 or ---

17   A. Yes.

18   Q. --- Tailgate Crosscut 100 and ---.

19   ATTORNEY BABINGTON:

20   104, 105.

21   BY MR. MORLEY:

22   Q. 105. Are you certain that the track went all the  
23   way back to where those slanted bleeders went through?

24   A. Yes.

25   Q. So you think that the map is, at least, fairly

1 accurate where the end of the track is indicated?

2 A. Yes.

3 Q. At any time did they ever remove those airlock  
4 doors and build a stopping at the man door in their  
5 place that you know of?

6 A. No.

7 Q. Okay.

8 MR. MORLEY:

9 Do you have anything else?

10 ATTORNEY BABINGTON:

11 Yeah, just two quick questions.

12 EXAMINATION

13 BY ATTORNEY BABINGTON:

14 Q. You mentioned on at least one occasion you wore  
15 waders?

16 A. Yes.

17 Q. Do you recall which areas you had to wear waders  
18 in?

19 A. That was --- the waders is when we were crossing  
20 over here at 100 Break to get through the water. You  
21 had to cross there. And we had pumps set behind ---  
22 when all those were pretty much ripped out, we were  
23 setting pumps behind it.

24 Q. Is that that hurricane hole area you mentioned?

25 A. Yes.

1 Q. Were there any other areas where you remember  
2 wearing waders?

3 A. I would say 88 Break; you'd have to wear waders.  
4 You'd have to wear waders from the time I left in 88.  
5 It was still pretty --- only way you made it through  
6 there without having to wear waders, if you'd walk on  
7 top of the belt structures.

8 MR. MORLEY:

9 What was the highest water you had to  
10 work in?

11 A. 100 Break. It was ---.

12 MR. MORLEY:

13 How high was it?

14 A. I'd say six, six and a half feet.

15 MR. MORLEY:

16 I guess what I'm asking, is it like up to  
17 your knees, up to your chest, up to your neck?

18 A. I was on my tippy toes is the only I could make  
19 it. I'd walk along the rib where the coal rolled out,  
20 and I'd walk on my tippy toes. That way was the only  
21 way I could make it.

22 MR. MORLEY:

23 How much of a gap did you have to the  
24 roof?

25 A. About a foot.

1 BY ATTORNEY BABINGTON:

2 Q. How tall are you?

3 A. Five, eight.

4 Q. And you think that this crosscut, 100 hurricane  
5 hole was pumped down around November?

6 A. Yeah, it was November. I'd say right around  
7 December by the time that got pumped down. It took  
8 awhile to get that pumped --- from the time I started  
9 to get that pumped down. Because the water was coming  
10 in faster than you could pump it.

11 Q. Do you have any idea where the water was coming  
12 from?

13 A. I couldn't tell you. I have no idea.

14 Q. Did anybody ever ---?

15 A. Everybody had their own little theories about  
16 where the water was coming from.

17 Q. Did anybody discuss mines above you, or were you  
18 ever concerned about mines above you that had water?

19 A. That's one of the things I heard was that there  
20 was a mine above us and water was leaking through.  
21 Somebody said it was coming from the bottom. And I  
22 have no idea where it come from. I don't think  
23 anybody ever did say where it come from or knew where  
24 it came from.

25 Q. Did MSHA or a state inspector ever travel back in

1 these areas when you were back there?

2 A. I believe one time I seen an inspector back there.

3 Q. Do you recall around what time that was?

4 A. Right around December.

5 Q. And did they make it all the way back to 100

6 Break, did they make it further inby?

7 A. They went all the way, I believe, to the Bandytown  
8 fan.

9 RE-EXAMINATION

10 BY MR. TUCKER:

11 Q. I know November, December y'all had a lot of  
12 water, it was roofed --- you know, close to being  
13 roofed in a lot of places, and you said it took you  
14 awhile to get that pumped down. But toward March when  
15 you left, had --- could you tell where the water was  
16 coming in at that point? I understand you had a lot  
17 more water coming in November and December. Did you  
18 control it by pumping, or do you think you wasn't  
19 taking on as much water as you was back in ---?

20 A. I believe we controlled it by pumping. We just  
21 put so many pumps in that area. Only place, I would  
22 say that we had the most --- absolute most water would  
23 be right around 88. We had five or six pumps that  
24 were pumping in there full blast and the water wasn't  
25 going up, but it wasn't going down. We had it just

1 set right where it wasn't doing either one. But that  
2 must have been a lot of water to have five or six  
3 pumps in there like that. I believe it's --- that had  
4 to have been where it all came from, is right up  
5 around 88. Because everything down this way was  
6 controlled. Wasn't really no water coming from  
7 anywhere. This way, it seemed like it just rose up  
8 there and then just flooded it all the way back.

9 MR. MORLEY:

10 Returning to the trap doors on the  
11 tailgate at 10 and 33, approximately 10 and 33. When  
12 you guys traveled through there, did you ever leave  
13 both sets of doors open in one of those airlocks?

14 A. No.

15 MR. MORLEY:

16 Okay.

17 RE-EXAMINATION

18 BY ATTORNEY BABINGTON:

19 Q. So you were laid off in around March 27th?

20 A. Yes.

21 Q. Did anyone tell you why you were laid off?

22 A. Basically just because our longwall was constantly  
23 down. They just kept shutting down the longwall  
24 constantly. I believe --- if I'm not mistaken, I  
25 believe they laid off like 13 of us all on the same

1 day.

2 Q. Was it all contractors, or were there some ---?

3 A. All contractors.

4 Q. Okay. You said you had --- there was lots of down  
5 time on the longwall?

6 A. Yeah. They were constantly down --- about right  
7 around the time I got laid off, I was working here  
8 pumping water some. But I believe they had stuff  
9 around the glory hole. I believe we were building two  
10 overcasts right down here. Wayne Persinger had us  
11 down there building overcasts right around the glory  
12 hole. And that's what he was telling us. He was  
13 telling us something like it lost \$1,500 a minute for  
14 every minute it was down. So he kind of had us  
15 expecting to be laid off.

16 Q. Did he explain why the longwall was down so much?

17 A. No, he didn't. He didn't go into it. He just  
18 said that inspectors kept shutting them down.

19 ATTORNEY KOERBER:

20 Let me ask a couple questions.

21 EXAMINATION

22 BY ATTORNEY KOERBER:

23 Q. During your entire time at UBB, did you always  
24 work from like 6:00 a.m. until sometime in the  
25 afternoon?

1 A. Yes.

2 Q. Did you just work five days a week, or did  
3 sometimes you work more days a week?

4 A. About 90 percent of the time, it was straight six  
5 days.

6 Q. Monday through Saturday?

7 A. Yes.

8 Q. Was Mr. Burghduff your foreman throughout the  
9 entire time you was there?

10 A. No.

11 Q. Who was your foreman in the beginning?

12 A. It would be --- I don't know his name. A guy they  
13 call Jaybird would be my first one, and then I worked  
14 for Andy Coalson.

15 Q. Okay. And then Mr. Burghduff was sometime toward  
16 the later part of your time at UBB?

17 A. Yes. Pretty much like the last two months I was  
18 there would be Jeremy Burghduff.

19 Q. And would he have been your boss all six days  
20 during the time --- the later part of your employment  
21 there?

22 A. Yeah.

23 Q. So you guys worked the same shift every day?

24 A. Yes.

25 Q. During the last few weeks of your employment

1       there, who else besides you were the labor --- I mean,  
2       Mr. Burghduff was the foreman, and then there was you.  
3       Who else would have been on back there on a daily  
4       basis with you?

5       A. Jason Stanley and Andrew Bennett.

6       Q. Okay. Do you recall a guy by the name of David  
7       Farley?

8       A. Yes.

9       Q. Was he going back there with you, too?

10      A. Until he got his black hat. He got his black hat  
11      and they put him on the section about a month or so  
12      prior to us getting laid off.

13      Q. Okay. How many people would they try to keep on  
14      the shift at all times, your shift, back there behind  
15      the longwall?

16      A. At least --- they needed two.

17      Q. The foreman and two others?

18      A. Yes.

19      Q. Okay. Now, when you have Mr. Bennett, Mr. Stanley  
20      and yourself, was it Mr. Burghduff and three?

21      A. Yes.

22      Q. And there was a period of time that Mr. Farley was  
23      included?

24      A. Yes.

25      Q. But then toward the later part of your employment,

1 he no longer went behind the longwall?

2 A. Yeah, they put him on One section, I believe.

3 ATTORNEY KOERBER:

4 Okay. I have no other questions.

5 MR. MORLEY:

6 I thought of another one.

7 RE-EXAMINATION

8 BY MR. MORLEY:

9 Q. Who was the foreman before Jeremy Burghduff?

10 A. I worked for quite a few people behind there  
11 because they had actually three shifts pumping water  
12 there for awhile where it got so bad. I worked for  
13 Jaybird, Andy Coalson and Kyle Anderson before.

14 Q. And those gentlemen, did you ever observe them  
15 making methane checks?

16 A. No.

17 Q. Did you ever observe them taking air readings?

18 A. The only one I observed taking air readings would  
19 be Andy Coalson. He did every day when he went down  
20 there.

21 Q. Did they go off by themselves where they would  
22 have made checks that you didn't see, or were you  
23 pretty much with those people all the time?

24 A. I was pretty much with them because Andy Coalson  
25 always took checks because that's where we blasted

1 down there, blasted that trench toward the Bandytown  
2 fan.

3 Q. And he took --- you said he took air readings.  
4 Did he also take methane checks?

5 A. Yes.

6 Q. Okay. But the other bosses?

7 A. No. I didn't see anybody else taking checks  
8 because all the big bosses were down there. I was  
9 trying my best to hide.

10 Q. Okay. So you're not really sure whether they made  
11 them or not or ---?

12 A. Yeah, I know Andy Coalson did. I watched him make  
13 one.

14 MR. MORLEY:

15 Okay.

16 MR. TUCKER:

17 Did they carry their SCSRs with them?

18 A. Yes.

19 MR. TUCKER:

20 Okay. I guess you still have some  
21 contact with your co-workers from when you worked at  
22 UBB?

23 A. No.

24 MR. TUCKER:

25 No? Okay. Well, my follow-up question

1 on that if you did was, what have you heard happened?

2 Any rumors out there that you've heard as far as ---?

3 A. Well, I mean, I seen some of my friends that used  
4 to work down there and stuff. They don't have a clue.

5 One of buddies that was actually there the day of, I  
6 called him when I heard it on the TV and he said he  
7 thought it was a fall. I was like, I heard it on the  
8 radio, this, that and the other. And he's saying, oh,  
9 it was just a fall. It wasn't no big deal.

10 MR. TUCKER:

11 Okay.

12 A. That's kind of crazy.

13 BY MR. MORLEY:

14 Q. Do you have anything that you think we should know  
15 that we haven't asked you that you think is important  
16 to our investigation?

17 A. I don't.

18 RE-EXAMINATION

19 BY ATTORNEY BABINGTON:

20 Q. Is there anybody else that you think would be  
21 helpful for us to speak to?

22 A. Not right offhand. Everybody that knows, I think  
23 you guys already talked to.

24 Q. One other one. You know, we asked you before  
25 about the mantrip traveling inby the longwall face,

1 and you said it actually went all the way down to the  
2 end of the longwall. And you said that Burghduff  
3 drove the mantrip?

4 A. Yes.

5 Q. You also mentioned that somebody told you not to  
6 travel inby the longwall?

7 A. That was Wayne Persinger.

8 Q. Did Wayne Persinger tell you, or did he tell  
9 Burghduff or how did ---?

10 A. He told Burghduff.

11 Q. And then Burghduff told you?

12 A. Yeah.

13 Q. Okay. Did Burghduff say why he was doing it even  
14 though Persinger told him not to?

15 A. He just said he didn't care. Said he ain't  
16 walking from --- because that's where he wanted us to  
17 park was outside these --- outside these doors right  
18 here is where he wanted us to park.

19 MR. MORLEY:

20 You're pointing to the doors around 33

21 Crosscut?

22 A. Yeah. He wanted us to walk from here to there.

23 ATTORNEY BABINGTON:

24 Okay.

25 MR. MORLEY:

1 I don't have any further questions.

2 MR. TUCKER:

3 I don't either. I appreciate you coming  
4 in.

5 ATTORNEY BABINGTON:

6 Mr. Honaker, on behalf of MSHA and the  
7 Office of Miners' Health, Safety and Training, I want  
8 to thank you for appearing and answering questions  
9 today. Your cooperation is very important to the  
10 investigation as we work to determine the cause of the  
11 accident.

12 Again, we request that you not discuss  
13 your testimony with any person aside from a personal  
14 representative. After questioning other witnesses, we  
15 may call you if we have follow-up questions. Any time  
16 you have additional information regarding the accident  
17 that you'd like to provide to us, please contact us at  
18 the contact information that I'm providing to you  
19 right now. This is my business card, and on the back  
20 I've put down the contact information for Norman Page,  
21 our lead accident investigator.

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

1 A. I don't have anything.

2 ATTORNEY BABINGTON:

3 Okay. Again, I want to thank you for  
4 your cooperation in this matter. Let's go off the  
5 record.

6 \* \* \* \* \*

7 EXAMINATION CONCLUDED AT 2:27 P.M.

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CERTIFICATE

I, Resa Hall, 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.



*Resa Hall*