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Transcript of the Testimony of Thomas Moore

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
THOMAS MOORE

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 Monday, May 17, 2010, beginning at 8:10 a.m.

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ROBERT S. WILSON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

JAMES BECK
West Virginia Independent Investigation
(b) (7)(C)
(b) (7)(C)

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

2

3 JOHN O'BRIEN

4 Safety Inspector

5 West Virginia Office of Miners' Health,

6 Safety and Training

7 Welch Regional Office

8 891 Stewart Street

9 Welch, WV 24801-2311

10

11 JOHN GODSEY

12 Miners' Safety and Health Administration

13 P.O. Box 560

14 Norton, VA 24273

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Let's go on the record. Good morning.

5 My name is Bob Wilson. I am with the Office of the
6 Solicitor, United States Department of Labor. With me
7 is John Godsey, an accident investigator with the Mine
8 Safety and Health Administration. Also present are
9 officials with the State of West Virginia. I ask that
10 they state their appearance for the record.

11 MR. BECK:

12 I'm Jim Beck. I work for Davitt McAteer
13 on the independent team.

14 MR. FARLEY:

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

17 MR. O'BRIEN:

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

20 ATTORNEY WILSON:

21 Today is May 17, 2010. We are with
22 Thomas Moore to conduct an interview. Mr. Godsey will
23 start the questioning today, followed by Mr. Farley
24 and then Mr. Beck. Several other members of the
25 investigation teams are present in the room.

1 All members of Mine Safety and Health
2 Administration Accident Investigation Team and all
3 members of the State of West Virginia Accident
4 Investigation Team participating in the investigation
5 of the Upper Big Branch Mine explosion shall keep
6 confidential all information that is gathered from
7 each witness who voluntarily provides a statement
8 until the witness statements are officially released.
9 MSHA and the State of West Virginia shall keep this
10 information confidential so that other ongoing
11 enforcement activities are not prejudiced or
12 jeopardized by a premature release of information.
13 This confidentiality requirement shall
14 not preclude investigation team members from sharing
15 information with each other or with other law
16 enforcement officials. Your participation in this
17 interview constitutes your agreement to keep this
18 information confidential.
19 Government investigators and specialists
20 have been assigned to investigate the conditions, the
21 events, circumstances surrounding the fatalities that
22 occurred at the Upper Big Branch Mine-South on April
23 5th, 2010. The investigation is being conducted by
24 MSHA pursuant to Section 103(a) of the Federal Mine
25 Safety and Health Act and by the West Virginia Office

1 of Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.

3 After the investigation is complete, MSHA
4 will issue a public report detailing the nature and
5 causes of the fatalities in the hope that greater
6 awareness about the causes of accidents can reduce
7 their occurrence in the future. Information obtained
8 through interviews is frequently included in this
9 report.

10 You should know that if you request
11 confidentiality, confidentiality will only be granted
12 on a case-by-case basis. Your statement may also be
13 used in other enforcement proceedings.

14 You may have a personal representative
15 present during the taking of the statement and you may
16 consult with that representative at any time. Do you
17 have a representative with you today?

18 MR. MOORE:

19 No.

20 ATTORNEY WILSON:

21 Okay. You may refuse to answer any
22 question and you may request a break at any time.
23 This is not an adversarial proceeding. Cross
24 Examination will not be permitted; however, clarifying
25 and follow-up questions may be asked as appropriate.

1 A court reporter will record your interview. Please
2 speak loudly and clearly. If you do not understand a
3 question, please ask that the question be rephrased.
4 Please answer each question as fully as you can,
5 including any information that you may have learned
6 from someone else.

7 Again, I would like to thank you in
8 advance for your appearance here today. We appreciate
9 your assistance in this investigation. Your
10 cooperation is critical in making the nation's mines
11 safer. After we have finished asking questions, you
12 will have an opportunity to make a statement and
13 provide us with any additional information that you
14 believe to be important. If at any time after the
15 interview you recall any additional information that
16 you believe is relevant, please contact Norman Page,
17 lead accident investigator, at the telephone number
18 that was provided to you in the letter. At this time
19 I'll ask the court reporter to swear in the witness.

20 -----
21 THOMAS MOORE, HAVING FIRST BEEN DULY SWORN, TESTIFIED
22 AS FOLLOWS:

23 -----
24 ATTORNEY WILSON:

25 Thank you. At this time, I'll turn it

1 over to John Godsey to start the questioning.

2 EXAMINATION

3 BY MR. GODSEY:

4 Q. Good morning. Mr. Moore, we got a full map up
5 here, and if we have to use it, and we got a pointer
6 and some --- and we got smaller maps here. You can
7 make some markings on them for us.

8 Can you please state your full name and spell your
9 last name?

10 A. My name is Thomas D. Moore, M-O-O-R-E.

11 Q. Please state your address and telephone number.

12 A. (b) (7)(C)

13 Q. Telephone number?

14 A. (b) (7)(C)

15 Q. Are you appearing here today voluntarily?

16 A. Yes.

17 Q. How long have you worked for MSHA?

18 A. I've been with MSHA, time frame, 20 years.

19 Q. What is your current duty station?

20 A. Mount Hope.

21 Q. How long have you worked at that location?

22 A. I've been with --- at Mount Hope under my job
23 assignment, new job assignment, since January the
24 18th.

25 Q. Okay. What is your present position?

1 A. Supervisor of Work Group Two.

2 Q. And have you been in that position, well,
3 since ---.

4 A. At Mount Hope? I've been there at Mount Hope
5 since January the 18th.

6 Q. Okay. Who is your current supervisor?

7 A. Central Link, Link Selfe.

8 Q. Tell us about your mining history and some of the
9 experience you have.

10 A. Well, I had been in the coal industry since 1980
11 --- 1971, I'm sorry. And I was in management position
12 from 1974 up until I came to MSHA in '82.

13 Q. Do you have any specialized training or
14 certifications?

15 A. Let me back up on that. Not '82, but '92.

16 Q. Do you have any specialized training or
17 certifications?

18 A. Just certified mine foreman in the industry mines.

19 Q. And what are your present responsibilities?

20 A. I assigned work assignments and whatever. I have
21 a work group work --- in my work group I have nine
22 inspectors.

23 Q. How many mines do you have assigned to your work
24 group?

25 A. I got --- underground I have nine underground and

1 then about seven surface.

2 Q. How many mines do you presently have on, like, a
3 103(i) spot?

4 A. I have two.

5 Q. Is the Upper Big Branch Mine assigned to your work
6 group?

7 A. Yes.

8 Q. How long have you had it? How long has it been
9 assigned to you, I mean?

10 A. Since January 18th.

11 Q. Who is the mine assigned to this quarter, April
12 through June?

13 A. April ---.

14 Q. You know, April through June 2010, the third
15 quarter.

16 A. John Syner and Larry Hedrick.

17 Q. Hedrick?

18 A. Hedricks.

19 Q. Who was this mine assigned to the last quarter,
20 the January through March 2010?

21 A. I had Curly Brown and Keith Stone.

22 Q. What other inspections do you all do at Upper Big
23 Branch, other type of inspections?

24 A. Just regular inspection and then the spot
25 inspection at the mines.

1 Q. Okay. Who usually conducts the spot inspections?

2 A. It had different inspectors conducting the spot
3 inspection.

4 Q. When was the last time your work group conducted
5 an inspection at the Upper Big Branch Mine prior to
6 April 5th, 2010?

7 A. The quota had just started and I had a, I had a
8 inspector there on that day, the 5th.

9 Q. What about before that? What was the last day
10 before April 5th?

11 A. The end of the month, which was March 30th was at
12 the end of the month.

13 Q. When was the last time you conducted an inspection
14 at the Upper Big Branch Mine prior to April 5th, 2010?

15 A. When was the last time I conducted an inspection?
16 I don't remember the last time I was there as an
17 inspector.

18 Q. You don't remember what type of inspection? Were
19 you on a --- what type inspection?

20 A. I was on E01 (a)(a)(a) inspection.

21 Q. Okay. Did you go ---?

22 A. Probably somewhere around 2005, myself personally.

23 Q. Did you go underground?

24 A. Yes.

25 Q. Okay. The last time that you were at Upper Big

1 Branch, did anyone accompany you during this
2 inspection?

3 A. Yes.

4 Q. Who was --- from MSHA? Did anybody travel with
5 you from MSHA?

6 A. I traveled with Keith Sigmon and had a trainee,
7 Doy Russell.

8 Q. Did anyone from the State travel with you?

9 A. No.

10 Q. How about the company, a company representative?

11 A. Harold Lilly. There were some other inspections
12 during that date that I was there, Clyde Gray and
13 Benny Clark.

14 Q. They were with you that day or they were on
15 another ---?

16 A. Well, we were all there that day.

17 Q. What was the purpose you were there? What was the
18 purpose you were there --- I mean, all of you all
19 there that day?

20 A. Each one of them went on a section, and Benny
21 Clark went on a section. Clyde Gray was on a section.
22 I traveled with Keith Sigmon. We were on a different
23 section.

24 Q. Okay. The company person that traveled with you,
25 what was his title?

1 A. He was a foreman, just a longwall foreman.

2 Q. Okay. During your all travels, did they --- did
3 you ever see him take any notes or any photographs?

4 A. No.

5 Q. What areas of the Upper Big Branch Mine have you
6 inspected?

7 A. Have I inspected?

8 Q. Uh-huh (yes).

9 A. That's some time ago, but I probably inspected the
10 whole mine in its entirety. That was back in 2000 and
11 some, 2005.

12 Q. Okay. Have you been to the Longwall Section 0-50?

13 A. Yes, I have.

14 Q. How about the headgate?

15 A. Headgate --- which one?

16 Q. Headgate Section 0-29?

17 A. 0-29?

18 ATTORNEY WILSON:

19 Headgate 22?

20 BY MR. GODSEY:

21 Q. I mean 22. I'm sorry.

22 A. Okay. Twenty-two (22), yes.

23 Q. Have you been to the Tailgate 22 section?

24 A. Headgate 22 section.

25 Q. Tailgate?

1 ATTORNEY WILSON:

2 Well, let's go off the record a second.

3 OFF RECORD DISCUSSION

4 BY MR. GODSEY:

5 Q. What areas of the mine did you travel with when
6 you went with the last time with your inspectors?

7 A. The last time I was with my inspectors, I went to
8 the longwall section.

9 Q. Okay. When you all arrived that morning, did all
10 of you all go to the same portal?

11 A. Yes.

12 Q. And which one was that?

13 A. That was the new portal, Ellis Portal, I think
14 they call it.

15 Q. So you went up to Ellis Portals, and what was your
16 --- what did you all do when you went there? You
17 talked to the mine, the foreman, and what did the
18 inspectors do?

19 A. They talked to the superintendent who was Hager.
20 Can't think of his first name. Anyway, reviewed the
21 mine files, books and ---.

22 Q. Did you all look at the mine map?

23 A. Yes.

24 Q. Did you all ever look at the --- did you look at
25 the overlays and stuff that was there?

1 A. The overlays of the map?

2 Q. Right. Of the mine, yes.

3 A. Yes, we looked at the map. Yeah.

4 Q. Okay. Did you ever have any concerns with the
5 overlays, I mean, what was laying ovetop of the Big
6 Branch Mine?

7 A. No.

8 Q. Did you all check the tracking, your underground
9 tracking?

10 A. Yes.

11 Q. And the CO monitor?

12 A. No. No, we didn't ---

13 Q. Okay.

14 A. --- review the CO monitor, no.

15 Q. And exactly who was in your party when you
16 traveled underground?

17 A. I traveled with Keith --- well, Keith Sigmon, and
18 as I said, I had a trainee with me ---

19 Q. Okay.

20 A. --- Doy, also.

21 Q. And so you all --- you say you went in, in Ellis
22 Portal?

23 A. Yes.

24 Q. Okay. Which way was the air direction on the
25 tracking vent that morning? Do you remember?

1 A. It was traveling its proper direction.

2 Q. What direction is that?

3 A. It was coming out Ellis Portal.

4 Q. Coming out?

5 A. Uh-huh (yes).

6 Q. Okay. Is the track and the belt together? Are
7 they the same entry going in ---

8 A. In certain ---.

9 Q. --- in Ellis Portal?

10 A. In certain areas, yes.

11 Q. Did you ever check the velocities on the belt?
12 Did you all check the velocities on the belt?

13 A. No, no.

14 Q. Well, what condition was the track in?

15 A. Condition-wise, it was --- at that time it was
16 rock dusted, rib roof condition appeared adequate.

17 Q. What about the ventilation controls?

18 A. Ventilation controls appeared adequate, ---

19 Q. What do they ---?

20 A. --- track controls.

21 Q. Excuse me. What do they construct your --- what
22 do they construct their stoppings out of, four-inch or
23 six-inch stoppings? What size block do they use
24 to ---?

25 A. The stoppings, I don't know. I don't know.

1 Q. Do they wet lay them or do they dry stack them?

2 A. I don't know if they wet them. I think they dry
3 lay them with plaster.

4 Q. Do you know which side they plaster or coat the
5 sealing on?

6 A. Intake side.

7 Q. Okay. Are there very many pumps or waterholes
8 along the track?

9 A. I didn't notice any.

10 Q. Okay. What condition was the belt in?

11 A. It appeared rock dusted.

12 Q. Okay. Is there any steep grades on the track?

13 A. No major steep grades, no.

14 Q. Okay. So you went on up, traveled all the track
15 up to the --- towards the section. Did you have to
16 ever enter --- go through any equipment doors?

17 A. Equipment doors? Air lock doors are you referring
18 to?

19 Q. Yeah.

20 A. Yes. Yes, we went. I don't know what point it
21 was, but we did go through a air lock door.

22 Q. What condition were the doors in?

23 A. They appeared adequate.

24 Q. Were any of them left open?

25 A. No.

1 Q. Okay. You went on up --- so you went to the
2 longwall?

3 A. Yes.

4 Q. Okay. What was the condition of the longwall
5 belt?

6 A. At the time we walked in, it appeared adequate.

7 Q. So which way was the air traveling on the longwall
8 belt? Which direction was it traveling?

9 A. I'm thinking it was traveling in --- I mean, air
10 coming out, I'm sorry.

11 Q. In other words, you're saying the air was going
12 outby?

13 A. Outby. Uh-huh (yes).

14 Q. Okay. When you got up to the headgate, did you
15 check the curtains across the headgate entries, the
16 block curtains?

17 A. We traveled across the face of the longwall.

18 Q. No, on the headgate side, you know, the stoppings
19 across the headgate to direct air across the headgate,
20 were they in or what condition were they in or did you
21 look at them?

22 A. All the curtain was in on the longwall. You mean
23 across the --- to direct air across the face ---

24 Q. Correct.

25 A. --- of the longwall? Yes, everything was intact.

1 Q. Did it have much pressure on the curtains?

2 A. It appeared to be.

3 Q. When you started across longwall, did you all get
4 an air reading before that you all entered, went
5 across the longwall?

6 A. He took his. He took his air readings at the
7 location, yes.

8 Q. So he took --- he took a total cfm?

9 A. Right. He took the intake.

10 Q. Okay. What other type of air readings did he take
11 on the face that day?

12 A. He took one along the face of the longwall.

13 Q. How many did he take?

14 A. He took one.

15 Q. What condition was the longwall? The travelway,
16 was it coal, loose coal in the travelway?

17 A. No.

18 Q. Was there any water coming through the top that
19 day?

20 A. No, no.

21 Q. Were there any pumps?

22 A. No, I didn't notice any pumps.

23 Q. And you all travel --- did you watch the cycle of
24 mining that day, the shearer running?

25 A. No, they were down. They'd cut all at the head

1 that day.

2 Q. Did you help take any gas readings there?

3 A. Yes.

4 Q. What were your results?

5 A. Didn't have any methane.

6 Q. What about oxygen?

7 A. Oxygen was 20.8.

8 Q. How was the current air current being maintained
9 across the longwall face? Was it pretty constant?

10 A. Yes.

11 Q. Did you all --- did you travel to the tailgate
12 entry?

13 A. Yes.

14 Q. What was the condition of the tailgate?

15 A. It was passable. It was in good condition.

16 Q. What about --- do they have fulltime trickle
17 dusters going on in the return --- I mean, the
18 tailgate?

19 A. No, not that I know of.

20 Q. What direction was the air going after it exited
21 the tailgate? Which way did it go outby, inby?

22 A. It was going --- it wasn't going in its proper
23 direction at that particular time.

24 Q. Which way was it supposed to be going?

25 A. It was supposed to been going outby.

1 Q. What did you all do?

2 A. The section was shut down and we blocked the entry
3 to find out which direction the air was going.

4 Q. Did you all find out what the --- what was the
5 reason why the air was going the wrong direction?

6 A. Well, we found out that at one location where it
7 should have been a regulator, it wasn't regulated in
8 that particular entry.

9 Q. Do you know any reason why they would not have had
10 a regulator there?

11 A. No, I don't.

12 Q. Do you ever --- have you ever traveled from the
13 tailgate back to the Bandytown fan checkpoint?

14 A. No, not all the way to the fan.

15 Q. Where did you travel to?

16 A. We went the direction the air was pulled in, which
17 --- and we traveled up to the regulator, but it
18 should've --- air should've been coming in.

19 Q. Where was that location?

20 A. If I can find it. Longwall --- I'm trying to find
21 the active --- was this the active section map that
22 we're looking at here?

23 Q. You're looking at the 0-50.

24 A. And the fan is where, in from here. Is that along
25 the --- okay. So we traveled across the headgate to

1 the --- and we went out the tailgate. And I'm trying
2 to see. Air should've been pulled in toward the fan,
3 but it was going in the opposite direction, so we
4 walked along here up to some airlock doors where a
5 regulator should've been in place up in this side.

6 Q. Okay. Were you ever --- did any of your
7 inspectors --- or did you ever talk to you about any
8 conditions of the headgate, back in the headgate area
9 on the one north side headgate, any roof conditions or
10 water condition?

11 A. No. No, not to my knowledge.

12 Q. Did they ever have to abandon their return on the
13 previous Headgate 22 section?

14 A. No, not to my knowledge.

15 Q. Okay. When you said you traveled back towards the
16 Bandytown fan, did you travel in this outer entries
17 here, the return off of the 0-40 section? Did you
18 travel that back that way?

19 A. I'm a little bit turned around. We traveled
20 outby, not necessarily --- we didn't go towards the
21 inby, the --- we didn't go by in the, go by in the
22 tailgate toward the Bandytown fan. We went to the
23 outby area, I guess you would say, toward the
24 regulator to see where the air should've been coming
25 in and going across the face of the longwall.

1 Q. Okay. Has this been the first time that you've
2 ever been aware of any air reversals in the mine?

3 A. Yes.

4 Q. No one's ever --- inspectors written any other
5 area of the mine where the air is changed?

6 A. Not on my knowledge, no.

7 Q. Do you remember what the velocities were on the
8 belt that day?

9 A. No, I don't.

10 Q. Not on the belt --- excuse me, on the longwall?

11 A. No, I don't remember.

12 Q. Okay. Was there stoppings in --- going down the
13 tail entry? Were they in place, tailgate stoppings
14 going outby?

15 A. Everything appeared to be in place.

16 Q. Okay. What type of roof support do they have in
17 the tailgate?

18 A. There wasn't any support at the area we came out
19 and walked the entries. There wasn't any support over
20 in that area.

21 Q. In other words, the tail --- the entry didn't have
22 any support ---

23 A. No.

24 Q. --- outby at all ---

25 A. No.

1 Q. --- other than ---?

2 A. None that I'm aware.

3 Q. Well, how long did it take them to correct that
4 condition? Did they correct it that --- excuse me.
5 Did they correct it that day?

6 A. No, it wasn't corrected that day.

7 Q. How long did it take them to get that corrected?

8 A. They were down for about a week.

9 Q. So that must have been a pretty significant
10 problem you had. Is that what you're saying?

11 A. I wouldn't say pretty significant, it took them
12 that long to try to get it, to get the air going the
13 direction it should have gone to.

14 Q. Did you ever talk with the technical division in
15 Mount Hope, the ventilation supervisor or the ADM
16 about conditions that you found here?

17 A. That day, yes.

18 Q. Have you ever considered filling a 2002-04 form
19 out saying that the plan was inadequate for this mine?

20 A. There was a revision of the plan made.

21 Q. Okay. Were you aware of any time or did any
22 inspector make it aware to you that this --- the
23 longwall was making quite a bit of water or water
24 coming through the roof and ---?

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

1 Q. So you've never been behind the Bandytown?

2 A. No.

3 Q. Okay. What other sections have you visited here?

4 A. I went on one of the driving sections, which was
5 22, Headgate 22.

6 Q. Okay. Who did you go up there with?

7 A. I was with a Kevin Lyalls.

8 Q. Do you know about when this --- when was this?

9 A. No. No, it was during that quarter, earlier
10 during the quarter.

11 Q. During the January through March quarter?

12 A. Uh-huh (yes).

13 Q. Okay. How did you travel up there that day?

14 A. We traveled the track entry.

15 Q. And what portal did you enter, I mean?

16 A. The Ellis Portal.

17 Q. And your same route, your same ---?

18 A. Yes.

19 Q. You did the longwall?

20 A. Uh-huh (yes).

21 Q. Okay. Where did you stop that day? What was the
22 end of --- you stopped at the end of the track or did
23 you get out before or ---?

24 A. We were on a spot inspection. He was conducting a
25 spot. I was traveling with him, and we walked the

1 beltline.

2 Q. Okay. What condition was the beltline in that
3 day?

4 A. We issued a violation on the beltline, to the best
5 of my knowledge.

6 Q. Do you remember what violation, the kind of
7 violation it was?

8 A. 400, float dust.

9 Q. Okay.

10 A. Yeah.

11 Q. Did you ever see any CO monitors on the beltline?

12 A. Yes.

13 Q. Did you all take any velocity readings on that
14 beltline that day?

15 A. None that I'm aware of. I don't think he did, no.

16 Q. Okay. What was the stoppings and the --- well,
17 the ventilation control, how were they --- what was
18 their appearance that day?

19 A. They appeared --- the stoppings appeared to be
20 adequate.

21 Q. What type of roof control did they use up --- what
22 was the roof supports they used?

23 A. Just your glue bolts. I don't remember the size
24 all the way through there, but ---.

25 Q. Did they use any supplemental supports?

1 A. None that I was aware of, no.

2 Q. And what about when you got up to the section?

3 Did you all take air readings and stuff?

4 A. Yes, he did.

5 Q. Which readings did he take?

6 A. He took ---.

7 Q. Excuse me. Which readings did he take and where
8 did he take them?

9 A. He took a last open break reading and we did an
10 imminent --- he did an imminent danger sweep of the
11 face.

12 Q. Did you all watch them mining?

13 A. The best of my recollection, I don't think they
14 were mining at that time either.

15 Q. What about the condition of the line, of the
16 curtains that day? Were they new curtains?

17 A. Face curtain, I don't recall whether they were new
18 or not.

19 Q. Okay. But did they have them in the correct
20 place?

21 A. They appeared to be corrected; correct, yes.

22 Q. Did you all go to the immediate return?

23 A. We went across the faces.

24 Q. Okay. How about gas and oxygen, CO? Did you all
25 detect ---?

1 A. Best of my recollection, we didn't detect any
2 methane in the face.

3 Q. So did you take a ---?

4 A. And oxygen appeared to be adequate.

5 Q. Did you take any rock dust samples or anything
6 like that?

7 A. No.

8 Q. Have you ever --- do you usually review all the
9 rock --- the results of the rock dust sample?

10 A. Yes.

11 Q. Have you ever seen any concern for any --- did you
12 have to write any violations over those?

13 A. There has been some written, yes.

14 ATTORNEY WILSON:

15 Let's go off the record for a sec. Let's
16 go off the record.

17 OFF RECORD DISCUSSION

18 BY MR. GODSEY:

19 Q. Who was the foreman up there that day, do you
20 remember, on Headgate 22?

21 A. No, I don't.

22 Q. Did he travel with you the whole time?

23 A. I don't recollect who traveled with us on that
24 day.

25 Q. Did you have a mine foreman or walk --- I mean,

1 travel with a --- other than the supervisor in the
2 section with you that day?

3 A. Yes, Hager. He was the superintendent.

4 Q. Did he take any pictures or notes or anything, any
5 photographs?

6 A. None that I know of.

7 Q. So on that day that you were up there, the roof,
8 was it in good condition?

9 A. It appeared to be.

10 Q. What about the ribs?

11 A. They also appeared to be.

12 Q. Had any of your inspectors talked to you about, I
13 guess you'd call Eight North, what we're calling this
14 area here, about any conditions up here in the face,
15 like, especially in the Number Six entry where the
16 mine floor had heaved and was making a little bit of
17 methane?

18 A. No.

19 Q. They had never brought that to you?

20 A. None, that I'm aware of.

21 Q. Did you have any conversations --- when you were
22 either on the longwall or on the Headgate 22, did you
23 have any conversations with any of the miners up there
24 about the conditions of the mines or anything like
25 that?

1 A. I don't recollect conversation with them.

2 Q. Did any of them ---

3 A. No.

4 Q. --- talk to you? I mean, nothing exchanged?

5 A. No more than my usual talk with them, whether or
6 not --- you getting good return on your glue or I'll
7 speak to safety issues being around the miner. That
8 was my basic conversation with them.

9 Q. So on your travels underground at the longwall and
10 Headgate 22, that is the only section that you
11 traveled with in the March period, January, February,
12 March?

13 A. Best of my knowledge, yeah.

14 Q. And you said you found zero methane?

15 A. Yes.

16 Q. And 20.8 oxygen ---

17 A. Yes.

18 Q. --- all over the faces?

19 A. Yes.

20 Q. And you said you wrote --- that you wrote some
21 citations up there. Now, did the company have
22 anything to say about that? Did they object to it or
23 what kind of --- what was the reaction when you all
24 wrote the citations?

25 A. The inspectors conferenced with them. I listened

1 to them, but I don't recall their comments, none other
2 than, you know, just talking about the --- you know,
3 the citation itself. I didn't note any objections to
4 what the inspector issued.

5 Q. Your inspectors during January through March, they
6 wrote several violations and orders. Did the company
7 ever contact you complaining or making any kind of
8 statement to you about the enforcement being at the
9 Upper Big Branch Mine?

10 A. Not that I can recall.

11 Q. Were there any particular areas or conditions of
12 that mine that you were concerned in?

13 A. Not at the time, no.

14 Q. And I think, also, go back, that there have been
15 several --- there was several citations written about
16 air reversals and air going the wrong direction. Did
17 that have any concerns with you?

18 A. The remembrance of air reversal was when we walked
19 across the longwall and I was with Keith Sigmon.

20 Q. Do you review each citation that's written?

21 A. Yes.

22 Q. And are you aware of any hazard complaints lodged
23 against the mine?

24 A. None that I can recollect.

25 Q. The mine showed a three-year gap in longwall

1 production. Do you know why there was such a time
2 between ---?

3 A. No, I don't.

4 Q. And also it shows on the map where they skipped
5 portions of the longwall. They've gotten the longwall
6 and then you see an area left and they would resume.
7 Do you know why they did that?

8 A. No, I don't.

9 Q. Has any miners ever approached you with concerns
10 regarding unsafe mining conditions at this mine?

11 A. No.

12 Q. Are you aware of any conditions which require all
13 the, all or a portion of the mine to be evacuated?

14 A. No.

15 Q. Are you aware ---?

16 A. Say that again, now? Am I aware of ---?

17 Q. Are you aware of any conditions which required all
18 or a portion of this mine to be evacuated during a
19 shift?

20 A. No. That incident we had there, I think they were
21 making ventilation changes and they withdrew the men
22 out. That was on --- I believe it was on the 9th, I
23 believe.

24 Q. Have you ever had a concern about the company
25 making ventilation changes and not being approved?

1 A. None that I --- I'm not aware of it.

2 Q. Have you ever been aware of any time that they
3 cancelled an oncoming shift because of some kind of
4 condition at the mine?

5 A. I'm not aware of it, no.

6 Q. So any time during your inspections, did you have
7 any concerns regarding the conditions or the mine
8 conditions at this mine?

9 A. Now, when you say mine inspections ---?

10 Q. Well, when I say mine --- your inspections, that's
11 when you're traveling ---

12 A. Yeah.

13 Q. --- with an inspector.

14 A. Okay. No.

15 Q. Okay. We'll go to April 5th, the accident. When
16 and how did you hear about the April 5th accident?

17 A. By phone call.

18 Q. Who called you? Who called?

19 A. I don't know who it was. I got a --- I know there
20 was a call that came in and ---.

21 Q. What did they say to you?

22 A. It was a written accident and it stated that there
23 had been a --- I believe it was written methane
24 ventilation, a reversal of air on Belt Number Five, I
25 think it stated, and 50 to 100 parts per million.

1 Q. Were you involved in rescue and recovery efforts
2 at the mine?

3 A. No.

4 Q. So you didn't go to the mine at all?

5 A. No.

6 Q. Did you have any conversation with the workers or
7 management during the rescue, after the rescue about
8 --- concerning any of the conditions that they had at
9 the mine? After all this was over, have you talked to
10 anybody that was at the mine, worked at the mine
11 before, miners or anyone?

12 A. No, no.

13 Q. No, no? Okay. Have you ever been to the South
14 Portal, is what they call it?

15 A. South Portal, is that the old portal?

16 Q. That's the old portal on the far side.

17 A. Yes.

18 Q. Is there much difference between the two, the
19 Ellis Portal condition-wise?

20 A. None that I'm --- you know, that I'm aware of.

21 Q. What are the fans doing? Are they exhausting or
22 blowing on the south side, the two fans over at the
23 north and south? Are they exhausting fans or ---?

24 A. Yes.

25 Q. They're exhausting ---?

1 A. Yes, sir.

2 Q. What about the Bandytown fan?

3 A. I'm thinking that it's exhausting, too.

4 MR. GODSEY:

5 I think that's about all I had.

6 ATTORNEY WILSON:

7 Terry?

8 EXAMINATION

9 BY MR. FARLEY:

10 Q. Mr. Moore?

11 A. Yes.

12 Q. Let me back up on a couple things here. You've
13 been in your supervisory position since January of
14 this year; correct?

15 A. January 18th.

16 Q. Okay. During this period of time, ---

17 A. Okay.

18 Q. --- have you had any conversations with any of
19 your inspectors or anyone else who had any knowledge
20 of any history of methane feeders at this mine
21 emitting from the mine floor or face?

22 A. None that I'm aware of, no.

23 Q. Okay. You never heard anything about ---

24 A. No.

25 Q. --- anything like that?

1 A. No.

2 Q. Okay. And did anyone mention to you that there
3 may be an underlying coal seam, a coal seam underlying
4 the Eagle seam where they mined approximately 10 to 30
5 feet down?

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

7 Q. During your visits to the UBB Mine issue, did you
8 observe any evidence of the mine floor hooving?

9 A. No, I didn't.

10 Q. Okay. Did any of the inspectors that you
11 supervise mention to you that they had observed some
12 instances of the mine floor hooving at UBB?

13 A. Not that I'm aware of, no. I don't recall.

14 MR. FARLEY:

15 Nothing further.

16 MR. BECK:

17 Are you done, Terry?

18 MR. FARLEY:

19 Yeah. Go ahead, Jim.

20 EXAMINATION

21 BY MR. BECK:

22 Q. Mr. Moore, clarify for me again the date of the
23 inspection where you were with Keith Sigmon and the
24 trainee and Clyde Gray and Benny Cook. What date was
25 that?

1 A. That was on the 9th. The 9th, I think. The 9th
2 of March.

3 Q. March 9th? And what was the purpose of the
4 inspection having that many people, other inspectors
5 with you?

6 A. Keith Stone had issued a violation on ventilation,
7 and he felt that the air was --- that maybe all the
8 sections wasn't being ventilated adequate and that
9 maybe they --- that the air was being tampered with.
10 So we sent a, sent an inspector on each section to
11 take air readings.

12 Q. Now, in your experience with ventilation, would
13 you say that the problems that you did encounter with
14 ventilation at UBB were because there wasn't an
15 adequate amount of air coming in the mine or the air
16 that they had just wasn't properly directed?

17 A. Are you speaking about the ---

18 Q. Just in general.

19 A. --- spilling?

20 Q. Do you think the mine was adequately ventilated,
21 enough air coming in the mine, intake air to use or
22 was it just not properly directed?

23 A. I don't know. I know that the sections that I
24 were on, there was air on those sections and that the
25 air was adequate on the longwall. Appeared to be

1 adequate.

2 Q. Could you clarify, did UBB have a tracking system
3 in place?

4 A. Yes, they did.

5 Q. What was the attitude of management towards
6 ventilation? Were they concerned about it? Did they
7 work on it or just didn't really care?

8 A. There was concern. I'm thinking that yes, there
9 was concern, that particular incident. I'm speaking
10 of one specific incident there.

11 Q. Were there ever any ventilation surveys done,
12 either by the company or MSHA or anybody?

13 A. Ventilation surveys?

14 Q. For the whole mine or ---?

15 A. None that I know of, no.

16 Q. Okay. Do you know of any problems with the doors,
17 the air lock doors?

18 A. None, none that I'm aware.

19 Q. And did they have approval to use a belt there to
20 ventilate the face on the longwall?

21 A. I'm thinking yes, there was on some of those
22 driving sections.

23 Q. Now, as a supervisor, you stated that you reviewed
24 the violations that were written ---

25 A. Yeah.

1 Q. --- by your inspectors. Did you ever notice or
2 think that the sections were down a lot when the
3 inspectors were there, not mining coal? Was that a
4 common occurrence?

5 A. I can't say that it was a common occurrence, no,
6 while I was there, I mean. But a few times I was
7 there, they were down for whatever reason, but you
8 know.

9 Q. All right. Were there a lot of revisions to the
10 ventilation plan? Would you characterize a lot of
11 revisions coming from this mine, constantly want to
12 change things with their ventilation?

13 A. There were revisions but, you know, when you say a
14 lot, I mean ---.

15 Q. In the quarter, January '10 to March '10, were
16 there a lot of revisions then? Were there, like, 10,
17 12?

18 A. Yeah, I don't know number-wise, but there were
19 revisions, yes.

20 Q. And would you know, was there more approved or
21 more denied or kind of a mix?

22 A. Most of the time if it's denied or approved ---
23 and I don't recall a lot of denials as far as the
24 ventilation plan or the number that came through, you
25 know.

1 Q. And would you happen to know how many violations
2 were written in the quarter January through March of
3 2010 on air reversal?

4 A. No, I don't know. I don't.

5 Q. But at least one?

6 A. Yes, at least one.

7 MR. BECK:

8 That's all.

9 ATTORNEY WILSON:

10 Okay. Let's go off the record.

11 SHORT BREAK TAKEN

12 ATTORNEY WILSON:

13 Let's go back on the record. John?

14 RE-EXAMINATION

15 BY MR. GODSEY:

16 Q. Mr. Moore, you stated earlier that in the south
17 portion of the mine that you said that the fans there
18 were exhausting. Are you sure they were exhausting?

19 A. It the south.

20 Q. In the south?

21 A. They're blowing.

22 Q. So instead of exhausting, they're blowing?

23 A. Yeah.

24 Q. Okay.

25 A. They're blowing.

1 Q. Okay. Let's go back to the day that we went
2 across the longwall face and went to the tail entry.
3 You said you went outby, walked the tailgate out. Did
4 you have a chance to look inby on the tailgate entry?

5 A. Well, we walked outby to the stopping line and
6 came over to --- which would be the return stopping
7 line, back down to the gob of the longwall face. We
8 didn't go inby.

9 Q. I know that, but once you crossed the tailgate and
10 did left, right, left and you --- left is outby. Did
11 you happen to look right to see how the --- what the
12 conditions --- if the rubble had fell right in behind?

13 A. I don't think it had at that time. It wasn't
14 tight in that entry. Looking into the gob line, no,
15 it hadn't fallen right against the face.

16 Q. How about on the back of the shields?

17 A. Coming down, down the longwall it appeared that it
18 had fallen in some. You could see it, but it was
19 tight. It was fairly tight at that time.

20 Q. And back on the headgate entry, you know, we got
21 those line curtains across the entries there to block
22 air directly across. Did you happen to look in behind
23 those curtains?

24 A. No, I didn't.

25 Q. And they did have pressure on them?

1 A. Yes.

2 MR. O'BRIEN:

3 That's all.

4 ATTORNEY WILSON:

5 Terry? Anything?

6 MR. FARLEY:

7 I don't think so.

8 ATTORNEY WILSON:

9 Jim?

10 MR. BECK:

11 No.

12 ATTORNEY WILSON:

13 All right. Then that's all with the
14 questions. Mr. Moore, I want to thank you on behalf
15 of MSHA and the Office of Miners' Health, Safety and
16 Training for appearing and answering questions today.
17 Your cooperation's important to the investigation as
18 we work to determine the cause of the accident. We
19 require that you not discuss your testimony with any
20 other person. After questioning other witnesses, we
21 may call you if we have any follow-up questions that
22 we feel that we need to ask you. If at any time you
23 have additional information regarding the accident
24 that you would like to provide to the investigation
25 team, please contact Norman Page at the number that

1 was provided to you.

2 At this time I'd like to give you and
3 opportunity to go back. If there was any answer that
4 you want to clarify or if there's any statement that
5 you would like to make or if there's any additional
6 information that you would like to provide to the
7 investigation team, you may do so at this time.

8 A. I don't have anything.

9 ATTORNEY WILSON:

10 Okay. Then again, I want to thank you
11 for your cooperation in this matter. Go off the
12 record.

13

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

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Alison Salyards