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Transcript of the Testimony of Roger Scarbro

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STATEMENT UNDER OATH
OF
ROGER SCARBRO

taken pursuant to Notice by Brett Steele, a
Court Reporter and Notary Public in and for the
State of West Virginia, at the residence of Mr.
Scarbro, (b) (7)(C)

on Saturday, May 22,
2010, beginning at 9:51 a.m.

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certifying agency.

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

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P R O C E E D I N G S

ATTORNEY BAXTER:

My name is Derek Baxter. I'm an attorney with the Office of the Solicitor, Department of Labor. With me is Norman Page and Adron Wilson, accident investigators with the Mine Safety and Health Administration, MSHA. Also present are Terry Farley and Bill Tucker with the West Virginia Office of Miners' Health, Safety and Training. Today is May 22nd, 2010. We're at the private residence of Roger Scarbro.

We're here today to interview Mr. Scarbro as part of the investigation into the disaster that occurred at the Upper Big Branch Mine-South on April 5th, 2010. Mr. Page and Mr. Farley will be conducting the questioning today.

Government investigators and specialists have been assigned to investigate the conditions, events and circumstances surrounding the fatalities that occurred at the Upper Big Branch Mine-South on April 5th, 2010. The investigation is being conducted by MSHA under Section 103(a) of the Federal Mine Safety and Health Act and the West Virginia Office of Miners' Health, Safety and Training. And we

1 appreciate your assistance in this investigation.
2 You may have your personal attorney
3 present during the taking of this statement or another
4 personal representative if MSHA has permitted it, and
5 may consult with your attorney or the representative
6 at any time. Your statement is completely voluntary.
7 You may refuse to answer any question and you may
8 terminate your interview at any time or request a
9 break at any time. Since this is not an adversarial
10 proceeding, formal Cross Examination will not be
11 permitted. However, your personal legal
12 representative may ask clarifying questions as
13 appropriate.

14 Your identity and the content of this
15 conversation will be made public at the conclusion of
16 the interview process and may be included in the
17 public report of the accident, unless you request that
18 your identity remain confidential or your information
19 would otherwise jeopardize a potential criminal
20 investigation. If you request us to keep your
21 identity confidential, we will do so to the extent
22 permitted by law. That means if a Judge orders us to
23 reveal your name or if another law requires us to
24 reveal your name or if we need to reveal your name for
25 other law enforcement purposes, we may do so. We

1 request that you refrain from discussing your
2 statement with others who may be interviewed. Also,
3 there may be a need to use the information you provide
4 to us or other information we may ask you to provide
5 in the future in other investigations into and
6 hearings about the explosion. Do you understand that
7 or have any questions about it?

8 MR. SCARBRO:

9 No.

10 ATTORNEY BAXTER:

11 And also, I wanted to also state on the
12 record that participation of all the investigators
13 here in this interview constitutes our agreement to
14 keep this information confidential until such time as
15 it may be released later.

16 After the investigation is complete, MSHA
17 will issue a public report detailing the nature and
18 causes of the fatalities in the hope that greater
19 awareness about the causes of accidents can reduce
20 their occurrence in the future. Information obtained
21 through witness interviews is frequently included in
22 these reports. Since we'll be interviewing other
23 individuals, we request that you not discuss your
24 testimony with any person aside from your personal
25 representative or counsel.

1 A court reporter will record your
2 interview, and we ask that you not record the
3 interview independently yourself. Please speak loudly
4 and clearly. If you do not understand a question
5 asked, please ask me to rephrase it. Please answer
6 each question as fully as you can, including any
7 information you've learned from someone else. I'd
8 like to thank you in advance for your appearance here.
9 We appreciate your assistance in this investigation.
10 Your cooperation is critical in making the nation's
11 mines safer.

12 After we finish asking questions, you'll
13 have an opportunity to make a statement and provide us
14 with any other information you believe to be
15 important. If at any time after the interview, you
16 recall any additional information that you believe
17 might be useful, please contact Norman Page at the
18 telephone number or e-mail address provided to you.

19 Do you have a personal representative
20 with you here today?

21 MR. SCARBRO:

22 Yes, my wife.

23 ATTORNEY BAXTER:

24 Would you like your wife to sit in on the
25 interview?

1 MR. SCARBRO:

2 It don't make no difference.

3 ATTORNEY BAXTER:

4 She can sit here.

5 MR. SCARBRO:

6 She can. It makes no difference.

7 OFF RECORD DISCUSSION

8 ATTORNEY BAXTER:

9 So it sounds like you'll just do the
10 interview yourself then?

11 MR. SCARBRO:

12 Uh-huh (yes).

13 ATTORNEY BAXTER:

14 And one other thing, if you could please
15 answer yes or no so the court reporter here can pick
16 up the answers, that will be fine. Okay. Please
17 swear the witness in.

18 -----

19 ROGER SCARBRO, HAVING FIRST BEEN DULY SWORN, TESTIFIED
20 AS FOLLOWS:

21 -----

22 EXAMINATION

23 BY MR. PAGE:

24 Q. I'm going to go first. I'll probably ask you
25 questions and then I'll turn it over to Terry and let

1 him ask some, then we'll --- we'll kind of bounce back
2 and forth. Okay?

3 A. Okay.

4 Q. And we'll try to make it as comfortable as we can
5 for you. Would you --- I got a list of probably about
6 ten questions that I want to get a little bit of
7 history of your mining and everything. So would you
8 care to please state your name, your full name and
9 spell your last name for us?

10 A. My name is Roger Dale Scarbro, S-C-A-R-B-R-O.

11 Q. What's your physical address and your telephone
12 number?

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

14 (b) (7)(C) (b) (7)(C)

15 Q. Are you appearing voluntarily?

16 A. Yes.

17 Q. Okay. How many years of mine experience do you
18 have, Roger?

19 A. I have about 36-and-a-half years.

20 Q. Thirty-six (36). Okay. Do you care to give me
21 just a brief description of your mining experience?
22 Like you started out shoveling belt or whatever?

23 A. Yeah. I started out at Tug Mining Company and
24 then worked for a while, and then I went on a --- ran
25 a buggy for a while, then ran a bolt machine. And

1 then they shut down and I went to Montcoal No. 7 Mine
2 in which I ran a buggy for two or three years, and
3 then I went on the longwall.

4 Q. So you were on a bolt machine, a shuttle car, and
5 then went on the longwall?

6 A. Then I went on the longwall and set shields and
7 run the shearer.

8 Q. Basically you do anything on the wall?

9 A. Yeah.

10 Q. Okay.

11 A. And then 1996 I went to Massey --- or Performance
12 Coal.

13 Q. '96 is when you started with Massey?

14 A. Yeah. January the 24th, I believe.

15 Q. When did you start at UBB?

16 A. That's when I started at UBB.

17 Q. Oh, it is?

18 A. Yes.

19 Q. '96?

20 A. That's Performance. They call it UBB.

21 Q. Okay.

22 A. Still, it's Performance.

23 Q. I'm learning the names. Be patient with me. So
24 you've been there 14 years?

25 A. Yeah, about 14-and-a-half, somewhere up in there.

1 Q. Okay. What did you start doing at UBB?

2 A. Done dead work a while, and then I run a shuttle
3 car for probably six months and then went on the
4 longwall when they started up and set shields for
5 probably nine months, and then I went on the shearer.

6 Q. Okay.

7 A. And then I've been on the shearer ever since.

8 Q. So you've been there since '96. Are you --- did
9 they transfer you while you've been there?

10 A. Uh-huh (yes). Went to Revolution.

11 Q. Okay. I'm assuming that when you hired in in '96,
12 they gave you --- what kind of training did they give
13 you then, ---

14 A. Oh, when I hired in ---.

15 Q. --- in '96? That's ---.

16 A. When I went in, I had to test on three pieces of
17 equipment before they would ---.

18 Q. They give you classroom ---

19 A. Yeah.

20 Q. --- annual refresher or ---? Okay. Did they
21 train you any on the AMS system, the atmosphere
22 monitoring system? Have you --- at any point in time
23 have they done any ---?

24 A. No.

25 Q. All right. What about methane and oxygen checks?

1 Have they trained you to --- are you classified and
2 certified and stuff to take ---?

3 A. Are you talking about using a spotter?

4 Q. Yeah.

5 A. Yeah.

6 Q. The company trained you on that?

7 A. Uh-huh (yes).

8 Q. Or did you go through the State or ---?

9 A. No. No. The company.

10 Q. The company trained you. Okay. So a lot of these
11 questions don't apply to you, Rog. Have you
12 participated in any quarterly evacuation drills
13 or ---?

14 A. Yeah. We've walked the escapeway and stuff.

15 Q. Which one did you walk?

16 A. We walked it down there at Ellis. We walked it on
17 the other side.

18 Q. I mean, is it the primary or secondary? I'm
19 sorry. Secondary is probably ---.

20 A. No, we --- yeah, we walked the primary.

21 Q. Okay. How often --- you done that quarterly, or
22 someone did it quarterly?

23 A. Uh-huh (yes).

24 Q. Are you aware of any problems of the tracking
25 system or anything in the mines to where they locate

1 where you're at or anything?

2 A. I guess the tracking system was all right, but the
3 radios that they had, you couldn't wear them on the
4 bus. They had to be --- you had to leave them on the
5 mule train.

6 Q. How come?

7 A. Well, somewhere they had a --- miners started
8 somewhere off the same frequency as the radios. I
9 believe it was a horse break, I think.

10 Q. The frequency on the radios ---

11 A. Yes.

12 Q. --- as far as the miner or ---?

13 A. Shut it off or done something to it.

14 Q. Okay.

15 A. Chester is reading this map.

16 Q. I hope he can do better than I can. I've been
17 looking at it for a month and I'm still trying to
18 figure it out. So we may have to get some help. So
19 do you know how the --- if something happens to the
20 tracking system, do you know how they track you guys?
21 Do you know where you're at in the mine and stuff?

22 A. Uh-huh (yes).

23 Q. How do they do that?

24 A. Well, they got a --- some kind of water system
25 that runs all the way up and stuff they use for the

1 track.

2 Q. When the system is down, do you got a back-up
3 system?

4 A. That I don't know. I doubt it.

5 Q. Okay. You don't know if the dispatcher does that
6 or not?

7 A. No.

8 Q. Okay.

9 A. I mean, they've got a face set up outside in
10 the ---.

11 Q. Yeah. That's when everything is working.

12 A. Yeah, when everything is working.

13 Q. But now that goes down ---.

14 A. As far as a back-up, I don't know if they have one
15 or not.

16 Q. Okay. Okay. Have you had any ventilation
17 problems or anything at the mines in the last six
18 months?

19 A. Well, they've made two or three ventilation
20 changes.

21 Q. Okay.

22 A. But now, on the longwall, I mean, as far as the
23 longwall, we've always had ---

24 Q. Good air?

25 A. --- good air, I mean, right. Now, the last

1 ventilation change that they made, when we started out
2 up there we had a hundred-and-some thousand come
3 through the last open break. Okay.

4 Q. When you say the last open break, are you saying
5 down the face or ---?

6 A. Yes. When you --- the longwall comes up and it
7 goes through the last open break and then ---.

8 Q. Okay.

9 A. And then they ---.

10 Q. Could you tell me when the last change was made?

11 A. Now, the last change was made sometime in March.

12 Q. Okay.

13 A. But now, when they made the last change, our air
14 come through the last open break and went down to
15 56,000.

16 Q. In March?

17 A. Uh-huh (yes).

18 Q. In March it dropped to 56,000?

19 A. Yeah.

20 Q. Was you around when they made those changes?

21 A. No. I was around when they made, I guess, the
22 first one or second one. But either way ---

23 Q. Can you ---?

24 A. --- we followed --- when we went in, we followed
25 two inspectors in, when we come in from UBB side, ---

1 Q. Okay.

2 A. --- you know. And the inspectors are in front of
3 us, and when we got to where the doors is, you got
4 those set of doors ---.

5 Q. Seventy-eight (78) or on up ---?

6 A. No. It's back on UBB's side.

7 Q. Oh, okay. Okay.

8 A. You know where you come around and you have to
9 come up and switch at Ellis, the set of doors
10 there, ---

11 Q. Okay.

12 A. --- when we got there the inspector told
13 Everett --- I believe it was Everett, that the air was
14 going backwards. And anyway, we had to go on to the
15 switch and back down this way, and we went down to
16 these overcasts down through here and put
17 cinderblocks. I don't know if they got it on the map
18 or not, but ---.

19 Q. Roger, when was that; do you remember?

20 A. March.

21 Q. March, is that when you ---?

22 A. Well, it had to be ---. This would have probably
23 been in January or December sometime.

24 Q. It don't go back that far, to the Ellis switch. I
25 mean, ---.

1 A. Oh, okay.

2 Q. See, it's just down at 78, 75, right there.

3 A. All right.

4 Q. I can open that one up if you want. Now, let me
5 see if I understand. The air reversed. This was back
6 in ---?

7 A. I would say December or somewhere ---.

8 Q. Okay.

9 A. Somewhere through there. December or January.

10 Q. I mean, approximately. I understand you
11 can't ---.

12 A. I know. I think they started that longwall up in
13 September, I believe.

14 Q. Okay. So September you had 100,000,
15 approximately?

16 A. Uh-huh (yes).

17 Q. Okay. Did you take the air reading or did the
18 boss ---?

19 A. No. The foreman did.

20 Q. The foreman did. Okay. So September you had
21 approximately --- I'm trying to get this, 100,000.
22 And then they made a ventilation change in December
23 and you had about 50 ---?

24 A. No. We still had a hundred-and-some thousand.
25 They made ---.

1 Q. In December?

2 A. Yeah. The first two ventilation changes after
3 they got through, we still had 100,000 come through
4 the last open ---.

5 Q. Okay.

6 A. And then the last one that they made sometime in
7 March, it went down to 56,000.

8 Q. Now, why did they make a change in December? Do
9 you have any idea?

10 A. I have no idea.

11 Q. Okay. Now, the next one was in March that you're
12 aware of?

13 A. Uh-huh (yes).

14 Q. Okay.

15 ATTORNEY BAXTER:

16 You have to say yes or no for ---.

17 A. Yes.

18 ATTORNEY BAXTER:

19 Okay.

20 BY MR. PAGE:

21 Q. In December, did we have the air reversal, or was
22 that in March?

23 A. I don't know. I'd say it was in December.

24 Q. Okay. You had the air reversal down at the
25 Ellis ---?

1 A. Yeah, when we got down towards the door there at
2 the UBB side going toward Ellis.

3 Q. So we're looking at down here?

4 A. Uh-huh (yes).

5 Q. Because this is Ellis and right there is your
6 overcast and stuff.

7 A. See, we'd be coming from ---.

8 Q. You'd be coming down here?

9 A. Coming through here.

10 Q. Yeah. You'd be coming down Number Four North
11 belt ---

12 A. Uh-huh (yes).

13 Q. --- towards ---?

14 A. Yeah, we'd be coming down here ---.

15 Q. Now, that's --- that's coming off the longwall
16 down this way. This is the portal. This is the Ellis
17 Portal.

18 A. Okay. You're going to come from the UBB side.

19 Q. Right here. You're coming --- over here is UBB.
20 Which side did you go in, north?

21 A. Yeah, I believe.

22 Q. Going this way?

23 A. Yeah.

24 Q. So you go in, ---

25 A. And come all the way across.

1 Q. --- come across in front of the seals, down Three
2 North belt, I mean, down that area, down through here?

3 A. Yeah.

4 Q. Okay.

5 A. And come down here ---.

6 Q. At those doors?

7 A. Yeah. And we was on this side of the doors when
8 the inspector said that ---.

9 Q. The air was reversed here?

10 A. Yes.

11 Q. So what did you do?

12 A. So then we come on down here.

13 ATTORNEY BAXTER:

14 Would you like to mark that on the map?

15 MR. PAGE:

16 Yeah.

17 BY MR. PAGE:

18 Q. So about anywhere in this location?

19 A. Yeah, anywhere before you get to the doors.

20 Q. Well, right there is the doors. Let's --- okay.

21 A. That's where we come on and come through the doors
22 and come through ---.

23 Q. State or Federal inspector?

24 A. Federal, I believe. I think. I'm not ---.

25 Q. Let's just put inspector, okay.

1 ATTORNEY BAXTER:

2 Maybe Roger can mark that.

3 BY MR. PAGE:

4 Q. Okay. Just ---.

5 A. If you guys want to do it ---.

6 Q. Well, we'll let you initial it. How's that? The
7 inspector right there, okay. And that's spad number
8 79 --- I can't see it. You have to have some good
9 eyes to see that. Let's see if we can get some better
10 eyes here. Did you bring a magnifying glass? I'm
11 going to try to find better eyes.

12 MR. PAGE:

13 You don't wear glasses. Can you see it?

14 MR. FARLEY:

15 Maybe. I have trouble with distance, not
16 up close.

17 ATTORNEY BAXTER:

18 Meantime, we'll mark this as Scarbro

19 Exhibit One.

20 (Scarbro Exhibit One marked for
21 identification.)

22 MR. FARLEY:

23 No, I can't tell from here.

24 BY MR. PAGE:

25 Q. What a shame. Getting old is rough.

1 A. Oh, yeah. Yeah.

2 Q. It's not just the vision. It's the aches and
3 pains. See if you can find it there, Rog.

4 A. I got glasses and still can't see it.

5 Q. All right. Let's get right --- you got to get ---
6 7533, is that what it is? We got an air pulling that
7 anyway. You initialed it there. Okay.

8 MR. FARLEY:

9 You said 7533?

10 MR. PAGE:

11 Spad, I believe. It's the best I can
12 see.

13 BY MR. PAGE:

14 Q. Okay. That's where the air had reversed. That's
15 where the inspector found it.

16 A. Yeah.

17 Q. Okay. Tell me next. What happened next?

18 A. Okay. Then they get some blocks. We come through
19 the doors at the switch and walked back down Ellis
20 side. My guess is ---.

21 Q. So you went back out?

22 A. Went back down this way, and they had manddoors
23 down there and had overcasts. I don't know how many
24 overcasts. There was two or three. And we threw
25 blocks through the doors and stacked blocks on top of

1 the overcast --- I mean, the --- yeah, the overcast,
2 and sealed part of them off. I left part of ---.

3 Q. You brought --- put a regulator overtop of the
4 overcast?

5 A. Yeah, pretty much.

6 Q. I mean, that's what it amounted to?

7 A. Yeah.

8 ATTORNEY BAXTER:

9 And where are you talking about on ---?

10 MR. PAGE:

11 We got to find it here.

12 A. And they had somebody --- I don't know who it was,
13 but they was taking air readings.

14 BY MR. PAGE:

15 Q. Was other people in the mines working when you did
16 this? Were they up there on the longwall?

17 A. No. I don't know if they was inby the face. I
18 doubt they was inby on the face.

19 Q. When you did this, did you go on up to the
20 longwall then?

21 A. No, I don't believe. I don't think.

22 Q. Was it during an idle shift or ---?

23 A. No. It was during the shift that we was scheduled
24 to work.

25 Q. Okay. What time does your shift start?

1 A. Well, I was on the swing shift. Let's see.
2 Dayshift started at six o'clock. Evening shift
3 started at 3:00. Now, as far as me remembering back
4 what shift I was on that day, ---.

5 Q. Oh, okay. All right. All right. That's fine. I
6 just --- I'm trying to find the overcast.

7 A. I assume it's down in this area here.

8 Q. Are you sure it wasn't these overcasts?

9 A. No. It might have been. Let's see. You come
10 from UBB side, you come through the doors, you come
11 --- probably went through the switch. And once you
12 went through the switch, you went back out towards
13 Ellis.

14 Q. Okay.

15 A. Then the overcasts, they was ---.

16 Q. There's four of them there.

17 A. Yeah, might have been four. And then when they
18 threw Wico blocks through there and had people on the
19 other side and hand them up and ---.

20 Q. Okay. So approximately in this area?

21 A. Yeah.

22 Q. Right in there?

23 A. Yeah. And they had somebody, but I don't know who
24 it was, was taking air readings. And when they
25 hollered down there, I went in the stop that ---.

1 Q. Which break did you build the regulator? Did the
2 air come up this way or the air coming this way? It
3 doesn't matter. Just one of these overcasts in this
4 area that they ---

5 A. Yeah.

6 Q. --- put a regulator in; right?

7 A. Yeah.

8 Q. I'm just going to ---.

9 A. Two or three of them we put blocks on.

10 Q. Two or three overcasts?

11 A. Yes.

12 MR. FARLEY:

13 Now, isn't that what they call the Ellis
14 Switch area?

15 A. Uh-huh (yes). Yes.

16 BY MR. PAGE:

17 Q. Okay. Do you care to initial that and date it?

18 WITNESS COMPLIES

19 A. I'm just going to draw an arrow in that circle.

20 BY MR. PAGE:

21 Q. Okay.

22 A. So I'm not changing anything. How's that? Are
23 you okay with that?

24 Q. Okay. And that was probably in December; right?

25 A. Probably.

1 Q. Somewhere in that time frame that they made that
2 adjustment. And you don't know whether people was
3 underground or not?

4 A. No.

5 Q. I mean, inby.

6 A. I'm not --- I don't think they was. I don't
7 believe.

8 Q. So it was the beginning of your shift?

9 A. Uh-huh (yes), because most of the ventilation
10 changes they've done, the only ones that was there was
11 the crews that was scheduled to work, and they're the
12 ones that done the work on the ventilation.

13 Q. I'm going to put myself a note there. That way
14 when I talk to someone else ---.

15 A. Okay.

16 Q. All right. Let's go to that March change. You
17 say it went from 100,000 down to about 56,000?

18 A. Uh-huh (yes).

19 Q. Okay.

20 A. But no, I never had nothing to do with that.

21 Q. You didn't have anything to do with that one?

22 A. No.

23 Q. Did anyone --- when you came back --- they did it
24 when you was on the swing shift, your days where you
25 were off, ---

1 A. Uh-huh (yes).

2 Q. --- is that what you're ---

3 A. Uh-huh (yes). Yeah.

4 Q. --- when you're saying off? Okay. Did anyone
5 mention anything about it or anyone ask the foreman or
6 management about that change, why ---

7 A. I didn't. I mean, ---.

8 Q. --- they made a change like that to, in effect,
9 almost cut your air in half on the longwall?

10 A. I didn't ask them if it was ---.

11 Q. Did you hear anyone talk about it?

12 A. I guess --- well, I might have heard somebody say
13 something, but I wouldn't remember who it was. I
14 mean, at one time they might have --- it might have
15 been the last one. They made an air change, and one
16 of the sections didn't have no air. It might have
17 been Headgate 22 or ---.

18 Q. Right. And we're talking in March?

19 A. I believe.

20 Q. Okay. I mean, just best you can.

21 A. Yeah.

22 Q. I'm not trying to --- you know, if you can give me
23 a pinpoint time, that's fine. If you can't, just give
24 me the best you can and that's all. That's no
25 problem. And you say approximately in March?

1 A. Approximately.

2 Q. There was a vent change?

3 A. Uh-huh (yes).

4 Q. And that was when you was off?

5 A. Yeah.

6 Q. Your regularly-scheduled days off?

7 A. Yes.

8 Q. Now, what I'm going to say here, if I understood
9 you correctly, is that after that vent change, your
10 air dropped approximately down to ---

11 A. 56,000.

12 Q. --- 50 ---?

13 A. 56,000.

14 Q. Okay. And do you know approximately when they
15 started this 22 Tailgate entries up here?

16 A. Oh, let's see. Went far enough to set timber. I
17 would say probably November or December.

18 Q. Is when they started that?

19 A. Yeah.

20 Q. Okay. Twenty-two (22) Tailgate. I'm going to
21 jump around on you.

22 MR. FARLEY:

23 Just one question, if you don't mind.

24 Would that have been 22 Tailgate or 22 Headgate in
25 November?

1 A. Headgate. Now, as far as the tail, I don't know
2 when.

3 MR. FARLEY:

4 Okay.

5 A. That's the one that was down there. We were
6 leaving a 60-foot barrier block.

7 MR. FARLEY:

8 All right. Okay. In November on that.

9 A. Yeah. So I don't ---.

10 BY MR. PAGE:

11 Q. I got a little bit ahead of myself there when we
12 started talking about ventilation with that down
13 there. Did you work on any of this headgate when they
14 advanced it up or anything? Because the longwall was
15 not running then?

16 A. Twenty-two (22)?

17 Q. This one. Yeah, this one here.

18 ATTORNEY BAXTER:

19 This one here, Headgate One.

20 A. The one we're on now?

21 BY MR. PAGE:

22 Q. Yeah.

23 A. No, I wasn't ---.

24 Q. You didn't work on driving that up or anything?

25 A. No. No. Uh-uh (no).

1 Q. Do you recall of any problems or issues that they
2 had when they drove that up? Because what someone
3 said ---.

4 A. No. See, because whenever we --- we was at
5 Logan's Fort for three years.

6 Q. Oh, you went to the wall?

7 A. Uh-huh (yes). I went to Logan Fort for three
8 years and worked the longwall.

9 Q. Then you came back?

10 A. Then we come back.

11 Q. Okay. So when you came back, you was gone three
12 years?

13 A. Uh-huh (yes). When I come back, there was about
14 eight of us, they set a tent thing up in the upper end
15 of the UBB, and we worked there and we built the
16 shields, re-hosed them and put the act lights and
17 stuff up.

18 Q. So when you came back, did they give you any kind
19 of training then, when you came back to UBB?

20 A. Not that I can remember.

21 Q. I mean, you've been gone through years?

22 A. I mean, we took our annual retraining classes and
23 stuff while we was at Logan's Fort and stuff.

24 Q. Yes. But they didn't give you anything at UBB?

25 A. No. Let's see. When did I come back up there?

1 Q. When did you come back, November?

2 A. No. Late part of September. I probably come back
3 up there in May or June, ---

4 Q. Okay.

5 A. --- which we would have done that in our annual
6 retraining from Logan ---.

7 Q. From Logan Fort?

8 A. Yeah. Uh-huh (yes).

9 Q. Okay. After they just got together and everything
10 and set the wall up in the setup rooms back here, was
11 there any water or anything coming through the top or
12 anything as you guys traveled in and out of the
13 mine ---

14 A. No.

15 Q. --- on the headgate entry?

16 A. No.

17 Q. Didn't have any --- no water? Okay. Did you have
18 any signs of pressure or anything from mining above
19 or ---?

20 A. No.

21 Q. So not when you guys fired the longwall up and
22 started running it, was the falls coming in right
23 behind your shields and stuff ---

24 A. Yeah.

25 Q. --- or was they staying back along ---?

1 A. They pretty much went ahead and started ---.

2 Q. So running pretty close?

3 A. Yeah.

4 Q. Which is good?

5 A. Yeah. It ain't like a lot of mines. A lot of
6 mines, you end up going a long ways before ---.

7 Q. So it's only first getting started?

8 A. Yeah.

9 Q. Did you, at any point in time, coming down through
10 there with the longwall, did you have any problems?

11 A. Yeah. We had --- at that one portal we had a lot
12 of water on the face.

13 Q. Would that --- do you know about, approximately,
14 where it's at? What I'm looking at is --- shows the
15 production months on here.

16 A. It's probably been ---.

17 Q. December was not a real good month. And November,
18 some of it was good, some of it wasn't. Do you know
19 if that's ---?

20 A. This is what, May?

21 Q. Uh-huh (yes).

22 A. I'm wanting to say about three months ago or four.

23 Q. Right in this area right here?

24 A. Yeah. We had a lot of water on the face. Matter
25 of fact, it run down the face like a creek. They had

1 to set pumps and stuff.

2 Q. Okay. What kind of pumps? Electric pumps or ---?

3 A. Yeah. Uh-huh (yes).

4 Q. Do you know if there were any pumps back in the
5 headgate entry?

6 A. Well, there's pumps back there.

7 Q. What kind?

8 A. They went to some kind of a --- I think they had
9 electrical pumps and then they went to some kind of an
10 air pump thing.

11 Q. Okay. Did you --- at any time --- this is just,
12 you know, --- have you ever traveled back in this
13 area, back toward the Bandytown fan?

14 A. No. No, I have not.

15 Q. The face is where you ---?

16 A. Yes.

17 Q. So you was the ---

18 A. The only time ---.

19 Q. --- man who put the coal on the belt; right?

20 A. Yeah. The only time that I was up into these
21 other entries is when we set some props and stuff up
22 there.

23 Q. At this time frame, when all that water was coming
24 in on the face, there was not a whole lot of
25 production?

1 A. No, wasn't a whole lot of production.

2 Q. What did you all do?

3 A. Did work, set props and ---.

4 Q. Did you do any work up this headgate entry?

5 A. No.

6 Q. Didn't set pumps or ---?

7 A. No. We never was over on 22 Headgate.

8 Q. This one?

9 A. Yeah.

10 Q. Okay. Do any work on the tailgate entries?

11 A. No, not that I know of.

12 Q. Where did you set your pumps at?

13 A. We set our pumps on the face. Probably done about
14 a hundred in the field.

15 Q. Okay.

16 A. Depending on if you got water. Like any place you
17 got ---.

18 Q. Yeah. Yeah. I worked on a longwall, so ---.

19 ATTORNEY BAXTER:

20 Now, Roger, was that water --- that

21 was --- was that in December or November of last year,
22 do you think?

23 A. I would say somewhere around that area. And it
24 probably went on for ---

25 BY MR. PAGE:

1 Q. Did anyone say ---?

2 A. --- I want to say probably a month probably.

3 Q. Anyone say anything about the mining above them?

4 A. No.

5 Q. That's the longwall? Is that where you run ---
6 the mine above, is that where you worked until you
7 came back down here?

8 A. No.

9 Q. This map I have right here is --- the highlighted
10 area ---

11 A. Uh-huh (yes).

12 Q. --- is UBB.

13 A. Uh-huh (yes).

14 Q. Okay? The blue is the mines above them. And it's
15 approximately just, say, 150 feet. I mean, that's
16 about the average ---

17 A. They're covered.

18 Q. --- separation between the two mines,
19 approximately 150 feet. Now, gives or takes; okay?

20 A. Okay. Now, this is Eagle Energy ---

21 Q. Uh-huh (yes).

22 A. --- and this is connected to Logan's Fort.

23 Q. Okay.

24 A. So it used to be down there --- when we was down
25 there, they had a lot of water back in this ---.

1 Q. Okay. The elevation's all the way back in the
2 direction of the recovery rooms. Okay?

3 A. Uh-huh (yes).

4 Q. And right here is where you started with the
5 longwall face coming right down this way. And right
6 there is where the face is --- approximately where the
7 face is today.

8 A. Uh-huh (yes).

9 Q. And all this through here has been longwalled
10 above you, approximately 150 feet. And this area down
11 in here has been all mined out above you, and you have
12 a lot of barriers through there, through here, ---

13 A. Uh-huh (yes).

14 Q. --- different areas. And it looks like, when you
15 start comparing these maps, when you started having
16 problems, was in this area here, you know, 200 or 300
17 feet past the barriers.

18 A. Yes.

19 Q. Anyone ever talk about what was above you, ---

20 A. No.

21 Q. --- what was causing the problem or anything? I
22 mean, that's a pretty close separation to ---

23 A. I know ---.

24 Q. --- have a longwall ---?

25 A. Yes.

1 Q. And that's probably what --- it's a good
2 possibility that's where the water came on your face?

3 A. Yes.

4 Q. Because it breaks a long way out. And I was just
5 wondering if anyone went over this or anyone discussed
6 this with you.

7 A. No, because I know how the longwall guys --- I
8 mean, when we worked at Montcoal, we went in through
9 --- we'd go across the mountain, of course. Well,
10 they had a road across the longwall. But when we
11 longwalled up under it in March, it eroded.

12 Q. Oh, I've seen it. Okay. I've got into this
13 longwall deal. It's been a long time since I've dealt
14 with the longwall, and it's kind of got me excited. I
15 like the longwall and I like talking about it.

16 A. Yeah, it's good when it's running.

17 Q. You usually have a lot a good production through
18 it. Did you ever have any methane problems or
19 anything on that wall?

20 A. No. On this panel here?

21 Q. Yeah.

22 A. No.

23 Q. Any other panels?

24 A. The other panels before, no. They put --- had
25 three surface cracks.

1 Q. On the sealed area, where the longwall ---?

2 A. On the ones that they've got. I guess they're all
3 sealed off now.

4 Q. This is down this way where you ---?

5 A. Yeah.

6 Q. Number Two belt?

7 A. When you're coming from UBB side and all ---?

8 Q. Down that Number Two beltline?

9 A. Yeah.

10 Q. Okay. Do you have any idea where the methane came
11 from?

12 A. Out of the bottom.

13 Q. Out of the bottom?

14 A. Yeah. I mean, they --- we hit, I don't know, one
15 or two and we was down for two or three days.

16 Q. Did the bottom crack up and bust?

17 A. Cracked and hooved a little bit.

18 Q. Yeah.

19 A. And it closed down shifts, waiting on it to bleed
20 off.

21 Q. Oh, sure. I've experienced that firsthand. Was
22 the bottom starting to do any hooving or anything
23 here, on this active panel that you was on now?

24 A. No.

25 Q. You couldn't tell any over here in the tailgate

1 when you flipped your tails and stuff?

2 A. No. I didn't run the tail end. I run the head
3 end of the shearer.

4 Q. Okay. Did you have any up here on the head?

5 A. No.

6 Q. No pressures?

7 A. No. When we got down at the tail, the most
8 methane that I've ever seen on the methane monitor on
9 the shearer is two-tenths. And it fluctuated. It
10 didn't stay there.

11 Q. That's on the shearer?

12 A. Yeah.

13 Q. Okay. What about did you ever see the --- how
14 many methane monitors is on the longwall?

15 A. They got one at mid-face. They got one at --- one
16 on the shearer. They got one on the tail drive.

17 Q. Okay.

18 A. And I believe there was one out on this face, but
19 I'm not --- I believe.

20 Q. On the headgate?

21 A. I believe.

22 Q. Okay. That's good. And the most you've ever ---

23 A. Seen on this panel was ---

24 Q. --- seen was two-tenths?

25 A. --- two-tenths.

1 Q. Okay. Do you know of anyone saying anything about
2 --- one of the other shearer operators or anything
3 mentioning anything about maybe methane on the
4 longwall?

5 A. No. They never said nothing to me about it.

6 Q. What about out in the bathhouse and stuff, anyone
7 mention methane on the head or tailgate of these new
8 panels that you was ---?

9 A. No.

10 Q. Never heard of no --- okay.

11 A. That's one problem that Massey's got. They're not
12 too big on communication.

13 Q. On communication ---

14 A. Yeah.

15 Q. --- between mine management ---

16 A. Yeah, and employees.

17 Q. --- with employees?

18 A. Yes.

19 Q. Okay. Well, that brings me to a question then.

20 Do you know the management structure at the mines,
21 starting with like, say, president of that division or
22 at the mines and vice-president and on down?

23 A. The president up there was Chris Belcher. The
24 vice-president was Jamie Ferguson. But now, Jamie,
25 they had transferred him someplace else before ---

1 Q. Before ---?

2 A. --- they had this ignition. And they had brought,
3 I believe it was Wayne Persinger up there in Jamie's
4 place.

5 Q. Okay. Who's the superintendent?

6 A. They said it was Everett Hager.

7 Q. Did they have a mine foreman on each shift or how
8 did they do that?

9 A. Now, that I don't know. I know Terry Moore was
10 one of the mine foremen. He was a collar guy.

11 Q. Was he on your shift or was he on a different
12 shift?

13 A. They was on different shifts.

14 Q. Do they stay on shifts and you guys change shifts
15 on the swing, or how do you do that?

16 A. Yeah. Now, the longwall changes. Well, at the
17 time, I mean, the miner section went to that, too.

18 Q. Okay. Does the miner section and the longwall
19 sections, do they work the same amount of time, like
20 eight hours a day or nine hours a day, or how do they
21 do that?

22 A. Well, no. I think the miner sections work nine.

23 Q. What's the longwall work?

24 A. Generally, according to what shift you're on. If
25 you're on the evening shift, you generally work ten.

1 If you're on the dayshift, you generally work --- end
2 up working about 11.

3 Q. Eleven (11) hours?

4 A. Yeah.

5 Q. What's the difference? What do they do different
6 that causes them to work 11 and ---?

7 A. Well, see, generally the other longwall crew is up
8 on the face, but for the other ones.

9 Q. So you hot seat?

10 A. Yeah.

11 Q. Yeah. But they don't do that on the miner
12 sections? They don't hot seat?

13 A. Uh-uh (no).

14 Q. Okay. So that makes a difference, the travel
15 time?

16 A. Uh-huh (yes).

17 Q. They keep the wall running. Okay. Longwall hot
18 seats and the miner sections don't?

19 A. There's another thing to that, too, is that we are
20 not supposed to be hot seating because the inspectors
21 come up there and they had one battery-operated
22 emergency ride.

23 Q. Had one what?

24 A. Battery-operated emergency ride.

25 Q. Okay.

1 A. And the inspectors told them to hot seat on the
2 face, that you would have to have one to take care of
3 both crews.

4 Q. Okay.

5 A. When one crew felt like he was on dayshift, that
6 crew brought this --- that one up here, and there was
7 one left down there. When evening shift come in, they
8 brought it up there and then ---.

9 Q. Well then, when you hot seat, you got to have
10 enough stuff for that number of people, whether it's
11 self-rescuers, whether it's ---?

12 A. Uh-huh (yes).

13 Q. There's a lot of things ---

14 A. Uh-huh (yes).

15 Q. --- because it's doubled. Peoples doubled?

16 A. Yeah.

17 MR. PAGE:

18 I'm going to take a break and let Terry
19 talk some, and then I'll come back. Okay?

20 A. Okay.

21 EXAMINATION

22 BY MR. FARLEY:

23 Q. Let me back up and maybe try to clarify a couple
24 things that Norman asked you about there so we don't
25 get lost. When you had that ventilation change in

1 March, when you were around the Ellis Switch
2 there, ---

3 A. Uh-huh (yes).

4 Q. --- was Everett Hager with you at the time?

5 A. Yes, he was.

6 Q. Okay. Was he on the phone back and forth with
7 some people about the air problem at that point?

8 A. Yeah. They was calling --- they was calling
9 somebody. I forget. I don't know who he was calling,
10 but he was getting the mine readings. And then
11 whenever --- at one point, when we --- I guess we put
12 enough boxes in and it changed the air, then they
13 hollered and said to stop.

14 Q. Okay. All right. Okay. When he was talking back
15 and forth to these people, did you hear him say at
16 some point, I know how to fix it?

17 A. No.

18 Q. Okay.

19 A. I don't believe he knew how to fix it.

20 Q. I'm sorry?

21 A. I don't believe he knowed how to fix it.

22 Q. Apparently not. As you're ---. Let me see here.

23 ATTORNEY BAXTER:

24 Do you remember who else was there when
25 that happened?

1 A. I'm trying to think. Scott Sickles was there,
2 which he's at --- I don't know if he's still down
3 there or not. But they moved him to purchasing down
4 at Ellis.

5 BY MR. FARLEY:

6 Q. Let me back up on a couple things here. Did we
7 ask you what type of miner certifications you have?

8 A. I don't have none.

9 Q. Do you have an Underground Coal Miner's
10 Certification?

11 A. Uh-uh (no).

12 Q. Okay. All right. Now, when Everett was with you
13 there in March and you stacked blocks down there from
14 that air problem, were there any other foremen around
15 at the time? Or were there any other inspectors with
16 you, too?

17 A. No, there weren't no inspectors with us.

18 Q. Okay. Now, after this air change in March, when
19 your longwall goes from 100,000 down to 6,000, ---

20 A. Uh-huh (yes).

21 Q. --- I remember reading about that in the pre-shift
22 book, did you notice any difference in your ability to
23 move dust away from the face?

24 A. No. I mean, we had the right amount of air in
25 that face that you was required to.

1 Q. You had enough to clear the dust?

2 A. Yeah, to run with it.

3 Q. And I think the most methane you said you
4 encountered was about two-tenths?

5 A. Two-tenths.

6 Q. Okay. This area of the mine here known as the
7 Glory Hole, ---

8 A. Uh-huh (yes).

9 Q. --- have you ever been up there?

10 A. Yeah, when I worked at Logan's Fort.

11 Q. Okay. Well, when you worked at Logan's Fort and
12 you were around that Glory Hole, was there ever any
13 problems with --- was there ever any methane detected?

14 A. None then, I don't believe.

15 Q. Okay. What did they fill the Glory Hole with?
16 Was it filled?

17 A. I suppose it's filled.

18 Q. I mean, when you ---?

19 A. It was my understanding that they were supposed to
20 seal the Glory Hole off. And then I heard that they
21 dumped gob down in it.

22 Q. I heard a man say the other day that they filled
23 it up with rock and coal?

24 A. Pretty much. Then somebody said they went back
25 there and they finished it with rock. I don't --- you

1 know, I can't state that for a fact.

2 Q. Okay. Do you do a pre-operational examination on
3 the shearer?

4 A. Uh-huh (yes).

5 Q. How do you run through that usually?

6 A. You check all your switches and all that stuff.
7 You check your water.

8 Q. Okay. What kind of cutting drum have you got on
9 the shearer right now? Is it a coal drum, rock drum
10 or ---?

11 A. I would say it's a --- I'm going to say in
12 between.

13 Q. Okay. How often did you have to set bits?

14 A. One hour at least we set bits, probably ---. You
15 probably had to set bits when you got to the tail and
16 then set it when you come back in ---

17 Q. Okay.

18 A. --- because we was in sand rock.

19 Q. Okay.

20 A. See, we was in sand rock for, I would say, a
21 month, for a month, you know, before they had this
22 ignition.

23 Q. Okay. The last --- through the month of
24 March, ---

25 A. Yes.

1 Q. --- sound about right?

2 A. And ---.

3 Q. Was you in it now?

4 A. Uh-huh (yes).

5 Q. Still in the same role?

6 A. Yeah. And my last shift was April the 3rd,
7 because the mines was idle Easter day. And we was
8 getting ready to go into a low place on the tail, and
9 it was sand rock on top and sand rock on bottom. And
10 they would have had to cut it up high, either out of
11 the bottom or the top, for the tail drive to go down
12 in it.

13 Q. Right in there?

14 A. Yeah.

15 Q. Where the face is?

16 A. Yeah. But somebody said they were just about out
17 of it, so I don't know.

18 Q. Okay. When you set bits, what did you do with the
19 old bits usually?

20 A. Well, we'd just throw them away.

21 Q. You'd throw them away. Did you ever notice that
22 the carbon bits were missing from the old bits?
23 Sometimes they can be real hot?

24 A. Yeah. Well, I mean, there might have been. They
25 look like elf shoes.

1 Q. Okay. What was the condition of your longwall
2 face the last month or so? Was it hard, a lot of
3 pressure rolled off or how?

4 A. It was hard.

5 Q. Okay.

6 A. And there was, you know, a lot of thumping.

7 Q. Pressure?

8 A. Uh-huh (yes).

9 Q. And rubs --- your ribs taking weight?

10 A. Yeah. Everybody was on the face and coal was off
11 the face and ---.

12 Q. Well, you mentioned the sandstone. When you're
13 cutting coal, do you see a lot of sparks from time to
14 time?

15 A. Not cutting coal. When you got sand on top,
16 it ---.

17 Q. Did it get in the roof?

18 A. Yeah. Yeah.

19 Q. Okay.

20 A. Any time you cut sand rock, you see sparks.

21 Q. Okay. Was there any rock layers in the coal face?

22 A. Well, down towards the bottom there might have
23 been a little bit of middle maybe.

24 Q. The last few days you worked there --- or for the
25 entire month of March, let's say, when you cut out on

1 the tail and you begin your shuffle to --- did you
2 happen to notice the direction the air would travel
3 over there?

4 A. It would travel towards the tail.

5 Q. Okay. Any time on this current longwall panel,
6 are you aware of or did you hear anything about a
7 possible blockage in the tail?

8 A. No.

9 Q. Okay.

10 A. No, I didn't hear anything about that because if
11 they have that, then they got to go to that tail
12 blockage place, then they got to go --- rescuers with
13 them.

14 Q. In the last few months, particularly the month of
15 March, ever have any problem with your shearer that
16 you --- some kind of breakdown, mechanical maintenance
17 issue that would require welding or cutting?

18 A. No, not on our shift we never ---.

19 Q. Okay. Ever notice any oxygen or acetylene tanks
20 along the longwall face that maybe didn't need to be
21 there?

22 A. No.

23 Q. Okay.

24 A. Now, the hoot owl might have done some cutting and
25 stuff, but ---.

1 Q. Okay. Now, I think you said that the last day you
2 worked was April 3rd?

3 A. Uh-huh (yes).

4 Q. Happened to be a Saturday; right?

5 A. Uh-huh (yes).

6 Q. The mine was idle on Sunday before; is that right?

7 A. On Sunday.

8 Q. So you produced coal up there?

9 A. Yes.

10 Q. You ran coal up there?

11 A. Yes.

12 Q. Now, did you report to work on Monday, the 5th?

13 A. I didn't work Monday, the 5th.

14 Q. Okay.

15 A. I was off. That was the start of my three days
16 off.

17 Q. Okay. Have you heard anything about the longwall
18 shearer being down any on Monday, the 5th, during the
19 dayshift?

20 A. Yeah.

21 Q. What did you hear?

22 A. I heard that they had a regulator coming out.

23 Q. Okay. Do you know how --- did you hear how long
24 they were down?

25 A. No. I do --- the only thing I heard, it was ---

1 see, I've heard somebody say that they was down and
2 wasn't running, but then I heard that the coordinator
3 was up there the same day, Jack Roles.

4 Q. Okay.

5 A. And he come out and the shearer was running at
6 that time. They got the raise-on pin back in and then
7 they was running.

8 Q. How long does it take --- how do you fix a
9 raise-on pin?

10 A. Well, if you got one out, your shearer operator
11 will raise you, put pressure on your head up and down
12 or reflect it on one count, like that. And then you
13 line your hole back up and then you put your pin back
14 in, you know.

15 Q. How long does that usually take?

16 A. But most of the time you have to take a
17 sledgehammer and beat it back in there.

18 Q. You don't have to do any cut welding or anything?

19 A. Well, no, sometimes you do. I mean, sometimes,
20 you know, it's got a keeper that goes on it on the
21 outside and it's got Allen bolts in it to when you
22 screw them in, it expands. Then you know, if they
23 don't put them --- put the cable back in. But a lot
24 of times they'll weld a metal plate or something on
25 top of them to get it working back out again.

1 Q. Let me make sure I got you straight here. Now,
2 you don't know how long they might have been down on
3 Monday, the 5th?

4 A. No. No.

5 Q. And you don't know when they broke down or when
6 they ---?

7 A. No. The only thing I know is that Jack Roles had
8 been up there and that somebody had asked Jack about
9 them being down, and Jack said, when he went up there,
10 that they was back up and running.

11 ATTORNEY BAXTER:

12 Do you remember who you heard that from?

13 A. Who was it? It might have been Luke Ford maybe. I
14 don't ---. I'm just guessing. I don't ---.

15 ATTORNEY BAXTER:

16 Luke Ford you said?

17 A. Uh-huh (yes).

18 ATTORNEY BAXTER:

19 Okay.

20 BY MR. FARLEY:

21 Q. Did you hear if they were cutting their welding on
22 the 5th?

23 A. No. No, I did not.

24 Q. Let me ask you this. How long did it normally
25 take you to make a pass across that face from head to

1 tail?

2 A. Well, it was according to what the connections
3 are. I mean, if you're in good condition, ---.

4 Q. Cutting coal?

5 A. Cutting coal. You can make a pass and get the
6 shuffle probably in 35 minutes.

7 Q. What's a shuffle?

8 A. That's where you --- when you cut out on a tail.
9 Shuffle is just something that keeps your face
10 straight.

11 Q. When you push over ---?

12 A. When you cut out on a tail. I've got a shearer
13 on, I've got a jack setter come down, and he'll set
14 jacks so far, okay. And then he'll start them back.

15 Q. Okay.

16 A. When you cut out, you come back up and you come
17 back up and you go through their separator and cut
18 back in the coal, ---

19 Q. Uh-huh (yes).

20 A. --- I guess, and then he'll line the jacks up and
21 shove it out again and then ---

22 Q. Straighten them up?

23 A. --- straighten them up.

24 Q. Now, on Saturday, the last Saturday, April 3rd,
25 the last day you worked, how was it running then?

1 Approximately how long was it taking you then to make
2 a pass on the conditions you had on April the 3rd?

3 A. I would say probably an hour.

4 Q. Okay. What's the saw, 42-inch?

5 A. Forty-two (42) inch. Because, you know, --- well,
6 it might have took a little bit longer than an hour,
7 but --- because most of the time, when you got down
8 there, you had to stop and set bits.

9 Q. Now, how far from the tail back towards the head
10 was the sandstone, the low ---?

11 A. It was right there on the tail.

12 Q. So it was within ten feet back or ---?

13 A. Probably. Ten feet from the tail probably.

14 Q. Okay. That's where you hit --- ran into
15 sandstone, over towards the tail?

16 A. Where the sander stopped --- the sandstone all the
17 way across.

18 Q. Okay. I'm sorry.

19 MR. PAGE:

20 But that's where you had to cut it?

21 A. Yeah, down on the tail.

22 MR. PAGE:

23 On that ten feet?

24 A. Yeah.

25 MR. PAGE:

1 Before you cut out? Ten feet down the
2 face you had to either cut sandstone bottom or top or
3 both?

4 A. Yeah, to bring enough height for the tail drive to
5 go ---.

6 MR. PAGE:

7 I gotcha.

8 A. And which the --- well, I don't know how --- I
9 didn't measure it, but I would say it was probably 50
10 inches high down there probably.

11 BY MR. FARLEY:

12 Q. Coal?

13 A. Coal.

14 Q. Any idea how much clear?

15 A. Well, your shearer to flip your cow, you have to
16 have 72 inches of height to flip your cow.

17 Q. Okay. Seventy-two (72) inches ---

18 A. Uh-huh.

19 Q. --- to turn the cow?

20 A. Yes. They got good names for all that longwall
21 stuff.

22 Q. Yeah, mule train.

23 A. Dog bone and ---.

24 Q. Okay. Seventy-two (72) inches to turn the cow?

25 A. Uh-huh (yes).

1 Q. And you had approximately 50 inches coal?

2 A. Probably.

3 Q. Okay. I'm saying approximately so that gives
4 you ---.

5 A. Leeway.

6 Q. Sure. Give or take a little. So you have to go
7 quite a bit of sandstone?

8 A. Yep. It's easier to take it down the bottom.

9 Q. Is that where you usually take it?

10 A. That's where our crew tried to ---.

11 Q. You got a double-headed shearer; right?

12 A. Yeah.

13 Q. Which one cuts the bottom, the front one?

14 A. I cut the bottom at the northern tail and he cuts
15 the bottom coming back to the head. Because the tail
16 shearer operator will be cutting all the --- most of
17 the rock down there.

18 Q. So he's in the front?

19 A. Yeah.

20 Q. That let's get you back and push ---?

21 A. Because my arm wouldn't reach ---

22 Q. Right.

23 A. --- down that far.

24 Q. So you cut the top. On the way down, okay, but
25 you cut it on the way back?

1 A. What's that?

2 Q. You cut the bottom on the way back to the head?

3 A. No. I cut the bottom going to the tail.

4 Q. Okay. You're the ---?

5 A. I'm the head-end shearer operator.

6 Q. Okay. You cut the bottom and he cuts the top?

7 A. Yeah. And then he cuts ---.

8 Q. Like that?

9 A. Yeah. And then he cuts the bottom and ---.

10 Q. And then coming back you're just reversed?

11 A. Yeah.

12 Q. I got a couple --- three more. Just bear with me.
13 in the months or so preceding the explosion, did you
14 ever have any trouble with your shearer power cable?

15 A. Yeah.

16 Q. Anything in particular?

17 A. Well, they had trouble with the Brittany at the
18 longwall faces, which is your equipment.

19 Q. I'm sorry? I didn't hear you.

20 A. It's --- Brittany, it's a plastic thing. It's got
21 fingers on it and your cables.

22 Q. It lays right down in the tray?

23 A. Yeah.

24 Q. And it keeps the cable rolling over and keeps it
25 out of everyone's way?

1 A. Yeah. And they have trouble with the caps coming
2 off of it and, you know, which --- when you run
3 shearer rocks --- you can't keep them cleaned out.
4 But they had all kinds of trouble with that.

5 Q. So what did that do to your cable?

6 A. You had ---.

7 Q. Tore it up?

8 A. Tore it up. It had flashes in it, repaired
9 flashes and ---.

10 Q. Did it knock the breaker or anything like that?

11 A. Yeah.

12 Q. Did your cable blow out or just, you know, where
13 it had been damaged? You'd fire your shearer up or
14 get it in --- lot of amperage on it?

15 A. Yeah, and mostly getting water ground in it.

16 Q. Water ground?

17 A. Yeah.

18 Q. Okay.

19 A. And then their last day changed the ---.

20 Q. The month of March --- when did they change it?

21 You said they changed it. Did they change it to pure
22 black?

23 A. Yeah.

24 Q. When?

25 A. I'm wanting to think --- oh, it wasn't very long

1 before they had that ignition. Maybe in ---.

2 Q. So last March?

3 A. March. Maybe in February.

4 Q. They changed the entire cable line?

5 A. Yes. Yeah, it makes a lot of difference.

6 MR. PAGE:

7 I'm sorry, Terry.

8 MR. FARLEY:

9 That's fine. I think you picked up there

10 on where I didn't understand where I needed to go.

11 MR. PAGE:

12 I'm just going to say they changed it out

13 in March. Is that --- that would be ---?

14 A. March, February, somewhere.

15 BY MR. FARLEY:

16 Q. One more, Roger. During your normal shift, did
17 the longwall foreman usually make his two-hour face
18 examinations?

19 A. Yeah.

20 MR. FARLEY:

21 Okay. Back to you.

22 RE-EXAMINATION

23 BY MR. PAGE:

24 Q. See, Terry gave me a break. Okay. You need a
25 break?

1 A. No. Go ahead.

2 Q. You sure?

3 A. Yeah.

4 Q. Okay. So I'll ask a few more. And I'm sure Terry
5 is going to come up with some spin-off questions, and
6 we're just going to float out. We're going to double
7 team you. Okay. When you was running the shearer you
8 said two-tenths was the highest that you got on this
9 panel. So you didn't have any floor gas or anything
10 like that?

11 A. No.

12 Q. You didn't see any bubbling come up out of the
13 floor ---

14 A. No.

15 Q. --- when the water was ---?

16 A. No. You can see more than water.

17 Q. You can see water there?

18 A. Yeah.

19 Q. You'd see some bubbling?

20 A. Yeah. But I mean, they'd take the spotter, you
21 know, hold it down and they still --- wouldn't be ---.

22 Q. Wouldn't be anything?

23 A. Right.

24 Q. Okay. Did you ever hear anyone talk about the
25 same 24-inch seam of coal below where you was mining

1 that maybe had methane or anything in it?

2 A. No.

3 Q. Okay. Have you --- has a methane monitor ever
4 went down and anyone asked you to run the shearer?

5 A. Well, now ---.

6 Q. You cut coal with it, ---

7 A. With the ---.

8 Q. --- with the monitor not operating properly?

9 A. It's my understanding that we was told that they
10 had a thing where that if the methane monitor went
11 down ---

12 Q. Uh-huh (yes).

13 A. --- and they didn't have enough parts to fix it
14 with, ---

15 Q. Uh-huh (yes).

16 A. --- that they had a 24-hour time frame to have it
17 fixed.

18 Q. Okay.

19 A. But since then I've heard that they didn't have
20 the 44-hour ---.

21 Q. So you're saying that --- did the foreman tell you
22 that? Did Jack Role tell you that --- Roles or ---?

23 A. I don't know. I would say it would have had to
24 come from maintenance somewhere. I mean, I would
25 think.

1 Q. Well, that would probably be something that would
2 be in a ventilation plan or something.

3 A. Well, I mean, they should have it. If they've got
4 that, I mean, it should be in some kind of plan.

5 Q. Absolutely, yeah. I was just wondering ---.

6 A. At least it was always my understanding, if you
7 had a methane monitor down, it was down until you
8 fixed it.

9 Q. I was just wondering who told the crew that?

10 A. Yeah.

11 Q. Or it came from a section --- I mean, the longwall
12 foreman or the longwall coordinator or ---?

13 A. I can't remember if it was that or one of the
14 chief electricians or ---.

15 Q. Okay.

16 A. Now, let's say that they had a 24-hour period
17 because, you know, one of your shearer operators is
18 required to carry a spotlight. And then you've got
19 your foreman on shift that covers for him. As long as
20 you took your gas test every 20 minutes ---.

21 Q. If one --- if a monitor goes down on the shearer,
22 does the other still work on the tailgate and the
23 mid-face?

24 A. Uh-huh (yes). Yes, they do.

25 Q. Okay. Do you ever see them calibrated?

1 A. Yeah.

2 Q. All three of them? Or you saying I'm sure on the
3 shearer?

4 A. Yeah, I've seen them calibrate the one on the
5 shearer. I'm sure they calibrate the ---

6 Q. Okay.

7 A. --- one that's on the face, too. Well, I know
8 they calibrated the one on the mid-face before.

9 Q. Okay. Do you know if belt air was used on the
10 longwall face?

11 A. Well, no. They ---.

12 Q. Which would be this air coming up through here.

13 A. Had 10,000 coming up the belt.

14 Q. Huh?

15 A. Had about 10,000 coming up the belt.

16 Q. When was the last time that you knew they had
17 10,000? Was it ---?

18 A. Probably in ---.

19 Q. In March or ---?

20 A. Uh-huh (yes).

21 Q. So you ---?

22 A. I'm just going by hearsay.

23 Q. Okay. That's good. That's good. You didn't take
24 the readings or anything like that. You just know
25 what the foreman or ---?

1 A. Yeah.

2 Q. Okay. Yeah, I understand.

3 A. And this is where I heard it from. I heard it
4 from one of the headgate operators.

5 Q. That you had 10,000 coming up the belt and down
6 the face.

7 A. And his name was Kenny Woodrum. He was the
8 headgate operator.

9 Q. Kenny what?

10 A. Woodrum.

11 Q. Okay. Do you know if Kenny took readings or
12 anything or is he a certified foreman or anything ---?

13 A. I guess he was down there when the boss ---

14 Q. Yeah.

15 A. --- took the ---.

16 Q. Okay. Did you and Kenny work ---?

17 A. He was on a different crew.

18 Q. He was on a different crew, but did you all follow
19 each other or anything?

20 A. Well, that's just according to how the
21 schedule ---.

22 Q. Okay.

23 A. You know, you might go through one run and ---.

24 Q. Be together or a part of it ---.

25 A. But sometimes during that you would be because you

1 was only off for a day, so ---.

2 Q. Do shearer operators usually talk ---? I guess
3 you do when you're at the face.

4 A. Yeah.

5 Q. Yeah. Was it normal to leave the shearer at the
6 tail? Would you have tried to get it back to the head
7 at quitting time?

8 A. You know, most times, they want it on the head if
9 they have to do any maintenance to it.

10 Q. I mean, if I'm on the tail and I got to go to the
11 head to catch a mantrip, I'd probably take a shearer
12 with me. I mean, ---.

13 A. Yes, according to how long it would take you to
14 get to the head, you know. Because if your quitting
15 time is at, say, 12 o'clock, you know, your hoot owl
16 is already up there, you know. And if you weren't at
17 the head, say that would take you two hours to get to
18 the head, then you ain't ---.

19 Q. What speed did you normally run the shearer?

20 A. Probably about 25 to 30, somewhere through there,
21 because if you run any faster, you ---.

22 Q. If I wanted to get back to the head, I could push
23 it over halfway and not have to run it full speed?

24 A. Yeah. Yeah, you could.

25 Q. Okay. I'm kidding.

1 A. Yeah. But now, a lot of times, though, like if
2 we're leaving the mid-face or something like that, the
3 hoot owl comes in and then they'll go down and bring
4 it to the head.

5 Q. Uh-huh (yes). Did you try to keep the face
6 straight or did you try to keep it a smile line?

7 A. They didn't have nobody down there to keep that
8 place straight.

9 Q. Okay. It sounds to me like it was strictly
10 production?

11 A. Yes. I mean, they wave off one, and then they'd
12 wave the other one.

13 Q. But sometimes you got to --- don't push over all
14 the way ---

15 A. Yes.

16 Q. --- and to straighten back up ---

17 A. Uh-huh (yes).

18 Q. --- and keep your pontoons and everything
19 straight, and that way you can ---.

20 A. You can run better with a straight face.

21 Q. Which if you got a smile, it's better than
22 anything because all your pressure is in the middle.
23 And your ends, you don't have any problems?

24 A. Uh-huh (yes).

25 Q. Right?

1 A. Yeah. And then a lot of times you will get too
2 much pressure in the middle and then you have to cut
3 the middle out.

4 Q. And then you have to ---?

5 A. Yeah.

6 Q. You don't push your tail over and the head over
7 just to cut out of the middle?

8 A. Yeah.

9 Q. I'm getting into production. Getting back to
10 questions, so it takes you about an hour cutting out
11 with that sandstone stuff from head to tail,
12 approximately?

13 A. Uh-huh (yes).

14 Q. During shift, did you ever feel that there was any
15 fluctuation in the air coming down the longwall face.
16 Would there be --- at times have more than others that
17 you can feel?

18 A. No, not on this panel. I mean, you know, of
19 course your air cut down --- our last whatever, it
20 went from 100,000 to 56,000 coming through the last
21 break.

22 Q. Did you ever have any concerns about the
23 ventilation?

24 A Yeah.

25 Q. You did?

1 A. Yeah.

2 Q. What was your concerns?

3 A. Well, my concern was the way that they set this
4 panel up where there's your main intake coming down
5 your track entry and over top of your mule train, and
6 went down the last open break.

7 Q. Okay.

8 A. Because if something on that mule train caught on
9 fire, you know what I mean, that whole car and all
10 that stuff down there, then smoke on top of it before
11 you know it.

12 Q. Okay. Did any of the guys, the men, out in the
13 bathhouse before or after the shift --- you know, I
14 know everyone sits there and talks and things like
15 that. The guys on, say, the Headgate 22, Tailgate 22,
16 did you ever hear them talking about any concerns
17 about their ventilation or methane?

18 A. No.

19 Q. Because you guys were different? You didn't cross
20 paths that much; right?

21 A. Yeah, we was different. Most times when we come
22 up, they was already gone.

23 Q. Okay. Okay. So you all didn't communicate a
24 whole lot. Ever have any --- when you guys came in or
25 went out, were the man --- not the man doors, but the

1 equipment doors, were they always closed or some of
2 them closed, some of them open or anything like that?

3 A. Most of the time it was closed. Are you talking
4 about the ---?

5 Q. Yeah, these doors you come through over here.

6 A. Yeah. Most of the time they're closed because ---
7 but one time they got in trouble with that. You know
8 what I mean? The mantrip would come through here and
9 up one set. Let's say you had two mantrips in a row.
10 Once one would come through an open set of doors, then
11 he'd go on up here ---

12 Q. And open another set.

13 A. --- and open up another set, and then you had them
14 both ---.

15 Q. What would happen? Do you have any idea what
16 would happen if you did that?

17 A. Well, I mean, it affects your air.

18 Q. Yeah, it does. But most of the time when you go
19 through them, when they're inline with the intake like
20 that, it doesn't take too much away from the section.
21 It gives you a little more velocity on the track and
22 stuff. But in this situation, if you left them open,
23 it could affect your intake up here ---

24 A. Yeah.

25 Q. --- on the sections or longwall or anything.

1 A. Uh-huh (yes).

2 Q. Okay.

3 A. And so where the doors was, when you come through
4 from Ellis side, when you come through and you went to
5 78, ---.

6 Q. Yeah. Out here is 78 --- or right here is 78.

7 A. We went up to here. You went up this way to go to
8 --- well, I call it Two section.

9 Q. Okay. Yeah.

10 A. When you went up there, you went up this way, go
11 to the Two section. You went up, you turned right,
12 went up here, go to the longwall.

13 Q. Yeah.

14 A. Okay. And there was four doors up here that you'd
15 have to travel through, you know.

16 Q. Okay.

17 A. These doors up here, I mean, any time you open
18 them, it interrupted your air. The biggest thing that
19 I see when they drove this up is that they didn't put
20 the overcasts in, and they were supposed to be put in.

21 Q. I agree. You had several down through here. Did
22 anyone say why they didn't put them in?

23 A. Well, I heard --- I don't know who said this, but
24 I heard they said that Blanchard didn't take time to
25 put them in.

1 Q. That Blanchard didn't take time to put the
2 overcasts in, he just put the doors?

3 A. Doors.

4 ATTORNEY BAXTER:

5 And what area are you talking about where
6 there's no overcasts?

7 A. Probably about 80 break, 78. Where's the doors?

8 BY MR. PAGE:

9 Q. I'm lost. It's right in the middle of your
10 intake. There's a --- I don't know if this map's got
11 them on there or not.

12 A. I would say they're between --- all four sets is
13 probably between, I'm just guessing, 80 and 90 Break
14 up here.

15 Q. It's up on this Six North belt line. They have
16 two sets that allows the neutral to get in there in
17 the box.

18 ATTORNEY BAXTER:

19 And when you said earlier they got in
20 trouble for leaving the doors open, what did you mean
21 by that?

22 A. The inspectors was --- they was going to write a
23 violation or something. And then Everett had a
24 meeting and told them that it didn't make no
25 difference how many trips you had, whatever --- say

1 you had enough mantrips for two vehicles to get in
2 between the doors, the other ones would be shut, and
3 the other ones and the two mantrips would go through
4 and then the rest of them could. But the doors had to
5 be shut. You couldn't open them ---?

6 BY MR. PAGE:

7 Q. Did they write a violation or not?

8 A. I don't think. I don't think they did.

9 Q. Okay.

10 ATTORNEY BAXTER:

11 Do you remember when that happened?

12 A. No, not ---.

13 BY MR. PAGE:

14 Q. That's where we're talking about. It's on Six
15 North belt.

16 A. But that's the area.

17 Q. So you got an overcast on that side that lets you
18 intake through. There should have been one there?

19 A. Uh-huh (yes).

20 Q. And they put two sets of doors?

21 A. Uh-huh (yes).

22 ATTORNEY BAXTER:

23 Is that where you're talking about,

24 Roger, that area?

25 A. Yeah, right here. Right there.

1 MR. PAGE:

2 He was right.

3 BY MR. PAGE:

4 Q. I was looking up here at this one, but that's the
5 right area. You need to initial that area. Let me
6 draw a line over here. And that's on the Six ---
7 outby side of Six North belt?

8 A. Yeah.

9 Q. Okay. It goes on the record there, and you can
10 initial that on the map where you --- where it's
11 marked. Should have been overcasts versus doors.

12 ATTORNEY BAXTER:

13 Is this a different map than the one we
14 had earlier?

15 MR. PAGE:

16 Yes.

17 ATTORNEY BAXTER:

18 We'll mark this as Exhibit Two.

19 (Scarbro Exhibit Two marked for
20 identification.)

21 A. The other one was down at the Ellis Switch.

22 MR. PAGE:

23 Terry, you got any follow-up questions
24 right now?

25 MR. FARLEY:

1 No. Go ahead.

2 MR. PAGE:

3 Okay. I was hoping you did.

4 ATTORNEY BAXTER:

5 Well, let me just ask one. On the March

6 ventilation change you mentioned, ---

7 A. Uh-huh (yes).

8 ATTORNEY BAXTER:

9 --- I think, Everett Hager. Was there

10 any other management person there involved that you

11 knew of?

12 A. Now, the one that they done in March I was not.

13 ATTORNEY BAXTER:

14 Okay. Was it a December one?

15 A. Yeah. That's whenever they ---.

16 ATTORNEY BAXTER:

17 That Everett Hager was at?

18 A. Yeah.

19 ATTORNEY BAXTER:

20 Was anyone else there involved, that you

21 remember?

22 A. Now, Scott Sickles was there helping us build the

23 stoppings. There was a boy --- what was his name? I

24 believe Chad Brown was there, I believe. There was

25 several of us there.

1 BY MR. PAGE:

2 Q. Since you worked at the UBB Mine, are you aware of
3 any ignitions whatsoever on the longwall face, since
4 you've been there anywhere?

5 A. Well, yeah.

6 Q. What?

7 A. Yeah.

8 Q. When?

9 A. We had one on the first panel.

10 Q. Again?

11 A. We had one on the first panel.

12 Q. That's in the sealed airways?

13 A. Uh-huh (yes).

14 Q. How far back was that?

15 A. I started in '96. Probably somewhere --- either
16 '97 or '98.

17 Q. Any more after that?

18 A. No. No, we didn't have no more after that.

19 Q. None on this panel?

20 A. No. Just like that, I mean, we never had no
21 methane build up on that panel, so I don't know
22 what ---.

23 Q. Okay.

24 A. I mean, to have an ignition like that, I mean, it
25 had to be a big amount of methane to ignite.

1 Q. A lot of times you can get one of those that lasts
2 about 15 seconds, a flash and hit a methane feeder or
3 something like that and it will just --- it will burn
4 air into water and not get out.

5 A. Uh-huh (yes).

6 Q. There's different types ---

7 A. Yes.

8 Q. --- of ignitions, ---

9 A. Yes.

10 Q. --- 15, 30 seconds, something like that, a lot of
11 times. Especially when you're in sandstone ---

12 A. Uh-huh (yes).

13 Q. --- you can have those type ignitions. Did they
14 always maintain the curtains across the entries to get
15 the air over to the longwall face?

16 A. Yes.

17 Q. Okay. Did anyone ever say anything about the
18 regulator or are you aware of the regulator that was
19 established inby the longwall face and outby the 22
20 Tailgate panel?

21 A. No.

22 Q. There was a regulator right in there. Return air
23 comes off this section, off the 22 Tailgate section
24 through the regulator and is supposed to travel up
25 this way, up the headgate, back to the Bandy fan. I

1 was just wondering if you had ever been over there and
2 observed that regulator and wondering which direction
3 the air was going if you'd been there. It doesn't
4 show it here.

5 A. At one time. I know what you're saying.

6 Q. Yeah.

7 A. At one time. Okay. So we had one, two, three,
8 four, four entries up here. Okay. At one time one
9 section, their return come over and went up one of
10 these entries.

11 Q. Up that way.

12 A. Rock blasting the longwall.

13 Q. Yeah. Okay.

14 A. Now, supposedly this last ventilation change they
15 made, they rerouted their return.

16 Q. Okay.

17 A. Their return come over here and come back down,
18 down through here, and went over an overcast and went
19 over here and come back to the longwall.

20 Q. Are you saying it came down this way or how, came
21 down and ---?

22 A. You know, like one section was ---.

23 Q. This is one; right?

24 A. Yeah. So you know which way the air used to go?

25 By the longwall, through here.

1 Q. Yeah.

2 A. Okay.

3 Q. So right now your intake is supposed to be coming
4 this way, coming across, and your return should be
5 coming right down through here. They had a split on
6 that return ---

7 A. Uh-huh (yes).

8 Q. --- where it would come up and back up through the
9 longwall?

10 A. Well, some way they fixed it where it come down
11 here, back down here, ---

12 Q. it come back here.

13 A. --- and come over an overcast and come back ---.

14 Q. Right here?

15 A. Yeah, and went back over into the far return.

16 Q. Down at the end of this barrier down in this area
17 and come up?

18 A. Yeah, because they put --- I don't know the exact
19 word, towards the mouth of the longwall. You have two
20 sets of doors down here I would say at, what, Four or
21 Five Break.

22 Q. Right there is two sets.

23 A. Okay. When they done the last longwall --- I
24 mean, ventilation change, they put two more sets of
25 doors up here, about Three or Four Break anyway. But

1 anyway, they put two sets of doors up and left this
2 side over here open. They was using them as --- I
3 guess they were using them ---.

4 Q. Those set of doors, see them, ---

5 A. Uh-huh (yes).

6 Q. --- in your opinion, with your experience and
7 stuff, if that set of doors was open, what do you
8 think would have happened to the longwall, left open,
9 both of them at the same time.

10 ATTORNEY BAXTER:

11 Can you circle that, Norman?

12 MR. PAGE:

13 Yes.

14 BY MR. PAGE:

15 Q. Those set of doors right there, if that was ---
16 both those doors were left open?

17 A. Probably is most of your air.

18 Q. There's a good possibility that if those two doors
19 are open, that all your air would go down this return
20 and back across ---

21 A. Yeah.

22 Q. --- and back up to Bandy fan. You wouldn't have
23 any air on the longwall; right? I mean, it sounds
24 like I'm answering the question, but I'm trying to
25 clarify yours, because you said you'd lose the air.

1 A. Uh-huh (yes).

2 Q. Okay. Go ahead and initial that.

3 WITNESS COMPLIES

4 BY MR. PAGE:

5 Q. Okay. Has anyone told you or asked you to perform
6 any type of work or run the shearer or anything that's
7 --- when you felt like it was unsafe?

8 A. No.

9 Q. Okay. Did you ever feel like that if you didn't,
10 would you feel like that they would be mad at you
11 or ---?

12 A. Well, now, I mean, at one time, probably when I
13 first started there. I mean, if you --- to me, if you
14 bucked the system, they might not want to get rid of
15 you right then, but I mean, eventually they would.
16 They would look for something to ---.

17 Q. Do you feel like that they encouraged production
18 over safety?

19 A. Well, some might have, but not a boss that I had,
20 which he's ---

21 Q. What about ---?

22 A. --- he's deceased now, but ---.

23 Q. What about say a superintendent or a
24 vice-president or someone in a position like that? Do
25 you think that production was number one?

1 A. Well, ---.

2 Q. I mean, it's opinion.

3 A. Not necessarily, I mean. I mean, you got some
4 bosses that's --- you know, that goes in there and
5 tries to ---.

6 Q. You have some section foremen that do the best
7 they can; ---

8 A. Yeah.

9 Q. --- right?

10 A. Yeah.

11 Q. But ---

12 A. Like the ---.

13 Q. --- what I asked was, do you feel like that
14 superintendent or higher put pressure on the
15 foremen ---

16 A. Well, yeah, they probably did.

17 Q. --- to --- which filters down ---

18 A. Yeah, it filters down. Yeah.

19 Q. --- to --- for production?

20 A. To put pressure on the men to run more coal.

21 Q. Production first ---

22 A. Yeah.

23 Q. --- and safety second?

24 A. Yeah, it's a possibility.

25 Q. Okay. How did you hear about the April the 5th

1 accident?

2 A. I heard it on the --- we heard it on the radio,
3 didn't we, or TV?

4 MRS. SCARBRO:

5 What's that?

6 A. About the April 5th ---.

7 MRS. SCARBRO:

8 About what?

9 A. When the explosion was down at UBB.

10 MRS. SCARBRO:

11 No. Lori called over here ---

12 A. Okay. That's my daughter.

13 MRS. SCARBRO:

14 --- and said, you know, that something

15 went on, that all those ambulances and something

16 happened at Performance.

17 BY MR. PAGE:

18 Q. That was during your three days off; correct?

19 A. Yeah. Yes, it was.

20 Q. So did you work any during that time frame?

21 A. No.

22 Q. So you ---?

23 A. The last shift I worked down there ---.

24 Q. Was on that Saturday, prior to, which was the 3rd.

25 A. April the 3rd. Yep.

1 Q. Okay.

2 A. The only time that I was back up there is I went
3 back up there and got my light and belt and stuff,
4 because we was getting transferred to ---

5 Q. Right.

6 A. --- Revolution.

7 Q. Okay. Did anyone from the company or representing
8 the company discuss this mines with you or about
9 interviewing or anything like that?

10 A. What do you mean interview?

11 Q. Did they discuss about you interviewing with MSHA
12 or did they sit down and discuss about your knowledge
13 of the mines or did they interview you, any of the
14 company lawyers or the company?

15 A. Oh, yeah. Since this has happened?

16 Q. Yes.

17 A. Yeah.

18 Q. Did they give you a --- did they send you a letter
19 or anything or any type of memorandum or anything
20 that ---

21 A. No.

22 Q. --- had any directions?

23 A. No.

24 Q. Okay.

25 A. They come to Revolution and interviewed us down

1 there in the office.

2 Q. Okay. Which there's nothing wrong with them
3 coming in and interviewing.

4 MR. FARLEY:

5 Was that one at a time or as a group?

6 A. No, individually, one at a time.

7 BY MR. PAGE:

8 Q. Would you care to share anything that they asked
9 you or directed you or anything like that?

10 A. More or less basically the same thing that you
11 all's done, about if the methane monitor was ever
12 bridged out or ---.

13 Q. Okay. And they didn't direct you in any way ---

14 A. No.

15 Q. --- as to how to answer questions?

16 A. No.

17 MR. PAGE:

18 Terry, you got anything?

19 MR. FARLEY:

20 I believe one more.

21 RE-EXAMINATION

22 BY MR. FARLEY:

23 Q. Since April the 5th, have you heard anything about
24 a possible air change at UBB on Sunday, April 4?

25 A. Well, yes, I have.

1 Q. Well, will you share ---?

2 A. I don't know that for a fact. I heard just the
3 rumor is that Chris Blanchard and Jason Whitehead was
4 supposed to have went in there.

5 Q. On April 4th?

6 A. Easter Sunday. I've heard more as far as hearsay.

7 Q. What's the story on what happened when they were
8 in there?

9 A. I don't know.

10 Q. Okay.

11 A. Somebody just said that they was in there back on
12 the 4th and somebody said that they had done something
13 to the air or ---.

14 ATTORNEY BAXTER:

15 Do you remember who you heard that from?

16 A. I can't remember who I heard that from.

17 BY MR. FARLEY:

18 Q. Who would have been working on the surface?

19 A. It had to have been one of the security guards.

20 Q. That's all?

21 A. Yes.

22 Q. There wouldn't have been ---

23 A. I don't know if Everett ---.

24 Q. --- a responsible person or anything on the
25 surface?

1 A. I don't know if Everett and them would have been
2 there or ---.

3 Q. Okay. Who's the responsible person at this mine?

4 A. Well, the responsible person would be either
5 Everett, Jack Roles or ---.

6 Q. Okay.

7 A. And then if they ain't there, it just steps down
8 the ladder to the next ---.

9 Q. Sure. I understand.

10 MR. FARLEY:

11 I don't have any other questions.

12 MR. TUCKER:

13 Mr. Scarbro, is there anything ---?

14 A. Now, can I ask you all a question?

15 MR. PAGE:

16 Sure.

17 A. Have you all seen the ventilation plan for that
18 longwall panel over there?

19 MR. PAGE:

20 Yes.

21 A. Okay. The way they got that panel set up ---.

22 This is the longwall panel.

23 MR. PAGE:

24 Let's slide it over and we show it all if

25 you'd like.

1 A. The way this is set up, the intake come up, went
2 across. You had a wall of stoppings right here, all
3 the way down through here. Had to be maintained.

4 MR. PAGE:

5 All the way down through here?

6 A. Yeah. We followed over to 80 Break.

7 MR. PAGE:

8 Okay.

9 A. Okay. This panel was hit somewhere around 130
10 breaks long.

11 MR. PAGE:

12 What you're saying was, it's supposed to
13 be ---?

14 A. Yes. It was 51 breaks beyond what we started at.
15 So it was my understanding ---.

16 MR. PAGE:

17 It doesn't look like that they could.

18 They couldn't get by this. I mean, they could have
19 got ---.

20 A. Oh, they went on back to here.

21 MR. PAGE:

22 Huh?

23 A. Oh, this panel went over to here.

24 MR. PAGE:

25 Well, I mean, ---.

1 A. We just started up at 80 Break.

2 MR. PAGE:

3 You're saying the projection went on
4 back?

5 A. Uh-huh (yes). The miner section cut on back
6 through there.

7 MR. PAGE:

8 Yeah, right through here.

9 A. Yes. This is your panel section.

10 MR. PAGE:

11 And this is your headgate that came right
12 here, and this is the tailgate.

13 A. That's 22.

14 MR. PAGE:

15 Yeah. And they cut across into each
16 other. And that's set-up perimeter right there. I
17 guess what I'm saying is, if you take the projections
18 it would have run you into this, the way they had it
19 set up. So they couldn't have went too far. You see
20 what I'm saying?

21 A. Uh-huh (yes).

22 MR. PAGE:

23 This is sealed. And now they could have
24 come up a little bit farther. I don't know about 50
25 breaks, but ---.

1 ATTORNEY BAXTER:

2 Do you want to go off the record and talk
3 about this?

4 MR. PAGE:

5 Yeah, let's go off the record. Okay.

6 I'm sorry.

7 OFF RECORD DISCUSSION

8 ATTORNEY BAXTER:

9 Okay. Back on the record.

10 RE-EXAMINATION

11 BY ATTORNEY FARLEY:

12 Q. One follow-up to the question I asked earlier. I
13 asked you if you had heard of an air change on April
14 the 4th, and you indicated that you thought Blanchard
15 and Whitehead might have been underground.

16 A. Uh-huh (yes). That's what I heard.

17 Q. That's what you heard?

18 A. Yeah.

19 Q. Did you hear anything at all about what they might
20 have done?

21 A. No.

22 Q. Okay.

23 ATTORNEY BAXTER:

24 On behalf of MSHA and the Office of

25 Miners' Health, Safety and Training, I want to thank

1 you for appearing and answering questions here today.
2 Your cooperation is very important to the
3 investigation as we work to determine the cause of the
4 accident. We request that you not discuss your
5 testimony with any person aside from a personal
6 representative. After questioning other witnesses, we
7 may call you if we have any follow-up questions that
8 we feel we need to ask you. If at any time you have
9 additional information regarding the accident that
10 you'd like to provide to us, please contact us at the
11 contact information that was previously provided to
12 you.

13 A. Okay.

14 ATTORNEY BAXTER:

15 If you wish, you may now go back over any
16 answer you've given during this interview. You may
17 also make any statement you'd like to make at this
18 time.

19 A. Well, now, I did hear something. I heard that ---
20 I forget who I heard it from, but somebody said the
21 day that they had the ignition that Blanchard and them
22 had went inside before MSHA got there.

23 ATTORNEY FARLEY:

24 On April 5th?

25 A. Yeah. And found them three deceased at the bolt

1 machine.

2 MR. PAGE:

3 At the bolt machine? Where at?

4 A. It was on the ---.

5 MR. PAGE:

6 Up here?

7 A. Yeah. It was on the longwall, at 14 Break. They
8 was down there bolting ---.

9 MR. FARLEY:

10 Headgate 22.

11 A. No. It was on the active longwall. When you come
12 up the track.

13 MR. FARLEY:

14 Oh, yeah. Okay. Okay.

15 A. Fourteen (14) Break, that's where they was going
16 to pull the longwall out. They found three deceased
17 there and had moved on over and went up and was
18 supposed to have crossed the face and called back out
19 there was six deceased on the face. But that's
20 just ---.

21 MR. PAGE:

22 They called it out to the dispatcher?

23 A. Uh-huh (yes).

24 MR. PAGE:

25 And who would that have been, the

1 dispatcher?

2 A. I was off. I don't know who ---.

3 MR. PAGE:

4 Oh, okay. They rotated.

5 A. Yes.

6 MR. PAGE:

7 Okay. Who's the dispatchers that rotate

8 out? Do you know their names? Is it three different
9 people or ---?

10 A. Yeah. They're on the other side.

11 MR. PAGE:

12 Oh, okay.

13 A. They're on UBB side.

14 MR. PAGE:

15 Okay. So you don't see those guys?

16 A. No.

17 MR. FARLEY:

18 To know that, he would have had to have

19 traveled the longwall face, is that what you're
20 saying?

21 A. Yes.

22 ATTORNEY BAXTER:

23 Do you remember who you heard that from?

24 A. No.

25 MR. PAGE:

1 Do you know if --- can you remember if
2 you heard anything about those guys reporting anything
3 about the guys on the 22 section --- Headgate?

4 A. No.

5 MR. PAGE:

6 Okay. Just the longwall and where they
7 were bolting down here?

8 A. Yes.

9 MR. PAGE:

10 Okay. Very good.

11 ATTORNEY BAXTER:

12 Again, I want to thank you for your
13 cooperation in this matter.

14

15 * * * * *

16 STATEMENT UNDER OATH CONCLUDED AT 11:48 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Brett Steele, 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.



Brett Steele