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Transcript of the Testimony of Kevin Brown

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STATEMENT UNDER OATH

OF

KEVIN BROWN

taken pursuant to Notice by Brett Steele, 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-123, Beaver, West Virginia, on Saturday, May 22, 2010, beginning at 5:50 p.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

1

Map

65*

*exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is May
5 22nd, 2010. I'm with the Office of the Solicitor,
6 U.S. Department of Labor. With me is Norman Page, an
7 accident investigator with the Mine Safety and Health
8 Administration, MSHA, an agency of the U.S. Department
9 of Labor. Also present are two people from the State
10 of West Virginia, I ask that they state their
11 appearance for the record.

12 MS. SPENCE:

13 I'm Beth Spence, with the Governor's
14 independent team.

15 MR. FARLEY:

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

18 ATTORNEY BAXTER:

19 There are also several members of the
20 investigation team present here in the room today.
21 All members of the Mine, Safety and Health Accident
22 Investigation team and all members of the State of
23 West Virginia accident investigation team
24 participating in the investigation of the Upper Big
25 Branch mine explosion shall keep confidential all

1 information that's gathered from each witness who
2 voluntarily provides a statement until the witness
3 statements are officially released. MSHA and the
4 State of West Virginia shall keep this information
5 confidential so that other ongoing enforcement
6 activities are not prejudiced or jeopardized by a
7 premature release of the information. Confidentiality
8 requirement shall not preclude investigation team
9 members from sharing information with each other or
10 with other law enforcement officials. Your
11 participation in this interview constitutes your
12 agreement to keep this information confidential.

13 Government investigators and specialists

14 have been assigned to investigate the conditions,
15 events and circumstances surrounding the fatalities
16 that occurred at the Upper Big Branch Mine-South on
17 April 5th, 2010. The investigation is being conducted
18 by MSHA under Section 103(a) of the Federal Mine,
19 Safety and Health Act and the West Virginia Office of
20 Miners' Health, Safety and Training. We appreciate
21 your assistance in this investigation.

22 You may have your personal attorney

23 present during the taking of the statement or another
24 personal representative if MSHA has permitted it. You
25 may consult with your attorney or the representative

1 at any time. Do you have a personal representative
2 here today?

3 MR. BROWN:

4 No.

5 ATTORNEY BAXTER:

6 Your statement's completely voluntary.

7 You may refuse to answer any question. 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 representative
12 may ask clarifying questions as appropriate.

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

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

8 MR. BROWN:

9 I understand.

10 ATTORNEY BAXTER:

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

21 A court reporter will record your
22 interview. Please speak loudly and clearly. If you
23 do not understand a question asked, please ask us to
24 rephrase it. Please answer each question as fully as
25 you can, including any information you've learned from

1 someone else.

2 I'd like to thank you in advance for your
3 appearance here. We appreciate your assistance in
4 this investigation and your cooperation is critical in
5 making the mines safer.

6 After we've finished asking the
7 questions, you'll have an opportunity to make a
8 statement and provide us with any other information
9 that you believe to be important. If at any time
10 after the interview you recall any additional
11 information that you believe might be useful, please
12 contact Norman Page at the telephone number or the e-
13 mail address provided to you.

14 Any statements given by miner witnesses
15 to MSHA are considered to be an exercise of statutory
16 rights and protected activity under Section 105(c) of
17 the Mine Act. If you believe any discharge,
18 discrimination or any other adverse actions taken
19 against you are as a result of your cooperation with
20 this investigation, you are encouraged to immediately
21 contact MSHA and file a complaint under Section 105(c)
22 of the Act. Please swear in the witness.

23 -----

24 KEVIN BROWN, HAVING FIRST BEEN DULY SWORN, TESTIFIED
25 AS FOLLOWS:

1 -----

2 EXAMINATION

3 BY MR. FARLEY:

4 Q. Kevin, I'm going to start it off here. Norman and
5 I will probably bounce it around a little bit. I'm
6 going to ask you to begin with you stating your full
7 name, and spell your last name, please.

8 A. Kevin Chadwick Brown, B-R-O-W-N.

9 Q. Okay. Would you please give us your home address
10 and phone number?

11 A. (b) (7)(C)

14 Q. Are you here voluntarily today?

15 A. Yes.

16 Q. Would you tell us how many years of mining
17 experience you have?

18 A. Five in July.

19 Q. Five?

20 A. Five years, yes.

21 Q. Okay. Can you give us a brief description of your
22 coal mine experience? Where did you work before you
23 came to UBB?

24 A. I was at Peabody. I was at Harris No. 1 Mine in
25 Boone County.

1 Q. Uh-huh (yes).

2 A. I worked on the miner section a little bit running
3 a shuttle car for them. And about a year and a half
4 on the longwall for them ---

5 Q. Uh-huh (yes).

6 A. --- doing --- setting shields and running the
7 shearer ---

8 Q. Uh-huh (yes).

9 A. --- for them. Before that I was at Peachtree
10 Mining, just on a belt loop crew and that's pretty
11 much been it.

12 Q. Okay. When was your first day with UBB?

13 A. We went to UBB from Logan's Fork in --- it was
14 last May. I'm not sure of the exact day but I know it
15 was May.

16 Q. About a year ago?

17 A. Yeah, about a year ago.

18 Q. Okay. How long were you at Logan's Fork?

19 A. I was at Logan's Fork from September of 2008 up
20 until May.

21 Q. Okay. And then you've been at UBB since last May?

22 A. Yeah.

23 Q. What did you go to UBB --- what was your first job
24 assignment there?

25 A. We were setting up for the longwall panels. We

1 pulled the last panel out of Logan's Fork. We moved
2 up there to set up and where the longwall was idle
3 just setting up from May until --- we didn't start
4 running until September.

5 Q. Okay. All right. On your first day at UBB, what
6 areas of the mine did you visit? Did they take you on
7 a tour of the mine and show you around?

8 A. Yeah, we done a tour of the mine and walked the
9 escapeway. The escapeway, we portaled on the UBB
10 side, where the base --- I guess where everything's
11 going on now.

12 Q. Uh-huh (yes).

13 A. But our escapeway we walked out was out the Ellis
14 punch-out in Birchton.

15 Q. Now, how long have you actually been a shearer
16 operator? What's your total experience there?

17 A. With Massey I was only a shearer operator from
18 September. I was actually a shield operator with the
19 crew that was in there that day until September.

20 Q. Okay.

21 A. So probably about six to eight months.

22 Q. Let me make sure I understand your shift. What
23 shift were you working at the time of this accident?

24 A. I was on the evening shift at the time of the
25 explosion.

1 Q. Okay. You were coming in?

2 A. Yeah.

3 Q. All right. Let's talk about the shearer first
4 here. Do you do a preoperation examination on the
5 shearer?

6 A. Yeah, as soon as you get there.

7 Q. Okay.

8 A. You check everything --- you know, all your water
9 sprays. That's pretty much everything else you look
10 over it'd be all right. Because there's not much on
11 it, other than the drums.

12 Q. Okay. Speaking of the drum, what kind of cutting
13 drum is on the shearer? Is it a coal drum, rock drum,
14 anything special about it?

15 A. I think it was a coal drum because it had less
16 bits than the rock drums we had at Logan's Fork but
17 I'm not one hundred percent sure.

18 Q. Okay. Now, you were coming into the mine on April
19 5th. Now, prior to April 5th, what was your last
20 shift at ---?

21 A. Saturday.

22 Q. Saturday is the 3rd?

23 A. Yeah, the 3rd.

24 Q. That would have been Saturday evening?

25 A. Yes.

1 Q. Okay. Now, you were speaking of bits. How often
2 did you normally set bits on the existing longwall
3 panel at UBB?

4 A. We were setting probably once every two hours
5 because of sandstone, we had sandstone top.

6 Q. Okay.

7 A. And we were having to set almost a full eight
8 buckets of bits each --- every two passes. So it
9 would be about every two hours.

10 Q. Okay. Was it necessary for you to cut some
11 sandstone to create more height?

12 A. Yes.

13 Q. Okay. Can you elaborate on that for us, please?

14 A. We tried not to cut as much, but maybe three or
15 four inches of sandstone was all we were cutting.

16 Q. Uh-huh (yes).

17 A. Because we obviously --- you know, it's ---
18 sandstone's really hard to cut ---

19 Q. Uh-huh (yes).

20 A. --- and causes massive amounts of sparks.

21 Q. Uh-huh (yes).

22 A. But it was almost all the way across the face and
23 there was a small sandstone roll, that just rolled
24 down into the coal seam probably about three quarters
25 the way down the face. It didn't go all the way but

1 it was probably --- yeah, right around here where this
2 line is (indicating). At that time, I believe it was
3 --- it was making it's way towards the tail, like it
4 was going to disappear after it got out, but ---.

5 Q. Right.

6 A. And it was probably --- it may have been a foot
7 and a half long. It just rolled down out of the top,
8 kind of like that.

9 Q. Okay. So I guess as you approached the tail,
10 though, you were beating and banging on the sandstone;
11 is that correct?

12 A. Yes.

13 Q. A lot of sparks ---

14 A. Yes.

15 Q. --- up there? Okay. Now, it'll probably seem
16 like a silly question, but when you changed the bits,
17 what did you do with the old ones? Did you just toss
18 'em or load 'em up or what?

19 A. Toss 'em behind the shields.

20 Q. Okay. Did you ever notice that the carbon tips,
21 were they --- anything left of them?

22 A. Sometimes, but sometimes they'd break off. A lot
23 of times they'd wear down to where you was afraid they
24 were going to break off your next pass, so you'd go
25 ahead and change 'em.

1 Q. Uh-huh (yes).

2 A. But a lot of 'em it would pretty much destroy the
3 bit and --- within two passes.

4 Q. Okay. Now, your longwall face, here at UBB on the
5 existing panel, was it --- in the days prior to the
6 accident, was the face --- was it hard, was there lots
7 of pressure? Was there lot of stuff rolling off?
8 What was it like?

9 A. It was fairly normal. I mean, a lot of it's ---
10 you know, the coal part would be real soft along with
11 what little bit of --- middle band that was in between
12 it there. It would roll out but you still had some
13 that you had to cut. Sometimes you'd get chunks of
14 rock from the areas that didn't have sandstone top,
15 had a little bit of slate, they would roll out. But
16 it wasn't really anything out of the ordinary.

17 Q. Okay. Now, I think you just told us about the
18 sandstone that you were cutting, particularly as it
19 increased towards the tail side. Were there any other
20 rock layers in the coal ---?

21 A. Just a little bit of slate, not much. Sometimes
22 it would --- it varied all the way across the face, on
23 how much middle rock you had. But it was always just
24 slate, real easy to bust up. I mean, it wasn't hard.

25 Q. All right. Now, you know, you fired up the

1 longwall here in September of 2009. Now since that
2 time, what was your face ventilation like in January?

3 A. It changed a lot. I know through the first part,
4 when you first start up, of course, you don't have a
5 lot of real good air until the first fall because it's
6 always coal behind you, too.

7 Q. Uh-huh (yes).

8 A. From the readings they said they got or, you know,
9 the face boss that took the readings, we had enough to
10 run at all times but we would hang curtain if we
11 didn't down the jack line, ---

12 Q. Uh-huh (yes).

13 A. --- like on the shields, we'd hang curtain all the
14 way from head to tail, ---

15 Q. Uh-huh (yes).

16 A. --- to help the air to us.

17 Q. All right.

18 A. Around November --- October or November, I'm not
19 sure, we had a face boss that didn't last long with
20 us. He was --- we just didn't really think he was a
21 good boss, and he kind of got rid of himself. I was
22 operating the shearer with --- my partner. He went to
23 be a boss at that other crew, not the one that passed
24 but the A crew.

25 Q. Uh-huh (yes).

1 A. We had a --- the air wasn't as high as at the ---
2 it raised after November.

3 Q. Uh-huh (yes).

4 A. Had a few small what I'm calling pop-offs. Small
5 fireballs that ignited a little bit of coal with the
6 air and the water and it was just, you know, just a
7 flash like and was gone, it was gone.

8 Q. Yeah.

9 A. But --- go ahead.

10 Q. Can you be a little more specific on when you had
11 these little fireballs?

12 A. We were --- it's just different times of the day.
13 And I've asked other crew members on the other two
14 crews and other bosses if they had been seeing any,
15 and no one else said they seen any. No one said
16 anything to me but I mean I told everyone that I could
17 trying to warn 'em. I know it was either, like I
18 said, late October or early November.

19 Q. Okay. I think the map here indicates the mining
20 done for the --- since last September. Now, I think,
21 you know, if you want to look at the map, ---

22 A. Yeah.

23 A. --- you'll see October and November on a ---. Can
24 you estimate approximately where you were at the time
25 you saw these little fireballs?

1 MR. PAGE:

2 Here's the crosscut numbers.

3 A. I'm not --- it's been ---. I just know, like I
4 said, that it was probably in this area somewhere
5 because it was late October, early November.

6 BY MR. FARLEY:

7 Q. Was there any sulfur balls in your coal or
8 anything?

9 A. Not that I ---.

10 Q. Or in the roof ---

11 A. Not in the roof, no.

12 Q. --- at UBB?

13 A. No.

14 ATTORNEY BAXTER:

15 When you say this area, what are --- what
16 are you referring to there on the map?

17 A. It's ---. Let's see those numbers, I can go by
18 these pluses or ---.

19 MR. PAGE:

20 Somewhere between 65 ---

21 A. Sixty-five (65) and 60.

22 MR. PAGE:

23 --- and 60. Do you want to mark it or do
24 you want to just ---?

25 BY MR. FARLEY:

1 Q. These little fireballs you saw, were they up
2 high ---

3 A. Yes.

4 Q. --- on the roof?

5 A. Yes. And like I said, I seen probably
6 approximately six to eight in that period of time, not
7 all in one day or one shift. But I asked and I mainly
8 told --- talked to the other crews because I was
9 afraid that, you know, we were having a problem, but
10 after that the air across the face picked up
11 massively.

12 Q. Okay.

13 A. So I guess someone said something and they picked
14 up air somewhere but we had a lot ---. I'm not sure
15 of the number there, from all the way up until
16 probably the end of March where the miner section
17 started happening, air problems --- our air count back
18 down.

19 Q. Okay. All right. Let's go back to the date.
20 We're all talking about your air, go back to when you
21 started.

22 A. Okay.

23 Q. Were you working in the longwall face area before
24 you actually started producing coal there in
25 September?

1 A. Yes. Setting up face, putting all the --- the pan
2 line, the chain and the shields and everything in
3 place.

4 Q. Okay. Did anything unusual happen with your face
5 and ventilation before you started up?

6 A. No.

7 Q. Okay. Do you remember anything, any situation
8 where it might have been going wrong, the air current
9 might have been going in the wrong direction?

10 A. Not during setup time, no.

11 Q. Okay. All right. Now, as you progressed before
12 you got into October there, and you saw these little
13 fireballs, did you --- I know you probably didn't ---
14 you didn't take an air reading or anemometer and come
15 up with a number every day, but did you have enough
16 velocity to move your dust out of the way?

17 A. Yes.

18 Q. Now, when you had these episodes where you saw the
19 little fireballs, did anybody else see 'em? Was
20 anybody with you when you saw 'em?

21 A. Yes, there was a shield operator --- another
22 shearer operator and a shield operator.

23 Q. Okay. Do you remember who they were?

24 A. Michael Webb was the shearer operator.

25 Q. Uh-huh (yes).

1 A. He was --- he's the one that went to Boston.

2 Q. Uh-huh (yes).

3 A. And Dakota Davis was the shield operator.

4 Q. Okay. Do you mind telling us who the boss was
5 that didn't stay very long?

6 A. Lawrence Stevenson. I'm not sure where he's at
7 now.

8 Q. Okay. Was that --- did that have more to do with
9 him not being able to run any coal, or couldn't keep
10 ventilation? What was his ---?

11 A. He --- we ---. I don't know what was going on
12 with him, but we very rarely seen him. So he caused
13 more problems for us trying to run coal and other
14 things than --- he would go off the tail entry and be
15 gone for hours and ---.

16 MR. FARLEY:

17 Okay. All right.

18 ATTORNEY BAXTER:

19 When you say you told everyone you could
20 about that, do you remember anybody else you told, any
21 other management?

22 A. No, not management-wise, I don't remember. I'm
23 sure I talked --- I know I talked mostly to crew
24 members.

25 BY MR. FARLEY:

1 Q. Now, if I followed you correctly, though, once you
2 got into November, you didn't see any more; is that
3 correct?

4 A. I haven't seen any more since.

5 Q. None since. All right. Now, as you go on through
6 November, December, January, February, March, how's
7 your ventilation, in general?

8 A. Ventilation was good all the way up ---. Well,
9 like I said, it dropped in March near the end of
10 March.

11 Q. Okay.

12 A. But up until then we had great --- I mean, it was
13 still legal all the way up until we had that little
14 ventilation problem on the tail that we had to shut
15 down and fix ---

16 Q. Uh-huh (yes).

17 A. --- because the air wasn't coming up right. I'm
18 not sure what the actual problem was. I think when it
19 comes off the tail, it was supposed to maybe go out by
20 a break and then come over and ventilate down. But it
21 wasn't, it was going way past that.

22 Q. Okay. Now, you said that was in March; right?

23 A. Yes. I'm pretty sure it was in March.

24 Q. Okay. Was there --- did any of the agencies take
25 an enforcement action?

1 A. Yes, I think it was ---. I know it was a --- I
2 think it was Federal. Federal came in and they are
3 the ones that found the problem.

4 Q. Okay. What do you know about that little problem?
5 I mean, what can --- do you know how it happened or
6 what caused it?

7 A. I really have no --- no clue about it.

8 Q. Okay.

9 A. I mean, we worked on it but there was a lot of
10 stoppings out. I don't know why.

11 Q. Uh-huh (yes).

12 A. I don't know what caused it or ---.

13 Q. Okay. Did it result in the mine being idle for a
14 day or two or three?

15 A. I know the longwall was idle. I'm pretty sure the
16 miners said, yes, the whole mines was out because the
17 miner sections were with us working on it.

18 Q. Okay. All right. Now, and I'm sure you can't
19 remember dates, but if I got you correctly, you think
20 there early March you --- sometime in March your face
21 ventilation on the longwall decreases noticeably?

22 A. Yes. We went from having to wear a coat every day
23 on the face because it was so cold from all the air to
24 you could wear a tee shirt and be fine all day.

25 Q. Okay.

1 A. So it's a dramatic change.

2 Q. Can you estimate about what part of the month you
3 noticed that change?

4 A. It may have been mid-March.

5 Q. Okay. All right. Do you know why it changed?

6 A. The only thing I can think of is the miner section
7 that was driving up our other panels were not getting
8 enough air to their faces.

9 Q. Okay.

10 A. And maybe they restricted some of ours to add to
11 theirs.

12 Q. Do you know approximately what time they would
13 have started this section here. We'll call --- we're
14 calling it 22 Tailgate, but MMU-040.

15 A. That was --- I think they were calling it 22
16 Tailgate also.

17 Q. Okay.

18 A. I think they --- I believe that's about the time
19 they started that one up because they had been doing
20 other construction, I believe, until then, but I'm not
21 a hundred percent sure on it. So I'm not going to
22 estimate on it.

23 Q. Okay. Okay. But, you know, since you never
24 personally took any air readings, based on my reading
25 of the pre-shift, on-shift book, early part of March

1 you had something around over a hundred thousand,
2 maybe 115,000 on the longwall intake, and toward the
3 end of the month it's down in the 50s. Does that
4 sound about right?

5 A. Yes.

6 Q. About half?

7 A. Yeah.

8 Q. Okay. Did you ever have any experience with any
9 --- any methane coming from the mine floor as you
10 noticed, that's the longwall ---?

11 A. No. The only readings I ever seen on the methane
12 monitor on the shearer were my own, never went over
13 .5.

14 Q. Okay.

15 A. So I mean, if you're talking about it bubbling up
16 out of water or anything like that, I've never
17 witnessed it.

18 Q. The most you saw was 0.5?

19 A. Yes.

20 Q. Okay. As far as you know, were your methane
21 monitors on your shearer and at other locations on the
22 longwall face functioning properly?

23 A. Yes.

24 Q. Did you guys ever operate with them not
25 functioning properly?

1 A. No.

2 Q. Okay. Let's see here. Am I correct that the
3 longwall's idle on the midnight shift at least for a
4 while?

5 A. Yes. We --- the evening shift shut down at ---
6 usually at 1:00 a.m. and the day shift usually didn't
7 get to the section --- around 7:00 a.m., 7:30 a.m. It
8 was idle from that time.

9 Q. Okay. As you were mining this panel, at any time
10 was there any kind of any tail blockage that you know
11 of, any blockage in the tailgate that you're aware of?

12 A. There were a few falls on the tailgate but we were
13 able to cut through 'em enough you could have still
14 got out and the air was still moving.

15 Q. Uh-huh (yes).

16 A. But as far as it being blocked, I can't recall any
17 right off.

18 Q. Uh-huh (yes). All right. Now, how was the
19 maintenance on your shearer? Did you have frequent
20 problems? Did it break down very often?

21 A. Once the rock started taking its toll on it, ---

22 Q. Uh-huh (yes).

23 A. --- we broke down small things, usually cutter
24 shafts, torque shafts.

25 Q. Okay. Did you have many instances where your

1 repairs might involve cutting or welding?

2 A. They had to weld a few val --- chest covers to
3 protect them, they welded a few of those.

4 Q. Okay.

5 A. I'm not sure when the last one was done.

6 Q. Okay. Whenever you had to do maintenance or
7 repairs, I guess most would be repairs, did you
8 attempt to take it back to the headgate side?

9 A. Yes.

10 Q. Were you usually successful?

11 A. Yes.

12 Q. Okay. So if you had to pick something that's
13 typically what you would have done?

14 A. Yes, take it to the head.

15 Q. Okay. Did you --- as you were advancing this
16 panel, did you --- what was the frequency of your
17 problems with your power cable for the shearer?

18 Anything happen there on ---?

19 A. We had one that got beat up pretty bad. The
20 Bretbly that covers it ---

21 Q. Uh-huh (yes).

22 A. --- the plastic guard that goes overtop of it, ---

23 Q. Uh-huh (yes).

24 A. --- it was --- I don't know if it was some defect
25 in that one or what but it was breaking and causing a

1 lot of tear in the cable. And they had to make a lot
2 of repairs in one. We replaced it twice, the entire
3 cable.

4 Q. Okay. All right. Now, I know you had this one
5 boss who kind of didn't stay very long, but the
6 foreman you had most recently, who was that?

7 A. Kevin Medley.

8 Q. How long had Kevin been with you on the evening
9 shift?

10 A. He was actually with us before Lawrence. And when
11 they hired Lawrence, Kevin went back outby to be like
12 a setup boss, ---

13 Q. Uh-huh (yes).

14 A. --- but after Lawrence was ---. Well, after he
15 left, Kevin came back to us. And he was with us from
16 probably mid or end of January all the way up 'til
17 that day.

18 Q. Okay. Did Kevin routinely make his two hour on-
19 shift face examination?

20 A. Yes, he was always going across the face, even ---
21 he would be behind us as we were running.

22 Q. He wasn't hard to find; right?

23 A. No, he was not hard to find. He stayed right
24 there with us.

25 Q. Okay. If I got you right, you --- the last shift

1 you worked at UBB was Saturday April 3rd; right?

2 A. Yes.

3 Q. Was the mine idle the night before?

4 A. Yes. Easter Sunday.

5 Q. Okay.

6 MR. FARLEY:

7 You want to take over a little while?

8 MR. PAGE:

9 Yeah.

10 EXAMINATION

11 BY MR. PAGE:

12 Q. While we're on the longwall face, I'll try to keep
13 from skipping too much on you; okay? How was --- you
14 didn't work any up here when this was drove ---

15 A. No.

16 Q. --- only ---? On the way out, did you start
17 having any problems with the roof, in this headgate
18 entry?

19 A. We had two falls but I can't remember exactly the
20 break markers. I know one was in November,
21 Thanksgiving week, because we worked our vacation. It
22 fell in this entry somewhere (indicating).

23 Q. Uh-huh (yes). You just got two, because that
24 one's gone.

25 A. Yeah. Yeah. I'm trying to think when ---.

1 ATTORNEY BAXTER:

2 Which entry were you referring to there?

3 A. Entry Number Two.

4 BY MR. PAGE:

5 Q. Number Two entry. So it was in November, so it's
6 somewhere around ---?

7 A. Yeah. I know it was --- yeah.

8 Q. This is last --- this is last November, so it was
9 probably in this area (indicating)?

10 A. Yeah.

11 Q. Which is somewhere between 50 and 52, 53 Crosscut;
12 right?

13 A. Yes.

14 Q. Somewheres in that area?

15 A. Yes.

16 Q. Okay. Did you have any water come in?

17 A. We had a little bit of water during December, and
18 it was on the face but it wasn't in the entries out
19 there.

20 Q. Okay. But it was coming in the face?

21 A. Yeah.

22 Q. Was it coming through mid-face?

23 A. About mid-face. I think it was --- I think the
24 wall was around 90 Shield, which they say 90 was
25 hit ---

1 Q. Okay.

2 A. --- and it's stretched down to around 125.

3 Q. Okay. Was there quite a bit of water?

4 A. Yes.

5 Q. Okay. Did anyone ever say anything about the
6 mines above, how close it was, or did they show you
7 any overlays or did they discuss it with you during
8 your training or anything like that?

9 A. We talked about it but we're not sure if it
10 actually came from --- because the mines directly
11 above at that time, I think, was Logan's Fork ---.

12 Q. Uh-huh (yes).

13 A. And 131 is the area that would have been where all
14 the water is because they still have a lot of water in
15 that area at Logan's Fork now.

16 Q. But you don't think it came from this mine above?

17 A. I'm not sure. No one ever said or I don't know if
18 they ever looked into it.

19 Q. There's approximately 150 feet separation between
20 two mines and so you start having trouble right there.
21 You can see ---. I don't know if you've ever seen
22 this or not, or if anyone went over it with you. The
23 blue is the mines above it; okay? You can see the
24 longwall panels. Now they didn't pull this panel
25 here. Now where you're talking about, in this area

1 here, where you start having trouble --- so you're
2 probably in this area; okay?

3 A. Uh-huh (yes).

4 Q. You got the barrier, you got the barrier there and
5 it's all pulled out back there. And you got a barrier
6 here. Most likely --- there's a good possibility
7 there's one in this area?

8 A. Yeah. I would say so because --- well, it doesn't
9 say on that map, does it?

10 Q. Well, it's been pillared ---.

11 A. Yeah.

12 Q. There's a lot of areas there. And that's --- you
13 know, you hit water for some reason. Did you have a
14 --- did you have a lot of pumps up in here, electrical
15 pumps, or air pumps, or whatever up through this area?

16 A. We --- yeah, they put a bunch of electrical pumps
17 in, as far as I know. We switched the air pumps but I
18 don't think that was for that. I think the air pumps
19 were bringing water into the longwall from
20 outside, ---

21 Q. Uh-huh (yes).

22 A. --- to run --- well, to go into --- to come out
23 pumps and things like that.

24 Q. Uh-huh (yes).

25 A. There was --- we actually set two pumps on the

1 face to get rid of the water.

2 Q. Can you help me with why ---? So you can see the
3 production started picking up and that's probably when
4 you got your falls and stuff and everything starts
5 smoothing out for you, got all the bugs out your
6 longwall; ---

7 A. Yeah.

8 Q. --- okay? Now you get down in here to the last
9 part of November --- November, December in this area
10 you didn't run very much coal?

11 A. We had --- the top on the face was fallen a lot.
12 We actually came out for about maybe 50 shields, had
13 to come completely out of coal seam, was cutting
14 nothing but solid rock because we couldn't hold the
15 top. But we eventually --- once we got probably to
16 this part, we got back down into the coal seam.

17 Q. So you went above the coal seam?

18 A. Had no choice. It was probably ---.

19 Q. And took the top?

20 A. Yeah.

21 Q. And then you ---?

22 A. Came back down.

23 Q. So you ramped up with your pan line and everything
24 and then ramped back down?

25 A. Yes.

1 Q. That was not easy to do, was it?

2 A. Coming back to catch the top was not easy because
3 it was so --- there were small streaks of coal and it
4 was just hard to hold it up. Probably would have been
5 easier to glue the top, when it started and went on
6 about it but ---.

7 Q. And that's where the water was coming through?

8 A. Yes.

9 Q. And you took the top. Was it a fault area or what
10 was the matter with the top? Do you have any
11 idea, was it shale ---?

12 A. Yeah, just real loose, shale and slate, I guess.
13 It wasn't ---.

14 Q. Okay. When you got up on top of it, did you hit
15 sandstone or anything?

16 A. Yeah, there was --- I think it's laminated
17 sandstone right there.

18 Q. So it was ---. Okay. You ramped back down in
19 this time frame then you started to ---?

20 A. Mining decent again. We never did get back up to
21 the --- during this area, every crew was running
22 probably eight to ten passes a shift and we never went
23 back up to that. It was probably six at the most
24 after that, once we got out of the bad rock.

25 ATTORNEY BAXTER:

1 What do you mean, by this area, when you
2 were doing eight to ten?

3 A. Oh, in October through the first half of November.

4 BY MR. PAGE:

5 Q. And the best you got after that was?

6 A. Six passes, each crew or shift I would say,
7 average ---.

8 Q. Okay. When they was having trouble with that
9 water, did they have any people working up here to try
10 to take care of anything through here or was the air
11 --- you still had good air moving across the face?

12 A. Yeah. Still had good air movement, but I'm not
13 sure if anyone was really working up in there. We had
14 one guy, he was a boss. I think his title might have
15 been assistant coordinator. It was Harold Lilly. He
16 would go back in there checking the pumps and stuff
17 like that. But he's the only one I know of going back
18 in that area.

19 ATTORNEY BAXTER:

20 And what area are you talking about right
21 now?

22 MR. PAGE:

23 Inby the face, inby the longwall face in
24 December up the headgate. And that's somewheres in
25 that 50 to 55 Crosscut range.

1 BY MR. PAGE:

2 Q. And I don't --- you worked evening shift; right?

3 A. We had a swing shift.

4 Q. Okay. Okay.

5 A. So that week I was on --- the last week I was
6 there I was on evening shift.

7 Q. Okay. Did you ever --- did you ever have Chris
8 Adkins or Chris Blanchard?

9 A. Blanchard.

10 Q. Blanchard, whatever. Yeah.

11 A. I seen him when I was on dayshift a few times.

12 Q. Did he ever come up on the longwall?

13 A. Only if there was a problem, we were down is the
14 only time we ever seen him.

15 Q. What would cause him to come up there?

16 A. Violations. Being shut down on a violations is
17 the only time I ever seen him.

18 Q. What kind of violations? Do you recall?

19 A. Ventilation.

20 Q. Okay. You had good air. When did you have
21 violations that had the longwall shut down, do you
22 have any idea?

23 A. The only time we had it shut down while we were
24 actually producing was the time I think was in March
25 when the tailgate --- the air wasn't coming right up

1 the tailgate.

2 Q. Over here?

3 A. Yeah.

4 Q. Was it reversed or what?

5 A. I'm not sure. I don't think it was reversed. I
6 think there was a problem because like I said earlier
7 it was supposed to come off the face and go up one
8 break and then the air coming down the tailgate was
9 supposed to meet it and it was supposed to come over
10 this way (indicating) and push down in to the gob.

11 Q. Uh-huh (yes).

12 A. It went ---

13 Q. On down?

14 A. --- two or three breaks, yeah. It went on down.

15 Q. It went on down. So like when you was in this
16 position right where the face is now, your air coming
17 off the tail should go through right there and back up
18 (indicating)?

19 A. Yes.

20 Q. Okay. And would some of it go this way, go inby
21 also?

22 A. I would venture to say it would, yes.

23 Q. You would?

24 A. I would think --- I think I'm pretty sure it does,
25 I mean, I'm not ---.

1 Q. If it didn't, would anyone say anything?

2 A. I'm not sure.

3 Q. Okay. I'm putting in the spot but, I mean, a
4 foreman should know that.

5 A. Yeah.

6 Q. Because right there's a hard location and then
7 when you get on the other side of that crosscut is a
8 hard location to move that ventilation, what you're
9 saying, would you agree?

10 A. Yeah. Just standby and just outby of that
11 crosscut because it's hard to keep this area going up
12 that way.

13 ATTORNEY BAXTER:

14 What crosscut area are you referring to?

15 MR. PAGE:

16 Any crosscut coming down through there,
17 when the face is either just five, ten feet inby the
18 crosscut, it's hard to keep the gob air from coming
19 down, down into the crosscut. And once you get five
20 or ten feet outby, then it's hard to keep pressure on
21 it and get it all to come down to the next crosscut.

22 BY MR. PAGE:

23 Q. Do you have any idea of what they did to correct
24 that?

25 A. There was a regulator. I believe it's that one

1 (indicating) --- no, maybe it's this one ---

2 Q. Okay.

3 A. --- that had more air coming out of it being we
4 put more --- put it to where more air would come out
5 of that regulator.

6 Q. Come up this way?

7 A. Yeah. And there was a lot of these stoppings out,
8 completely out.

9 Q. Okay.

10 A. We rebuilt 'em.

11 Q. So the wall was completely out?

12 A. The wall and the miner sections were all out.

13 Q. Okay.

14 ATTORNEY BAXTER:

15 Would you mind circulating the regulator
16 and the stoppings?

17 A. I'm not sure exactly which stoppings were out but
18 there was a total of, I believe ---.

19 BY MR. PAGE:

20 Q. You're talking about ---?

21 A. I believe it's this regulator (indicating).

22 Q. That one there. So the air could this way and get
23 over here; right?

24 A. Yes.

25 Q. If I circle, it would you care to ---?

1 ATTORNEY BAXTER:

2 Why don't you let ---.

3 MR. PAGE:

4 I was going to let him date and initial
5 it.

6 A. No, I mean, I'm pretty sure it's this one
7 (indicating). And like I said, I'm not a hundred
8 percent sure on the stoppings, but I know it was along
9 this line, ---

10 BY MR. PAGE:

11 Q. Yeah,

12 A. --- but it was around five to seven.

13 Q. Stoppings?

14 A. Yeah, stoppings that were ---.

15 Q. Maybe you just want to write on five to seven
16 stoppings ---.

17 A. Do you want me to write it on this map or
18 just ---?

19 Q. Yeah. You can write it right here and draw it
20 over to that stopping line. If you're writing with a
21 pen, circle it. And I need you to date and initial
22 everything that you ---.

23 A. Today's the 22nd, right?

24 Q. Do that part with a pen.

25 A. This one?

1 WITNESS COMPLIES

2 BY MR. PAGE:

3 Q. Yes. And we're saying that that stopping line is
4 to separate the gob area from the tailgate area, was
5 that what you --- is that what you'd call that or
6 what?

7 A. To the best of my knowledge.

8 Q. Okay. Date and initial it there.

9 A. Oh, I initialed it but I didn't put the date
10 there.

11 Q. And when you were down, had you seen Chris Adkins
12 or any other top management people up on the longwall
13 prior to that, when you was having trouble up here?

14 A. No. I never seen him, while we were having
15 trouble there.

16 ATTORNEY BAXTER:

17 And by there, what do you mean?

18 BY MR. PAGE:

19 Q. By the November through January when they were
20 going through that bad top and ramping over the coal;
21 am I correct?

22 A. Yes.

23 Q. Okay. I'm sorry. I was pointing instead of ---.

24 A. That's all right.

25 Q. Okay. Any of --- any of your co-workers or any of

1 the guys that you worked with on the wall that had
2 friends on these other sections, did they, on the
3 headgate and tailgate advance sections, did they ever
4 say anything about their ventilation? Were you aware
5 of any?

6 A. I'm not really aware of any. I mean, I've heard
7 'em talk, say that they had low air, didn't really
8 have enough air. And I heard from my boss saying he
9 heard 'em on the phone but they --- they were down not
10 producing because of low air on the --- in the face.

11 Q. Do you know which section?

12 A. I believe it was the headgate side.

13 Q. Okay. Headgate 22?

14 A. Yes. But they were --- they were trying to get
15 more air to the face. They were --- they'd shut down
16 to try to get more to the face.

17 Q. Okay. Did they shut down on their own or ---

18 A. Yes.

19 Q. --- did the inspector shut them down?

20 A. Yes. No, they shut down on their own. I think
21 that they were in ---. I'm not sure which entry it
22 was but they were getting some --- a little bit of
23 methane readings, ---

24 Q. Uh-huh (yes).

25 A. --- so they were shutting down to try and

1 reventilate.

2 Q. Did anyone --- did it seem like that there was a
3 lot of pressure to produce coal?

4 A. Oh, yeah. There's plenty --- I mean not from the
5 medium management of the mine, of course they want it
6 to run, ---

7 Q. Sure.

8 A. --- but I had no problems of being pressured from
9 anyone at that mine. But they --- you could tell they
10 were getting pressure from higher up to run coal.

11 Q. The section foreman?

12 A. The section foreman, the superintendent and the
13 longwall coordinator. I've never had any problems out
14 of them trying to pressure me.

15 Q. But you think they did?

16 A. I believe they had pressure from higher up.

17 Q. And do you have any idea who higher up would be?

18 A. I'm not sure if it was Chris Blanchard or higher
19 above him. I'm not really sure.

20 Q. Chris Adkins?

21 A. Yeah, maybe Chris Adkins.

22 ATTORNEY BAXTER:

23 Why do you feel that they were pressured?

24 A. Because from the meetings they always had to go
25 to, when they'd go to it, they would talk about their

1 meetings, pressure, too. When we were down, they were
2 always --- well, not my section boss, he --- he didn't
3 care, he was too laid back. He didn't care what they
4 said. He always said the best thing they could do was
5 fire me and send me back to Tennessee. He wouldn't
6 care. He was a stubborn man but he cared about his
7 men, you know, that's all he was worried about.

8 But ---.

9 Q. That's not too bad.

10 A. No. I trusted Kevin with my life. He ---.

11 Q. Did he ever say anything in particular that
12 someone said to him about --- or said to the group
13 about production or safety? You think production
14 overrode safety?

15 A. Not with Kevin.

16 Q. Right.

17 A. Well, as far as the longwall, we were never
18 pressured to produce before safety.

19 Q. But do you think the foremen were, from what Kevin
20 said?

21 A. I don't want to say yes and I don't want to say no
22 because I'm not a hundred percent sure.

23 Q. Well, I mean, it's opinion.

24 A. Yeah.

25 Q. You just heard the guy talk. I mean, it's not ---

1 it's okay. On the shearer there, did you have --- if
2 the methane monitor went down, did you have what 24
3 hours you could run the shearer before they got the
4 methane monitor fixed or ---?

5 A. I think that's actually --- I believe you're
6 allowed to do that but we never did.

7 Q. Okay.

8 A. We always had extras --- parts up there to fix it.

9 Q. The crew you was on never did?

10 A. We never did and I know for a fact the other crew
11 that we lost wouldn't either. The chief electrician
12 on that crew was 100 percent by the book.

13 Q. Okay.

14 A. He wouldn't bridge anything out.

15 Q. Okay. What about the miner section? Have you
16 ever heard those guys talk about ---?

17 A. I haven't really asked any of them about anything.

18 Q. I know you guys didn't switch out at the same
19 time, but what about the man doors and stuff on the
20 way in, were they always closed or always ---?

21 A. Yeah, we really didn't have any ---.

22 Q. In good condition or what?

23 A. The man doors were.

24 Q. Not the man doors but the equipment doors, I'm
25 sorry.

1 A. Oh, the doors on the track?

2 Q. Yeah.

3 A. Ooh, they were set, assuming --- I'm trying to
4 remember if it was the first --- one of these sets was
5 beat up pretty bad.

6 Q. You talking about the set that's just outby, I'm
7 looking for the right number. It's adjacent to the
8 longwall belt?

9 A. Yes.

10 Q. At the connection rooms or at the overcasts, first
11 set of overcasts outby the longwall face, would you
12 say that's where it's at?

13 A. It must be a different set of doors.

14 Q. Here's a set, there's a set. You got that set
15 getting over there, then you come down here, there's a
16 bunch. Here's two sets that you got to get through.

17 A. No, I'm thinking this (indicating). I was looking
18 in ---.

19 Q. Okay. That's down around 78?

20 A. Close to 78. Seventy-eight (78) ---.

21 Q. That's 75. So 78's up in this area. You're
22 looking right around 78 to 80 or somewheres in there?

23 A. Yeah. These doors. There was a set of these, I'm
24 not sure what set was tore up pretty bad and needed
25 replaced. They actually had the doors there to

1 replace them, just hadn't got around to replacing 'em
2 yet.

3 Q. Okay. That's the set between 83 and about 80?

4 ATTORNEY BAXTER:

5 Is that right, Kevin?

6 A. Yes.

7 BY MR. PAGE:

8 Q. It's close, approximately?

9 A. Yeah.

10 Q. Do you know which way the air traveled along the
11 longwall belt?

12 A. For the longest time, I know it came towards the
13 face.

14 Q. Okay.

15 A. And I'm pretty sure --- I don't think they ever
16 changed it, but ---.

17 Q. Okay. Did your supervisor, when you got down in
18 this area where this crossover is at, did he say
19 anything or do you recall any problems that you had
20 with ventilation in the area adjacent to the face and
21 the crossover?

22 A. I can't think of anything.

23 Q. He never did say anything about the air traveling
24 --- which way it was traveling down, down this way?

25 A. I can't recall.

1 MR. PAGE:

2 Okay. Do you want to ask a few
3 questions?

4 EXAMINATION

5 BY MS. SPENCE:

6 Q. I just have one. Your immediate supervisors, did
7 --- can you remember specific things that people might
8 have said that led you to believe that they were being
9 pressured? I know sometimes it's just an offhand
10 remark, but ---.

11 A. Yeah, it's ---. Well, I mean, they --- I'm really
12 trying to think. I mean, I know that we --- air crew
13 actually run decent a lot so we didn't get the little
14 talks that some of 'em did. But you know, they were
15 just --- Jack, the coordinator, jokingly would say,
16 why don't get onto the other crews and have them ---
17 teach them how to run coal. But we were the youngest
18 crew. We were the most inexperienced of the three
19 crews, I thought. But they just --- when we would
20 break down, you could tell the agitation in the
21 coordinator's face that we were down.

22 Q. And that's Jack?

23 A. Jack Roles. But I mean he would never pressure
24 you to do anything. If he thought it was unsafe, you
25 wasn't going to do it.

1 MR. PAGE:

2 What we're ---.

3 A. I understand.

4 MR. PAGE:

5 We're trying to find out what happened,

6 what caused the accident and that's why we're asking

7 questions about methane monitors, air, any type of

8 ventilation things like that. And, you know, if any

9 particular thing contributed to this, then we want to

10 make sure that we get to the bottom of it, and we

11 don't want something like this to ever happen again.

12 A. Yeah.

13 MR. PAGE:

14 And that's why we're asking these

15 questions. We're not trying to harass you or put you

16 on the spot. We appreciate the fact that you came in

17 --- come in here and talked to us. And, you know, any

18 time you want to, we'll take a break. You can --- you

19 know, I know we've asked you quite a bit and put some

20 pretty hard questions to you and we got quite a few

21 more. And would you like to take a break or anything?

22 A. I'm okay.

23 MR. PAGE:

24 Okay. But that's what we're doing.

25 We're not trying to make it hard on you or anyone

1 else. We just want to --- we just don't want
2 something like this to happen again. I don't want to
3 have to do another one of these investigations.

4 A. Yeah, I understand that.

5 MR. PAGE:

6 And that's where we're coming from. So
7 you got anymore questions?

8 MS. SPENCE:

9 I think that's all. And thank you for
10 that.

11 MR. PAGE:

12 I mean, we're going to work that around,
13 I know I got about 500 more.

14 A. That's fine with me.

15 MR. PAGE:

16 Okay. Terry, you want to ask any?

17 MR. FARLEY:

18 Yeah, a couple.

19 RE-EXAMINATION

20 BY MR. FARLEY:

21 Q. On or since the accident on April 5th, have you
22 become aware of the possibility of any kind of an air
23 change that may have taken place on Sunday, April 4th?

24 A. No. I haven't heard anything on that.

25 Q. Okay. Now, what time did you actually report to

1 work on April 5th?

2 A. Our shift started at three o'clock in the
3 afternoon and I was always there, you know, 30 to 45
4 minutes early.

5 Q. Uh-huh (yes).

6 A. We had already started underground when it
7 happened. We were approximately eight breaks
8 underground.

9 Q. Where'd you park? Where'd you ---?

10 A. The Ellis punch-out, Birchton.

11 Q. Okay. Now, did you enter right at three o'clock
12 or ---

13 A. Yes.

14 Q. --- did you just take a minute?

15 A. We usually would start to the mantrip about five
16 minutes early ---

17 Q. Uh-huh (yes).

18 A. --- because the mantrip chargers were underground
19 a little bit and we'd get under there and get 'em off
20 charge, ---

21 Q. Uh-huh (yes).

22 A. --- so we could go on.

23 Q. How far underground were the chargers?

24 A. From about two-and-a-half breaks to eight breaks
25 underground.

1 Q. Okay. Do you remember who was with you?

2 A. The --- I was on the C crew. The whole crew was
3 there Kevin Medley, Dakota Davis, Tommy Estep, Dustin
4 Ross, Kenny Woodrum and David Shears. I don't think
5 I'm forgetting anybody.

6 Q. Now, what point did you sense something was wrong?

7 A. You could --- the air that hit us. I mean, you
8 could hear it five seconds before it got to us. It
9 sounded at first like someone just opened up airlock
10 doors.

11 Q. Uh-huh (yes).

12 A. But it picked up and when the air itself got to
13 us, it built up within three seconds and, you know,
14 even compare to being directly behind a fan that's
15 blowing, it's no comparison. It --- for a probably
16 I'm saying three to four minutes, the air blew and you
17 know, it was directly hitting us. We got out before
18 it stopped, but ---.

19 Q. When you say you got out, what's that mean? Did
20 you go back to the crosscut or go out?

21 A. We went outside. I mean, at first, I panicked.
22 I'm not going to lie, I panicked. I didn't know what
23 it was.

24 MR. PAGE:

25 That's probably not a bad idea ---.

1 A. Yeah.

2 MR. FARLEY:

3 I don't think anyone in here would ---.

4 I don't think you'd have been alone.

5 A. No, but I would say we were probably in it for a
6 minute before we actually, you know, all got together
7 because when you go on a mantrip, a lot of us just
8 take it for granted, you know, and threw our belts
9 right beside of us with our lights and our rescuers
10 and ---. I'll never do that again. Because my first
11 instinct wasn't to grab my belt, it was to get out.
12 And I run and I left it, I left my belt underground.
13 When I was outside, my --- I was looking around I left
14 everything I had.

15 BY MR. FARLEY:

16 Q. It's okay. It's all right. Now, this area that
17 you're talking about, is there dust, smoke?

18 A. Dust. Just picking up all the dust, I guess, from
19 rock dust, and sand on the track from wherever it
20 started all the way out. And it -- a lot of force
21 because, you know, a lot of debris, gravel --- rocks,
22 it was picking rocks up and little small gravels that
23 --- used for ballasts was hitting me.

24 Q. Uh-huh (yes).

25 A. When I got with our boss, he gathered us all up

1 like, you know, like you say to do, he actually did.

2 He gathered us all up and counted us and got us

3 outside and counted us again when we made it out.

4 Q. And was that Mr. Medley?

5 A. Yes.

6 Q. Okay. Speaks well of him. What happened, then,

7 when you got outside?

8 A. When we got outside, Everett Hager, the

9 superintendent, the vice president of Performance and

10 Marfork, Wayne Persinger and Jack Roles were already

11 putting their stuff back on, their belts and their

12 lights and rescuers to go underground to investigate,

13 to see what had happened. They didn't know. But they

14 rode down --- made every one of us that were there

15 write our names down to see who was there, who made it

16 back outside, make sure they had a count of everybody

17 that was there.

18 Q. Uh-huh (yes).

19 A. And then they told us that they were sending us

20 home. I think, actually they went underground for ---

21 they wasn't underground maybe a minute after it had

22 stopped. And they come back out and Everett's the one

23 told us he's going to send us all home. But it didn't

24 really hit me what had happened, I don't think, until

25 I got home. It kind of sent me into a shock, I guess

1 you would say.

2 Q. Uh-huh (yes). Was anybody from your crew injured?

3 A. No.

4 Q. Okay. What time, approximately, did you leave the
5 mine?

6 A. I probably left at around 3:45.

7 Q. Okay. Now, you indicated that Persinger and
8 Everett Hager ---

9 A. And Jack Roles.

10 Q. --- and Roles had gone underground. Now --- then
11 they came back out. Did they go back again, after
12 that?

13 A. I think that they did but it was after I had left.

14 Q. Okay.

15 A. So I'm not sure how far they went in or if
16 they ---. I know Wayne Persinger did go back in. I
17 have heard that, but I wasn't there when he did.

18 MR. PAGE:

19 Did you see anyone go back in, before you
20 left?

21 A. Before I left, no.

22 BY MR. FARLEY:

23 Q. Did you leave before some of the deceased miners
24 were brought up?

25 A. Yes.

1 RE-EXAMINATION

2 BY MR. PAGE:

3 Q. Did you work anymore that week? Did you come back
4 up?

5 A. I didn't go back to work for three weeks.

6 Q. Oh, okay.

7 ATTORNEY BAXTER:

8 Where are you working now?

9 A. Logan's Fork.

10 BY MR. PAGE:

11 Q. Did anyone say anything about the --- or did your
12 supervisor or the mine foreman, or longwall
13 coordinator, did anyone discuss the ventilation plan
14 with you all, you know, after they had changes,
15 because evidently they had several changes leading up
16 through here?

17 A. When we had changes that we knew about, ---.

18 Q. Uh-huh (yes).

19 A. Yeah. They went over 'em before we would go
20 underground.

21 Q. Where's your escapeway from the headgate or from
22 the face?

23 A. We went off the headgate. And actually as far as
24 I know, it's still on the track until you got to I
25 believe this overcast (indicating) where these doors

1 are.

2 Q. Uh-huh (yes).

3 A. You came across --- maybe this.

4 ATTORNEY BAXTER:

5 And what's that overcast you're referring
6 to?

7 BY MR. PAGE:

8 Q. It's the first overcast outby the longwall face,
9 or second overcast outby the longwall face or the
10 third, which one, one, two and three?

11 A. I think it's this one (indicating). I'm not ---.

12 Q. When you travel the track ---?

13 A. The track until we got to ---.

14 Q. Okay. There's one overcast, two.

15 A. Yeah, there's an overcast ---.

16 Q. And there's a set of airlock doors between the
17 overcasts.

18 A. The way we traveled was before the doors, so it
19 would have to be ---. This just doesn't seem
20 like ---. Okay. It's past that set of doors. Now
21 --- I see it now.

22 Q. Okay.

23 A. This --- come across this overcast, which was, I
24 guess, going to be the third one, am I right?

25 Q. The third overcast outby in the belt entry. This

1 is the longwall belt. Okay. So you said you came
2 down the track and crossed over?

3 A. Yes.

4 Q. And then I'm assuming you went across the
5 overcast?

6 A. Yes.

7 Q. Okay.

8 A. The one that was over the belt.

9 Q. The one that was over the belt. And then where'd
10 you go?

11 A. I just came down through --- this, yeah, went out
12 the Ellis side.

13 Q. Okay. How often did you guys ---? How often did
14 you walk that?

15 A. We have walked it --- I know of, since I've been
16 there, I've walked it myself probably four times.

17 Q. Did the whole crew walk it ---?

18 A. Yes.

19 Q. So, how often?

20 A. I'm thinking --- probably once every three months.

21 Q. When you traveled the track entry down through
22 here and crossed over, did you ride down?

23 A. We generally would ride to where you switched
24 over.

25 Q. At the overcast?

1 A. Yes.

2 Q. Okay. At the airlock doors. Okay. Did you ever
3 --- did you ever travel this secondary?

4 A. They consider it a secondary of just being the
5 track. And the second --- that's the belt line you
6 were pointing at; correct?

7 Q. Yeah.

8 A. They consider --- I was always told that the
9 track, it would be the same, you know, go down the
10 belt, I guess, but we always just straight from the
11 track all the way out for a secondary.

12 Q. Okay. Was this area through here on this longwall
13 face, did you see any fault areas in the roof, cracks
14 in the floor, or anything like that in that month of
15 March?

16 A. No.

17 Q. No? Especially after you were close to the
18 headgate?

19 A. No, none that I can recall any ---.

20 Q. Okay. And how much --- how much dry rock was you
21 taking in at the ---?

22 A. The top, we wasn't --- they tried to just cut even
23 with what the miner section, maybe six inches at the
24 most.

25 Q. And then when you got close to the tail, about how

1 far from the tail was you happening to take --- did
2 you take the bottom or top?

3 A. A little bit of both, just to keep the height.
4 It's been a while, so I can't really recall how much
5 we were taking now. The tail and the head were so
6 different because the tail entry was a lot lower.

7 Q. Uh-huh (yes).

8 A. I was having to take a little bit more bottom than
9 top just to keep height for the ---.

10 Q. How many --- how many men usually was down in the
11 longwall face?

12 A. Two shearer operators, the shield operator and the
13 boss. And an electrician would be around mid-face.

14 Q. What'd the shield operator do?

15 A. Pull the jacks and the shields in behind us.

16 Q. Who pushed the pan over?

17 A. The shields pushed the pan over.

18 Q. Okay. They automatically ---?

19 A. Yes.

20 Q. So far behind the ---?

21 A. Yes.

22 Q. So you didn't need a sniper then?

23 A. A what?

24 Q. A sniper. That's the guy that pushes the
25 pan ---.

1 A. Oh, no.

2 Q. Of course, I'm outdated.

3 A. Yeah. I was going to say, I don't think they do
4 that. It --- automatic system now, call your own,
5 push.

6 Q. Uh-huh (yes). Okay. What kind of --- generally
7 as you traveled out into the areas where the belt and
8 track were common, any of 'em where you could see the
9 belt?

10 A. Not on the longwall panel.

11 Q. I mean, on the part of the mines?

12 A. I don't --- I believe the main line track was.
13 But that's on down in this area (indicating).

14 Q. I was wondering what kind of condition they were
15 as far as float dust, cleaning or anything like that.
16 Was you able to ---?

17 A. From what I could see, it looked fairly clean.

18 MR. PAGE:

19 Okay. Do you want to take a break?

20 A. Sure.

21 MR. PAGE:

22 Let's take a break.

23 SHORT BREAK TAKEN

24 BY MR. PAGE:

25 Q. I got a few more questions here. When you was in

1 Logan's Fork up there, that panel that I showed you
2 there, was that where they were --- was that where
3 they were longwalling, when you all --- when you
4 pulled out or was it another area of the mines?

5 A. I believe it's another area of the mines.

6 Q. Did you pull the last panel up there?

7 A. I was on the last panel --- well, no, we left ---.
8 They started one panel but we didn't --- we never went
9 to it.

10 Q. Okay.

11 A. We pulled out after I think it was Headgate Three
12 is what they were calling it there.

13 Q. Yeah.

14 A. It started at Headgate Four but we pulled out
15 before it ever ---.

16 Q. Why did it ---?

17 A. Rock, I believe, mining --- it was more rock than
18 it was coal.

19 Q. Okay. Did you remember having any water problems
20 up there in the Logan Fork Mine?

21 A. Nothing major, it was never over your boots, just
22 typical water.

23 Q. Coming through the top, bottom, or just appeared?

24 A. I'm not really sure, it just appeared. It could
25 have come from behind us. I'm not sure.

1 Q. Okay. After you saw the fireballs, and you talked
2 to your foreman and you talked to the other --- some
3 other shearer operators and things, did you know if
4 engineers came up and did any measuring, checking or
5 doing anything?

6 A. To my knowledge, no.

7 Q. Okay.

8 A. I don't ---.

9 Q. So your supervisor never mentioned anything
10 that ---?

11 A. No.

12 Q. That top management or engineers or anything said
13 anything to 'em?

14 A. No. I was never informed of anything.

15 Q. Okay. Did anyone from MSHA know about that?

16 A. Not to my knowledge. I'm not sure if they ever
17 reported anything or not.

18 Q. Well, I mean, maybe just an inspector, State or a
19 Federal inspector come up on there while you was
20 cutting and ---?

21 A. No, not during that time. Yeah.

22 Q. Do you remember after that, was there any
23 ventilation changes, after you had the fireballs?

24 A. To my knowledge, there wasn't but I mean, I'm sure
25 --- I know the air did pick up. But I'm not sure if

1 --- you know, if it was a full-fledged ventilation
2 change or they just, you know, took a couple blocks
3 out of a regulator or something.

4 Q. Okay. Do you know which way the air was going in
5 the Ellis Portals prior to the explosion? How did it
6 go every --- how did it normally travel every day, the
7 ventilation?

8 A. I believe it came in from the entry we used as a
9 track. I believe it came in from outside ---

10 Q. Uh-huh (yes).

11 A. --- and went up the track, but ---.

12 MR. PAGE:

13 Okay. We can open that map if you want
14 us to. Let's just open it up. So we don't ---.
15 Well, so I don't get confused, how's that.

16 ATTORNEY BAXTER:

17 We'll mark this first map Brown Exhibit
18 One, that we were looking at earlier.
19 (Brown Exhibit One marked for
20 identification.)

21 BY MR. PAGE:

22 Q. How'd your belt ---? Did your belt come out this
23 way or did it go out this way (indicating)?

24 A. Well, the belt came out ---. I'm thinking it's
25 the red one, right? The belt came --- I know it came

1 out --- portals were over here, this is the track, the
2 belt came out here and went across the main highway
3 and ---. So we come --- the air ---.

4 Q. Came in?

5 A. Yeah. Just the neutral air would go on the track.

6 Q. Okay. So you think the air came in all --- all
7 entries?

8 A. I'm not sure about all entries.

9 Q. Okay. You know it did where you traveled ---

10 A. Yes.

11 Q. --- up the track. Okay. According to this map,
12 it looks like it does; right, except for the number
13 one? Do you agree?

14 A. Yes. Yes. Sorry.

15 Q. Okay. Is there a ---? You have --- you know the
16 mines, I mean, you've been in it, you've been on the
17 longwall and up in that area. Is there anything that
18 you think --- could think that could cause something
19 like this?

20 A. No. I mean, we wasn't --- as far as being on the
21 --- you know, the longwall face, we hadn't picked up
22 any methane on the last --- not even up to point ---
23 0.5. Not even that.

24 Q. Never heard anyone talking about ---

25 A. No.

1 Q. --- maybe ventilation or anything like that in the
2 headgate entries or the longwall gob about the
3 ventilation was adequately ventilated or not?

4 A. No. No, I never heard anyone speaking of it.

5 Q. Didn't hear anything about any real problems with
6 Tailgate 22 or --- you did say there was some people
7 had concerns?

8 A. Yeah. Concerns on methane. And I think --- I'm
9 thinking it was the headgate side, not the tailgate.

10 Q. 22 Headgate?

11 A. Yes.

12 Q. Okay. That's about all you can ---

13 A. Yes.

14 Q. --- think of were any concerns or ---?

15 A. Yes.

16 Q. One more thing. Your last shift at UBB on April
17 3rd, do you know how long they were expecting you to
18 make a pass across faces?

19 A. Roughly an hour for one pass.

20 Q. Okay. Was that pretty typical of the last ---

21 A. For the last ---

22 Q. --- two weeks that you worked there?

23 A. Yes. Yes.

24 Q. I guess it's probably slowing down over on that
25 tail side, ---

1 A. Yes.

2 Q. --- when you got into that sandstone?

3 A. Yes. There was one small area that you could do
4 good speed, but where you were --- the coal seam had
5 gotten a little bit smaller than from the original
6 start date, ---

7 Q. Uh-huh (yes).

8 A. --- and we was having to take more rocks, so it
9 was slowing us down.

10 Q. Okay. All right. How about --- how many rock
11 dust crews did they have, do you know? Do you have
12 any idea?

13 A. Rock dust crews, I'm not sure how many they have.

14 Q. Or do you know when they rock dust?

15 A. Usually on third shift, but I didn't work the
16 third shift.

17 Q. Whenever they were rock dusting on third shift,
18 they didn't run any --- did the miner section run on
19 third shift?

20 A. Not to my knowledge. I don't think they did. I
21 believe that third shift was all maintenance.

22 Q. Okay. How much time is the third shift?

23 A. They got nine hours, but they --- like I said, on
24 the longwall I know they were only there from --- they
25 only had down time from 1:00 a.m. to around 7:30 a.m.

1 Q. Six hours?

2 A. Yeah. On the miner sections, they usually got out
3 earlier than us. They didn't --- we worked ten and a
4 half, 11-hour shifts. They worked usually nine or ten
5 at the most.

6 Q. The third shift if I'm going to do rock dusting on
7 third shift, how much time would I have to rock dust?

8 A. Roughly six hours.

9 Q. Okay. Do you got anything you want to add?
10 Anything that we didn't cover that --- we pretty much
11 kept you on the longwall here.

12 A. Yeah, that's ---.

13 Q. We didn't get you too much out ---.

14 A. Yeah, that's all I know anything of was the
15 longwall. That's all I done for ---.

16 Q. Anything you want to add?

17 A. Nothing I can think of.

18 ATTORNEY BAXTER:

19 Okay. On behalf of MSHA and the Office
20 of Miners' Health, Safety and Training, I want to
21 thank you for appearing and answering questions today.
22 Your cooperation is very important to the
23 investigation as we work to determine the cause of the
24 accident. We request you not discuss your testimony
25 with any person, aside from your personal

1 representative. After questioning other witnesses, we
2 may call you if we have any follow-up questions that
3 we feel that we need to ask you. If at any time you
4 have additional information regarding the accident
5 that you'd like to provide to us, please contact us at
6 the contact information that was previously provided
7 to you.

8 If you wish, you may now go back over any
9 answer you've given during this interview. And you
10 may also make any statement that you'd like to make at
11 this time.

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

14

15 * * * * *

16 STATEMENT UNDER OATH CONCLUDED AT 7:12 P.M.

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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