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Transcript of the Testimony of Daniel McCallister

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STATEMENT UNDER OATH
OF
DANIEL MCCALLISTER

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, May 24, 2010, beginning at 6:19 p.m.

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A P P E A R A N C E S

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

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I N D E X

1		
2		
3	OPENING REMARKS	
4	By Attorney Babington	6 - 11
5	OPENING REMARKS	
6	By Mr. Tucker	11
7	WITNESS: DANIEL MCCALLISTER	
8	EXAMINATION	
9	By Mr. Godsey	12 - 67
10	EXAMINATION	
11	By Mr. Tucker	67 - 72
12	EXAMINATION	
13	By Mr. Beck	72 - 74
14	RE-EXAMINATION	
15	By Mr. Godsey	74 - 78
16	EXAMINATION	
17	By Attorney Babington	78 - 79
18	RE-EXAMINATION	
19	By Mr. Tucker	79 - 80
20	CLOSING STATEMENT	
21	By Attorney Babington	80
22	CERTIFICATE	81
23		
24		
25		

1		EXHIBIT PAGE	
2			PAGE
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P R O C E E D I N G S

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is May 24th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is John Godsey, an accident investigator with the Mine Safety and Health Administration, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. BECK:

My name is Jim Beck. I work for the State independent team.

MR. TUCKER:

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

MR. FARLEY:

I'm Terry Farley, with Miners' Health, Safety and Training, too.

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today. John Godsey will be conducting the initial questioning.

1 All members of the Mine Safety and Health
2 Accident Investigation Team and all members of the
3 State of West Virginia Accident Investigation Team
4 participating in the investigation of the Upper Big
5 Branch Mine explosion shall keep confidential all
6 information that is gathered from each witness who
7 voluntarily provides a statement until the witness
8 statements are officially released. MSHA and the
9 State of West Virginia shall keep this information
10 confidential so that other ongoing enforcement
11 activities are not prejudiced or jeopardized by a
12 premature release of information. This
13 confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Your participation in this interview
17 constitutes your agreement to keep this information
18 confidential.

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

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

3 You may have your personal attorney
4 present during the taking of this statement or another
5 personal representative, if MSHA has permitted it.

6 You may consult with your attorney or the rep --- or
7 your representative at any time. Your statement is
8 completely voluntary. You may refuse to answer any
9 question. You may terminate your interview at any
10 time or request a break at any time.

11 Since this is not an adversarial
12 proceeding, formal Cross Examination will not be
13 permitted. However, you may ask clarifying questions
14 as appropriate. 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 or your information would --- sorry. If
21 you request us to keep your identity confidential, we
22 will do so to the extent permitted by law. That means
23 that if a Judge orders us to reveal your name or if
24 another law requires us to reveal your name or if we
25 need to reveal your name for other law enforcement

1 purposes, we may do so.

2 We request that you refrain from

3 discussing your statement with others who may be

4 interviewed. Also, there may be a need to use the

5 information you provide to us or other information we

6 may ask you to provide in the future in other

7 investigations and/or in hearings about the explosion.

8 Do you understand or have any other questions?

9 MR. MCCALLISTER:

10 I understand.

11 ATTORNEY BABINGTON:

12 Okay. After the investigation is

13 complete, MSHA will issue a public report detailing

14 the nature and causes of the fatalities in the hope

15 that greater awareness about the causes of accidents

16 can reduce their occurrence in the future.

17 Information obtained through witness interviews is

18 frequently included in these reports. Since we ---

19 since we will be interviewing other individuals, we

20 request, again, that you not discuss your testimony

21 with any person aside from your personal

22 representative or counsel.

23 The court reporter will record your

24 interview. Please speak loudly and clearly. If you

25 do not understand a question asked, please ask to

1 rephrase it. Please answer each question as fully as
2 you can, including any information you've learned from
3 someone else.

4 I'd like to thank you in advance for your
5 appearance here. We appreciate your assistance in
6 this investigation. Your cooperation is critical in
7 making the nation's mines safer.

8 After we've finished asking questions,
9 you'll have an opportunity to make a statement and
10 provide us with any other information that you believe
11 to be important. If at any time after the interview
12 you recall any additional information that you believe
13 might be useful, please contact Norman Page at the
14 contact information previously provided to you. For
15 the record, do you have a personal representative with
16 you here today?

17 MR. MCCALLISTER:

18 No.

19 ATTORNEY BABINGTON:

20 No? Okay. Any statements given by miner
21 witnesses to MSHA are considered to be an exercise of
22 statutory rights, a protected activity under Section
23 105(c) of the Mine Act. If you believe any discharge,
24 discrimination or other adverse action is taken
25 against you as a result of your cooperation with this

1 investigation, you're encouraged to immediately
2 contact MSHA and file a complaint under Section 105(c)
3 of the Act. Bill?

4 MR. TUCKER:

5 Dan, I'd like to also mention that Terry
6 and I are the lead investigators for the State of West
7 Virginia, and you also have protection under the State
8 Code against discrimination for speaking to us here
9 today. So if you feel like you've been discriminated
10 in any way against --- for being here today, you can
11 be sure and file your claim within 30 days and you
12 have protection through the State. So I'm going to
13 give you a memo basically with the address of the
14 Board of Appeals who you would address that to with
15 mine and Terry's phone number on it, so if you'd have
16 any questions or anything comes up, you can give us a
17 call. Thank you.

18 -----
19 DANIEL MCCALLISTER, HAVING FIRST BEEN DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 -----
22 ATTORNEY BABINGTON:

23 All right. Go ahead, John.

24 EXAMINATION

25 BY MR. GODSEY:

1 Q. Will you state your name and spell your last name,
2 please?

3 A. Daniel Troy McCallister. That's
4 M-C-C-A-L-L-I-S-T-E-R.

5 Q. What's your home address and your telephone
6 number?

7 A. (b) (7)(C) Would you like a mailing or
8 just physical?

9 Q. Physical.

10 A. It'd be (b) (7)(C) I don't know
11 the ZIP code.

12 Q. You know a telephone number?

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

14 Q. Are you appearing here today voluntarily?

15 A. Yeah.

16 Q. Have you spoken with any other --- any other
17 person about this case other than a government
18 representative?

19 A. No.

20 Q. How many --- how many years have you worked in the
21 mining industry?

22 A. Two. We'll say two.

23 Q. Can you just give us a brief description of your
24 history, what you've done in mining?

25 A. I started out moving belt. And then they --- I

1 asked to be put on production and now I run a bolt
2 machine and used to run a ---.

3 Q. This is all you've been at the Upper Big Branch,
4 all of your ---

5 A. Yeah.

6 Q. --- mine experience?

7 A. Yeah. Well, I worked at White Queen before I went
8 there, and now they have me at Ellis Eagle.

9 Q. So how long did you --- were you at Upper Big
10 Branch? Approximate for us.

11 A. About a year. Right after I got my black hat. Or
12 no, I worked there for a week and then got my black
13 hat. I got my black hat April, April 20th of 2009.

14 Q. Okay. You said you're presently employed where?

15 A. Yeah, at Ellis Eagle through Massey.

16 Q. When did you start there?

17 A. Two weeks after the explosion.

18 Q. So that's the 17th or something like that ---

19 A. Yes.

20 Q. --- or the 19th?

21 A. Something --- round about there.

22 Q. Okay. What is your present job title?

23 A. Bolt ---. I bolt the top. Bolt man, I guess, is
24 what they would call it.

25 Q. Okay. When was your first day of employment at

1 UBB, the date?

2 A. I couldn't recall. Just that --- they took us
3 from White Queen. They closed the White Queen Mine
4 down and then moved us to Upper Big Branch, so ---.

5 Q. What kind of training did you get when you went to
6 Upper Big Branch?

7 A. We went --- we went down the intake, walked
8 through the intake, and then just over the basic
9 annual retraining and stuff like that.

10 Q. Did they take you to the sections or anything?

11 A. Oh, yeah. They took us on their section that we
12 was working on, but I've worked at every section up
13 there.

14 Q. What did they cover on the surface for you? I
15 mean, what kind of training did they go over with you
16 before you ---?

17 A. Just the don your rescuers and just things like
18 that.

19 Q. What about different plans and stuff?

20 A. What do you mean?

21 Q. Well, like ventilation plans and ---?

22 A. No, they didn't go over that with us.

23 Q. What about roof control plans?

24 A. I mean, they do those every day.

25 Q. When was your last annual refresher training?

1 A. Just a couple months ago. I think it was in ---
2 it was down there in Whitesville. Right there at the
3 --- right across from Marfork, the little baseball
4 fields there.

5 Q. Uh-huh (yes).

6 A. I guess it's the State Trooper headquarters or
7 something.

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

9 A. Yeah.

10 Q. It's called MIT?

11 A. Yeah.

12 Q. What's your --- what was your job title at ---
13 where did you work at, at Upper Big Branch?
14 Everything I ask you now will be at Upper Big Branch.

15 A. I worked on Two section.

16 Q. Which is Two section?

17 A. Headgate --- or Tailgate 22.

18 Q. And what did you do there?

19 A. I bolted.

20 Q. And now you're presently working at ---?

21 A. Ellis.

22 Q. I mean, what section are you on --- are you on
23 now, though?

24 A. At Ellis or ---?

25 Q. Oh, you're working at Ellis?

1 A. Yeah, I'm working at Ellis now.

2 Q. I mean, what --- excuse me, what section are you
3 working on?

4 A. Well, I was working at Two section, Headgate 22
5 right here (indicating) ---

6 Q. Okay.

7 A. --- at Performance, actually over here.

8 Q. Okay. Then did you work there all the time or
9 you ---?

10 A. Yeah, the whole time I was there. We was on Four
11 section and they moved us to this Two section, and we
12 finished it, and then we went to Tailgate 22. I don't
13 know what they're calling this (indicating), what they
14 were calling this.

15 Q. Okay.

16 ATTORNEY BABINGTON:

17 To clarify, that's the Room Four section
18 outby the longwall panel between Tailgate One North
19 and the Six North belt?

20 A. Yeah.

21 BY MR. GODSEY:

22 Q. What time do you report to work your shift?

23 A. We had to be there at 4:00.

24 Q. 4:00 p --- 4:00 p.m in the afternoon?

25 A. Yeah.

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

2 A. At 4:00.

3 Q. At four o'clock?

4 A. We'd go under. We'd leave to go underground
5 at 4:00.

6 Q. But what time --- how long --- what time do you
7 usually get there?

8 A. About 3:30, 3:00, 3:30.

9 Q. Okay. What would you normally do on the ---?
10 What would you normally do on the surface before you
11 went underground?

12 A. We'd just get dressed and do our buddy checks on
13 our rescuers and go get our lights and get what we
14 needed to take underground, tag in.

15 Q. When did you all get your instructions from your
16 section foreman?

17 A. Usually when we got underground.

18 Q. When you got underground. At UBB?

19 A. Yeah.

20 Q. Which portal did you all portal --- portal in?

21 A. The UBB side.

22 Q. UB ---. How long did it take you to get from
23 there to the ---?

24 A. About an hour, 45 minutes to an hour.

25 Q. Okay. Was the mantrips --- were they maintained

1 in fair condition or good condition?

2 A. Yeah. Yeah.

3 Q. What about sanders?

4 A. Yeah. All the sanders worked on ---.

5 Q. Now, did you have a lot of --- any water or
6 anything on the track?

7 A. Not really. I mean, there was a little bit right
8 there at the portal, but ---.

9 Q. Do you ever know of any time that water was over
10 the track?

11 A. No.

12 Q. Okay. Was there many pumps along the track?

13 A. Not along the track, not that I was aware of, no.
14 They could've been, like, you know, to the right or to
15 the left of the track, but as far as on the track, no.

16 Q. What about rock dust applications from the portal
17 to the section? Do you feel it was adequately
18 supported ---

19 A. Yeah, they ---.

20 Q. --- or adequately rock dusted or ---?

21 A. Supposedly they done it every --- every other
22 night or I think maybe it was once a week, something
23 like that.

24 Q. How did it --- how did they rock dust it?

25 A. With a big machine.

1 Q. They had ---?

2 A. They had a big machine that they pulled on a motor
3 and ---.

4 Q. Did they ever do any bolt dusting?

5 A. Yeah, I think that's what they was doing. I mean,
6 it's a big old machine and it's got a hose on it and
7 they'd walk in between the breaks and walk down the
8 track and ---.

9 Q. Okay. What about the stopping ventilation
10 controls? How were they maintained?

11 A. Fairly good, from what I could see, but, you know,
12 I've only been in the mines a year, so, ---

13 Q. Uh-huh (yes).

14 A. --- really don't know.

15 Q. Okay. From the portal to the section, you had to
16 pass through some man doors; right? You had some man
17 doors there?

18 A. Supply doors, yeah.

19 Q. Okay. Did you ever encounter those doors being
20 left open when you ---?

21 A. On occasion, maybe the ones up --- I guess they
22 would be around the Six --- the Six Belt, 72 Break.

23 Q. Okay.

24 A. There was four or five sets of doors. And one set
25 of 'em would always swing open. I mean, it happened

1 every day.

2 Q. So would that short-circuit the air then?

3 A. I don't think that it would.

4 Q. I mean, were both sets of inby and outby doors
5 open?

6 A. No, just one set, because there was a set you had
7 to go through. I think they're right here
8 (indicating), actually.

9 Q. But when you open one --- when you open one set,
10 was the inby set open?

11 A. No, it was closed.

12 Q. Okay. Which one did you usually find open, the
13 outby side or the inby side?

14 A. It'd be the outby side.

15 Q. What condition were those doors usually
16 maintained?

17 A. Fairly good.

18 Q. Did they have much equipment hitting it,
19 damaging ---?

20 A. Oh, yeah, there was equipment hitting it all the
21 time. Yeah.

22 Q. All right.

23 A. They replaced 'em several times since I've been
24 there.

25 Q. What other problems did you see that those doors

1 caused ventilating that way?

2 A. I didn't see --- personally I didn't see where it
3 hurt the ventilation any. But like I said, I don't
4 know much about ventilation and stuff like that,
5 because I'm brand new in the gang, you ---

6 Q. Okay.

7 A. --- know what I mean, so ---.

8 Q. Did you ever --- did you or any other of your co-
9 workers talk about what would happen if those doors
10 were left open and they had a fire on the belt or the
11 track?

12 A. If they were all left open, then that would be
13 bad.

14 Q. Did you all ever talk about it? Was you ever
15 concerned about ---?

16 A. No. That's something that never crossed my mind.
17 I mean, supposedly every door is supposed to have a
18 motor on it to manually, or to --- I guess for the
19 motors to open it and make sure they stay closed. But
20 none of the doors from 78 Break on back had motors on
21 'em.

22 Q. So those doors there that we were talking about
23 were ---?

24 A. They were manual doors.

25 Q. They were manual doors.

1 A. Yeah, you had to get out and open them.

2 Q. Okay. How about did they have 'em skirted with
3 anything?

4 A. Yeah.

5 Q. What did they use?

6 A. Just whatever come on the door. I guess they were
7 like little rubber mats.

8 Q. And were they maintained?

9 A. Yeah, they were fairly decent. Yeah.

10 Q. So what was it like from those doors up to the
11 mouth of your section? What was the --- and I'm
12 talking about rock dust application and ---?

13 A. It was good.

14 Q. Okay.

15 A. I mean, everything was white.

16 Q. Okay.

17 A. It was coated in rock dust.

18 Q. You don't know when the last time they had applied
19 rock dust?

20 A. I swear I think it was that --- the week after
21 that, because I talked to the guy that done it.

22 Q. Who was that?

23 A. I don't even know his name. What is his name?

24 Can't remember.

25 Q. Okay.

1 OFF RECORD DISCUSSION

2 BY MR. GODSEY:

3 Q. Okay. What time period are you talking about when
4 you talk about talking to the individual?

5 A. He was on hoot owl, so they --- they dust ---.

6 Q. How long ago was it?

7 A. Probably about two or three months ago.

8 Q. When you got --- how far outby the section did
9 your mantrip stop, I mean the track?

10 A. The track stopped right here (indicating) and we
11 probably walked from right here on down.

12 Q. And what were you just --- are you talking about
13 there on the Headgate Number One North panel? Is that
14 where the track went?

15 A. See, at first it was coming down by the longwall.

16 Q. Uh-huh (yes).

17 A. And we got off the longwall and walked through a
18 set of supply doors right there (indicating), and then
19 we walk over on the section. And then they changed
20 it, come down the Six --- I guess it was Six Belt or
21 Seven Belt, whatever belt this here is. And we'd come
22 down along One section and then come back down through
23 this way.

24 ATTORNEY BABINGTON:

25 Sorry. Just to clarify, you were talking

1 about the first arrangement had you coming down the
2 Headgate One North section?

3 A. Yeah.

4 ATTORNEY BABINGTON:

5 And reaching the Tailgate 22 section?

6 A. Yeah.

7 ATTORNEY BABINGTON:

8 And then you also pointed out to a
9 door ---?

10 A. Basically, right here.

11 ATTORNEY BABINGTON:

12 Right. Okay. And that would be
13 basically right at the intersection of the cross ---
14 basically at the intersection of Headgate One North
15 and the crossover from Tailgate 22 to Headgate 22?

16 A. Yeah; right.

17 ATTORNEY BABINGTON:

18 Okay. And then you said the second path
19 was up the Six and then Seven North Belt, up past the
20 Glory Hole to essentially the Headgate 22 section and
21 down the ---

22 A. Uh-huh (yes), yeah, yeah.

23 ATTORNEY BABINGTON:

24 --- crossover to Tailgate 22?

25 A. Yeah.

1 BY MR. GODSEY:

2 Q. When you were traveling up to Headgate Number One
3 when the track was going up there and you all came
4 through those doors, did you ever find those doors
5 open?

6 A. No.

7 Q. These were also, what ---?

8 A. Manual.

9 Q. Were they manual?

10 A. Manual doors.

11 Q. And were they constructed similar to the ones that
12 was on the track?

13 A. Kind of, but not exactly. These were supply
14 doors. They don't have, like --- like a man door
15 inside of the door, you know. I'm sure you know what
16 I'm talking about. But they were just solid doors,
17 just like they'd be supply doors to go on a section
18 and come off a section and get your supplies and
19 whatnot.

20 Q. Did you have enough --- well, how much room did
21 they have in between 'em?

22 A. It was however big the break was. I mean, the
23 rib, however big the rib was.

24 Q. Okay. What was the roof like in those areas?

25 A. It was fair.

1 Q. Now, how far was the longwall inby that at the
2 time that you were traveling, the face of the
3 longwall?

4 A. Now, whenever we first went up there, we was dead
5 even with the longwall.

6 Q. Okay.

7 A. I mean, they was running this way and we were
8 running that way, so we was pretty much side by side.

9 Q. Did you see any floor heave up there in that area?

10 A. Yeah. Yeah.

11 Q. To what extent?

12 A. Not bad. I mean, it wasn't nothing major. It ---
13 little cracks here and there.

14 Q. Did you ever observe the --- observe, excuse me,
15 the curtains that were installed across the headgate
16 entry that directs air across the longwall? Did you
17 ever happen to look ---?

18 A. No, I've never been on the longwall.

19 Q. What was the air --- was the air ---? Did you
20 have good air over on --- going back in towards
21 the ---? Could you tell whether it was going back in
22 towards the headgate entries behind the longwall?

23 A. No. Like I said, I've been over there, you know.
24 Every supply hole used to be right around that area.

25 Q. Okay.

1 A. And it was fair. I mean, you'd kick dust and it
2 blows --- and it'd quickly blow away from you, you
3 know. And on their section, we had to make some
4 changes where it was coming down through here
5 (indicating). I don't know what they done to do it,
6 but they had to make changes to get us enough air.
7 And then when they got us enough air, their air was
8 backwards. And then we had to shut down one day and
9 fix all that, so ---.

10 Q. While we're talking about your air and air
11 direction, was that a problem over the last few months
12 on that tailgate section, getting enough air?

13 A. Through the first --- yeah, the first few months
14 that we was up there, it was ---. I mean, we had
15 enough air to run, but it didn't seem to me like it
16 was adequate --- you know, enough. But whenever they
17 took their air readings and everything, everything was
18 right, so ---. We had a boss that if it wasn't right,
19 he wouldn't run. You know, we had it running
20 backwards one day and he shut down and we had to
21 reroute it and make it ---.

22 Q. What caused that?

23 A. I don't know.

24 ATTORNEY BABINGTON:

25 Well, when you say it was running

1 backwards, are you talking about the air was running
2 in the wrong direction?

3 A. Yeah. Airflow was running in the wrong direction.
4 But I mean, they fixed it that day and we started
5 running again. It took 'em a couple hours, but we
6 started running again.

7 BY MR. GODSEY:

8 Q. You've bolted up there for a while. Have you ever
9 found any methane up there?

10 A. Not enough to be concerned about. Like, it'd read
11 like .5 on your little methane detector.

12 Q. Who all carries a methane detector on the section?

13 A. Everybody. If the scoop man goes outby, he has to
14 have one. There's methane detectors on both the bolt
15 machines. There's methane detectors, sniffers, I
16 guess, is what you'd call 'em, on the miners. And the
17 miner men carried one and the electricians carried one
18 and the boss carries one.

19 Q. All right. Then you said that one was --- they
20 were attached to --- one was attached to all three of
21 'em?

22 A. Yeah. Yeah, two of 'em were attached to the
23 miners.

24 Q. What kind of roof drill did you all have?

25 A. What kind of what?

1 Q. Roof drill.

2 A. Roof drill.

3 Q. Double head, triple head?

4 A. Double head.

5 Q. How many did you have on the section?

6 A. Two.

7 Q. Two. How many miners did you have on a section?

8 A. Two.

9 Q. How many shuttle cars do you have?

10 A. Three.

11 Q. Did you all --- did you ever see them run both
12 miners at the same time?

13 A. No, absolutely not.

14 Q. How do they usually cut sequence on that unit?

15 How do they usually --- how do they cut, One entry,
16 Two entry or Three entry? How do they turn their
17 breaks and stuff?

18 A. I think --- now, their air was running from --- I
19 think it was running right to left, because it was ---
20 let's see. I'm not sure how it ran, but I know we
21 would start cutting, I think it was in Three. I think
22 they was calling this (indicating) entry Three, and
23 this was Two and One. And we'd start --- I was
24 thinking we'd start here, because we never could turn
25 a break in that way because we'd be cutting in our

1 air. So we started here. And then we'd run these up
2 and then make a left-hand turn this way, so we
3 wouldn't be cutting in the air.

4 Q. So you're saying that from left to right, Number
5 One would have been return, this one?

6 A. Yeah. I mean, don't take my word for it ---

7 Q. Okay.

8 A. --- because I'm not too sure.

9 Q. What entry was the belt in?

10 A. The belt was in Two.

11 Q. Okay.

12 ATTORNEY BABINGTON:

13 Just to clarify really quickly, you're
14 talking about the entries in the --- the entries in
15 the Tailgate 22 section?

16 A. Yeah.

17 ATTORNEY BABINGTON:

18 All right.

19 BY MR. GODSEY:

20 Q. Did you ever --- have you seen any floor heave up
21 there at ---

22 A. Yeah, here and there.

23 Q. --- up along the ribs? On what side of the entry
24 was it on? Where did you see ---?

25 A. All of 'em. We was --- we was in Two one day, Two

1 --- I think it was Two Right, and we was bolting. And
2 the bolt machine just cocked up on one side and was
3 making some god-awful noises. We had to run out of
4 there a couple times. It was a little, a little
5 hairy.

6 Q. When was it?

7 A. It was when we first got up there.

8 Q. Okay.

9 A. I don't know the specific day. I just ---
10 whenever we started up there.

11 OFF RECORD DISCUSSION

12 BY MR. GODSEY:

13 Q. A month ago?

14 A. Probably about two, maybe three months ago.

15 Q. Okay.

16 A. I mean it was right before the explosion.

17 Q. Did you ever get any methane out of the floor?

18 A. No. And we had --- we had waterholes that would
19 bubble and we couldn't figure out --- there shouldn't
20 have been air, you know what I mean? So we took a
21 methane reading and nothing read on the methane
22 detector or nothing like that. But I mean, it'd
23 bubble for days.

24 Q. Do you know if anybody every found any up there?

25 A. No.

1 Q. Did you ever ---?

2 A. Well, when we first went up there, when the air
3 --- we didn't have ---. For some odd reason the
4 return was coming off of Headgate 22 down onto
5 Tailgate 22, is whenever we had the overcast.

6 Q. Uh-huh (yes).

7 A. I guess maybe the air was blowing wrong. I don't
8 know, but we was reading their methane, getting
9 methane from them over in there. But I mean, one
10 section you'd read it and there wouldn't be nothing
11 there and ---.

12 Q. But about when did all this happen?

13 A. That is when we first started up there. I mean,
14 it was before we even started running. We was just
15 --- we was sitting there ---.

16 Q. Well, back in January, I believe, sometime in
17 January, I think that --- did you ever ---? Did you
18 ever know of any time that the return off of your
19 section went into the secondary escapeway of the
20 longwall?

21 A. To my knowledge, no. I mean, it very well could
22 have happened, but to my knowledge, no.

23 Q. And how about on your --- when you watch
24 them ---? You watched them mine coal up there?

25 A. Yeah.

1 Q. What about the spotters? The sniffer, did it ever
2 show anything ---?

3 A. Like I said, just, you know, .1, .2.

4 Q. And did the roof do anything, act up any while
5 they were ---?

6 A. No.

7 Q. What's the depth of cut that you all ---?

8 A. They'd cut 20 foot, is what they was calling it,
9 but it'd be like 17 foot. They're calling it 20-foot
10 cuts but taking 'em on 17.

11 Q. How did they take their 20-minute checks? What
12 did they use?

13 A. The miner men would just use their miner, I guess.
14 I mean, I wasn't up there long enough to ---.

15 Q. Do you know how they did that?

16 A. No. Now ---.

17 Q. Did they have a probe or ---?

18 A. As far as us, the bolt guys, yeah, we had a probe.
19 We'd probe check it.

20 Q. Did you ever see a magnet on the continuous miner?

21 A. Yeah. Yeah, but like I said, I --- longest I've
22 been watching 'em, I didn't sit up there the whole
23 day. I probably didn't even sit up there 20 minutes
24 to watch them run the miner. But I mean I'm sure
25 that the guys that I work for done everything the way

1 they were supposed to do it. If not, the boss would
2 flip out.

3 Q. How often --- how often do you all float out each
4 other? Do you all float out for lunch or ---?

5 A. We never did. I mean, we --- as hard as it was to
6 cut up there and ---. It'd take the miner sometimes
7 35, 45 minutes to cut a place, you know, so ---.

8 Q. Did you mine much rock?

9 A. Oh, yeah.

10 Q. What kind of --- what kind of rock was it?

11 A. I think it was sandstone, a lot ---.

12 Q. Did you see a lot of sparks ---

13 A. Yeah.

14 Q. --- a lot of ---?

15 A. Some of it was sandstone, some of it was slate.

16 Q. But what did it do to the bits? Is it pretty
17 abrasive to the cutter head?

18 A. Yeah, it tore the bits all to pieces.

19 Q. Okay. What kind of --- do you all use a scrubber?

20 A. We're not allowed to use a scrubber on a 20-foot
21 cut, but if it got a little dusty in there, they'd
22 kick it on just to get the dust to clear out so they
23 could see what they was doing.

24 Q. So you all had to use a duster?

25 A. Yeah. Yeah.

1 Q. Okay. How often --- when you go up on a section,
2 how do they do their dust parameters? How do you all
3 do that? Who's in charge of the dust parameters?

4 A. I guess the boss is. I think it was 20 foot from
5 the face. We'd dust like every other night when we
6 were ---.

7 Q. No, I'm talking about when --- about your water
8 pressure and your ---.

9 A. Oh, no, that, I have no clue.

10 Q. Did they ever check your drill, the pressure on
11 your ---?

12 A. I'm sure the electricians did.

13 Q. What did it usually run?

14 A. Now, that, I'm not for sure. Like I said, I'm new
15 at it and I just ---.

16 Q. Did you have to maintain a curtain while you were
17 bolting?

18 A. Yeah. Absolutely.

19 Q. How much air did you have to --- I mean, I'm not
20 trying to ---.

21 A. I think it was 3,000.

22 Q. Did you have a hard time keeping that any time?

23 A. No, not after they got all the air right. No.

24 Q. Okay. When did they get their air all right?

25 A. It was shortly after we got up there. I mean,

1 they made air adjustments and everything before we
2 even started running, and then everything was fun.
3 Then we had that one incident where the curtain at the
4 feeder was blowing inby instead of outby.

5 Q. So you all --- were you all using belt air?

6 A. No, we was using the intake air.

7 Q. I mean, how did they ventilate the belt?

8 A. Now, that I don't know. I guess just the intake
9 air is what I would assume, but ---.

10 Q. How many open crosscuts did you all maintain on
11 the return side of the section?

12 A. One, I believe. It was either one or two.

13 Q. And how much --- did you realize how much you had
14 to have in the last open crosscut? Did you ever ---?

15 A. No, I didn't.

16 Q. Did you ever --- the boss ever tell you about
17 checking any of the methane up there?

18 A. No. He done all that. He kept all the
19 ventilation pretty much squared up and everything.

20 Q. Did any one of your fellow workers, did they ever
21 talk of concern about some hazards up there or worried
22 about the air or worried ---?

23 A. We was at first, but then they got everything
24 situated and we had tons of air up there.

25 Q. What did it --- well, did you work there on March

1 9th?

2 A. Yeah.

3 Q. You know --- did you all miss any work for a
4 ventilation change up there?

5 A. March 9th of 2hat?

6 Q. Of this year. A couple months ago.

7 A. I think we might've missed a couple days,
8 actually. To come to think about it, I think we might
9 have.

10 Q. Okay. After --- after they made the ventilation
11 change on the longwall, how did that affect your all's
12 ventilation?

13 A. To my knowledge, it didn't affect us. It might've
14 helped us, to be honest with you.

15 Q. What condition did they maintain the curtains, the
16 line curtains? Was it old curtain, new curtain
17 or ---?

18 A. New curtain, pretty much new curtain, no holes in
19 it. If it had holes in it, we'd throw it away. I'd
20 throw it away anyway.

21 Q. Okay. When you all come upon the section, you
22 know, coming on your shift, and what do you--- just
23 take us there. Normally what did you all do? I mean,
24 did you all --- did the crew go to the dinner hole
25 while the foreman went and made the ---?

1 A. We all went to our equipment and the boss ran the
2 faces.

3 Q. Okay.

4 A. And usually he'd get off the mantrip way before we
5 did. He'd make it up there and by the time we got to
6 our equipment, he had done ran the faces, because
7 there was only three entries.

8 Q. Yeah. And excuse me if I asked you this, but did
9 you ever see --- have any water up there or make any
10 water?

11 A. Oh, yeah, there was all kinds of water up there.

12 Q. Where was it coming from?

13 A. I guess the bottom.

14 Q. Did you ever see any coming from the ---? Did you
15 ever drill a hole, a test hole?

16 A. No, I've never drilled a test hole and it come out
17 of there.

18 Q. And you never drilled ---? Did you ever drill a
19 test hole, like ---? Maybe I asked you this, but
20 methane come out of it?

21 A. Uh-uh (no).

22 Q. You know of anybody that ---?

23 A. Not to my knowledge, nobody's done it.

24 Q. Okay. How much, how many --- do they have any
25 water pumps up there?

1 A. Yeah, we had a couple water pumps up there.

2 Q. Did you guys keep 'em in the face or did you keep
3 'em outby or ---?

4 A. Once we got inby 'em, they was probably, maybe
5 two, three breaks outby us. But I mean we had couple
6 waterholes up there. And I guess it was coming out of
7 the bottom is the only thing I can think of, but those
8 were pretty big waterholes.

9 Q. I mean, what --- to what extent were they? I
10 mean, a big extent, ten foot long?

11 A. Probably about a break long. One or two of 'em
12 was like a break long and it was in the return.

13 Q. Was the bottom up and down or was it ---?

14 A. Yeah, the bottom was up and down. There at the
15 beginning it was.

16 Q. How would you describe --- just if I might go over
17 this again, how would you describe the roof and ribs
18 and floor on the --- on your section?

19 A. They weren't all that great. I mean, the top was
20 solid. I mean, we didn't have no falls or anything
21 like that on the air section, but there was a couple
22 falls over on the headgate side a few times.

23 Q. When did that happen?

24 A. It was when we was moving equipment from the
25 pillar panel, I guess, is what he called it ---

1 Q. Uh-huh (yes).

2 A. --- from here (indicating) to the tailgate. There
3 was a couple falls up there.

4 Q. Well, did they clean 'em up or ---?

5 A. Yeah. To my knowledge they cleaned them up. I
6 mean, it knocked power one night and we had to rerun
7 power.

8 Q. When was this?

9 A. It was right --- maybe about a month before we got
10 up there to the tailgate.

11 Q. Did you talk much to the longwall people?

12 A. No, we hardly ever seen 'em.

13 Q. Okay. Did your section ever --- aware of any time
14 they mined near a gas well they didn't know about
15 or ---?

16 A. Not to my knowledge. I don't think that we have.

17 Q. Did anyone ever discuss with you or your foreman
18 or something about the seam just below 'em or the
19 lower Eagle seam?

20 A. Uh-uh (no).

21 Q. You don't know of any problem they've ever had
22 with that?

23 A. No.

24 Q. And you don't know of any --- do you know of any
25 methane outbursts that they had on the section?

1 A. Whenever they was --- I guess they was driving for
2 this longwall panel, the Headgate North, I guess, is
3 what they're calling it here ---

4 Q. Uh-huh (yes).

5 A. --- whatever panel this is. I was still on hoot
6 owl, moving belt, and bad gas stopped the miners
7 several times. And we, you know, we'd come in and
8 they wouldn't let us go underground. I think it was
9 about a week ---

10 Q. Uh-huh (yes).

11 A. --- they was hitting gas up there like that.

12 Q. Do you know about where that was located?

13 A. It was ---. They was setting up the longwall, so
14 I'm sure it was way up in here (indicating) somewhere.

15 Q. Oh, they already developed it?

16 A. They was bringing the longwall in.

17 Q. They already developed it ---

18 A. Yeah.

19 Q. --- prior? And do you know of any --- did you
20 talk to anybody what the reason was that could cause
21 that?

22 A. No, they just ---. I mean, all their curtain was
23 right. They shut down, reventilated, everything they
24 was supposed to do and it was still hitting like seven
25 percent methane, eight percent methane and ---.

1 Q. How long did this last?

2 A. About a week. About a week. And I guess they
3 made a air change or --- I don't know what they done.
4 All I know is I was off for a week over it.

5 Q. It was just prior to they --- starting the
6 longwall?

7 A. Yeah.

8 Q. Okay. You were there when they was developing the
9 Headgate One North. Did you see they had any problem
10 even development up through there with any --- with
11 the roof or the water or ---?

12 A. Like I said, I was on hoot owl. I really didn't
13 get to talk to the production people that much. Now,
14 to my knowledge, they didn't have no trouble with it.

15 Q. What about the tail entry, tailgate? Has anybody
16 talked to you --- have you talked to anybody about the
17 tailgate?

18 A. No. Like I said, I don't even know where they was
19 hitting gas at, if it was the headgate or the
20 tailgate. I just know they was hitting gas.

21 Q. Okay. You didn't know where it come --- where it
22 came from?

23 A. No. No. They just --- I guess maybe, maybe Two
24 section, maybe One section. I don't --- I'm not for
25 sure.

1 Q. Well, what did management say about or do about
2 it? What was their position?

3 A. I guess they come in and made a air change and got
4 more air up there or ---. I really don't know what
5 they done, really couldn't tell you.

6 Q. Did you ever see or --- anyone on the section
7 bridge out a methane monitor?

8 A. No.

9 Q. Do you know if they've ever operated with one
10 inoperative?

11 A. No, not to my knowledge.

12 Q. How'd you all --- did you all change shifts on the
13 surface?

14 A. Yeah. We was outside when we changed shifts.

15 Q. And would you wait until the other shift came out?

16 A. Yeah.

17 Q. And then did you all talk, talk amongst yourselves
18 about ---?

19 A. Not really. We really didn't have the time. I
20 mean, the electricians and the bosses, when the boss
21 called up the fire boss report, I'm sure they talked
22 to one another there. And then if the electricians
23 needed to tell the other electricians something, I'm
24 sure they talked --- stopped and talked.

25 Q. Were you ever in the vicinity of what you call the

1 Glory Hole?

2 A. No, I've never been there.

3 Q. Have you ever heard of anyone going up there and
4 finding any methane or --- you know?

5 A. Not to my knowledge.

6 Q. Okay.

7 A. All I've heard about that place is it's hot up
8 there. It's really hot.

9 Q. Hot in which --- how do you ---?

10 A. Hot as in heat, not gas or anything, just
11 temperature hot.

12 Q. Did anybody explain why it's ---?

13 A. No.

14 Q. Have you ever wondered?

15 A. I just really didn't want to go up there. I
16 mean, I heard it was --- you know. It was a tough
17 place. The top was bad and ribs were bad. That's
18 about all I've heard about up there.

19 Q. Did you ever travel to what they call the Eight
20 North section?

21 A. No.

22 Q. You never been anywhere up in there? I want to
23 ask you some questions about management. What was
24 management's attitude toward employees?

25 A. Pretty good.

1 Q. Do you know of any time anybody had any problems
2 with them and how they would deal with them?

3 A. Not to my knowledge.

4 Q. Okay. How was their safety versus production?
5 Would they put one ahead of the other?

6 A. To my knowledge, they just, you know, worked safe,
7 you know? But Massey's the type of people, get the
8 coal out. It don't matter what it takes, get the coal
9 out.

10 Q. Were you ever aware of a time that one of your
11 sections was down on low air and the section foreman
12 stopped production and he was told to put the miner
13 back in the ---?

14 A. Yeah, whenever we had that backwards incident,
15 where the air was backwards ---

16 Q. Uh-huh (yes).

17 A. --- on Headgate --- or Tailgate 22, they ---
18 Hammer shut down a section and they told him that ---
19 he had the air running.

20 Q. Who told him that?

21 A. I don't know that. I'm not for sure.

22 Q. Do you know when that was?

23 A. I just --- whenever --- whenever the air was
24 wrong, whatever day that was. I don't even know when
25 it was, but I don't know how big of an ordeal it was.

1 He made it sound like he was going to get in big
2 trouble and they was very upset with him, whatnot, but
3 nothing came of it. You know, his air was wrong. We
4 shut down the section, got it right and then we went
5 back to mining.

6 Q. Did you feel he did the --- he did the right ---?

7 A. Oh, yeah, absolutely he done the right thing.

8 Q. Did you all have any --- anything to say to him
9 about going back to work without the air going the
10 wrong direction? Did the employees have any ---?

11 A. No, when the air was right, back the right way, we
12 went back to work. And, you know, he made a air check
13 on every entry, last open break, all that. And
14 everything was fine, so we went back to work.

15 Q. Okay. How many production shifts do you all work
16 on that section? How many --- I mean ---.

17 A. There's just two, first shift and second shift.

18 Q. What do they do on the other shift?

19 A. Move belt, dead work, pretty much.

20 Q. Was coal ever --- do you ever know of coal ever
21 being run on a maintenance shift?

22 A. No, not unless they were --- it really wouldn't be
23 coal, but if they was cutting the head hole or
24 something, one of the hoot owl guys would go in there
25 and cut.

1 Q. Did anyone ever go --- train on what the roof
2 control plan order --- going over the cut sequence,
3 how you're supposed to develop the tailgate entry?

4 A. Not really. I was just told, you know, make sure
5 you got a star pattern with cable bolts in your
6 entryways, six-foot tension bolts. That's pretty much
7 it.

8 Q. Did you all ever have to use any extending support
9 up there outby or ---?

10 A. Like what, like cribs?

11 Q. Cribs or, you know --- jacks or collars or ---?

12 A. We used 'em around the head, you know, where we
13 make the belt turn.

14 Q. Uh-huh (yes).

15 A. We used 'em around the head but that's --- I mean,
16 I guess that's mandatory because the entry was real
17 wide where we was going to run the track down and the
18 beltline. Around the head we had to kind of narrow it
19 down with some ---. Other than that, no.

20 Q. And so you said you had to use cable bolts?

21 A. Cable bolts in each entry, star pattern with cable
22 bolts, yes, sir.

23 Q. What length of cable bolts did you use?

24 A. I think they were 12s.

25 Q. Twelve (12) foot?

1 A. I'm pretty sure they were 12s.

2 Q. Typically after --- when you all move a belt, say
3 you move a belt, how far outby the face do they
4 usually put the feeder? How many breaks ---?

5 A. If we have, I think it's four open lines, we move
6 two breaks. I'm pretty sure that's how they do it up
7 there.

8 Q. Okay.

9 A. Sometimes they'd move one break, sometimes they'd
10 move two.

11 Q. Do you all use exhaust, exhaust or blowing face
12 ventilation?

13 A. I guess it was just to blow the air across a
14 section.

15 Q. I mean, which side did the --- which side of ---
16 which side was the curtain on your section?

17 A. It would be on the ---.

18 Q. As you're going up, One, Two and Three ---.

19 A. If you're looking --- like, if I'm looking at the
20 face, it'd be on the left-hand side.

21 Q. Okay. And you say that you all did use a scrubber
22 sometime?

23 A. Yeah. I mean, if it got --- every miner does.
24 Every mine man does.

25 Q. How often did --- you say they cut a lot of rock

1 up there?

2 A. Yeah, about a foot or two of rock.

3 Q. How often did they change the filter screen?

4 A. I think it was after every cut. I'm pretty sure
5 it was after every cut.

6 Q. And when an inspector was up there from State or
7 Federal, would they run the scrubber?

8 A. Like I said, they would if it'd get dusty. I
9 mean, if it got to where they couldn't see what they
10 was cutting, ---

11 Q. Uh-huh (yes).

12 A. --- just to keep their --- keep their cut
13 straight, on center lines and everything, I guess
14 they'd use it. I mean, the inspectors told 'em not
15 --- you're not supposed to use it --- to my knowledge
16 you're not supposed to use it ---. To my knowledge,
17 you're not supposed to use it on a 20-foot cut. But I
18 mean, if it keeps the dust out of your lungs, why not
19 use it?

20 Q. Did you all ever do extended cut up there, more
21 than 17, 18, 20 feet?

22 A. No, I've never seen that.

23 Q. Did you ever --- when the Federal inspector come
24 up there, did they ever talk to you about the
25 ventilation revisions or changes or anything?

1 A. No. I worked the whole time when I was up there.

2 I really didn't have time to talk to nobody.

3 Q. Do they ever --- you ever get any safety talks

4 during your shift from your ---?

5 A. Yeah, we had a safety talk every Monday and --- It

6 was once or twice a week we had safety talks.

7 Q. Okay. When you're on the surface, before you went

8 in a shift, you all have a bulletin board, I assume,

9 with your 1200 map on it, your mine map on it, ---

10 A. Yeah.

11 Q. --- to show escapeways? Did you ever notice or

12 review any revisions to your ventilation plan that

13 they had posted on there?

14 A. No. I mean, we just had our annual walkout the

15 primary and annual walkout the secondary.

16 Q. Okay.

17 A. Or travel secondary.

18 Q. How often do you do that? Well, when was the ---?

19 A. I think it was every two or three months.

20 Q. When was the last time that you walked out the

21 primary, at the UBB?

22 A. Been a while. I walked out on Four section when

23 we was way down here (indicating) by Paloma switch

24 ---. I don't know if y'all ---.

25 Q. Four section, you're talking about the barrier

1 section?

2 A. No. Maybe they have it on here. It's a little to
3 your left. There, let me show you. When we was on
4 Four section, we drove all this right here
5 (indicating). This was their Four section. Then I
6 guess the barrier ---

7 Q. Okay.

8 A. --- section move to here.

9 Q. Okay.

10 ATTORNEY BABINGTON:

11 Okay. For the record, on the 500 map,
12 this section is the area just below the two UBB
13 portals.

14 A. Now, we walked out there and we walked out into
15 here.

16 ATTORNEY BABINGTON:

17 Okay.

18 A. But I don't think we was up here long enough to
19 walk out.

20 ATTORNEY BABINGTON:

21 Okay. To clarify again, the second area
22 that the witness said that he walked out from is Room
23 Four section just to the left of the area described
24 the first time right under the UBB portals. And the
25 area that he said he did not walk down from was the

1 Tailgate 22 section?

2 A. Yeah, we hadn't been up there probably not even a
3 month yet.

4 BY MR. GODSEY:

5 Q. Okay. Did you know where the escapeway was?

6 A. Yeah.

7 Q. Did you ever travel down to the start of the ---?

8 A. We walked down to the Strata box, ---

9 Q. Uh-huh (yes).

10 A. --- that's the fresh air box. I call it a coffin.

11 Q. How was the --- they keep the lifeline current, up
12 to date?

13 A. Somewhat. Now, when I was --- where was that ---
14 down there on the sections I was just talking
15 about, ---

16 Q. Uh-huh (yes).

17 A. --- I walked from Three section, which is on the
18 other side of the --- the portal on the other side of
19 the mountain. I walked from there, reaming and
20 plastering stoppings, to Four section. And I --- I
21 got lost. I mean, I ain't going to lie to you.
22 What's that thing called, lifeline?

23 Q. Lifeline. Uh-huh (yes).

24 A. It wasn't --- wasn't there for the most part. I
25 mean, you'd see it here and then you'd see it there

1 and ---.

2 Q. Did you ever see it tangled in any wire, any other
3 cables?

4 A. Not really.

5 Q. Okay.

6 ATTORNEY BABINGTON:

7 And just to clarify again, the Number

8 Three and Number Four sections are down by the UBB
9 Portal?

10 A. Yeah, by the portals.

11 ATTORNEY BABINGTON:

12 Okay.

13 A. The ones closest to the portals.

14 BY MR. GODSEY:

15 Q. Did you ever assist in any of the ventilation
16 change?

17 A. No. Well, yeah, on Christmas vacation we went and
18 we knocked half --- half the stoppings out up in, I
19 guess up by One section and Two section. I guess
20 that's where it was.

21 Q. Do you know why y'all had to do that?

22 A. No, I have no clue. Just changing ventilation, I
23 guess.

24 Q. Who was in charge of that?

25 A. Gary May, and I don't know who the other one was.

1 Q. And you say it was around Christmas?

2 A. Yeah, it was Christmas, New Year's vacation.

3 ATTORNEY BABINGTON:

4 And the Number One and Two sections,

5 that's the Headgate One North section and Tailgate

6 22 ---

7 A. Yeah.

8 ATTORNEY BABINGTON:

9 --- section?

10 A. I'm assuming that's where we was. Now, we got off
11 the mantrip and walked forever, it seemed like, so we
12 could've very well been up in here (indicating).

13 ATTORNEY BABINGTON:

14 Up in the ---

15 A. Now ---.

16 ATTORNEY BABINGTON:

17 --- Eight North section?

18 A. Yeah, we walked by --- they had a big old fan, big
19 old --- there's a huge hole. It goes straight up. I
20 guess it was a --- exhaust fan, maybe.

21 BY MR. GODSEY:

22 Q. You wouldn't be talking about the Bandytown Fan
23 back there behind the longwall?

24 A. Yeah. It very well could be. I'm not --- I'm not
25 too sure. Yeah, we could've been way up in there.

1 Like I said, I wasn't very familiar with the area when
2 we went up there. I know we traveled --- we traveled
3 about an hour. And we went up --- I think we turned
4 at 72, 72 Break, and I guess we went on up.

5 Q. Do you remember what the --- how low they was or
6 how wet they were, the water --- roof conditions?

7 A. I mean it was fairly decent for, you know, old
8 works. Ain't nobody been up there. It didn't really
9 get maintained very well, you know, so ---.

10 Q. How was the air movement there? Did you all
11 detect any methane?

12 A. Pretty good.

13 Q. Did you all detect any methane?

14 A. No. I mean, we was up there by that exhaust fan,
15 so I mean the air was great.

16 Q. Can we go back? I want to --- one thing I forgot
17 to ask you about. Why do they use --- in your
18 opinion, do they use those airlock doors for
19 ventilation back down there instead of using
20 overcasts? It could be ---.

21 A. I guess they can travel through 'em, instead of
22 overcasts. That's what I would say.

23 Q. Which would you think would be better, an overcast
24 or a little door?

25 A. Probably an overcast.

1 ATTORNEY BABINGTON:

2 And just to clarify, John, you're talking
3 about the 72 Break area?

4 MR. GODSEY:

5 Yeah. Right down that way (indicating).

6 ATTORNEY BABINGTON:

7 Okay.

8 A. Yeah, because if you have an overcast, then that
9 would eliminate your doors, I would assume.

10 BY MR. GODSEY:

11 Q. And would you feel safer with the overcasts
12 instead of the doors?

13 A. I guess. I mean, I don't see where it'd be any
14 different. I guess where one of 'em would be left
15 open and you got the chance of the air mixing
16 together.

17 Q. Yeah.

18 A. But other than that, one's as good as the other
19 one, I guess.

20 Q. Are you required --- I mean, aware of any
21 conditions which required all the portions of the mine
22 to be evacuated? You know, methane or water or ---.

23 A. Just that one --- that one occasion where we
24 missed a week where that air was --- I guess the air
25 was wrong and they had all that methane.

1 Q. Did this happen often over the last six months or
2 so about ---

3 A. No.

4 Q. --- ventilation change?

5 A. No, this was whenever I first started down there
6 about a year ago.

7 Q. Okay. So January of this year, 2010, were you
8 aware of any air reversals or ---?

9 A. No. I mean, just that --- just when we went up
10 there knocking them stoppings. That's the only air
11 change and then the air change on the Tailgate 22
12 section.

13 Q. Okay. How many times --- you may have said it, I
14 may have failed to hear you. How many times did you
15 have a change on that entry --- section you were on?

16 A. I think they made two changes on it. I'm not ---
17 I'm not for sure. I heard that not Gary May but the
18 other one --- what is his name? Everett. I guess
19 Everett went up there and made some air changes at one
20 time. But other than that, I don't ---.

21 Q. Did they make these changes with the mine idle?

22 A. I think it was idle then. I'm pretty sure it was
23 idle.

24 Q. Do you know of any time that the ventilation was
25 changed with all people underground?

1 A. Just whenever the air was running backwards.

2 Q. And everybody was underground when they worked on
3 it?

4 A. Yeah. From my understanding, all they had to do
5 was open a door or shut a door or something. I don't
6 know exactly what they done.

7 Q. And it cleared up pretty good?

8 A. Yeah. It turned the air back to the way it was
9 supposed to be.

10 Q. Did you have any --- this kind of goes along the
11 same way. Did you have any concerns with the
12 ventilation system before the explosion?

13 A. Just --- you know, just when we went up there and
14 we --- the air was ventilating off of the headgate
15 side onto their section, and then they changed that
16 with an overcast, several overcasts. I guess these
17 are them right there. I guess that's what those are.

18 ATTORNEY BABINGTON:

19 You're referring to the crossover section
20 between Tailgate 22 and Headgate 22?

21 A. Yeah. Yeah.

22 BY MR. GODSEY:

23 Q. Are you familiar with carbon monoxide sensors in
24 the mine, you know, for the smoke?

25 A. The CO monitor?

1 Q. Uh-huh (yes).

2 A. I'm not real familiar. I know what they are,
3 but ---.

4 Q. Did it ever go on alarm or alert when you went
5 underground?

6 A. Not to my knowledge, it hasn't.

7 Q. Did you hear or did anybody ever talk about it in
8 any other ---?

9 A. No.

10 Q. Did they go over that seal system with you and
11 tracking system before you went underground?

12 A. Yeah, whenever they first got the tracking system,
13 they talked to us about it for about 30 minutes and
14 sent us on our way.

15 Q. Okay. Do you know who your responsible person is
16 on --- for your shift?

17 A. On the section?

18 Q. On the surface.

19 A. No. No.

20 Q. You don't know who was --- in case they have a
21 evacuation, like a fire explosion or a water
22 invasion ---?

23 A. No, everybody just --- like, if something like
24 that happened, they'd call Gary May. Now, I don't
25 know who the --- or the evening shift mine foreman was

1 or anything like that. I just went to work every day.

2 Q. Uh-huh (yes). Excuse me if I ask you this again,
3 but was you aware of any of the over --- any of the
4 mining in the seam about 170 feet above?

5 A. Uh-uh (no).

6 Q. Nobody's ever ---?

7 A. I didn't know anything about there was mining
8 above us.

9 Q. I mean this, the seam up there, sealed or
10 whatever, are you --- was you aware of it?

11 A. Uh-uh (no).

12 Q. We talking about that responsible person so you
13 --- do you know that if the responsible person wants
14 to leave, how they changed and how they reported
15 underground that that person would be leaving? And
16 you said you didn't know who it was.

17 A. No.

18 Q. Where were you at the time of the accident?

19 A. Getting ready to go underground. I'd just got
20 changed.

21 Q. Where were you when it happened?

22 A. I was in the bathhouse.

23 OFF RECORD DISCUSSION

24 BY MR. GODSEY:

25 Q. How did you ---? How did you find out?

1 A. We went to go get on the mantrip and everybody
2 said that we're not going underground, that something
3 had happened. Don't know what it was, but something
4 had happened.

5 Q. And you was on the --- you said earlier on the UBB
6 Portal side?

7 A. Yeah.

8 Q. Did anybody --- who came out and talked to you,
9 any of your supervisors or ---?

10 A. No. Nobody --- nobody came out and told us
11 anything and for at least an hour or so, you know? We
12 was waiting to go underground. Then a couple of us
13 walked upstairs and we heard 'em try to get ahold of
14 everybody on the phone there and nobody knew what went
15 on, so nobody was going to say nothing, you know what
16 I mean?

17 Q. Yeah. You've had a month and a half or so to
18 think about it, what happened. Have you ever
19 discussed it with any people that worked there, what
20 you all consider may or had happened?

21 A. You know, it could've been a fire boss, to my
22 knowledge. And I mean, it could have just been a act
23 of God. I don't know what it was. I just hope it
24 wasn't some --- somebody had done wrong or somebody
25 had --- didn't do that they were supposed to do.

1 Q. What was the previous --- the last shift you
2 worked there?

3 A. That'd have been that Friday before --- or Friday
4 or Saturday before the explosion.

5 Q. Yeah.

6 A. Well, no, because we had a three-day weekend, so
7 it'd have been --- it'd have been Thursday.

8 Q. Did anything --- did anything on the section or on
9 the track or where you were, did it seem different,
10 changed any on ---?

11 A. Everything --- everything seemed fine, just
12 another day.

13 Q. After you found out about it, and they told you it
14 was an explosion, what did you do then?

15 A. What do you mean?

16 Q. I mean, when ---?

17 A. Oh, well, I sat there and waited to see if --- you
18 know, if they needed help with anything or if I could
19 do anything to help 'em out or anything?

20 Q. How long did you stay there after you found out
21 about it?

22 A. Until about 9:00.

23 Q. Until about 9:00 that evening?

24 A. Yeah.

25 Q. Did you see anybody go in the mine that worked

1 for ---?

2 A. I think Gary May and a couple of 'em went
3 underground.

4 Q. About what time did they --- do you know what time
5 it was?

6 A. It was around 3:00, 3:30.

7 Q. Where did they go in at?

8 A. The portal right there (indicating).

9 Q. Okay. What did they take with 'em?

10 A. They took --- I think they took a couple First Aid
11 hatches, some extra SCSRs.

12 Q. Do you know where they were going? I mean do
13 they ---?

14 A. They didn't tell me where they were going. I just
15 seen 'em go underground. I mean ---.

16 Q. Did you see them come out?

17 A. No. Supposedly they went up and come out on the
18 Ellis side, the Ellis punch-out.

19 Q. Did you see anybody else come out that mine?

20 A. Not out of UBB side portal, no. They was all
21 using the Ellis Portal.

22 Q. How did they keep track of people who were
23 entering --- entering the mine at that time?

24 A. I think the only, the only ones that they would
25 let go underground was the mine foreman and

1 superintendent. Other than that, I don't know.

2 Q. So you didn't travel at all underground?

3 A. No, I didn't. No.

4 Q. So at nine o'clock you left. You say you went up
5 --- was you instructed to go home?

6 A. They told everybody that they could leave, you
7 know? Everybody's going upstairs, saying, can we
8 leave, can we leave, can we leave, you know? They
9 asked people to stick around and see if they could
10 help with anything, so you know, me and the guy I rode
11 with was one of the last two or three to leave, you
12 know? We wanted to make sure --- like, if they told
13 us, yeah, there's nothing we can do, go ahead and go
14 on home.

15 Q. Has anyone ever since then mentioned to you
16 something that what they thought might have happened?

17 A. No. Nobody --- I mean, like I said, nobody
18 understood what happened, why it happened. And the
19 only section that wasn't idle was the longwall, so
20 everybody assumed it happened there.

21 Q. Did the longwall work that Sunday, are you aware?

22 A. I'm pretty sure they did.

23 Q. Do you know of ventilation changes they may have
24 made?

25 A. No.

1 Q. How about on Monday? Did they have any problems
2 on the longwall Monday, are you aware?

3 A. As far as I know, no.

4 Q. So in other words, you think it worked normally?

5 A. Yeah, as far as I know everything was going the
6 way it was supposed to. I usually don't go upstairs
7 to, you know, talk to any of the big guys up there. I
8 usually just get dressed, get on the mantrip, go in
9 and handle my business.

10 Q. Okay. Do you know if anyone has ever been ---
11 mentioned being afraid to go underground there? Were
12 you ever ---?

13 A. Not to my knowledge.

14 Q. Were you ever scared or had to worry about
15 going ---?

16 A. No, I've never been worried.

17 Q. I may have asked you this, excuse me, but did you
18 ever go to the Headgate 22 section?

19 A. Yeah.

20 Q. Did you ever work up there?

21 A. You know, I went up there and have to move a
22 little bit of equipment here and there, but that's ---
23 help the mine foreman, Terry, Terry Moore.

24 Q. Uh-huh (yes).

25 A. Helped him move some stuff around up there, but

1 other than that, that's about it.

2 Q. Did you go to the face?

3 A. No. No.

4 Q. I mean, by yourself. What was the condition of
5 the roof ribs and the floor?

6 A. They was fair.

7 Q. Did it have the same water problems that you all
8 had?

9 A. I didn't see no water up there, to my knowledge.

10 Q. Any --- none on the way up there from your
11 section?

12 A. No, not from their section, no.

13 Q. You said you had a Solaris; right? Did you have a
14 Solaris methane monitor?

15 A. Yeah. They was left --- they was on the bolt
16 machines, ---

17 Q. Okay.

18 A. --- and we had 'em.

19 Q. Who charged those ones, to maintain energy?

20 A. They had a little charger box on their ---
21 Persinger would charge 'em there. Now, as far as
22 calibrating and everything, I don't know who done
23 that.

24 Q. I started to say, did they have a calibration kit
25 up there?

1 A. I know they had it in the office up there on the
2 UBB side. Now, I don't know how often they got
3 calibrated or even if they did get calibrated. I just
4 know that they were in the thing and I used them when
5 I was supposed to.

6 Q. Well, you don't know when they did or if they did
7 get calibrated?

8 A. No, I have no clue.

9 Q. Do you know of any other problems that we haven't
10 mentioned here today that they had at the mine?

11 A. No, not really. I mean, just everyday stuff.

12 EXAMINATION

13 BY MR. TUCKER:

14 Q. I've got just a couple places to go back and
15 clarify a few things maybe, just for a minute. You
16 mentioned your boss went by Hammer. What's his actual
17 name?

18 A. Brian Collins.

19 Q. All right. Okay. You'd talked about the one
20 instance where the air reversed and Brian had shut
21 down. Do you know if an inspector was in the mines or
22 on the section during this time?

23 A. To my knowledge, there was no inspectors there.

24 Q. Okay. Is it your understanding he caught a little
25 bit of heat for shutting down?

1 A. Yeah.

2 Q. Did you overhear who had called in to give him a
3 hard ---?

4 A. No, I didn't.

5 Q. Have you been down around the --- when you work on
6 Tailgate 22 section, have you been down around the
7 feeder while they've been mining coal?

8 A. Yes.

9 Q. Have you noticed, do they have a curtain hung
10 behind the feeder?

11 A. Yes.

12 Q. Have you noticed which way it blows?

13 A. Now, the day it was blowing backwards, it was
14 blowing towards the section. And it was supposed to
15 blow outby the section; correct?

16 Q. Okay.

17 A. But after --- after that day, it was all blowing
18 outby.

19 Q. Okay. And you said the belt was in the Number Two
20 entry?

21 A. Yes.

22 Q. You talked about an instance where you thought the
23 mines was down for that shutdown where they had high
24 methane. You mentioned seven, eight percent methane?

25 A. Yeah. Well, that's what they guy said ---.

1 I don't know if it's ---

2 Q. Yeah.

3 A. --- exaggeration or what, but ---.

4 Q. Do you know what area of the mines --- you
5 mentioned it's on the tailgate side or headgate
6 side ---

7 A. No, I don't ---.

8 Q. --- on this ---? Do you have any idea about where
9 they were mining at when you ---?

10 A. I was right around in here (indicating), because
11 they said something about connecting the lines.

12 Q. The setup entry on the ---

13 A. Yeah.

14 Q. --- back end of the longwall?

15 A. Could've been here. I mean, could be anywhere
16 right through here, but I just know it was on this
17 panel, driving this longwall.

18 Q. Okay. And that would've been sometime in ---?

19 A. September or October.

20 Q. 2009?

21 A. Yeah. Like I said, it was when I first went up
22 there. I think I was still a red hat when it
23 happened.

24 Q. Okay. Have you heard or do you know if the
25 longwall had been down any on the day of the

1 explosion?

2 A. To my knowledge, it hadn't been. Like I said, I
3 hadn't been there that day. I was just getting there,
4 so ---.

5 Q. What time you say you usually got there?

6 A. Like, 3:00, 3:30, somewhere around there.

7 Q. Okay. And you do report to the --- over on the
8 UBB side?

9 A. Yeah.

10 Q. Okay. You don't go in at the Ellis Portal?

11 A. No.

12 Q. So you mentioned you was getting ready to go
13 underground at the time of the explosion?

14 A. Yeah.

15 Q. And at some point you went upstairs and of course
16 --- I think --- are there mine phones in the area down
17 next to ---

18 A. Yeah, there's ---.

19 Q. --- the bathhouse where you all ---?

20 A. There's a mine phone in the bathhouse and then
21 there's some upstairs.

22 Q. Okay. Did you hear anything called out over the
23 mine phones from underground from the guys that went
24 underground?

25 A. No. When I got there, I got dressed and everybody

1 said something. The fan turned backwards, you know.
2 I mean, like, as soon as we pulled in, everybody was,
3 like, was standing outside looking at everything. And
4 I guess the fan blew stuff outside and so I went in
5 and got dressed. I didn't think nothing about it. I
6 thought maybe the fan had messed up or whatnot.

7 Got dressed, sat there for a little bit and
8 everybody kept saying, well, you're not going
9 underground, you're not going underground. I thought
10 everybody was just joking around, you know? So I went
11 upstairs and they was trying to contact the people
12 underground and they couldn't get ahold of anybody.
13 So I mean ---. The only contact I heard coming
14 outside of the mine was whenever you guys, the mine
15 inspectors and the rescuers and stuff went in there.

16 Q. Okay. So you showed up around 3:30, then you
17 mentioned you saw Gary May and a few others go in the
18 mines, so that would've been ---

19 A. Yeah.

20 Q. --- after 3:30?

21 A. Yeah, it was around that, somewhere around there.

22 Q. Somewhere around 3:30. Okay. And you've
23 mentioned that you'd been up on 22 Headgate a few
24 times with Terry Moore, helping move some equipment.

25 Do you remember what y'all moved, what type of

1 equipment y'all moved up there?

2 A. I think we moved a buggy and a miner.

3 Q. Okay. And do you remember what entry y'all moved
4 those in?

5 A. No, I couldn't tell you. It was right around the
6 new Mother Drive. I do know that, wherever the new
7 Mother Drive is. We moved it from maybe a break, two
8 breaks inby the Mother Drive.

9 Q. Okay.

10 A. It's somewhere right around here (indicating). We
11 moved around here.

12 Q. That'd been toward the mouth of the current 22
13 Headgate section. Okay. That wouldn't have been in
14 the intake, would it, the main intake?

15 A. As far as I know, you're not allowed to do that.

16 Q. Okay. As far as you know it was not in the
17 intake?

18 A. No, as far as I know, it wasn't.

19 Q. Okay.

20 EXAMINATION

21 BY MR. BECK:

22 Q. Dan, when you started with Massey, did you start
23 as a Massey employee or as a contractor?

24 A. As a contractor.

25 Q. And who were you contracting for?

1 A. David Stanley.

2 Q. And how long had you worked for David Stanley?

3 A. Probably about a month or two.

4 Q. A month.

5 A. A month or two.

6 Q. Okay. And your boss was named --- Brian Collins,
7 he went by the name Hammer?

8 A. Yeah.

9 Q. Do you recall him shutting down the section or
10 stopping production any other times because the air
11 wasn't right?

12 A. No, just the one time.

13 Q. You ever hear of any other foreman doing that?

14 A. Not to my knowledge, no.

15 Q. Did you ever hear a joke around the mine that if
16 you're going to Headgate 22, you need to bring your
17 own air? People joke around like that?

18 A. I mean, you'd hear people say that, you know what
19 I mean, just ---. But I mean they had --- we had air.
20 I don't know about the headgate. I know we had enough
21 air.

22 Q. Did people joke about Headgate 22, ---

23 A. Oh, yeah. Yeah.

24 Q. --- say, bring your own air up there?

25 A. Yeah.

1 Q. Okay. Was it mostly people that worked on
2 Headgate 22 or just something ---

3 A. Yeah.

4 Q. --- mine wide?

5 A. I guess it was just the guys that worked up there.
6 I guess --- I don't know. I really don't know much
7 about it. I ain't really ever been up there.

8 MR. BECK:

9 That's all I have.

10 ATTORNEY BABINGTON:

11 Yeah, let's take a --- take a quick five
12 minutes.

13 SHORT BREAK TAKEN

14 ATTORNEY BABINGTON:

15 Let's go back on the record.

16 RE-EXAMINATION

17 BY MR. GODSEY:

18 Q. Did you ever make any complaints to management?

19 A. No.

20 Q. Did you ever call an 800 number?

21 A. No.

22 Q. Were you ever expected to perform an unsafe act or
23 an unhealthy act?

24 A. No.

25 Q. Did you feel you had an adequate understanding of

1 the existing plan? I'm trying to get ---. When you
2 were a roofer operator, what kind of strata did you
3 have?

4 A. Have what ---?

5 Q. Did you have sandstone, shale? Did you have ---?

6 A. Sandstone.

7 Q. Did you have any miner seams above, that you could
8 see getting water from the top?

9 A. No water through the top. All --- most of the
10 water was through the bottom, no top.

11 Q. You'd never get any adverse roof conditions?

12 A. No. Nothing. Nothing to write home about.

13 Q. Okay. Who took the air readings for you when you
14 went in the bolt ---?

15 A. The operator side bolt man.

16 Q. Okay. Were you all --- when you were on a
17 section, were you ever warned that a State or Federal
18 inspector was on the property?

19 A. Yeah.

20 Q. Who would notify?

21 A. I guess we all knew before we even went
22 underground.

23 Q. Okay. But were you ever --- were you ever on a
24 section and someone called up there?

25 A. Yes. I guess it'd be a dispatcher would call.

1 Q. And they'd call your --- talk to your supervisor
2 and then ---

3 A. Yeah.

4 Q. --- what would you all normally do?

5 A. Just keep running.

6 Q. You didn't do any housecleaning or anything like
7 that?

8 A. No. I mean, the guy I worked for pretty much kept
9 --- you know, he never had any violations or anything
10 like that, so he wasn't about to get any. So
11 everything was pretty much ran right.

12 Q. Did you say you'd --- that you'd ever been to the
13 longwall?

14 A. No, I never been to the longwall.

15 Q. Okay. When you all exit the mine and when y'all
16 --- the shift, when the shift changes and you're
17 coming outside and y'all went through the doors, who
18 made sure the doors were closed?

19 A. Whoever opened 'em.

20 Q. And they religiously closed the doors?

21 A. Yeah, most of the time it was me opening and
22 closing 'em, so ---. Everybody else was too lazy to
23 get out of the ride.

24 Q. When was the last time, do you remember, rock dust
25 was applied prior to the explosion?

1 A. To the section or to outby?

2 Q. The end of the section.

3 A. I guess the week before.

4 Q. Do you know what shift that was on?

5 A. Hoot owl usually done the outby, outby dust. And
6 then the on-section dust usually it was us, the second
7 shift guys.

8 Q. Did y'all use a trickle duster on the sections?

9 A. No, they usually used those on --- by the heads
10 and stuff like that.

11 Q. How did they usually rock dust a section?

12 A. Bulk dust with a scoop and a little machine that
13 throws it everywhere.

14 Q. Did you all ever do any hand dusting or anything?

15 A. Yeah, actually we bolted a place and the scoop
16 come in and cleaned it. I helped the scoop guy hand
17 dust.

18 Q. Okay. How much --- did they liberally apply it or
19 how did ---?

20 A. I put two bags on each wall, two bags of hand dust
21 on each wall.

22 Q. Did you all --- all what did you rock dust?

23 A. Just the ribs and ---

24 Q. Just the ribs.

25 A. --- sometimes we hit the roof and the ground.

1 Q. Okay. So you got parts of the --- you got the
2 ribs and parts of the roof and then ---

3 A. Part ---.

4 Q. --- whatever fell on the ground?

5 A. Yeah. But usually at the end of the shift I'd do
6 most of the bulk dusting.

7 Q. Okay. You said you worked for David Stanley?

8 A. That's my contractor, yeah.

9 Q. Okay. What kind of training did he provide?

10 A. None. Just go to the jobsite and I'll take care
11 of --- care of everything for you.

12 Q. Well, now, when was this period of time? Do you
13 remember ---?

14 A. It was around --- for David Stanley?

15 Q. Yeah, for David Stanley.

16 A. From October to November.

17 Q. Of '09?

18 A. Yeah. '08. '08.

19 MR. GODSEY:

20 That's about it.

21 EXAMINATION

22 BY ATTORNEY BABINGTON:

23 Q. Yeah, I just had one other thing. You mentioned
24 that you thought that the longwall crew worked on the
25 Sunday before ---

1 A. Yeah.

2 Q. --- the explosion? Why do you --- why do you
3 believe that they worked that shift?

4 A. Because it's --- longwall's 24/7.

5 Q. Even on the holiday weekend?

6 A. Yeah, pretty much. I think One section, or the
7 Headgate 22 was, too. They had a ABC crew, so I
8 assume they were working as well.

9 Q. Okay.

10 RE-EXAMINATION

11 BY MR. TUCKER:

12 Q. Just one quick thing, Danny. You mentioned that
13 the bolt man actually took air readings on the
14 operator side?

15 A. No, he took the gas readings.

16 Q. Gas.

17 A. The boss took all the air readings.

18 Q. Okay. I just wanted to clear that up. Okay.
19 Who do you bolt with?

20 A. I was bolting with a guy named Steve Daniels and
21 Mike Smith, I believe. Yeah, that's their name.
22 They're the ones that taught me everything I don't
23 know.

24 Q. Appreciate it.

25 A. Yep. I think y'all have already questioned maybe

1 Steven, maybe Steven. I'm not for sure.

2 ATTORNEY BABINGTON:

3 Anything else? On behalf of MSHA and the
4 Office of Miners' Health, Safety and Training, I want
5 to thank you for appearing and answering questions
6 today. Your cooperation is very important in the
7 investigation as we work to determine a cause of the
8 accident.

9 We request that you not discuss your
10 testimony with any person aside from your personal
11 representative. After questioning other witnesses, we
12 may call you back if we have any follow-up questions
13 that we have.

14 If at any time you have additional
15 information regarding the accident that you'd like to
16 provide to us, please contact us at the contact
17 information previously provided. If you wish, you may
18 now go back over any answer you've given during this
19 interview, and you may also make any statement that
20 you'd like to make at this time.

21 A. I'm good.

22 ATTORNEY BABINGTON:

23 Okay. Again, I want to thank you for
24 your cooperation in this matter. Off the record.

25 * * *STATEMENT UNDER OATH CONCLUDED AT 7:45 P.M.* * *

1 STATE OF WEST VIRGINIA)

2)

3

4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in
8 the foregoing deposition, was duly sworn by me on said
9 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;

12 That the proceeding is herein recorded fully
13 and accurately;

14 That I am neither attorney nor counsel for,
15 nor related to any of the parties to the action in
16 which these depositions were taken, and further that I
17 am not a relative of any attorney or counsel employed
18 by the parties hereto, or financially interested in
19 this action.



20
21
22 *Alicia R. Brant*
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