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Statement Under Oath of **John Skaggs, Sr.**

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CONFIDENTIAL STATEMENT UNDER OATH

OF

JOHN SKAGGS, SR.

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, May 26, 2010, beginning at 4:46 p.m.

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is May 26th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Jerry Vance, an accident investigator with the Mine Safety and Health Administration, an agency of the United States 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. FARLEY:

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

MR. O'BRIEN:

I'm John O'Brien, with the Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

There's several members of the investigation team also present in the room today. Terry Farley 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 at
22 the Upper Big Branch Mine-South on April 5th, 2010.
23 The investigation is being conducted by MSHA under
24 Section 103(a) of the Federal Mine Safety and Health
25 Act and the West Virginia Office of Miners' Health,

1 Safety and Training. We appreciate your assistance in
2 this investigation.

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

15 MR. SKAGGS:

16 No, I do not.

17 ATTORNEY BABINGTON:

18 Thank you. Your identity and the content
19 of this conversation will be made public at the
20 conclusion of the interview process and may be
21 included in the public report of the accident, unless
22 you request that your identity remain confidential or
23 your information would otherwise jeopardize a
24 potential criminal investigation. If your request is
25 to keep your identity confidential, we will do so to

1 the extent permitted by law. That means that if a
2 judge orders us to reveal your name or if another law
3 requires us to reveal your name or if we need to
4 reveal your name for other law enforcement purposes,
5 we may do so. Also, there may be a need to use the
6 information provided to us or other information we may
7 ask you to provide in the future in other
8 investigations into and hearings about the explosion.
9 Do you have any questions?

10 MR. SKAGGS:

11 No. I'd rather not have my name
12 published in the papers, if that's what you're going
13 to do, in the newspapers or anything like that.

14 ATTORNEY BABINGTON:

15 Well, we can, you know --- and Terry can
16 jump in here a little bit, but essentially, you know,
17 we can protect your name for a period of time, but
18 eventually these transcripts will become public.

19 MR. SKAGGS:

20 Oh, I understand that.

21 ATTORNEY BABINGTON:

22 Okay. But you're saying ---?

23 MR. SKAGGS:

24 I understand. But newspapers and so
25 forth like that, I don't want my name in them.

1 MR. FARLEY:

2 Well, you know, trying to be as honest as

3 we can about this, I think for the time being the

4 investigative parties have agreed not to discuss the

5 findings publicly. Now, eventually when we finish the

6 interviews and finish our investigation, everything we

7 collect, including documents and transcripts of

8 interviews and evidence of the mine will become public

9 information and will be available to everybody that

10 lives and breathes.

11 MR. SKAGGS:

12 Yes, I understand.

13 MR. FARLEY:

14 So is that --- we're not going to be out

15 seeking to publicize any particular individual, but

16 there will be, of course, the interviewing itself.

17 We'll take the ball and run with it.

18 MR. SKAGGS:

19 Yeah.

20 MR. FARLEY:

21 So you could --- it would be --- you

22 should not be surprised if eventually you see your

23 name or others mentioned in a newspaper somewhere down

24 the road. It's just --- it's very likely.

25 ATTORNEY BABINGTON:

1 But to clarify, but do you want us to
2 mark your transcript as confidential to keep your
3 identity confidential for as long as possible?

4 MR. SKAGGS:

5 Please.

6 ATTORNEY BABINGTON:

7 Okay. Well, we can do that.

8 MR. SKAGGS:

9 And the only other question I have is, at
10 the end of this, do I --- can I get a copy of your
11 notes and your interview?

12 ATTORNEY BABINGTON:

13 A copy of the notes or a copy of the
14 transcript?

15 MR. SKAGGS:

16 Transcript.

17 ATTORNEY BABINGTON:

18 We will be --- because of the way
19 that --- actually, let's go off the record for one
20 second.

21 OFF RECORD DISCUSSION

22 ATTORNEY BABINGTON:

23 Let's go back on the record. Just to
24 clarify, so we're going to mark your transcript
25 confidential, in the manner that we've done so far, so

1 that we keep your identity confidential for as long as
2 we can, to the extent permitted by law. Also, you're
3 formally requesting a transcript of your interview.

4 MR. SKAGGS:

5 Yes.

6 ATTORNEY BABINGTON:

7 And you understand that we can get --- we
8 can comply with that request once we make all of the
9 transcripts publicly available.

10 MR. SKAGGS:

11 The only reason that I want my name left
12 out of it is because the majority of these people I
13 grew up and went to school with.

14 ATTORNEY BABINGTON:

15 I understand.

16 MR. SKAGGS:

17 I know their families, their kids.
18 They're like family to me, so ---.

19 ATTORNEY BABINGTON:

20 But you do understand, though, eventually
21 it will become public?

22 MR. SKAGGS:

23 Yes.

24 ATTORNEY BABINGTON:

25 Okay. All right. After the

1 investigation is complete, MSHA will issue a public
2 report detailing the nature and causes of the
3 fatalities in the hope that greater awareness about
4 the causes of accidents can reduce their occurrence in
5 the future. Information obtained through witness
6 interviews is frequently included in these reports.
7 Since we will be interviewing other individuals, we
8 request that you not discuss your testimony with any
9 person, aside from a personal representative or
10 counsel.

11 A court reporter will record your
12 interview. Please speak loudly and clearly. If you
13 do not understand a question asked, please ask the
14 interviewer to rephrase it. Please answer each
15 question as fully as you can, including any
16 information you've learned from someone else. I'd
17 like to thank you in advance for your appearance here.
18 We appreciate your assistance in this investigation.
19 Your cooperation is critical in making the nation's
20 mines safer.

21 After we finish asking questions, you'll
22 have an opportunity to make a statement and provide us
23 with any other information that you believe to be
24 important. If at any time after the interview that
25 you recall any additional information which you

1 believe might be useful, please contact Norman Page at
2 the contact information previously provided.

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

12 MR. FARLEY:

13 Mr. Skaggs, before we begin, I want to
14 offer you one other bit of information on behalf of
15 the Office of Miners' Health, Safety and Training. I
16 want to advise you that the West Virginia Code, West
17 Virginia Miners' Health and Safety Regulations,
18 provide protection for --- against discrimination to
19 all miners. And in the event as a result of this
20 interview you feel like that your employer may
21 discriminate against you in any way, I want to offer
22 you the address of the West Virginia Board of Appeals,
23 which hears complaints of such matters, along with my
24 phone number and a phone number for Mr. Bill Tucker,
25 who's also one of the lead investigators from my

1 agency. We'd advise you that in the event that
2 something like that should occur, you need to act on
3 it within 30 days of the time it happens. Okay?

4 MR. SKAGGS:

5 All right.

6 MR. FARLEY:

7 Thank you.

8 MR. SKAGGS:

9 Thank you.

10 -----
11 JOHN SKAGGS, SR., HAVING FIRST BEEN DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 -----
14 EXAMINATION

15 BY MR. FARLEY:

16 Q. Mr. Skaggs, would you please begin by providing us
17 with your full name, your home address and a phone
18 number, please?

19 A. John Paul Skaggs, Sr. Phone number is
20 (b) (7)(C) . I live at (b) (7)(C) and
21 that's at (b) (7)(C) .

22 Q. Okay. Mr. Skaggs, where are you currently
23 employed?

24 A. Massey Energy. I'm at the Mammoth --- Alloy
25 Powellton Mammoth Division right now.

1 Q. Okay. What are you doing there now?

2 A. Belt examiner.

3 Q. Okay. Now, I think most all the questions I'm
4 going to be asking will pertain to your time at the
5 UBB Mines. What coal miner certifications do you
6 possess?

7 A. I have my miner's certificate. I have assistant
8 mine foreman's card. I have mine foreman's card, shot
9 firer's card, surface card.

10 Q. Okay. All right. Now, am I correct that you were
11 employed at the Performance Upper Big Branch Mine at
12 the time of the explosion on April 5th, 2010?

13 A. Yes.

14 Q. Okay. When did you first start to work at the UBB
15 Mine?

16 A. January, I believe it was the 2nd.

17 Q. January 2nd. This year?

18 A. This year.

19 Q. January 2nd, 2010. All right. Would you give us
20 a little history on your mining career? How many
21 years of experience do you have overall?

22 A. Overall, almost roughly about 16, 17 years.

23 Q. Okay.

24 A. And I started with Bethlehem Steel, Cabin Creek.

25 Then I went to --- when they closed own, I went to

1 U.S. --- or Carbon Fuel, and then they sold out to
2 U.S. Steel. And I became a mine foreman for them.
3 And then they closed down.

4 Q. Mine foreman for U.S. Steel?

5 A. Yeah, U.S. Steel, Carbon Fuel.

6 Q. Okay.

7 A. When they all closed down, I went back to the
8 military, and I spent 30-some years there with the
9 military. I retired September the 15th of 2009,
10 and ---.

11 Q. From the military?

12 A. From the military. And I worked --- in the
13 process of that, I worked as a research analyst for
14 the FBI.

15 Q. Okay. Now, when you say that you had 37 years in
16 the military, does that mean that you were out of the
17 mining industry for 37 years?

18 A. Yes.

19 Q. Okay. So was January 2nd of this year the first
20 time you've been back in the ---

21 A. Back in the mines.

22 Q. --- coal mines since ---?

23 A. Early, mid '80s.

24 Q. Okay. I'm trying to do the math on it real fast.

25 A. Yeah, mid '80s.

1 Q. That puts you back at least into the '80s?

2 A. Yeah. I don't know the exact year, but it's in
3 the '80s.

4 Q. Thirty-seven (37) years you spent with the
5 military?

6 A. Yeah.

7 Q. All right. Now, since you were out of the
8 industry that long, what training did you receive when
9 you returned to work?

10 A. I took --- I'm trying to think what they call them
11 now. I sat in an eight-hour class for foremen to go
12 over your gas detection and all that. Recertification
13 I think is what they call it.

14 Q. Continuing education, is that possible?

15 A. Yeah. Yeah. That might be ---.

16 Q. Okay.

17 A. I don't know what their exact term is for that,
18 but I went to an orientation class for 40 hours, I
19 think, and then I went to --- when Massey hired me, I
20 went to eight hours of their refresher training on all
21 of that, gas detection and hazards and their maps and
22 all that, everything.

23 Q. The 40-hour training that you mentioned ---?

24 A. That was out of my pocket.

25 Q. Who provided that training for you?

1 A. I'm trying to think of the name of that company
2 now.

3 Q. Was it a private consultant?

4 A. Yeah, a private company that teaches red hats and
5 so forth.

6 Q. Okay.

7 A. I went and just picked it up to refresh my mine.
8 And then ---.

9 Q. You just did that on your own?

10 A. Yeah.

11 Q. Nobody required you to do it?

12 A. Yeah, nobody required me to do that.

13 Q. Okay. Now, was this the --- an underground ---

14 A. Yes.

15 Q. --- apprentice class?

16 A. Yes.

17 Q. Okay. Did you find it beneficial? Did it help
18 you?

19 A. Yes. Things have changed since I was underground,
20 yes. It refreshed a lot of things. Some things have
21 changed. Technology has changed. Basic mining is the
22 same.

23 Q. Okay. Now, when you started to work at the Upper
24 Big Branch Mine, what was your initial assignment?

25 What was your job classification?

1 A. Fire boss. Fire boss and belt examiner.

2 Q. Fire boss?

3 A. I think it's --- they had it beltman and fire
4 boss, is the way they had it.

5 Q. Beltman and fire boss?

6 A. Yeah.

7 Q. Okay. Now, while you were at UBB, were you a
8 supervisor? Were you considered a supervisor?

9 A. No. No. I'm an hourly employee.

10 Q. Okay. All right. Who was your immediate
11 supervisor at UBB?

12 A. Everett Hager, the superintendent.

13 Q. Okay. Now, where did you portal at UBB?

14 A. Ellis.

15 Q. Okay. Was that for your entire time there?

16 A. Yes.

17 Q. You started in January and you were there like
18 almost three months to the day?

19 A. Three months, yeah.

20 Q. What was your shift at UBB?

21 A. 6:00 in the afternoon until 6:00 in the morning.

22 Q. Okay. Now, how many days per week was that?

23 A. Six.

24 Q. Twelve (12) hours a day, six days a week?

25 A. Twelve (12) hours a day.

1 Q. That's a pretty aggressive work schedule, huh?

2 A. Yeah, it was. I weighed over 200 pounds when I
3 started. I don't now. It wore me out, the walking.

4 Q. How much did you lose about, if you don't mind me
5 asking?

6 A. Probably right around 50 pounds.

7 Q. My God.

8 A. That's a long mine to walk.

9 Q. Okay. Were you working on April 5th, 2010, the
10 day of the explosion?

11 A. No.

12 Q. Okay. Were you just off that day or ---?

13 A. Yeah. The last time I was underground was eight
14 o'clock. I went in and --- actually, it was about
15 seven o'clock Easter night.

16 Q. Do you mean April the 4th?

17 A. 4th. And I came out at 5:30 that Monday morning.
18 And then when I --- I was scheduled to go back
19 underground at six o'clock that evening. And when I
20 came to work this had all transpired.

21 Q. So you went to work Sunday evening, on the 4th,
22 six, seven o'clock; is that right?

23 A. Yeah.

24 Q. And you came out Monday morning on the 5th, around
25 6:00 a.m.?

1 A. Yeah.

2 Q. Okay. Had you worked the day before? This was a
3 holiday weekend. Did you work through the weekend?

4 A. No.

5 Q. Were you off a couple days prior to the 4th?

6 A. Yes.

7 Q. Do you recall which days?

8 A. I was off Friday and Saturday.

9 Q. Okay. All right. Let me ask you now, can you
10 describe your area of assignment? You say that you
11 were a beltman/fire boss. Now, does that mean your
12 job was to take care of the belts and fire boss the
13 belts?

14 A. Pretty much that was --- yeah. Except on that day
15 I was asked to run the section, section Two, which is
16 the tailgate section.

17 Q. You mean Tailgate 22?

18 A. Yes, Tailgate ---.

19 Q. Now, when you say that day, do you mean Sunday
20 evening, the day before?

21 A. Sunday evening, yes, eight o'clock that evening
22 --- or that morning, evening, whatever. I'm sorry.
23 That evening, eight o'clock, is when we started fire
24 bossing. There was three of us.

25 Q. Now, I guess this assignment to examine Tailgate

1 22 would have been in addition to your normal area of
2 assignment?

3 A. Yes.

4 ATTORNEY BABINGTON:

5 Just as a quick clarification, we're
6 talking about this being Tailgate 22. Now, you said
7 Two section is also Tailgate One, down here. Which
8 tailgate are you referring to?

9 A. This is 22 up here.

10 BY MR. FARLEY:

11 Q. Tailgate 22 identified on the map as MMU-040-0; is
12 that correct, sir?

13 A. Yes.

14 Q. Okay. All right. Why don't we try to begin
15 by --- can you tell us which belts you were assigned
16 to routinely take care of and fire boss?

17 A. On a routine basis I started at 41 Break and went
18 to the outside portal.

19 Q. Okay. Can we identify 41 Break on the map there,
20 please?

21 A. That's what I'm looking for.

22 Q. We need to maybe find ourselves a colored marker
23 here and ---.

24 A. Well, it would be the belt head, Ellis belthead,
25 where it is at.

1 ATTORNEY BABINGTON:

2 Thank you.

3 A. Five belt. Five North belt. Four North is what I
4 take care of. Four North, Ellis Five and Ellis Four.

5 BY MR. FARLEY:

6 Q. All right. Four North, ---

7 A. Four North.

8 Q. --- Ellis Five, ---

9 A. Ellis Five and Ellis Four.

10 Q. Ellis Four.

11 A. Which is outside and goes across the valley.

12 Q. Goes from ---?

13 A. Forty-one (41) Break to the outside.

14 Q. Forty-one (41) Break to the outside.

15 A. About 42 Break.

16 Q. Now, that's 41 Break from --- located in Five
17 North?

18 A. Yes.

19 Q. Okay.

20 A. I'm trying to find your belt head for Five North.

21 Right here. I take it your blue dot is your ---.

22 ATTORNEY BABINGTON:

23 For the record, you're pointing to the

24 blue dot ---

25 A. Blue dot.

1 ATTORNEY BABINGTON:

2 --- on 43 Break. Is it 43? I believe
3 so.

4 BY MR. FARLEY:

5 Q. Now, when I say --- you say your area of
6 assignment was Four North, Ellis Five and Ellis Four
7 from 41 Break to the ---?

8 A. Outside.

9 Q. Now, was that your area of assignment on April the
10 4th?

11 A. On April the 4th I came in --- the three of us
12 came in --- the mine was shut down. We done --- the
13 other two guys --- I run the mantrip. The other two
14 guys checked the electrical boxes and pumps on the way
15 in. Then when I got to --- we got to --- when we got
16 up here to what we call Seven Tail, ---

17 Q. Okay.

18 A. --- I got out of the mantrip and I walked from
19 Seven Tail across to Tailgate 22.

20 Q. Okay.

21 A. I fire bossed the section there, dated up in the
22 faces on the roof with red paint, I believe it was.

23 Q. Okay.

24 A. Done my air reading at the last open breakthrough
25 on the return side.

1 Q. Okay.

2 A. I crossed over to the longwall.

3 Q. Okay.

4 A. The longwall had the jacks moved up over the head
5 because it was idle. I took an air reading and dated
6 up right at the headgate on the crib.

7 Q. Okay.

8 A. Then I came down on the track, dated up on the ---
9 well, we call it the mule train. I don't know what
10 the proper name of it is. It's where all their ---
11 it's up on the track all the time.

12 Q. Okay.

13 A. It's their power center. Hydraulic pumps, water
14 pumps, all that stuff sits there.

15 Q. Okay.

16 A. Dated up on it. Walked the track right out ---
17 back out to the mainline. The other two fire bosses
18 picked me up there.

19 Q. Okay. Now, when --- the area on the track you're
20 pointing to where the other bosses picked you up on
21 April 4th, can you identify that area specifically,
22 outby the ---?

23 A. It's outby --- we call it the longwall belt ---
24 the Mother Drive, right there.

25 Q. Okay.

1 A. Right in that area.

2 Q. All right. Still on April 4th, where did you go
3 from there?

4 A. Then we went outside, filled out the books and
5 everything. That was approximately --- I can't
6 remember, 10:30, 11 o'clock, 11:00, around 11 o'clock.
7 And I met the regular foreman that does the longwall.
8 They have their own crew. We normally don't go
9 nowhere near the longwall.

10 ATTORNEY BABINGTON:

11 Can we have him mark it.

12 MR. FARLEY:

13 I'm sorry?

14 ATTORNEY BABINGTON:

15 Can we have him mark it?

16 MR. FARLEY:

17 Sure.

18 ATTORNEY BABINGTON:

19 Can we have you mark the walk you made?

20 You identified this area here. Your origin point,
21 which one was that?

22 A. Right here at Seven Tail, wherever --- I guess
23 this --- you got your orange marked as the beltline?

24 ATTORNEY BABINGTON:

25 I believe that's how the map is marked.

1 A. It would be right in this area right here.

2 ATTORNEY BABINGTON:

3 Okay. And that's at about 129 Break on

4 Seven North belt?

5 A. Yes, somewhere along in there.

6 ATTORNEY BABINGTON:

7 Okay.

8 A. 129, 130.

9 ATTORNEY BABINGTON:

10 And it's somewhat near the Glory Hole

11 area?

12 A. Yes. It's --- yeah, it's probably six, eight

13 breaks maybe.

14 ATTORNEY BABINGTON:

15 Now, if you could mark with that same

16 blue highlighter your trail from the 129 Break all the

17 way around back over to the Mother Drive belt.

18 A. Oh, okay. You have green as your ---?

19 ATTORNEY BABINGTON:

20 Green I believe is marked as intake, yes.

21 A. Anyway, I walked down the track from the tail.

22 This is not --- the map doesn't show the track.

23 BY MR. FARLEY:

24 Q. That belt entry track and this entry here?

25 A. Yeah.

1 Q. That would be track ---.

2 A. So I come pretty much --- they run right beside
3 each other.

4 ATTORNEY BABINGTON:

5 Which runs right beside each other?

6 A. The track and the belthead and everything sits
7 right there together ---

8 ATTORNEY BABINGTON:

9 Okay.

10 A. --- and come down and then I come across the
11 beltline to the tailgate, along the beltline, down to
12 the tailgate and started here and went in to the
13 sections, went up to --- I'm sorry, went over here at
14 the intake, dated up in these rooms, ---

15 ATTORNEY BABINGTON:

16 Okay.

17 A. --- come back out, dated this face, come back out,
18 dated this face, came down the return, ---

19 ATTORNEY BABINGTON:

20 Okay.

21 A. --- crossed through a set of doors approximately
22 right along in here. I might be able to --- oh,
23 there. I take it you have these set of doors with
24 your black dot? I don't know what your schematic is
25 showing.

1 ATTORNEY BABINGTON:

2 Yeah, it's not clear here.

3 A. I don't know what your --- oh, I'm sorry. Your
4 schematic --- anyway, there's a set of airlock doors.

5 ATTORNEY BABINGTON:

6 Can you mark the area where you believe
7 those doors might have been? If you can just draw a
8 line, an X or something.

9 WITNESS COMPLIES

10 A. Right there they are.

11 BY MR. FARLEY:

12 Q. Wrong direction.

13 A. Yeah, we was in the wrong direction.

14 Q. Oh, okay.

15 A. There's a set of airlock doors. But there's also
16 a set on this side, too.

17 Q. Okay. And just for the record ---?

18 A. Right here they are, right here at this ---
19 there's a set here and a set there, okay.

20 ATTORNEY BABINGTON:

21 Okay. So just for the record, you marked
22 doors --- you marked these doors with an orange ---

23 A. Orange.

24 ATTORNEY BABINGTON:

25 --- highlighter, and you believe that you

1 passed through those doors?

2 A. I passed through them doors, came across to the
3 --- and walked over to the headgate of the longwall.

4 ATTORNEY BABINGTON:

5 Okay.

6 BY MR. FARLEY:

7 Q. Can you continue tracing your ---

8 A. Oh, I'm sorry.

9 Q. --- how the track went?

10 A. Like I say, I done my methane tests, air reading
11 right there at the headgate. Couldn't go down on
12 jacks because they had to push forward. I know
13 nothing about a longwall, so I ain't got no clue how
14 to go down it. And then I left there, came down the
15 track, straight down the track and intake there and
16 dated up on the mule train.

17 ATTORNEY BABINGTON:

18 Okay.

19 A. Come right on out, back out to the track and
20 walked over to the Mother Drive, ---

21 ATTORNEY BABINGTON:

22 Okay.

23 A. --- which is the belthead for the longwall, and
24 waited on the other two guys to come off of the head.

25 ATTORNEY BABINGTON:

1 Okay. Sorry. Just for the record, so
2 you started at this 129 Break, up near the Glory Hole
3 area?

4 A. Yes.

5 ATTORNEY BABINGTON:

6 You then walked along on an entry toward
7 --- basically along Headgate 22?

8 A. This belthead would be Headgate 22 belthead, ---

9 ATTORNEY BABINGTON:

10 Okay.

11 A. --- and then I walked down the track ---

12 ATTORNEY BABINGTON:

13 Okay.

14 A. --- and across these --- Tailgate 22's belt.

15 ATTORNEY BABINGTON:

16 Okay. So this is --- this entry is ---

17 this is the crossover --- these are the crossover
18 entries between Headgate 22 and Tailgate 22?

19 A. Yes. Their track actually runs right through
20 here.

21 ATTORNEY BABINGTON:

22 Is that the second crossover entry with

23 --- Terry, which number do you think that would be?

24 A. That would be Number Two entry.

25 ATTORNEY BABINGTON:

1 Okay. Number Two entry on the
2 crossover ---

3 MR. FARLEY:

4 Yes. Right.

5 ATTORNEY BABINGTON:

6 --- entries?

7 BY MR. FARLEY:

8 Q. Heading in a northerly direction.

9 A. Yeah.

10 ATTORNEY BABINGTON:

11 And then at that point you visited
12 Tailgate 22?

13 A. Twenty-two (22).

14 ATTORNEY BABINGTON:

15 And the face of that section?

16 A. The face of that section, took an air reading at
17 the last open break, come back out, walked across to
18 the longwall, took my air reading and methane test,
19 dated up, and walked back out to the mainline.

20 ATTORNEY BABINGTON:

21 And you followed the intake entry ---

22 A. Followed the track.

23 ATTORNEY BABINGTON:

24 --- out --- okay, out to Headgate One

25 North until you reached the Mother Belt Drive on Six

1 North belt?

2 A. Yeah. The map is kind of --- it's odd, but it
3 comes out about a break below the track --- the switch
4 down there.

5 ATTORNEY BABINGTON:

6 So this is --- what you've drawn here is
7 an approximation of what you believe to be your track
8 --- or your trail, or do you believe ---

9 A. Yes.

10 ATTORNEY BABINGTON:

11 --- that this is fairly accurate?

12 A. That's accurate. That's exactly the way I went.

13 BY MR. FARLEY:

14 Q. All right. Now, again --- now, this is during the
15 evening of April 4, 2010; is that right?

16 A. Yes, approximately 8:30 --- between 8:30 and 9:30.
17 Somewhere in that area.

18 Q. Just back up.

19 ATTORNEY BABINGTON:

20 Sorry, Terry. One more time. Can you
21 just label the date and time for this examination in
22 the blank area right here with that same highlighter?

23 A. That would be what, 4/4; wouldn't it?

24 ATTORNEY BABINGTON:

25 I believe that's right.

1 BY MR. FARLEY:

2 Q. That's correct. The evening of 4/4/2010 is what
3 you worked, from what you told me.

4 A. 8:00, 9:00, 9:30. I'm going to put 9:30 here
5 because I'm not sure exactly ---.

6 Q. Again, I want to back up. The earlier question I
7 asked you was what was your normal area of assignment,
8 and you told me that you examined the belts from 41
9 Break to the portal, which included the Four North
10 belt, the Ellis Five belt and the Ellis Four belt; is
11 that correct?

12 A. Yes.

13 Q. Now, from, let's say, March 16 through April 2nd,
14 was that your area of assignment?

15 A. No. My area of assignment was ---.

16 Q. When did --- the area of assignment you gave me,
17 Four North belt, Ellis Five belt and Ellis Four belt,
18 when did that become your area of assignment?

19 A. Three days prior to Easter.

20 Q. That would be ---?

21 A. Around 4/1, somewhere in that area.

22 Q. Okay. Now, let's back up. Let's just take it in
23 two-week segments here. All right? Let's start with
24 the middle of March. Let's say March 16 through the
25 1st of April, what was your area of assignment?

1 A. My area of assignment was ---.

2 Q. And please identify the particular belts that you
3 were assigned to examine ---

4 A. Oh, okay.

5 Q. --- in that period of time, too.

6 A. All right. I started at Seven Tail, at Headgate
7 22's head.

8 Q. Twenty-two (22) Headgate belthead?

9 A. Yes, sir.

10 Q. Okay.

11 A. I went into --- I don't know what you all call
12 these.

13 ATTORNEY BABINGTON:

14 I believe others referred to that as
15 Eight North.

16 BY MR. FARLEY:

17 Q. That's Eight North.

18 A. Eight North. And I examined these rooms.

19 Q. You examined ---?

20 A. The track. I'll just --- all this came --- the
21 track, down over and examined each one of these rooms
22 down here.

23 Q. Was this a daily exam you made in Eight North?

24 A. Yeah.

25 Q. Okay. Again, from April --- March 16 through

1 around April 1st; is that correct?

2 A. Yes.

3 Q. Okay.

4 A. And I think --- I don't know exact dates, but we
5 put permanent Kennedy stoppings up in the faces. So
6 we only had to do them once a week then.

7 Q. Now, when you say you put the Kennedy stoppings up
8 in the faces ---?

9 A. In these rooms. This room here.

10 Q. It appeared that these rooms may have been
11 advanced in by a corner for approximately how far?

12 A. Maybe 10, 12 feet.

13 Q. Requiring venti --- which would require ---?

14 A. Requiring ventilation. We had curtains up in
15 these and then we put Kennedy stoppings up in all of
16 them.

17 Q. When you say you put the stoppings up, did you put
18 the stopping up in a manner to ventilate?

19 A. Within ten feet of the face back to the center of
20 the entry, the last open cut.

21 Q. To function as like a line curtain?

22 A. As a line curtain, to go across.

23 Q. Okay. Go ahead. I'm sorry.

24 A. And I don't know --- I don't remember the exact
25 date that we put that --- completed them, but I used

1 to do it on every shift.

2 Q. But again, trying to deal with just March, the
3 middle of March, March 15 through around the 1st of
4 April, would you have examined ---?

5 A. No. They were already up then. I'm thinking
6 about the middle of March is when we put them Kennedy
7 stoppings up.

8 Q. Let's continue. The middle of March, let's say
9 March 16th, 2010 through the end of March 2010,
10 continue showing us your area of assignment, please.

11 A. Okay.

12 Q. You identified you started at 22 Headgate
13 belthead; ---

14 A. Right.

15 Q. --- is that correct?

16 A. I walked down the belt to Headgate 22.

17 Q. Okay. All right.

18 A. And I don't know where the exact feeder --- I
19 think it's about right here, a couple breaks outby.

20 Q. Okay.

21 A. And then I crossed over, I walked back up the
22 intake, which is the track entry, ---

23 Q. Okay.

24 A. --- come back up to Tailgate 22 belthead, ---

25 Q. Okay.

1 A. --- come through it, down it, belt --- to this
2 belthead sitting here on the section belt. See, I
3 don't know what they called it. We just called that
4 section belt.

5 Q. Okay. You're talking about the belthead from the
6 section coming from the one known as 22 Tailgate?

7 A. Twenty-two (22) Tailgate to the ---?

8 Q. Identified on the map as MMU-040. Okay.

9 A. And from that --- I'm sorry. From there, I walked
10 across, again, through the airlock doors to the
11 beltline.

12 Q. You're referring to the airlock doors ---

13 A. Airlock doors.

14 Q. --- that are north of the longwall panel?

15 A. North of the longwall panel. And walked over to
16 the longwall belt.

17 Q. Please continue to trace your route of travel.

18 A. I walked up their track entry until I got up to
19 the mule train and crossed in through --- I mean, I
20 went through --- I needed to go up through that door,
21 not there, go through that door over on the belt, then
22 I walked their beltline up to the Mother Drive.

23 Q. Walked the longwall belt?

24 A. Up to the head.

25 Q. To the Mother Drive?

1 A. To the head.

2 Q. Okay.

3 ATTORNEY BABINGTON:

4 Terry, could I clarify a couple things

5 real quick?

6 MR. FARLEY:

7 Sure.

8 ATTORNEY BABINGTON:

9 Okay. So one of the assignments you had

10 during this late March period was up to the Eight

11 North section?

12 A. Uh-huh (yes).

13 ATTORNEY BABINGTON:

14 Just to clarify, the mark you had went

15 --- to the belt up the entry up to ---?

16 A. The track up ---.

17 ATTORNEY BABINGTON:

18 Sorry. One second.

19 BY MR. FARLEY:

20 Q. If I understood you correctly --- the question I

21 asked was from March the 16th through April 1st. And

22 you indicated that ---

23 A. No.

24 Q. --- by the middle of March these Kennedy stoppings

25 were in place ---

1 A. Were in place.

2 Q. --- on Eight North, which means ---?

3 A. We didn't do it but once a week.

4 Q. Okay.

5 A. And I don't know ---.

6 Q. You don't recall when the Kennedy stoppings went
7 up?

8 A. The exact date, no, I don't. I don't know the
9 exact date. I know we put them up in spurts. We like
10 put two up and then we hauled more down because this
11 down here, you had to pack. From this here, we had to
12 carry them down.

13 Q. Okay. Now, if these Kennedy stoppings are up in
14 Eight North at April --- or excuse me, March 16, did
15 you continue to examine Eight North once a week?

16 A. No, sir.

17 Q. Did someone else do that?

18 A. Yes. They --- and I think it was Charlie --- I
19 can't think of his last name, but he walked the
20 intakes and the returns. That's all he did.

21 Q. Okay.

22 ATTORNEY BABINGTON:

23 So to clarify, did you examine this area
24 then in the first two weeks of March?

25 A. Maybe. I don't know. I don't know until I look

1 at some books or papers to find out when we ---.

2 ATTORNEY BABINGTON:

3 Okay.

4 A. I'd have to look at the books and see when we
5 pulled them out of the books, ---

6 ATTORNEY BABINGTON:

7 Okay.

8 A. --- the walking.

9 ATTORNEY BABINGTON:

10 But it sounds like you stopped doing
11 these before March 16th?

12 A. Yes. Somewhere in there.

13 ATTORNEY BABINGTON:

14 Okay. Could you re-mark this orange line
15 with a green line, sorry about that, and then we'll
16 have you try to --- we'll have you date this section,
17 even though you're saying it's an approximation.

18 A. See, I can't date that because I don't know
19 exactly when it is --- when I did this.

20 ATTORNEY BABINGTON:

21 Do you mind --- could you write down pre
22 3/16/2007?

23 A. Well, but would that not be --- that wouldn't be
24 true without me looking at the book and finding out
25 exactly when we put the stoppings up and removed that

1 on a daily basis. That wouldn't be right to me.

2 ATTORNEY BABINGTON:

3 Okay.

4 BY MR. FARLEY:

5 Q. Would you like to look at the book?

6 A. If you have it, please.

7 MR. FARLEY:

8 Can we ---?

9 ATTORNEY BABINGTON:

10 Let's go off the record.

11 OFF RECORD DISCUSSION

12 ATTORNEY BABINGTON:

13 For the record, the Eight North section

14 is now marked with a green highlighter. And we don't

15 have an approximate date for that, but the dates

16 should be reflected in the weekly exam books.

17 BY MR. FARLEY:

18 Q. Again, I want to go back to March 16, and I want

19 to come forward through April 2nd. Now, I have some

20 pre-shift examination of belt conveyor records here,

21 beginning on March the 16th.

22 A. Okay.

23 Q. Okay. Now, again, I want you to tell me your area

24 of assignment on March 16th through April 2nd. What

25 belts were you assigned to examine?

1 A. Seven North, Headgate 22, Tailgate 22, One and Two
2 belt. I guess that's how they numbered them.

3 Q. Okay. All right. Now, based on my reading of the
4 entries into the belt examination book for March 16,
5 March 17, March 18, March 19, March 21, March 22,
6 March 23, March 24, March 25, March 26, March 28, no
7 entry to the 27th, March 29th, March 30th, March 31st,
8 April 1st and April 2nd, now on, I think, each of
9 those days you examined --- would you have examined
10 the area of assignment you just described?

11 A. According to this, yes. On the 16th, the evening,
12 I did --- I examined the longwall belt, Headgate 22
13 Belt One and Headgate 22 Tail --- or Tailgate 22 One
14 and Two Belts.

15 Q. What entry did you make regarding the belt that
16 day?

17 A. Needs cleaned, dusted and needs a crossover put on
18 Tailgate 22, Number One belt and Tailgate 22, Number
19 Two belt needs dusted. The longwall belt needs dusted
20 from the head and drives area, what we call the Mother
21 Drives.

22 Q. Okay. Now, rather than go through each day that I
23 just named from between March 16 and April 2nd, based
24 on my reading of your examination book, the entry each
25 day indicated that at least some --- one or more of

1 the belts needed cleaned and dusted. Would that be
2 accurate?

3 A. Yes, based on what the record showed here.

4 Q. Okay. Now, was that for one particular belt each
5 day or all of them that you examined?

6 A. The records show it's about all of them that I
7 examined.

8 Q. All the belts ---?

9 A. On this ---

10 Q. Okay.

11 A. --- that we've named on the longwall, the headgate
12 and the tailgate.

13 Q. Okay. So between March 16, 2010 and April ---
14 excuse me. April 2nd, 2010, the belts you examined
15 during that period of time you entered in the book
16 each day that they needed cleaned and rock dusted?

17 A. If they needed it, yes.

18 Q. Okay. At any time during that approximate
19 two-week period, did anyone take any corrective
20 action?

21 A. Yes. I'm trying to --- the outby crew, as they
22 called it now, bull gang, outby crew, run a track
23 duster in and dusted some of the headgate belt in
24 several spots down through but did not get it all
25 done. And as I indicated, needs additional dusting as

1 I went down through.

2 Q. Was there any other time that anyone rock dusted
3 any of those belts that you examined?

4 A. I did. I mean, I did around the head with bag
5 dust, but that I can't answer completely because I
6 don't know what the section did when they were
7 running. We had what's called trickle dusters
8 running, one on a section, that blowed over on the
9 entry, over on the belt. But I can't specify whether
10 --- who did it or who didn't do it. I know they ran
11 all the time, so ---.

12 Q. Okay. But would it be fair to say that during an
13 approximate two-week period all the belts you examined
14 needed cleaned and dusted; ---

15 A. Yes.

16 Q. --- is that correct? All right. Why don't kind
17 of jump to April 2nd, which would appear to be your
18 last examination of those particular belts.

19 A. Okay. April 2nd, the hoot owl, is that what you
20 want?

21 Q. Yes. What time of day did you begin your
22 examination on April 2nd?

23 A. 3:00 a.m. to 6:00 a.m.

24 Q. Okay. Now, what belts did you examine again that
25 day?

1 A. Again, that day, the Number Seven belt.

2 Q. Was that Seven North?

3 A. Seven North.

4 Q. Okay.

5 A. And Headgate 22, the longwall, and Tailgates 22
6 and Tailgate 22 Two.

7 Q. Okay. Now, what entries did you make in the fire
8 boss book?

9 A. Needs spot cleaned and dusted on Tailgate 22, both
10 their belts. The longwall needs dusted and the
11 Headgate 22 needs added dusting, additional dusting.

12 Q. Okay. And was that typical of what you had seen
13 in the preceding two weeks?

14 A. Yes. They put them in, you know what I mean, in
15 sections because they didn't have time to dust them
16 all. I don't know. That's a question I can't answer.

17 Q. Okay. Now, I know you've been out of the industry
18 for a considerable number of years, but prior to that
19 you had 16 or 17 years as a supervisor, a mine foreman
20 and a coal miner. What was your overall impression of
21 the belts you examined at the Upper Big Branch Mine in
22 terms of the quality of the rock dusting?

23 A. We can always use more rock dust, I feel. That's
24 my personal preference, is more rock dusting. The
25 percentage of rock dusting that was on there I can't

1 answer to, but it is --- I guess according to my books
2 and my notes, it's like of what I feel that needs to
3 be done.

4 Q. Okay. You examined them and that's what you ---

5 A. Yeah.

6 Q. --- put in the books; right? Okay. All right.

7 Did you examine Seven North Headgate 22 longwall belt
8 and Tailgate 22, One and Two, after April 2nd?

9 A. Seven North, on April 2nd --- I'm looking because
10 --- you said after April 2nd?

11 Q. Yes, sir. Between then and the time of the
12 explosion on April 5th?

13 A. I only found three yet. I'm still looking.

14 Q. We know you were in the mine on April the 4th ---

15 A. Yes.

16 Q. --- to examine another part of the mine. Did you
17 have a couple days off for the holiday weekend?

18 A. Yes.

19 Q. Okay. Well, that may explain why we don't see any
20 examinations after April 2nd --- or March 2nd ---
21 April 2nd; is that correct?

22 A. Yeah. 4/3, it looks like it was John Neely and
23 --- I can't even think of his last name, Alteman, I
24 think it is, Alteman, however you pronounce it. My
25 initials are not in there anymore.

1 Q. Okay. To sum up those examinations for two weeks
2 on your area of assignment, you felt the belts needed
3 additional cleaning and dusting; correct?

4 A. Yes.

5 Q. Okay. All right. Other than the area of
6 assignment we just established here for the last
7 couple of weeks of March, did you at any time examine
8 any other parts of the UBB Mine?

9 A. No, sir, just the belt.

10 Q. Okay. What type of gas detector did you carry
11 when you were making these ---?

12 A. Solaris.

13 Q. Okay.

14 A. I think that's how you pronounce it; ain't it?

15 Q. I think so.

16 A. Solis, Solaris.

17 Q. That's how I do it.

18 A. I don't know how they pronounce it.

19 Q. Okay. What levels of methane did you detect while
20 you were making your belt examinations?

21 A. None.

22 Q. And again, let's tie it down to, let's say, the
23 middle of March through the 1st of April.

24 A. Zero.

25 Q. None at any time?

1 A. None at any time.

2 Q. You used the Solaris, one of those constant
3 monitoring devices?

4 A. Yes, sir. I turned it on and it --- when I fire
5 boss, it hangs on my bib overalls right here in front
6 of me at all times.

7 Q. Okay. All right. April 4th you examined, I
8 think, Headgate 22 section?

9 A. Tailgate 22.

10 Q. Tailgate 22 section. Beg your pardon. Did you
11 find any methane in those faces?

12 A. I'd have to look at that section book, but I don't
13 recall any.

14 Q. Okay. What about ventilation on Tailgate 22 on
15 April 4, how was that?

16 A. Ventilation was good. I mean, I can't specify the
17 air reading without the book to look at the air
18 reading. That was a long time ago. I don't --- I'm
19 old.

20 Q. Do you recall if it was in compliance?

21 A. Oh, yeah. The fly pads and everything were
22 standing out. They had to be pushed back down,
23 doubled fly pads and so forth.

24 Q. Okay. Now, before I get too far ahead of myself
25 here, the routine examination that you made in the

1 middle of March through the 1st of April, which
2 included Seven North, Headgate 22 belt, longwall belt,
3 Tailgate 22, One and Two belts, how much time did that
4 normally take?

5 A. A good three hours. Two to three hours.

6 Q. Okay.

7 A. Approximately. Some days you can make it in a
8 little bit more time and some days you're a little
9 slower, depending on how I felt that day. But I'm
10 going to say anywhere from two to three hours.

11 Q. Okay. As you were examining these belts during
12 this two-week period in the middle of March through
13 the 1st of April and when you examined the 22 Tailgate
14 section on April 4th, did you encounter any floor
15 heaving?

16 A. No, sir.

17 Q. None?

18 A. No, sir. Everything was normal.

19 Q. Okay.

20 A. Everything was normal when I walked across.

21 Q. Okay. During your examinations, since you've been
22 employed at the UBB Mine, which goes back to January
23 of this year, have you encountered situations where
24 you have found floor hooving anywhere in the mine?

25 A. Anywhere in the mine?

1 Q. Yes, sir.

2 A. Yes, over in the Eight North. Over there the
3 floor hooves. Over there, so ---.

4 Q. Okay.

5 A. I guess that's Eight North Mains is what you're
6 talking about.

7 Q. Yes. I think that's where you've indicated on the
8 map ---

9 A. Yes.

10 Q. --- with the green line.

11 A. Where we put up Kennedy stoppings and so forth.
12 The floor outby maybe --- I'm going to say the last
13 open break, maybe a little bit past this, had hooving
14 in it and water.

15 Q. Okay. And I think if I recall, you did not detect
16 any methane in Eight North; is that correct?

17 A. That's correct.

18 Q. All right. When you examined Eight North, you
19 will see on the map there's a gas well noted on --- in
20 the Eight North area before you make the turn to go to
21 the longwall scoop, make the turn to go to the Eight
22 North faces, were you ever in the vicinity of that gas
23 well?

24 A. No, sir.

25 Q. Okay.

1 A. Not that I recall.

2 Q. Were there any pumps in Eight North?

3 A. Yes.

4 Q. How many and where were they?

5 A. One pump. I'm trying to think which entry you're
6 talking. I believe it was in Six --- Five or --- it
7 was either Five or Six entry, right here.

8 Q. Okay. What kind of pump was it?

9 A. I believe --- I don't know the brand name of it.
10 I believe they called it a T70 trench pump.

11 Q. Was it electric?

12 A. Yes.

13 Q. Okay. Any other electrical equipment at Eight
14 North when you were there?

15 A. Equipment other than the D box out at the --- back
16 out at the track.

17 Q. Okay. When you say back out at the track, can you
18 give me the approximate location?

19 A. I'm thinking it's a 130 --- no. Is it 130 or 150
20 Break? I can't remember. It's right along in this
21 fall area here, whatever that break number, 160.

22 Q. Okay. All right.

23 A. Because the track stopped right there at the fall.

24 Q. Okay.

25 A. And the D Box set right at that track.

1 Q. Now, ---.

2 A. I think it was right here. Approximately right in
3 there, the D Box.

4 Q. Why don't you just draw a line out here and write
5 that in, please.

6 WITNESS COMPLIES

7 BY MR. FARLEY:

8 Q. Okay. Thank you very much, please. Was this pump
9 --- did it run constantly, as far as you know, or did
10 it run periodically?

11 A. Periodically.

12 Q. Now, periodically, would that mean --- how often?
13 Do you have any idea?

14 A. Sometimes it wouldn't --- you wouldn't have to
15 pump for three or four days, then sometimes --- you
16 know, and then you'd have to pump.

17 Q. Okay. All right. Now, I think a few moments ago
18 I asked you if you had encountered any floor hooving,
19 and you answered Eight North.

20 A. Eight North.

21 Q. In your examinations of Eight North or your
22 examinations of any other areas of the mine where
23 you've been assigned since January of this year, have
24 you encountered any scenarios where you've had methane
25 coming from the mine floor from cracks or from

1 hooving ---

2 A. No, sir.

3 Q. --- or any kind of feeder?

4 A. No, sir.

5 Q. Okay. Since you've been working at UBB, have
6 you --- did you have places in mind where you had high
7 spots or cavities in the roof along the belt anywhere?

8 A. Other than the belthead, no.

9 Q. Okay. Was it ---?

10 A. Not as I can recall.

11 Q. Were there places where you were not able to reach
12 to make a sufficient methane examination?

13 A. No, sir.

14 Q. Did you use an extendable probe at any time?

15 A. No, sir.

16 Q. Okay. What about in the vicinity of the Mother
17 Drive, how close were you --- could you get to the top
18 when you made your exam?

19 A. Well, ---.

20 Q. How high was it in that area, also?

21 A. I'm not sure about the height. I mean, I'm --- I
22 can hold it up. Whether I was right in that area ---
23 I'm not sure what the height of it is in there. I
24 know it's pretty --- it's high, but ---.

25 Q. Okay.

1 A. I'm going to say seven feet, maybe more.

2 Q. Was it possibly higher?

3 A. Possibly.

4 Q. Now, when you say seven feet or so, does that mean
5 seven feet from the highest point you can reach or
6 possibly higher?

7 A. It's possibly higher. I don't recall the exact
8 height there. I know it --- I can stand up and walk
9 pretty much anywhere in that mine.

10 Q. Okay. All right. At any time during your three
11 months plus at UBB, did anyone direct you or ask you
12 or in any way encourage you not to make entries in the
13 examination books relating to hazardous conditions or
14 MSHA violations?

15 A. No, sir.

16 Q. Do you feel that you've had adequate time to
17 examine the area you were assigned to examine?

18 A. Yes, sir.

19 Q. Okay. Do you feel like there was a reasonable
20 effort put in to correcting the conditions that you
21 recorded in the fire boss book?

22 A. Yes, sir, I do.

23 Q. Okay. The April 4th examination you made on
24 Tailgate 22, did you ever examine that section any
25 other time?

1 A. Yes, sir. On Sunday nights --- again, I'd have to
2 look at the book, but --- to give you the exact date.
3 Yes.

4 Q. Was it typical for you to be asked to do pre-shift
5 examinations on sections on a Sunday night?

6 A. On the --- from the eight o'clock --- for the
7 midnight, they had a crew up there on each section at
8 night. Normally, it just --- if one wasn't there, I
9 would do it.

10 Q. Okay.

11 A. I'll put it that way.

12 Q. Now, on this April 4th examination, you did not
13 travel across the longwall face; is that correct?

14 A. No, sir.

15 Q. Did anyone else that you know of?

16 A. There would be a guy came in at 11:30. The crew
17 came in at 11:30 to work the longwall. They have a
18 certified foreman. In fact, they have five of them.
19 And that would be on --- up to them to go from there.
20 Because I explained to them that I could not get down
21 there because of those jacks ---

22 Q. Okay.

23 A. --- being pushed up over the heads.

24 Q. All right.

25 A. I believe that would be Larry Brown --- Browning

1 or Brown is the crew --- is the foreman for that crew.

2 Q. Okay. And that would be the ---

3 A. I don't know what you call it.

4 Q. --- shift coming in at 11:30 p.m. on ---

5 A. Yes.

6 Q. --- Sunday night?

7 A. On Sunday night. On April 4th.

8 Q. Now, to your knowledge, did anybody --- did
9 anybody at all examine the longwall face before that
10 crew came in?

11 A. I have no knowledge of that.

12 Q. Okay. All right. During the three months that
13 you made examinations at UBB, at any time did you
14 discover any belt fires or any instances where the
15 belt was smoking from any type of friction?

16 A. No, sir.

17 Q. Okay. Were the belt drives and tailpieces that
18 you examined always guarded, sufficiently guarded?

19 A. Pretty --- yes.

20 Q. Okay. Were trickle dusters used at the belt and
21 tail, beltheads and tails, tailpieces?

22 A. Yes, sir.

23 Q. Okay. Now, did --- how much of an area did the
24 trickle dusters adequately cover?

25 A. Usually the trickle dusters were around the drive,

1 the head and maybe a break down the belt and coming
2 back.

3 Q. Okay. When you examined this longwall belt on
4 April 4th --- is that correct?

5 A. No. I didn't ---.

6 Q. Excuse me. I beg your pardon. The last time you
7 would have been on that longwall belt would have been
8 April 2nd; is that correct?

9 A. Yes, April 2nd on ---.

10 Q. Okay. Would you have been walking in the outby
11 direction when you made your examination?

12 A. Yeah.

13 Q. Which way was the air moving on the longwall belt?

14 A. I believe it was moving inby.

15 Q. Heading toward you?

16 A. Yes.

17 Q. Did you ---?

18 A. Inby, towards the longwall head.

19 Q. Did you happen to measure the velocity?

20 A. No, sir.

21 Q. Did it seem strong?

22 A. Only at the airlock doors. I mean, you know, you
23 can tell --- normal coming down the beltline, you can
24 tell --- like you just feel a little movement,
25 but ---.

1 Q. Okay. At any time you're examining any of the
2 conveyor belts at UBB this year, ---

3 A. Uh-huh (yes).

4 Q. --- you ever experience any burning sensation in
5 your eyes?

6 A. No, sir.

7 Q. Okay.

8 MR. FARLEY:

9 Can we take a short recess?

10 ATTORNEY BABINGTON:

11 We'll take a break. Off the record.

12 SHORT BREAK TAKEN

13 ATTORNEY BABINGTON:

14 Let's go back on the record.

15 BY MR. FARLEY:

16 Q. Mr. Skaggs, let me back up and cover a couple
17 bases I forgot to ask about. Where and when did you
18 originally take your assistant mine foreman
19 examination? Now, I know that goes back a while. Do
20 you remember?

21 A. Yeah. I don't --- I can't even recall the name of
22 the town. Down on 60, Route 60, right below ---.

23 Q. Would that have been the --- was that in Kanawha
24 County?

25 A. Yes.

1 Q. Would that have been the Houston office?

2 A. Houston, that's it. I couldn't remember what they
3 called that down there. That's so far back.

4 Q. I think you indicated in your pre-shift
5 examination of Tailgate 22 on April 4 that there was
6 some water in the return. Do you recall that?

7 A. Yes.

8 Q. How deep was the water and do you think it may
9 have had any impact on ventilation?

10 A. No. The water was --- if I recall right, it was
11 probably just above my ankles.

12 Q. Okay.

13 A. Somewhere in that area. If I recall it right.

14 Q. Okay. All right. Another question or two. Since
15 you've been --- you were employed at UBB from January
16 through April 5th, are you aware of any major
17 ventilation changes at any time during that period?

18 A. No, sir.

19 Q. Okay.

20 A. I know they were constantly working on
21 ventilation, but changes, I don't know.

22 Q. Okay. Now, in your travels from Ellis Portal into
23 the mine and through your areas of assignment, did you
24 encounter doors?

25 A. Doors?

1 Q. Yes.

2 A. Oh, yes, sir. That's the most --- that's the only
3 coal mine I ever seen had so many doors.

4 Q. Did it seem unusual to you?

5 A. It did to me, but --- there were a set just inside
6 the bottom of the hill and a set below the Mother
7 Drive.

8 Q. Okay. Did you occasionally or frequently find
9 these doors apparently left open?

10 A. No, sir.

11 Q. Not at any time?

12 A. No.

13 Q. Okay. Prior to this interview today, have you
14 been interviewed by anyone else regarding the UBB
15 explosion?

16 A. Just Massey's attorney.

17 Q. Okay. Do you recall when the interview took
18 place?

19 A. About two weeks ago, approximately.

20 Q. Did they offer you any instructions or advice or
21 directions regarding how you should answer when
22 interviewed by the agencies?

23 A. No, sir. They pretty much asked me the same
24 questions you're asking, ---

25 Q. Okay.

1 A. --- what was my travels.

2 Q. When you reported to work on April 4th to do your
3 exam, were any of the upper management people from
4 Performance on the property at the time that you can
5 recall --- that you can identify?

6 A. I can't recall whether they were --- upper
7 management, you mean superintendent, mine foreman, so
8 forth?

9 Q. Superintendent, president, vice-president, chief
10 operating officer, anybody ---.

11 A. I have no clue who the president is or the
12 vice-president, ---

13 Q. All right.

14 A. --- but no.

15 Q. That's fine.

16 MR. FARLEY:

17 I don't think I have anything else right
18 now.

19 EXAMINATION

20 BY MR. BECK:

21 Q. John, before you'd go in the mine, would you look
22 at any of the other fire boss reports ---

23 A. Yes.

24 Q. --- from previous shifts?

25 A. Yes, sir.

1 Q. Would you say that what was entered into the books
2 accurately reflected what was in the mine?

3 A. Pretty much, yes.

4 Q. Do you know who countersigned the books?

5 A. Terry Moore.

6 Q. Do you recall his job?

7 A. I believe he was the mine foreman on dayshift.
8 That's the only time I ever seen him was dayshift.

9 Q. Were they kept up pretty close as far as being
10 countersigned?

11 A. Yes. I think he countersigned every morning.

12 Q. Did anyone in management ever dispute any of the
13 entries you put in the book or question you about
14 them?

15 A. No, sir.

16 Q. To your knowledge, was the mine always fully
17 pre-shifted? Was there any times that maybe you heard
18 that, well, the pre-shift wasn't completely done, but
19 the men entered the mine anyway?

20 A. Not to my knowledge.

21 Q. When you made entries in the fire boss book about
22 belts needing cleaned and dusted, do you recall if the
23 next fire boss carried them over? Were they carried
24 until that situation was corrected, that type of
25 entry?

1 A. Pretty much the best I can tell they were done.

2 Everybody was carried --- just carried it over until
3 they were completed.

4 Q. Okay. Were there any date boards in the mine?

5 A. Everywhere.

6 Q. What were they made of?

7 A. Pieces of belt.

8 Q. So would it be pretty easy to find the fire boss
9 dates for like a 24-hour period?

10 A. On the beltlines, yes.

11 Q. What about on the sections?

12 A. I have no idea about sections. The only section
13 I've ever done was the tailgate, and I always used
14 spray paint and painted it on the top or on the rib.

15 Q. Do you recall if that's how the foreman on the
16 section did it, too?

17 A. I believe so.

18 Q. So when it was rock dusted, it was gone?

19 A. Pretty much, yes.

20 Q. Okay. When you took air readings, for example, on
21 the section you went on, ---

22 A. Uh-huh (yes).

23 Q. --- did you ever notice any fluctuations in your
24 air readings to the point where it concerned you, like
25 you know, this is a lot different than it was

1 yesterday or ---?

2 A. No. If I recall, the most --- you know, it would
3 fluctuate maybe a couple hundred, you know.

4 Q. But nothing major?

5 A. Nothing major that would ---

6 Q. Okay. And when you were interviewed by the Massey
7 attorney about two weeks ago, was anybody from
8 management present during your interview?

9 A. No, just two attorneys.

10 MR. BECK:

11 That's all I have.

12 MR. FARLEY:

13 Go ahead. I don't think I have anything
14 else right at the moment.

15 EXAMINATION

16 BY MR. VANCE:

17 Q. John, on behalf of us I want to thank you for
18 being here. But starting out, I want to take you back
19 before you worked at UBB. You said you had some
20 training?

21 A. Uh-huh (yes).

22 Q. When was that prior to you going to UBB?

23 A. A few months.

24 Q. A few months?

25 A. Yeah.

1 Q. Did you get any training from Massey prior to
2 going to UBB?

3 A. Yes. I got two eight-hour days of orientation.

4 Q. Two eight-hour days of orientation.

5 A. That consisted of hazardous training, maps and
6 just different things, spotters.

7 Q. The day you --- the first shift you worked there
8 at UBB, ---?

9 A. Excuse me?

10 Q. The first shift that you worked, you said January
11 2nd. Does that clarify it?

12 A. Yeah, in that area.

13 Q. That first day you showed up for work, what did
14 you do?

15 A. I walked the airways with --- I can't think of the
16 guy's name that walked me down that now, and then went
17 over the map with Everett, the superintendent, over
18 the escapeways and so forth and all this and where the
19 SCSR boxes are and so forth.

20 Q. Did you travel to any sections?

21 A. No.

22 Q. Did you go to the longwall?

23 A. No, sir.

24 Q. Okay. To clarify, you said your shift started at
25 6:00 p.m. to 6:00 a.m.?

1 A. Yes, sir.

2 Q. How many fire boss drives did you make in that
3 four-hour period?

4 A. Two.

5 Q. Two. The transportation, did you walk from Ellis
6 Portal to your area of responsibility?

7 A. No. We took a mantrip, battery-operated mantrip.

8 Q. Mantrip?

9 A. Jeep is what it was.

10 Q. And you traveled --- you had to travel through the
11 doors?

12 A. Yes, sir.

13 Q. And did you ever find any doors open?

14 A. No, sir.

15 Q. Was there any doors within the doors at any
16 location along these --- along your route, have a
17 little door in between?

18 A. Oh, the man ---?

19 Q. The man doors?

20 A. Man doors?

21 Q. Yeah.

22 A. I don't believe so. I may be wrong, but I don't
23 believe so.

24 Q. Approximately, what time would you --- tell me
25 when you got to Seven North there, what was your first

1 duties?

2 A. My first duties ---

3 Q. Uh-huh (yes).

4 A. --- at Seven North? I usually looked around right
5 there and checked the battery chargers and phone, the
6 power centers.

7 Q. Approximately, what time would you get there?

8 A. Between 7:30, eight o'clock.

9 Q. 7:30 and 8:00. You gave us a route of travel that
10 you identified here on a map going up the Seven North
11 belt to the 23 Tailgate section across the longwall;
12 right?

13 A. Yes, sir.

14 Q. Did you walk the same entry all the way up the
15 track entry or belt entry up when you did ---

16 A. On --- specify ---.

17 Q. --- your walk?

18 A. On Sunday or my normal walk?

19 Q. On your normal walk. On your normal walking, ---

20 A. Yes.

21 Q. --- before ---.

22 A. Yes, I crossed over pretty much the same entry,
23 walk up, come through the man door and up the
24 beltline.

25 Q. Was the track and the belt the same entry?

1 A. No, sir.

2 Q. Did anybody walk the track that you know of
3 through your shift?

4 A. Not through my shift, that I know of.

5 Q. Was there any electrical installations along your
6 route of travel?

7 A. That mule train sits right in the longwall.

8 Q. Was there any pumps, any chargers, trickle
9 dusters?

10 A. When you got up here to the head, they were ---
11 this area right here had two trickle dusters.

12 Q. Can you mark them? Here's a pen if you want to.

13 WITNESS COMPLIES

14 A. Belthead, the trickle duster was in this break
15 right here. There were actually two right here. One
16 went on the longwall belt, one went over on the Seven
17 North belt or down the Seven North belt or Six North.

18 BY MR. VANCE:

19 Q. Just put a two there,

20 ATTORNEY BABINGTON:

21 For the record, the witness is marking

22 trickle dusters on what appears to be 103 Break, Six
23 North belt.

24 A. Yes.

25 BY MR. VANCE:

1 Q. Was there any like starter boxes along the way,
2 distribution boxes, along your route of travel?

3 A. They were --- I'm going to take it this is the
4 track, the yellow?

5 Q. Yeah.

6 A. On the track outby the head here would have
7 been --- yeah, it would be right here in this break.
8 I'm thinking that's the approximate, Number One or Two
9 breaks out. There are two power centers. I'll just
10 put PC. And on this side, the head is here and there
11 was a power center here. And then I believe it's in
12 the same break as the duster. No, I believe it was
13 down below there was a power --- belt starter box
14 here, on Six North.

15 ATTORNEY BABINGTON:

16 For the record, the witness has marked
17 two power centers on what appear to be the One and Two
18 Break, one power center on the 101 Break, and a
19 starter box on the 104 Break, all on the Six North
20 belt.

21 A. But you have to understand, all this is open right
22 here. It's all --- yeah, I can stand here and see
23 this belt head, this power center and all of it right
24 here together.

25 BY MR. VANCE:

1 Q. Any more along your route of travel?

2 A. If you came down where this duster is there is a
3 --- what do you call that, hydraulic takeup.

4 Q. Okay. Electric pumps are they ---?

5 A. No, they're not. No.

6 Q. Fire box up here in the area of 23 Tailgate and
7 the longwall, fire boxes, distribution boxes.

8 A. All the longwall is on --- is what is on, again,
9 that mule train.

10 Q. That mule train, okay.

11 A. Then that ---.

12 Q. Twenty-three (23) Tailgate there outby, was there
13 any pumps or belt chargers, scoop chargers or anything
14 there?

15 A. There was --- I'm trying to find the belt head.
16 Here it is. There were chargers here, right in this
17 break right here. And there was a power center
18 standing right here in this break. I guess that's
19 the --- I'm saying power center, but it's the --- to
20 start the belt.

21 Q. Fire box.

22 A. Yeah. Thank you. Couldn't remember the name.

23 ATTORNEY BABINGTON:

24 For the record, the witness has marked

25 these two areas at just about the mouth of the

1 Tailgate 22. And also to clarify, Jerry, in two
2 questions you mentioned Tailgate 23. Were you
3 referring to Tailgate 22?

4 MR. VANCE:

5 Twenty-two (22), yeah. I wanted to
6 clarify that.

7 BY MR. VANCE:

8 Q. Was there any pumps outby the longwall mule train
9 or in the track entry?

10 A. Not to my knowledge.

11 Q. Not to your knowledge. You mentioned at the
12 Mother Belt there, it was pretty high there?

13 A. Yes, sir.

14 Q. Could you get a methane reading within 12 inches
15 of the roof? Could you reach within 12 inches up?

16 A. At the actual head, yes. The actual head, yes.
17 Between the track and this area right here, no. But
18 right here, yes. There's about a break there up high.

19 Q. The belt head, you could reach, but you had 12
20 inches at the top?

21 A. I believe so, yeah.

22 Q. Okay.

23 A. I never measured it exactly, so ---.

24 Q. On your electrical boxes, did you go to each one
25 of them and check the air at them, methane at them,

1 how the air was pulling?

2 A. Yes. I never took an air reading, no, at each
3 power center.

4 Q. Did you check the direction of airflow, ---

5 A. They were ---.

6 Q. --- which way it was going?

7 A. This track was pretty much going inby and
8 everything. Everything was on the track.

9 Q. Did you date up to these ---?

10 A. Yes.

11 Q. You said you went up and went to the longwall
12 tailgate there. The intake crossed over to your
13 bleeder system. You just went to the tailgate. You
14 couldn't go across; is that right? Is that ---?

15 A. I was at the headgate.

16 Q. Headgate?

17 A. Right. They were --- they had jacks covering the
18 belt.

19 Q. Okay. That's as far as you went, to the headgate?

20 A. Yes.

21 Q. And you took some readings in the fire box.

22 Could you tell me how you got them at Break Number
23 Nine here, a reading of 738 cfm?

24 A. Break Number Nine?

25 Q. Uh-huh (yes).

1 A. I don't know if it's specified break.

2 Q. Shield Number Number Nine.

3 A. Shield Number Nine?

4 Q. Yeah, Shield Number Nine.

5 A. No, I don't know how I got that.

6 Q. You had one at 160, a reading there at 587.

7 ATTORNEY BABINGTON:

8 Would you like to see the copy of

9 the ---?

10 A. Yes, I would.

11 WITNESS REVIEWS DOCUMENT

12 A. I don't know how that got in there. The intake at
13 53, I can get, but the rest I don't understand.

14 BY MR. VANCE:

15 Q. Did you fill a fire boss report out?

16 A. Yes, I did. No, I'm sorry. I did not either.
17 This is on the 4th. I called this out to Larry
18 Browning.

19 Q. Called it out to Larry Browning?

20 A. Uh-huh (yes).

21 Q. Can you identify who Larry Browning is?

22 A. He is a --- I guess he's a section boss, crew
23 boss, move boss, whatever it is, on the longwall.

24 Q. Do you feel that you --- I'm going to clarify this
25 before I ask this question. Do you feel that you have

1 enough time to do a proper and complete pre-shift in
2 the amount of time that you're given?

3 A. Yes.

4 Q. Do you know what their eight-hour schedule was
5 pre-shift is or eight-hour intervals?

6 A. Eight-hour intervals?

7 Q. Uh-huh (yes).

8 A. Do I know what they are?

9 Q. Uh-huh (yes).

10 A. Three hours prior to the shift coming on, is that
11 what you're talking about? I'm missing your point.

12 Q. It's eight hours --- the regulations says that
13 they'll establish an eight-hour interval for every 24
14 hours for fire boss report.

15 A. Okay. I usually did them at eight o'clock at
16 night, between 8:00 and, you know, 11:00 and 3:00 to
17 6:00 in the morning.

18 Q. So to clarify, you don't know what the eight-hour
19 intervals that the operator set up for the mines for
20 the pre-shift to be completed in?

21 A. No.

22 Q. Okay. Did management ever go with you to do a
23 pre-shift to see if you were doing it correctly or
24 not?

25 A. No.

1 Q. Do you feel you know the regulations to do an
2 adequate pre-shift?

3 A. Yes.

4 Q. Did the company ever give you any training how to
5 do a pre-shift?

6 A. The company? No.

7 Q. Hazardous conditions, did you ever write any in
8 the books?

9 A. Did I ever write any in the books?

10 Q. Yeah. Did you ever report hazardous conditions
11 besides dust and ---?

12 A. Dust and --- I can't recall. I believe I did, but
13 it's on --- I believe I reported a rib roll on Seven
14 belt.

15 Q. In your book there you keep saying, you know,
16 needs dusted, needs dusted, needs dusted. Could you
17 identify what the color was on your --- to make it
18 need to be dusted? What was the color that you was
19 looking at to say that it needed to be dusted?

20 A. Kind of a --- certain areas were black. Some
21 were --- most of it were cream colored. Just needed
22 to update the dust is what I was specifying.

23 Q. What was some of the areas that you was ---?

24 ATTORNEY BABINGTON:

25 Sorry, Jerry, to interrupt. We're just

1 going to take a quick five. Off the record.

2 SHORT BREAK TAKEN

3 BY MR. VANCE:

4 Q. John, I was asking you there about the coal and
5 the rock dust when you started ---

6 A. Uh-huh (yes).

7 Q. --- and you clarified, you said in some places it
8 was black, some places it was milky?

9 A. Yes.

10 Q. Would you identify some of the places on the map
11 where you found that it was black --- or tell us ---
12 just tell us. You don't have to put it on a map.
13 Tell us where you ---.

14 A. Usually down the beltline, you know, maybe ---
15 say, from the section maybe it will be like four or
16 five breaks, you know, it would be kind of
17 milky-looking coal --- you know, got dust on it,
18 black-looking dust. I don't know how ---.

19 Q. Did you find it on your belt drives, your belt
20 rails like that?

21 A. No, usually just in the ribs and stuff, you know,
22 or floating around, that's all, right there. Then the
23 feeder isn't ---.

24 Q. But did you ever see any black on top of your flat
25 rock, black ---?

1 A. No.

2 Q. Getting back to what you said a while ago, ---.

3 ATTORNEY BABINGTON:

4 Jerry, do you mind if I proceed with this
5 part?

6 MR. VANCE:

7 Go ahead.

8 ATTORNEY BABINGTON:

9 Okay.

10 EXAMINATION

11 BY ATTORNEY BABINGTON:

12 Q. If you could take a look at this again. Now, just
13 to kind of go over this again, now you said on the 4th
14 you did not travel on the longwall face?

15 A. No, I did not.

16 Q. Because you said there were jacks blocking the
17 way?

18 A. Yes, sir.

19 Q. Okay. Yet on this particular form, which is a
20 copy of the --- of your examination or report of your
21 examination, it lists air measurements for the Nine
22 Shield and the 160 Shield on the longwall face.

23 A. Yes.

24 Q. Did you, yourself, record those?

25 A. No, I did not.

1 Q. Is this your signature down at the bottom?

2 A. Yes, sir, it sure is.

3 Q. Okay. Now, you mentioned before also that you
4 said you called the 53 Number out, which was the ---
5 that was the location of the intake?

6 A. The intake.

7 Q. Okay. But you're saying you did not call out
8 those other numbers?

9 A. No, sir, I did not.

10 Q. At the top of the form it says was this report
11 phoned outside, and it's checked no. And it says, by
12 whom, and it says brought out.

13 A. But it's also got a mark on it that says yes, too.

14 Q. Well, it looks like a dot and a slash, but there's
15 an X mark at the no. Can you account for why --- I
16 mean, even if both yes and no are checked, it still
17 says brought out.

18 A. Right.

19 Q. Can you account for that?

20 A. No, I cannot.

21 Q. Now, you said you called out to --- who did you
22 call out to?

23 A. Larry Browning.

24 Q. You said he was the section foreman?

25 A. He is the crew chief up there on the maintenance

1 crew for the longwall.

2 Q. Okay. Whose signature is down here, assistant
3 foreman, next to your signature?

4 A. That looks like his.

5 Q. Okay. But you can't explain how those numbers for
6 the Nine Shield and the 160 Shield and the MPA and MPB
7 found their way on this form?

8 A. No, I cannot because I told him that the shields
9 were over the head --- over the tail of the belt so I
10 could not go down there.

11 Q. Okay.

12 A. I dated up on a crib right there and took my air
13 reading right there.

14 Q. All right. Do you recall signing this after those
15 numbers were written on the form?

16 A. No, I do not.

17 Q. Do you recall signing your name without those
18 numbers being filled in?

19 A. I signed my name with the 53 on it.

20 Q. So you're saying those --- the other numbers were
21 filled in after you signed it?

22 A. I did not put them on there, and I have no reckon
23 how they got there. I cannot specify how they got
24 there or whatever. I know I did not put them on
25 there.

1 Q. Okay.

2 ATTORNEY BABINGTON:

3 Terry, do you have any other questions?

4 MR. FARLEY:

5 I don't think so.

6 ATTORNEY BABINGTON:

7 Jim?

8 MR. BECK:

9 No.

10 ATTORNEY BABINGTON:

11 Jerry, do you have any more?

12 RE-EXAMINATION

13 BY MR. VANCE:

14 Q. Do you want to offer any information that we
15 haven't asked you here?

16 A. I have no other information other than what I did
17 that night. There was two crews in after me. I
18 really don't know what's up. I understand what you're
19 trying to go at is to find two days past, but there
20 was two crews in after me. And if I understand the
21 law right, they should have been taking air readings
22 and gas tests every two hours prior. Am I right? You
23 made me feel here just a few minutes ago that you're
24 accusing me of doing something wrong. And I didn't do
25 it, so ---.

1 ATTORNEY BABINGTON:

2 Well, there's a --- I mean, I think, from

3 our perspective, there's a --- what appears to be a

4 discrepancy on the form based on your testimony, ---

5 A. I agree.

6 ATTORNEY BABINGTON:

7 --- and we're just ---

8 A. I agree.

9 ATTORNEY BABINGTON:

10 --- trying to find out the reason for

11 that discrepancy.

12 A. But you're also making me feel as --- to the point

13 of you're accusing me and going to say this is my

14 fault, this accident.

15 ATTORNEY BABINGTON:

16 We're not saying --- we're not trying to

17 say that at all.

18 A. Okay. Because like I said, there's two crews

19 after me, and they should have --- including the one

20 --- I hate to say it, but including the one that

21 perished. They were there eight hours or running

22 coal ---.

23 ATTORNEY BABINGTON:

24 Yeah, we in no way meant to imply

25 that ---

1 A. Okay.

2 ATTORNEY BABINGTON:

3 --- you caused anything with this. We
4 are just following up on some issues with this
5 particular point.

6 A. Because there's no lump of coal worth a man's
7 life.

8 MR. FARLEY:

9 Based on your statement and the entries
10 in the books, we had to clarify ---

11 A. Uh-huh (yes).

12 MR. FARLEY:

13 --- and explain ---.

14 A. I understand.

15 (Skaggs Exhibit One marked for
16 identification.)

17 ATTORNEY BABINGTON:

18 We marked on one map. I think this is
19 the Bandytown fan map. And that's labeled Skaggs One,
20 and that will be placed on the record for the
21 interview.

22 On behalf of MSHA and the Office of
23 Miners' Health, Safety and Training, I want to thank
24 you for appearing and answering questions today. Your
25 cooperation is very important to the investigation as

1 we work to determine the cause of the accident. We
2 request that you not discuss your testimony with any
3 person, aside from a personal representative. After
4 questioning other witnesses, we may call you if we
5 have any follow-up questions. If at any time you have
6 additional information regarding the accident that
7 you'd like to provide to us, please contact us at the
8 contact information previously provided to you.

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

13 A. I have nothing else. I've said what I need to
14 say.

15 ATTORNEY BABINGTON:

16 Okay. Thanks. And again, I want to
17 thank you for your cooperation in this matter.

18 A. You're welcome.

19 ATTORNEY BABINGTON:

20 Off the record.

21 * * * * *

22 CONFIDENTIAL STATEMENT UNDER OATH

23 CONCLUDED AT 6:45 P.M.

24 * * * * *

25

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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