

1 **WEST VIRGINIA MINE SAFETY AND HEALTH**
2 **ADMINISTRATION**

3
4
5 **IN THE MATTER OF:**

6 **THE INVESTIGATION OF THE**
7 **APRIL 5, 2010 MINE EXPLOSION**
8 **AT UPPER BIG BRANCH MINE.**

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15 The interview of JOHN P. SKAGGS, SR., taken
16 upon oral examination, before Jenny Marmol, Court
17 Reporter and Notary Public in and for the State of
18 West Virginia, Tuesday, March 1st, 2011, at the
19 Mine Academy, 1301 Airport Road, Beaver, West
20 Virginia.

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1 MR. KOERBER: My name is Barry Koerber.
2 I'm an Assistant Attorney General, and I'm assigned
3 to represent the West Virginia Office of Miners'
4 Health, Safety and Training.

5 Beginning at my left and on the left side
6 of the table, I would ask that the people of the
7 Accident Investigation Teams identify themselves
8 and who they're with.

9 MR. O'BRIEN: John O'Brien, with the
10 Office of Miners' Health, Safety and training.

11 MR. JARRELL: Danny Jarrell, West Virginia
12 Office of Miners' Health, Safety and Training.

13 MR. GODSEY: John Godsey, MSHA.

14 MS. HAMPTON: Pollyanna Hampton,
15 Department of Labor Attorney.

16 MR. BECK: Jim Beck, With the Governor's
17 Independent Team.

18 MR. KOERBER: We also have a court
19 reporter here from Johnny Jackson & Associates.

20 Johnny Jackson & Associates is a court
21 reporter firm in Charleston, West Virginia.

22 For her benefit, I would ask that instead
23 of saying "uh-uh" and "uh-huh," you say "yes" and
24 "no," so that she can type it in better.

1 And I'm going to ask that you wait until
2 the interviewer finishes their question before you
3 begin to answer, and I'm going to ask the
4 interviewers to please allow you to finish your
5 answer before they begin the next question, so we
6 don't have people speaking over one another.

7 Johnny Jackson & Associates is working
8 under a three-day turnaround, as far as from when
9 the words are spoken here to when they're typed
10 onto paper. Which would mean that come Monday
11 morning of next week, the transcript will be ready
12 for review.

13 If you desire to review your transcript,
14 you can call Johnny Jackson & Associates firm at
15 the number here on the card and schedule a time
16 where you would go into their office and they'd put
17 you a conference room, so that you'd have privacy,
18 and you would be given an errata sheet where you
19 could make corrections, if you find any place in
20 the transcript that needs corrected. That is your
21 right. You can do it.

22 We would ask that you try to schedule --
23 make your phone call and schedule something within
24 a couple weeks. Don't wait three months and then

1 call, try to do it relatively soon.

2 That is your choice. You're not required
3 to do that, but if you would like to do that, I'll
4 give you the business card here in a moment.

5 Also, I want to mention that if, for any
6 reason whatsoever, you want to take a break, just
7 say so. We'll just take a break, go to the
8 restroom, get a drink of water, whatever.

9 We would ask that you not discuss your
10 interview with people outside of this interview
11 room just to protect the integrity of the
12 investigation.

13 Polly may have something that she would
14 like to add at this time, and, if so, she could add
15 it.

16 MS. HAMPTON: Yes. Before we got started
17 and went on the record, I handed you a letter. Did
18 you have a chance to review that letter?

19 THE WITNESS: Yes.

20 MS. HAMPTON: And do you have any
21 questions for me?

22 THE WITNESS: No, not at this time.

23 MS. HAMPTON: I would just like to point
24 out that there's contact information for Norman

1 Page, who is the lead investigator for the MSHA
2 Accident Investigation Team.

3 If you leave here today and you realize
4 there's some other information you wish you had
5 given us, or anything else that you feel is
6 important, feel free to contact us.

7 THE WITNESS: Okay.

8 MR. KOERBER: I would ask the court
9 reporter to administer the oath.

10 JOHN P. SKAGGS, SR., DEPONENT, SWORN

11 MR. KOERBER: Sir, would you please state
12 your full name for the record and spell your last.

13 THE WITNESS: John Paul Skaggs, Sr.,
14 S-k-a-g-g-s.

15 MR. KOERBER: And your address and
16 telephone number.

17 THE WITNESS: It is (b) (7)(C) ,

18 (b) (7)(C)

19 MR. KOERBER: And are you expecting an
20 attorney to be here with you today?

21 THE WITNESS: No.

22 MR. KOERBER: Are you appearing here today
23 as the result of receiving a subpoena?

24 THE WITNESS: Yes.

1 MR. KOERBER: This is a copy of that
2 subpoena. Please take a look at it.

3 I'm going to ask that that be Skaggs
4 Exhibit 1.

5 (Exhibit No. 1 marked for
6 identification.)

7 MR. KOERBER: This document you haven't
8 seen before. This is the Affidavit of Service,
9 where the process server swears that he served
10 (b) (7)(C) on the 23rd day of February, 2011
11 at the (b) (7)(C) address.

12 THE WITNESS: That's the wrong number.

13 MR. KOERBER: Okay.

14 THE WITNESS: It's (b) (7)(C) not (b) (7)(C) .

15 MR. KOERBER: (b) (7)(C) .

16 THE WITNESS: Uh-huh.

17 MR. KOERBER: Okay. Do you want to look
18 at that any more?

19 THE WITNESS: No. That's my daughter.

20 MR. KOERBER: Okay. I would like that to
21 be Skaggs Exhibit No. 2, please.

22 (Exhibit No. 2 marked for
23 identification.)

24 MR. KOERBER: We also have another

1 gentlemen sitting at the able. At this time, I
2 would ask that he identify himself, his firm, and
3 who he represents.

4 MR. ALLEN: Robert B. Allen, the firm of
5 Allen, Guthrie & Thomas, represent the company.

6 MR. KOERBER: Okay. And, Mr. Skaggs, as
7 of April 5th, 2010, what was your job title at
8 UBB?

9 THE WITNESS: Fire boss.

10 MR. KOERBER: And we have two other
11 gentlemen in the back of the room that I would ask
12 that they identify themselves and who they are
13 with.

14 MR. CRIPPS: Dean Cripps, with MSHA.

15 MR. HESS: Leland Hess, with MSHA.

16 MR. KOERBER: Mr. Skaggs, I'm also going
17 to give you two other items along with the Johnny
18 Jackson business card that I mentioned earlier.

19 I'm going to give you Bill Tucker's
20 business card. Bill Tucker is the lead
21 investigator for the Office of Miners' Health,
22 Safety and Training.

23 If you think of anything after the
24 interview that you think would be helpful to the

1 investigation and need to contact somebody, please
2 contact Mr. Tucker.

3 I'm going to give you the Johnny Jackson
4 business card, like I mentioned earlier, and I'm
5 also going to give you a memorandum containing the
6 address for the West Virginia Board of Appeals,
7 which is the administrative agency that hears cases
8 involving coal miner discrimination.

9 West Virginia Code 22A-1-22 protects coal
10 miners from being discriminated against for
11 participating in interviews such as this.

12 If you find that you have been
13 discriminated against, you need to file your
14 complaint with this agency at this address.

15 The complaints do not have to be
16 elaborate. A handwritten letter explaining what
17 happened will work.

18 I would caution you, though, that the
19 statute only allows a 30-day time period after the
20 discriminatory event to file the complaint.

21 I will give you these three items now.

22 And with that, I would ask Mr. Jarrell to
23 begin the interview.
24

EXAMINATION

1
2 BY MR. JARRELL:

3 Q. Mr. Skaggs, again, my name is Dan Jarrell,
4 and on behalf of the West Virginia Office of
5 Miners' Health, Safety and Training, we would like
6 to say we appreciate you coming in today.

7 I have a few questions I would like to
8 start with. Sir, can you begin by telling us, on
9 April the 4th when you arrived at the mine, again,
10 what was your job title at that time?

11 A. Fire boss.

12 Q. And what -- a fire boss for the whole mine
13 or belts?

14 A. At that time it was, I guess, call it
15 north mains or headgate, tailgate. Not the whole
16 mines because UBB and Ellis portal, I came out of
17 Ellis portal, they connect together in there.
18 There's fire bosses on the left side and then three
19 of us on the right.

20 Q. And what was your shift under your normal
21 shift?

22 A. 6:00 in the evening to 6:00 in the
23 morning.

24 Q. Okay. And on April the 4th, Mr. Skaggs,

1 what time did you arrive at the mines that day?

2 A. Approximately about a quarter after 5:00.

3 Q. Was there anyone else that arrived at the
4 mines with you at that time?

5 A. Yes, two other fire bosses.

6 Q. Could you give me their names, sir?

7 A. John Neely (phonetic) and John -- I can't
8 think of his last name.

9 Q. Now, was they also to fire boss on the
10 same side of the mine, your Ellis side?

11 A. Yes.

12 Q. Do you recall what they was supposed to
13 have fire bossed in there?

14 A. John Neely done the headgate section -- I
15 can't remember the other John's name, he done the
16 north main side, and I done the tailgate side.

17 Q. Okay. When you arrived at the mines,
18 Mr. Skaggs, was there a dispatcher on duty at the
19 time?

20 A. Yes.

21 Q. Do you recall his name?

22 A. No. The dispatcher was over on UBB side.
23 We just communicated through radio.

24 Q. Okay. So when you got to the mine, you

1 let him know when you started underground?

2 A. Yes.

3 Q. Okay. What was your last shift prior to
4 April the 4th?

5 A. I believe it was when I came out Friday
6 morning, I believe. It was either Friday or
7 Thursday, the best I can remember.

8 Q. So Friday morning was at 6:00 a.m. --

9 A. Yes.

10 Q. -- was your last shift?

11 And then you came back to work --

12 A. Sunday, Easter Sunday the 4th.

13 Q. On the 4th. When you left the mines on
14 your last shift that week, did you know then that
15 you would be fire bossing that evening of the 4th?

16 A. Yes.

17 Q. You did know. And at what time during
18 your last shift did you find that out?

19 A. After just my normal shift. Prior to that
20 it was my normal days off and then I came in.

21 Q. Let me rephrase that. On Friday, you said
22 Friday was your last shift, did anyone tell you
23 that when you come back Sunday evening, that they
24 wanted you to fire boss a certain part of the mine?

1 A. Yes. I mean, not a certain part, but the
2 Ellis side of the mine, I guess.

3 Q. Did anyone at that time say they wanted
4 you to a fire boss the longwall?

5 A. No.

6 Q. Who was the one that gave you directions,
7 what they did want you to fire boss?

8 A. That would be Everett Hager, which was the
9 superintendent.

10 Q. And what did he say to fire boss at that
11 time? What was your job instructions for that
12 evening?

13 A. To come in that evening, fire boss the
14 KVAs, the headgate, tailgate for the midnight crew
15 to come in.

16 Q. And you had no problem with doing that?

17 A. No, that was just my normal day.

18 Q. Mr. Skaggs, have you ever before fire
19 bossed at a longwall prior to that?

20 A. No.

21 Q. You had never before?

22 A. No.

23 Q. Have you ever worked on a longwall?

24 A. No.

1 Q. Would you say that you had, as a fire
2 boss, as a person who has showed competency through
3 the State to receive a mine foreman certification,
4 would you say that you had enough knowledge and
5 experience to fire boss a longwall?

6 A. Yeah, I'd say. Yes.

7 Q. Okay. And you would know all the fire
8 boss responsibilities that goes along with it?

9 A. With the longwall?

10 Q. Yes, sir.

11 A. No, not all of them.

12 Q. Have you ever told -- when you got to the
13 mines that day, who told you to fire boss the
14 longwall?

15 A. No one.

16 Q. No one told you?

17 A. We took -- the guy that was supposed to
18 fire boss was running -- didn't show up. So took
19 for granted that it had to be fire bossed, so ...

20 Q. Who was it that didn't show up?

21 A. It would be Larry Browning (sic).

22 Q. What time did Larry Brown finally show up?

23 A. I believe, to the best of my knowledge, it
24 was right around 11 -- or about 10:30.

1 Q. Did Mr. Brown call you on the mine phone
2 and tell you, I'm here, could you please go ahead
3 and fire boss or anything like that?

4 A. No.

5 Q. He didn't give you instructions to fire
6 boss the wall?

7 A. (Witness shakes head.)

8 Q. But when you first arrived at the mines,
9 the fire boss duties did not, at that time, include
10 the longwall?

11 A. No.

12 Q. Did you arrive at that decision yourself,
13 or did someone help you make that decision that
14 someone need to fire boss foreman?

15 A. The three of us come up with the
16 conclusion that we needed to do it since the other
17 one didn't show up.

18 Q. Did they help you in any way fire boss the
19 longwall?

20 A. No. They done -- as I said, one done the
21 headgate, one done the north main, and I done the
22 tailgate and walked across to the longwall.

23 Q. When you say "you walked across," what do
24 you mean you "walked across"?

1 A. It's like four -- I'm trying to --

2 Q. Okay. Let's go to this map for a second,
3 Mr. Skaggs. Are you familiar with this map right
4 here, this one here?

5 A. Yes.

6 Q. Are you familiar with where we're at?

7 A. (Witness nods.)

8 Q. First of all, let's just go over this map,
9 and if you would, can we have a colored pencil, and
10 could you track all your steps from the beginning
11 up through here and show us what all you fire
12 bossed and then how you fire bossed it.

13 A. I have to -- this map is not marked off
14 like this one. I need the --

15 MR. GODSEY: You may want to look at this
16 one. It may help you better.

17 THE WITNESS: Yeah, I'm looking for the
18 track and the belt lines, is what I'm looking for.

19 MS. HAMPTON: I'm going to mark this map
20 as Exhibit 3.

21 (Exhibit No. 3 marked for
22 identification.)

23 A. I came in the Ellis portal. We, all three
24 of us, rode a mantrip in. They dropped me off at

1 the -- see, this one doesn't even show the track
2 in. It goes up here, but there's a track that
3 comes across.

4 MR. GODSEY: Are you looking between
5 Tailgate 22 and the longwall?

6 THE WITNESS: Yeah. I'm sorry. I was on
7 the wrong end of the map. Yeah, they dropped me
8 off at the switch, I walked across the track to the
9 tailgate.

10 MR. GODSEY: Do you want to mark there
11 where he dropped you off at the switch?

12 THE WITNESS: All right. I'm taking this
13 red line is the track, right? How do you have your
14 track marked?

15 MR. GODSEY: That would be the belt right
16 there, I'd say.

17 THE WITNESS: Yeah, that would be the belt
18 line.

19 MR. GODSEY: And the track --

20 THE WITNESS: The track is adjacent to
21 it. The track should be right here.

22 MR. GODSEY: Is that where the roof fall
23 was?

24 THE WITNESS: Yeah.

1 MR. GODSEY: Okay.

2 MS. HAMPTON: Could you maybe circle in
3 blue where the switch is, where they dropped you
4 off?

5 THE WITNESS: Can't find the -- where is
6 the belt at? So the switch would be right in here,
7 I think.

8 MS. HAMPTON: Circle that. And if you
9 could, just draw a line out to the margin and write
10 "switch."

11 THE WITNESS: To the best of my knowledge
12 anyway, that's where it's at.

13 I came in, I walked in to the tailgate. I
14 believe that's the tailgate. Then I walked up and
15 across the faces, came in and went across the
16 face.

17 MR. JARRELL: I believe we're in the wrong
18 spot.

19 MR. GODSEY: You went up Number 3 entry of
20 Tailgate 22?

21 THE WITNESS: Yeah, up the track.

22 MR. GODSEY: Okay. Up the track.

23 THE WITNESS: Oh, I'm sorry. I went up
24 the other one.

1 MR. GODSEY: The track is over there.

2 THE WITNESS: Yeah. I went up the track
3 into, and done the -- fire bossed the faces.

4 MR. GODSEY: You might want to mark this
5 here and kind of mark this out because that will be
6 misleading.

7 MS. HAMPTON: We could use a different
8 color.

9 MR. GODSEY: Okay. That's fine. Give you
10 a different color.

11 THE WITNESS: That's the belt.

12 MR. GODSEY: Yeah, you said you walked
13 over here --

14 THE WITNESS: Track.

15 MR. GODSEY: -- then you went to the belt.

16 THE WITNESS: Yeah, because there's a set
17 of doors right here. I came into here, and then I
18 walked down the entry, crossed by the belt --
19 actually I came down this entry, by the belt, down,
20 and started my fire bossing here, back out each
21 face.

22 Then I came back up. This is the
23 longwall, right? I came back up this entry.

24 MS. HAMPTON: Could you press a little

1 harder, so it's easier for us to see later.

2 MR. GODSEY: Let me ask you one question.
3 Is that all the areas that you covered on the
4 tailgate to fire boss?

5 THE WITNESS: Yes, the faces and the ...

6 MR. GODSEY: Did you check any of the
7 power centers?

8 THE WITNESS: Oh, yeah. They're in the
9 entry there as you go by them. They were all in a
10 line as you go by, the power centers and
11 everything, and then there's a power center sitting
12 here at the belt head that I dated up on.

13 I came back out to the door, across the
14 entries and up to the longwall. Well, actually,
15 it's up to the longwall.

16 And then right here at the longwall, the
17 -- I guess you call it a jack, was pushed up over
18 the belt.

19 MR. GODSEY: You're talking about the
20 shields.

21 THE WITNESS: Yeah, shields, jack,
22 whatever you call them. I could not go down the
23 belt. I go down the longwall. So I dated up on a
24 crib right there, and then I came on back out the

1 track, and they picked me up right here.

2 MR. GODSEY: So that longwall, you did not
3 go across the longwall or was the longwall was not
4 pre-shifted for the next shift, was it?

5 MS. HAMPTON: Can you darken this line a
6 little bit? Thanks.

7 THE WITNESS: And when I came out, I
8 informed Mr. Browning at -- we were sitting side by
9 side. I was filling the other books out for here.
10 I informed him that I could not get down the
11 longwall, that they had the jacks pushed up, and I
12 dated up on the crib right there.

13 MR. GODSEY: And he knew the longwall
14 hadn't been pre-shifted across?

15 THE WITNESS: Yes.

16 MR. GODSEY: How did you get the air
17 readings there? Did you take air readings?

18 THE WITNESS: I took an air reading right
19 here, because the air comes in this way.

20 MR. GODSEY: Okay. Did you use the belt
21 air, too? Did the belt air, did it go to the
22 longwall face?

23 THE WITNESS: No. There's a belt tail
24 sitting here in the cross, you know, I don't know

1 whether -- the air goes outby, not inby on the
2 belt.

3 MR. GODSEY: So that's the last shift that
4 you, on there, that belt air was traveling in the
5 outby direction?

6 THE WITNESS: Yes, traveling in the right
7 direction.

8 MR. GODSEY: Go ahead. I didn't mean to
9 step in front of you.

10 BY MR. JARRELL:

11 Q. Okay. Mr. Skaggs, can you give us a
12 little bit of a time limit that you're talking
13 about here? You left underground, left for
14 underground, at what time did you leave
15 underground?

16 You arrived ...

17 A. Probably started underground about --
18 around 5:30, to the best I can remember anyway.

19 Q. Did all three of the fire bosses travel
20 together at that time?

21 A. Yes, we road a mantrip in.

22 Q. Okay. And when did you separate, then?

23 A. Right here when I got to the section here,
24 to the track where it splits.

1 Q. To what point did you decide that someone
2 had to fire boss the longwall?

3 A. We discussed it as we came up the track.

4 Q. So you was informed that Larry Brown was
5 going to be late?

6 A. No, we just knew he wasn't there when we
7 came in. He should have been -- I took it that he
8 should have been there to fire boss.

9 Q. Why did you choose to fire boss the
10 longwall yourself?

11 A. Because it was close to the tailgate, and
12 I was here, and they were down on the headgate and
13 over in that north mains.

14 Q. Let me ask the question a bit different.
15 Why did you choose to fire boss a longwall when
16 you're not familiar with a longwall?

17 A. Somebody had to fire boss it before
18 anybody could have come underground. So I just
19 took it to do the best I could down through there.
20 It's just a safety factor.

21 Q. Okay. What all equipment did you have
22 with you, Mr. Skaggs, when you started underground?
23 Could you tell us all of that?

24 A. Specify equipment? Are you talking about

1 my personal?

2 Q. Personal, carry-on equipment.

3 A. My self-rescuer, light, hammer,
4 anemometer, methane spotter. I believe I had pair
5 a channel locks and a crescent wrench with me.

6 Q. Let's go back to the fire bossing of the
7 longwall. Was there power on the longwall power
8 center at that time?

9 A. Power centers are on the track.

10 Q. Yes, sir.

11 A. They're on what -- they called it --

12 Q. Mule train?

13 A. Yeah, mule train, yes.

14 Q. There was power on them?

15 A. Yeah, there were lights on it. Now, I
16 don't know whether they were de-energized, the
17 longwall was energized or not, but they were
18 powered on the mule train.

19 Q. And you made an examination around the
20 power centers?

21 A. Yes.

22 Q. From there, you went onto the wall?

23 A. No, I come to the wall first, and then the
24 mule train was outby. I think it was outby two or

1 three breaks.

2 Q. Okay. Can you tell us who the third shift
3 mine foreman would be at this point?

4 A. No, don't know that we had a third shift
5 mine foreman.

6 Q. Did you have a lead foreman that everyone
7 looked to for direction or anything?

8 A. We had two move crews and the longwall
9 crew.

10 Q. If you had a problem on the third shift
11 there, or any time during the third shift, who
12 would be responsible for handling a problem like
13 that, who would you go to?

14 A. That would be -- trying to think of his
15 name, young boy. I wasn't there very long, so I
16 don't -- can't remember all their names.

17 I can't remember his name. He was a young
18 boy. He was an outby foreman.

19 Q. Let's go back to when the three of you
20 made a decision that someone had to fire boss a
21 longwall. Was the other two men there, were they
22 foremen at this mine?

23 A. Just fire bosses, same as I am.

24 Q. And you chose to go and fire boss the

1 longwall, even though that you knew you didn't have
2 enough experience to do that?

3 A. I chose to go down and check it and make
4 sure the air -- no methane.

5 Q. When you got to the head side there, and
6 you're saying you couldn't get down -- what did you
7 do at that time?

8 A. I dated on the crib right there at the --
9 I guess you call that the head. I don't know, but
10 right there at the belt tail where the shield was.
11 I dated on a crib that was sitting there, took an
12 air reading right there, checked my methane right
13 there, got nothing there, and I proceeded outside,
14 out to meet the other ones out there on the main
15 track.

16 Q. Did anyone discuss about the tail side
17 over here making some MPBs or anything like that?

18 A. No.

19 Q. Do you understand what an MPA and an MPB
20 is, Mr. Skaggs?

21 A. I'm not clear what you're trying to say.

22 Q. Okay. You have two monitoring points, one
23 on the longwall there. Have you ever heard the
24 expression or the term "MPA" or "MPB?"

1 A. No.

2 Q. You've never heard of that?

3 A. No.

4 Q. Do you have any idea of what it could be?

5 A. From what you just explained to me, it
6 could be a place where you should check, I guess,
7 take your air readings and date up (inaudible), or
8 whatever it is.

9 Q. Okay. So while you were up there, you
10 didn't check either one of those. Did any of these
11 people that was with you, did they make any remark
12 to make sure you checked certain things, or did
13 they give you any kind of direction of what to do
14 or anything?

15 A. No.

16 Q. They just --

17 A. They were like me, they ain't never been
18 around a longwall either, so ...

19 MR. JARRELL: Okay. I've got some
20 pre-shift, on-shift reports here that I would like
21 to have marked as Exhibit 3.

22 MR. KOERBER: That would be 4.

23 MR. JARRELL: 4, excuse me.

24 MR. KOERBER: I'm going to collect these

1 at the end.

2 MS. HAMPTON: I'm marking this Pre-shift
3 Mine Examiner's Report from April 4th as Exhibit
4 No. 4.

5 (Exhibit No. 4 marked for
6 identification.)

7 Q. Mr. Skaggs, do you recognize this report?

8 A. Yes, I recognize my signature, and it's a
9 pre-shift report.

10 Q. And could you tell us exactly, in your own
11 words, what a pre-shift report is, please?

12 A. It covers the violations or hazardous
13 conditions or anything that I find as a fire boss,
14 and they're recorded in the book, air readings and
15 so forth to go across whatever.

16 Q. Okay. Is this the same pre-shift report
17 that you signed on April 4, 2010?

18 A. That's my signature, but I have a
19 discrepancy with the 9160 MPA and MPB.

20 Q. Okay.

21 A. I did not -- the only thing I gave was the
22 intake air.

23 Q. So is this definitely your signature on
24 this right here?

1 A. Yes.

2 Q. This document?

3 A. Yes, sir.

4 Q. And at what time did you sign this
5 document, do you recall?

6 A. I'm going to say it was probably about
7 9:05, maybe 9:30 somewhere, the best I can
8 remember.

9 Q. Okay. Now do you recall --

10 MR. KOERBER: P.m.?

11 THE WITNESS: P.m., yes.

12 Q. Was this brought out, or did you call it
13 out?

14 A. I brought it out.

15 Q. Now tell me, when you got outside. Can
16 you go over and explain to us what happened then,
17 when you brought it out, what you did?

18 A. Let me think. I'd have to see the other
19 books or the rest -- the other book because I'm not
20 sure.

21 I know I came out, Larry Browning was
22 trying to find the book, trying to locate this
23 book, and I believe I was -- and again, to the best
24 of my knowledge, I was filling out another book

1 which pertained to the track KBAs.

2 Q. When it come to this book here, did you
3 sit down with Larry Brown with the information for
4 this report?

5 A. Yeah, I was filling the other book, to the
6 best of my knowledge, and he was sitting beside of
7 me. And I told him exactly that, this is what I
8 got on the intake air, I could not get down to the
9 longwall because the shields or jacks, whatever you
10 call them things, was up over the -- slid up over
11 the belt tail and everything so I could not go down
12 through.

13 Q. And what was his reaction?

14 A. The best I remember is, he told me that it
15 was normal for when they shut one down for a long
16 period of time, they slide that up to protect the
17 tail and that was about it.

18 Q. Do you recall any of the conversations
19 with him concerning this report of how you filled
20 it out or anything?

21 A. No.

22 Q. Can you tell me, then, when you signed
23 this report, Mr. Skaggs, was all of this -- was
24 everything that you see here, was it on the

1 document at that time?

2 A. To the best of my knowledge, no. The only
3 thing that was on there was the intake air.

4 Q. You're saying that none of this other
5 stuff was even on there; right?

6 A. No, to the best of my knowledge.

7 MR. KOERBER: In both categories? I mean,
8 we got a top part and a bottom part.

9 THE WITNESS: Oh, the top part, you're
10 referring to the methane check and so forth? Is
11 that what you're -- power centers --

12 MR. KOERBER: Yes.

13 THE WITNESS: -- and all that? And
14 track?

15 MR. KOERBER: Yes. It says face supports,
16 power centers --

17 THE WITNESS: Yeah.

18 MR. KOERBER: -- chargers, track, travel
19 way and something else that I can't read.

20 MS. HAMPTON: Barricade.

21 BY MR. JARRELL:

22 Q. Was that on there also at the time?

23 A. I believe it was.

24 Q. Do you understand --

1 A. To the best of my knowledge.

2 Q. You understand what the top part means,
3 then; right?

4 A. Yes. The face, I take it, is the face of
5 the longwall. Supports are the cribs and stuff
6 that was there.

7 Q. Okay. But did you -- what was your
8 conversation, again, with Mr. Brown concerning this
9 report? Did he ask you if you had made any of the
10 air measurements at any of these location?

11 A. Again, no. I told him, as I said, I told
12 him that the intake air was this amount, and I
13 believe I went, as he was filling it, I went ahead
14 and signed the book because I was filling the other
15 one out as he was filling it out right beside me.
16 But none of this stuff was on there when I signed
17 it.

18 Q. Are you saying, then, that you signed the
19 pre-shift, as a pre-shift examiner, before the
20 report was even filled out?

21 A. No, sir, no, no, no.

22 Q. It was completely filled out?

23 A. Yes, completely right beside of me.

24 Q. And the numbers on the air measurements

1 were not there?

2 A. No, sir. I don't know anything about the
3 9 or 160, the MPA or MPB.

4 Q. Okay. When you was up on the longwall and
5 you couldn't make it across the face, did it occur
6 to you that it should be dangered off?

7 A. Well, yeah, I guess, but, I mean, it was
8 slid up so you couldn't go down it, and that's why
9 I informed him -- Larry does -- he does the fire
10 boss for the longwall anyway. That's why I
11 informed him of such.

12 Q. Let's go back over this whole report, and
13 let's start at the top, and let's make sure that we
14 understand what we're looking at here.

15 On the violations and hazardous conditions
16 observed just before you get to the top, let's
17 start down this.

18 Now, you marked here, with the face area
19 you show -- tell me what you show there for your
20 face area.

21 A. It says zero percent, none observed.

22 Q. And that area would be --

23 A. I think that's CH4.

24 Q. And that area would be the what now.

1 A. To me, that face area would -- when I fire
2 bossed it, was the belt tail right there where I
3 could not get no farther on the jack, right there
4 on that crib. To me, that was the face area.

5 And the supports are the cribs -- and what
6 did you call it?

7 MR. GODSEY: Shields.

8 A. Shields. That was over the belt tail.
9 Power center is the mule train, and it has all that
10 out there, and the chargers for the scoop, track,
11 and this traveling, I ...

12 MR. GODSEY: Would that be travel way?

13 A. Travel way up and down the track, I guess
14 it would be.

15 Q. So you feel that the face of this longwall
16 is out at the tail of the belt, as a certified mine
17 foreman?

18 A. Well, at that time, yes. But the whole
19 face goes all the way across a thousand foot block
20 is the way I understand it.

21 Q. Well, that's true. But you --

22 A. But at that time, that was my limit of
23 movement towards anything.

24 Q. Okay. So let's go down here to the air

1 measurements, then. The intake air reading, do you
2 understand what that is, then; right?

3 A. Yes.

4 Q. Could you explain that to me, please?

5 A. The intake air reading is the air flow
6 coming across at the face, which would be the
7 longwall tail, shield, whatever, going down the
8 longwall.

9 Q. Okay. And the other two numbers, the 9
10 and 160, can you explain to me what that means,
11 please?

12 A. No, sir.

13 Q. What about the air measurements of 738,
14 can you tell me what that represents?

15 A. I'm guessing. And this is a guess, and to
16 the best of my knowledge, I'm saying that's
17 probably air reading at somewhere on the wall that
18 I'm not familiar with.

19 Q. What about the MPA and MPB right under
20 there?

21 A. As you explained to me, it's your --
22 certain points that's on your longwall, which I
23 never was there. As I stated, I could go no
24 farther than the shield that was up over the

1 tailpiece.

2 Q. So once again, you're telling me that when
3 you signed this book that the only thing that was
4 on it was an intake reading; is that right?

5 A. Yes, sir, to the best of my knowledge.

6 MR. GODSEY: This one appears on it, too.

7 MR. JARRELL: Let the record show that it,
8 also, that up here in the violations, hazardous
9 conditions observed, that that was also on this
10 form at the time Mr. Skaggs signed it.

11 Q. Mr. Skaggs, if -- would you dispute Larry
12 Brown if he were to make a statement that you sat
13 down next to him as he completed the pre-shift
14 report for the longwall section with the
15 information that you gave him?

16 A. Yeah. Would I dispute him as what now,
17 saying about the 9 and 160 and MP?

18 Q. Yes.

19 A. Yes, I would. I told him intake air.
20 That's all I had.

21 Q. After you found out, after Mr. Brown
22 received this report, and you told him that you
23 could not go down the longwall face, tell us again
24 what was his reaction to that?

1 A. He told me that was typical, that they do
2 that for -- when they shut the longwall down for a
3 long period of time to protect the shear.

4 Q. Well, let's put it in the fire boss terms,
5 then. In the fire boss terms of it, what was
6 Mr. Brown's reaction to the longwall face not being
7 fire bossed?

8 A. Again, that's the best I can remember,
9 that was his response to me was that's typical. So
10 I took it for granted that he would do another
11 report on it since that was where he works at every
12 day.

13 Q. Did Mr. Brown say anything to you that he
14 was concerned for the people coming underground for
15 the entire mine not being properly fire bossed?

16 A. No, sir.

17 Q. Did the men continue to go underground at
18 that time?

19 A. To the best of my knowledge, yes.

20 MR. JARRELL: That's all I have at this
21 time.

22 EXAMINATION

23 BY MR. GODSEY:

24 Q. Mr. Skaggs, when did you come to work at

1 UBB?

2 A. January the 1st of 2010.

3 Q. Where did you work before that?

4 A. Federal government.

5 Q. How long did you work there?

6 A. Twenty years and some retired military.

7 Q. Okay. So you just had three or four
8 months of the underground mining experience?

9 A. Oh, no, sir. No, no.

10 Q. Okay.

11 A. In the '70s, early '80s, I worked for
12 Carbon Fuel, U.S. Steel, and Bethlehem Steel, up
13 Cabin Creek.

14 Q. What jobs did you have there?

15 A. Operated miner, roof bolter, I section
16 bossed, pulled pillars, and outby work, general
17 outby work.

18 Q. Did you do many mine examinations, you
19 know, up belt lines weekly?

20 A. Oh, yes.

21 Q. When did you leave mining the first time?

22 A. I'd say it was '80s.

23 Q. Okay.

24 A. Exact time, I can't ...

1 Q. The times from the '80s you left until the
2 time you came back, you know that there was a lot
3 of changes was made in the regulations?

4 A. Yes.

5 Q. You know that ventilation was redone, roof
6 control was redone, everything had different
7 requirements?

8 A. Uh-huh.

9 Q. Were you aware of all those changes when
10 you took this job?

11 A. Yes, I took a -- I had a class they gave
12 me over at a Marsh Fork. And then I picked up the
13 books on my own and read, back and forth, some
14 things.

15 Q. When you do an exam -- most of the time
16 you say you're doing a belt examination.

17 A. Yes.

18 Q. Do you do a lot of pre-shifts on sections
19 or just a few times a month?

20 A. Yeah, just a few times, every now and
21 then. Most of the time it's the belts.

22 Q. When you're doing a pre-shift or an
23 examination, what are the things you're looking
24 for?

1 A. On the belts or on the --

2 Q. On the pre-shift.

3 A. On the pre-shift, I look for any hazard,
4 anything that's hazardous, I check for methane on
5 the belt line, I check for movement of air coming
6 through the outby side, make sure it's going in the
7 right direction.

8 Q. Okay.

9 A. Check for stuck and hot rollers, whether
10 the belt is running in coal or whether it's been --
11 it's cleaned up or not.

12 Q. Are you familiar with the company's
13 clean-up program?

14 A. No, I don't believe I ever heard that.

15 Q. They usually have it posted outside and
16 tells you how they'll take care of accumulations
17 and cleaning, removing excess coal?

18 A. Oh, I know what you're talking about now.
19 I've seen it, yes.

20 Q. You said that night you came in from Ellis
21 portal with three other individuals?

22 A. Two others.

23 Q. Two others individuals, I'm sorry. And
24 that you went up the mouth of the 22 Tailgate -- I

1 mean 22 Headgate, and you got out of the mantip and
2 walked over towards -- to Tailgate 22?

3 A. Yes.

4 Q. In route, when you left the switch there,
5 what condition was the road hallways in over to
6 Tailgate 22, was it -- I'm looking for float coal
7 dust, coal dust?

8 A. Oh, no. No. Like I say, I came up the
9 track, there was none on the track. And then when
10 I turned down into the section, no. It was normal
11 mud, water.

12 Q. How about the ventilation controls? What
13 shape were they in?

14 A. Air lock doors were closed, everything
15 running in good working order.

16 Q. How about on the section, did it have
17 the --

18 A. Line curtains up, backed up by fly pads
19 and stuff.

20 Q. Did you go down the belt entry outby the
21 last open crosscut belt down the tail entry?

22 A. Yeah.

23 Q. What did it look like?

24 A. It was in good shape, clean. To the best

1 of my knowledge, it was dusted. I can't remember
2 exactly.

3 But it was pretty well clean, to the best
4 of my knowledge, or I'd have put it in -- I'd have
5 to see my other book.

6 Q. Okay. And then you said you went from
7 there over to the headgate?

8 A. Yes.

9 Q. And did you check anything between the
10 Tailgate 22 and the face of the longwall?

11 A. No, just walked across the entries.

12 Q. Did you by chance happen to look at the --
13 check curtains across the entries of the Headgate 1
14 north that directs air over to the face of the
15 longwall?

16 A. Yes, they were up.

17 Q. Which way was the pressure going?

18 A. They were going inby.

19 Q. Okay. How much pressure, could you say
20 there was very little, or how was the curtains?

21 A. There was quite a bit.

22 Q. I want to go back just a little bit.

23 Now when you first started this job in
24 January or whatever, and you was a fire boss, that

1 was your job assignment, did anyone go with you and
2 show you what -- or travel with you anytime to show
3 you what you were supposed to be doing, what areas
4 you're supposed to be --

5 A. Yes.

6 Q. And who was that?

7 A. Glen Alderman.

8 Q. And how long did that -- how long did he
9 travel with you?

10 A. Probably a couple weeks or so. I'm not
11 sure exactly the amount of time, but to the best of
12 my recollection.

13 Q. Did you feel comfortable that you had
14 enough competency then to do an examination?

15 A. Yes.

16 Q. Okay. When you go up on -- say for
17 instance you've never been to a longwall before,
18 just say you've never been on it, what was you
19 going to check if you went across the face?

20 A. If I could have got across the faces, I
21 was going to check, make sure there was no --
22 nothing that had fell over on the longwall or
23 whatever, in between the shields as you call them.

24 Q. Could you have recognized a hazard there

1 in the longwall, with the shields or something, if
2 you hadn't never been there before?

3 A. Yes, I believe I could have.

4 Q. Okay. What was your thought that you had
5 had to take the readings on the longwall? Where
6 would you have taken all your air readings or your
7 velocity readings?

8 A. Mine was -- my thought process was at the
9 head, which is where I took the air reading for the
10 intake, and the tail, which is all the way down the
11 longwall.

12 Q. I guess you've -- have you ever looked at
13 the ventilation plan at this mine?

14 A. Yes.

15 Q. And have you looked at the longwall
16 portion of it?

17 A. Yes, I've -- they went over the whole
18 ventilation plan with me.

19 Q. Well, it kind of tells you in there where
20 you take these air readings. It tells you where
21 you take your intake. It tells you where you take
22 your velocity readings on the head, on the tail, on
23 those MPAs, MPBs. It distinctly tells you in there
24 where you take those.

1 So if you had looked at that before you
2 went, you might have had some ammunition to work
3 with when you went up there.

4 A. I guess.

5 Q. Do you feel that those men who went up
6 there, that they may could have had some trouble,
7 though, where it had not have been examined? Could
8 there have been some dangers there that was not
9 recognized?

10 A. I guess there could have, but that's why I
11 told the boss that goes up there and does the fire
12 boss up there on a regular basis that I could not
13 get down the longwall, that I could only take the
14 intake air reading, so that he could go and double
15 check behind me.

16 Q. What was his reaction and who was he?

17 A. Larry Brown.

18 Q. What was his reaction? I think he already
19 asked you once.

20 A. Yeah. His reaction to me was it was
21 normal to have shields up over there to protect it
22 when the longwall was shut down.

23 Q. Who do you answer to in the morning? When
24 you finish your shift and you go outside, who do

1 you talk to?

2 A. Superintendent.

3 Q. Did you tell him about this event? Did
4 you inform him that the longwall was not
5 pre-shifted that night?

6 A. I cannot remember whether I did or not.

7 Q. Do you think that would have been a good
8 idea to do that?

9 A. Oh, yes, sir. I can't remember for sure,
10 so I don't know. We have conversations every
11 morning. I can't remember exactly what I did talk
12 to him about.

13 Q. Okay. That night that we've come to
14 conclusion that the longwall was not adequately
15 pre-shift examined for the people coming on that
16 shift?

17 A. Yes. That's why the -- I informed the
18 guy, again, Larry Browning, that it was not
19 examined so he could go do it.

20 Q. So the only reading that you knew, the air
21 reading you knew to take, then was at the headgate?

22 A. Yes.

23 Q. And then that's what you put in?

24 A. That's what I put in.

1 Q. And when you found accumulations or some
2 hazard on a belt line -- would you find those very
3 often, like loose coal, needs cleaning, it needs
4 additional dust, that stuff?

5 A. Occasionally.

6 Q. Did it ever go after night, after night,
7 after night, the same entries were put in there?

8 A. Not to my knowledge, I don't think. I'd
9 have to look at my books to make sure.

10 Q. Did you ever talk with Mr. Hager about any
11 problems that you had in areas that needed cleaned
12 up or rock dusted?

13 A. I'm pretty sure, to the best that I can
14 remember, that we've had conversations on needing
15 dusted or needing cleaned or whatever.

16 Q. Was you surprised this happened on April
17 5th?

18 A. Absolutely.

19 Q. You worked the owl shift. And did they
20 have a rock dusting program that there were certain
21 days of the week where they came in and dusted,
22 belt dusted or --

23 A. Outby crew. I'd say -- what do you call
24 them -- move crew? Outby crew and move crew on

1 each section did.

2 Q. Where did they rock dust?

3 A. Where did they?

4 Q. Uh-huh.

5 A. Belt lines, across the faces. I guess
6 that's what they did up there on the sections, or
7 down the tracks.

8 Q. You don't know of any time they ever rock
9 dusted the bleeder?

10 A. The bleeder you --

11 Q. One north tailgate? Back towards
12 Bandytown fan?

13 A. Not to my knowledge. I don't know. I
14 didn't go down that way.

15 Q. Was you ever in that area?

16 A. Not as I know of.

17 Q. Did they do the returns and intakes and
18 all that dusting?

19 A. You would have to ask the guys that -- on
20 the outby crew.

21 Q. Okay. How often would they do that, that
22 you're aware of?

23 A. I have no idea.

24 Q. You never heard on a phone or nothing?

1 A. No.

2 Q. Okay. This was an atypical night that you
3 were -- that night. You didn't really do all this
4 regular. You had certain belt lines that you were
5 responsible for, not pre-shifting?

6 A. Right.

7 Q. What do you usually do on a normal night?

8 A. On a normal night, I would come up and I
9 would fire boss headgate, the belt. I would walk a
10 belt down, cross over and back out the track.

11 And then I would fire boss 7 belt out, and
12 occasionally I would do the longwall belt.

13 Q. Did you ever have to do the Ellis belt?

14 A. Oh, yeah. All the way out, yes, sir.

15 Q. So you had all of that to do?

16 A. Well, there was three us, so we split it
17 up to do.

18 Q. Okay. How long did it take for you to do
19 your part?

20 A. It varied depending on how I --

21 Q. An hour, hour and a half?

22 A. Hour and a half, two hours.

23 Q. Did it ever take you longer than that to
24 do it?

1 A. Oh, yeah, it's taken me as much as three
2 hours to do it.

3 Q. Have you ever went over three hours?

4 A. Not as I never remember.

5 MR. GODSEY: That's all I have for right
6 now.

7 EXAMINATION

8 BY MR. BECK:

9 Q. John, I just want to clarify something.
10 Are you saying Larry Brown, or Larry Browning?

11 A. Browning, I think, is his name. I'm not
12 sure. I can't read on the --

13 Q. I can't read it either, but I think his
14 name is Browning.

15 MR. KOERBER: I think it's Larry Brown.

16 THE WITNESS: Might be Brown.

17 MR. KOERBER: Is it the person who signed,
18 countersigned this?

19 THE WITNESS: Yes.

20 MR. KOERBER: Okay. So if this would be
21 Larry Brown's signature, then when you were
22 speaking of Larry Browning, it would have been
23 Larry Brown?

24 THE WITNESS: Yes.

1 BY MR. BECK:

2 Q. You portalled on the Ellis side?

3 A. Yes, sir.

4 Q. And there were two other fire bosses with
5 you on that side of the mine?

6 A. Yes.

7 Q. On your shift?

8 A. Yes, John Neely and I remember the other
9 guy, John Bickford.

10 Q. Okay. And how about on the Upper Big
11 Branch side, how many fire bosses were there?

12 A. To the best of my knowledge, there were
13 two or three on that side, too. I'm not sure.

14 Q. So with Upper Big Branch being the size
15 that it is, was that an adequate amount of fire
16 bosses to do your job properly?

17 A. On the Ellis side, yes, sir.

18 Q. I mean, throughout the whole mine?

19 A. Oh, you mean everybody together?

20 Q. Yeah.

21 A. As far as I know it is. I mean ...

22 Q. When you would write a violation or hazard
23 in the book, which I assume you probably did from
24 time to time; is that correct?

1 A. Yes.

2 Q. Who was responsible for correcting it?

3 A. The mine foreman would, I guess, is
4 ultimately responsible for getting it corrected.

5 Q. Were you ever told, whatever you put in
6 the book, you correct?

7 A. Oh, I've shoveled belts and rock dusted
8 belts before up there, yes, sir.

9 Q. I mean, but did anyone in management say,
10 if you put it in a fire boss book, you correct it?

11 A. No, sir.

12 Q. But you were assigned to correct things
13 that you did put in the book?

14 A. Yes.

15 Q. And when you traveled through the mine,
16 did you normally ride in a mantrip? What type of
17 transportation did you have?

18 A. Normally a mantrip took me in, dropped me
19 off, and then I'll walk out.

20 Q. In your travels, whether you were in a
21 mantrip or walking on the track, did you ever come
22 across the air locked doors that were left open by
23 somebody?

24 A. Not to the best of my knowledge, no.

1 Q. Did you ever see any doors that were
2 damaged and weren't closing properly?

3 A. Not to the best my knowledge, no, sir.

4 Q. Okay. Did you ever express any concerns
5 to anyone in management about the ventilation
6 system or any problems you might have thought there
7 were?

8 A. No, sir.

9 Q. And you said that when you told Larry
10 Brown that you didn't fire boss the longwall face,
11 you just dated up there at the head, he said it was
12 typical to have this -- that it's typical for this
13 on the longwall face over a long idle time?

14 A. Yes.

15 Q. To protect, I think you said, the shear?

16 A. Protect the shear or tail, whatever.

17 Q. And that resulted in you not being able to
18 fire boss the face?

19 A. Right.

20 Q. So if down the road this happened again,
21 and it was another long weekend, holiday weekend,
22 and somehow you ended up being sent to fire boss
23 the longwall face, would you expect to find the
24 same situation?

1 A. Yes, if it was a long weekend, since he
2 told me that that's typical for them to shove that
3 up like that.

4 Q. Then since it was typical and you couldn't
5 get down the longwall face, whether it was their
6 regular longwall fire boss, he couldn't have got
7 down there either; right?

8 A. Well, he is also the maintenance, does the
9 maintenance on that. There's a crew that does that
10 maintenance, so I took it he knew how to move them
11 out of the way and do what he needed to do.

12 Q. So it would take someone with knowledge of
13 how to operate -- how to turn the fire on, how to
14 operate the shields and move them in order to fire
15 boss the face?

16 A. Yes, sir.

17 Q. Okay.

18 A. Again, this is why I informed him that I
19 could only go to there, and I took the intake air
20 reading.

21 MR. BECK: That's all.

22 EXAMINATION

23 BY MS. HAMPTON:

24 Q. You said you thought that Larry knew how

1 to move the shields. Did he actually affirmatively
2 tell you he knew how to move those shields?

3 A. Oh, no, Larry works -- that's his job on
4 that longwall.

5 Q. Okay. And you had also told us you were
6 under the impression that Larry would, because you
7 weren't able to access that area, that Larry would
8 go down there.

9 Did he actually tell you that he was going
10 to go down and boss this area?

11 A. To the best of my knowledge, I don't
12 remember exactly what he said about whether he
13 would go down there or not.

14 He told me that that was typical that the
15 shields were up. I do remember that.

16 Q. Okay.

17 A. And since he works down there, and that's
18 his job to fire boss that every day, I took it for
19 granted that's what he does.

20 Q. Okay. Do you know why exactly you did
21 take it for granted or why you made this assumption
22 that he would then go down there?

23 A. As far as I know, Larry, he's always been
24 straightforward, I mean, what I've known of him,

1 and he works there, that he fire bosses that
2 longwall all the time, so ...

3 Q. But you didn't see him leave or --

4 A. No, ma'am.

5 Q. -- make any announcements that he was
6 going to go underground or anything?

7 A. No, ma'am.

8 MS. HAMPTON: Okay. That's all.

9 EXAMINATION

10 BY MR. KOERBER:

11 Q. Let me ask just a couple things.

12 When you arrived for work that Sunday
13 evening, April the 4th, 2010, you were expecting
14 there to be you and three other fire bosses?

15 A. Two of us. There's only three of us all
16 together on -- there's -- we work 12-hour shifts,
17 so I work 6:00 in the evening -- the three of us
18 work 6:00 in the evening to 6:00 in the morning.

19 Q. Okay.

20 A. And then there's guys on 6:00 in the
21 morning until 6:00 in the evening.

22 Q. Okay. So the three that you were
23 expecting were there?

24 A. Yes.

1 Q. Counting you?

2 A. Yes.

3 Q. Counting you?

4 A. Counting me, the two others were there.

5 Q. Okay. Well, somewhere I got confused
6 because I thought you had said earlier that you
7 were expecting Larry Brown to be there and do the
8 longwall?

9 A. I'm sorry. You're right. You're right.
10 I misunderstood what you said, yes.

11 Q. Okay. So when you arrived for work on
12 Sunday evening, April the 4th, you expected the two
13 people that you named, Mr. Neely and Mr. Bickford,
14 to be there, plus also Mr. Larry Brown?

15 A. Yes, sir.

16 Q. Okay.

17 A. I misunderstood what you were asking.

18 Q. Okay. And then with that group of people,
19 you had your duties, Mr. Bickford had his duties,
20 Mr. Neely had his duties, and Mr. Brown had the
21 longwall?

22 A. Yes, sir.

23 Q. Okay. When you showed up that evening and
24 you were missing one of your pre-shift people, who

1 was the person that was in charge that would take
2 and be dividing the missing person's work amongst
3 the three of you?

4 A. Nobody was, I'd say, per se, in charge.
5 We just discussed it between us and just -- I think
6 we came to the conclusion, since I was on the
7 tailgate, that it would be just as likely for me to
8 go over there since the other one was deep down in
9 the north mains and the other one was on the
10 headgate, it just was likely that I go across that
11 way.

12 Q. And when you went underground at this
13 5:30, 6 o'clock p.m. time of April the 4th, you had
14 no idea whether Mr. Brown was coming that night or
15 not, he just was not there at that time?

16 A. Right, sir.

17 Q. When did you find out he was there or that
18 he had arrived?

19 A. I believe when I came outside. I met him
20 right outside. To the best of my knowledge, that's
21 where he was, that I can remember.

22 MR. KOERBER: Let's take a couple minute
23 break.

24 (Break.)

1 MR. KOERBER: Let's go back on the record.

2 THE WITNESS: Before we go any further,
3 I would just like to make a statement here.

4 MR. KOERBER: Go right ahead.

5 THE WITNESS: Number one, I'd say probably
6 two-thirds of the guys that got killed, I went to
7 school with. So it's hard enough to deal with this
8 on an everyday basis, and then have to go in the
9 mines and work on it myself.

10 But at this point, the majority of you,
11 and I understand your discrepancy, so far have made
12 me feel like I have done something wrong to
13 endanger these 29 lives, and I have not.

14 I just want to make sure that everybody
15 understands that. I came here on my own free will
16 the first time, and I would have come this time if
17 you would have said so without a subpoena, because
18 I have not done anything wrong whatsoever.

19 And I was explaining to the gentlemen out
20 there. I spent 14 months in Iraq. It's hard
21 enough to deal with that, to have to come back here
22 and have to deal with this.

23 Now, next?

24 I'm sorry, I just felt that I needed to

1 say that. That's just the way it's making me
2 feel.

3 MR. KOERBER: Anything else sir

4 THE WITNESS: No, I'm fine. Thank you.

5 EXAMINATION

6 BY MR. JARRELL:

7 Q. Mr. Skaggs, let me ask you a few more
8 questions here. I was wanting to try to get
9 cleared up here a little bit.

10 You mentioned that on Friday, prior to
11 April 4th, on your last shift before the weekend,
12 that Everett Hager had approached you and told you
13 he wanted you to fire boss on that evening of the
14 4th; is that right?

15 A. Yes, he told me that that was the
16 schedule.

17 Q. Did he give you any indication that Larry
18 Brown may not be there?

19 A. No, sir.

20 Q. Did he say anything like, if Larry doesn't
21 show up?

22 A. No, sir. He never even indicated that
23 Larry was coming to me. Of course, I don't deal
24 with the longwall other than the belt line.

1 Q. So Mr. Hager's comment to you was just
2 fire boss as normal.

3 A. I need you to come in -- if I remember
4 right, his comment to me and John Neely and John
5 Bickford was come out on Easter Sunday at 6:00 p.m.
6 and fire boss and get, you know.

7 Q. John Bickford was one of the fire bosses
8 with you at UBB?

9 A. Yes. I couldn't remember his name before,
10 though.

11 Q. Did John Bickford indicate to you that he
12 knew nothing about the longwall?

13 A. I think we all three, the best I can come
14 up with, is all three came to the conclusion we
15 didn't really know anything at all about a
16 longwall.

17 Q. And you heard that personally from John
18 Bickford also; right?

19 A. Yes, and John Neely and me. We all came
20 to that conclusion, but we also knew somebody had
21 to go over there.

22 Q. Talking about Larry Brown, and you said
23 that -- made a statement that you realized he
24 wasn't coming. Prior to going underground, you

1 knew that Larry was supposed to be there; right?

2 A. Oh, no, sir. We came to that conclusion
3 when we got into, I guess what we call the mother
4 drive, which is the longwall belt.

5 We realize that somebody should have done
6 the longwall, and none of us three knew anything
7 about the longwall.

8 Q. But you didn't know Larry Brown was even
9 supposed to be there?

10 A. No, sir.

11 Q. Is it common practice for Mr. Brown to
12 always be there in the evening?

13 A. Yes, sir, he's always ...

14 Q. Always there?

15 A. (Witness nods.)

16 Q. You never had a time before with a
17 situation like that weekend, where there was a long
18 weekend?

19 A. Not to the best of my knowledge, no.

20 Q. In a normal situation, and let's say the
21 shields were not down, were not pulled up, and you
22 could have got by the shield on the headgate side,
23 what do you feel your duties would have been at
24 that point as a fire boss?

1 A. Take the air reading right there where I
2 did at the intake, and walk the shields or crawl
3 the shields, however you get down them, and my
4 understanding is that there ain't much walking to
5 it. But to go from one end to another, check for
6 methane, check air movement, make sure that the air
7 is flowing from the headgate to the tailgate,
8 because I know there is a direction it has to go.

9 Q. At any time during your conversation with
10 Larry Brown, did he explain to you what the 160 and
11 the 9 meant or anything?

12 A. Not to the best of my knowledge.

13 Q. On the location?

14 A. Not best of my knowledge, no, sir.

15 Q. Did he ask you at any time what is your
16 velocity reading at 9 and 160?

17 A. No, sir.

18 Q. Did he say at any time this is -- we'll
19 just get one off of the other shift and place it
20 over here?

21 A. No, sir.

22 Q. Never a made comment?

23 A. No.

24 Q. Did he look at the -- did you look at the

1 reports prior to the one that you filled out before
2 you went underground or after you come out from
3 underground?

4 A. You mean the previous reports to that?

5 Q. Yes, for the longwall.

6 A. No, sir, I don't believe I did, the best I
7 can remember.

8 Q. And going over your conversation again
9 with Larry Brown, did he ask you questions as he
10 filled this out, or did you just tell him the
11 information?

12 A. I told him that -- to the best of my
13 knowledge that I can remember, I told him that I
14 could not get down the longwall because of -- I
15 call them the shield over it, or jack or whatever
16 you want to call them things. He said, that's
17 common for a long weekend.

18 Q. Yes, sir.

19 A. And I told him, I said, I dated on the
20 crib right there, and this is the air reading I got
21 right there.

22 Then I came out and I checked -- walked
23 out the track, which is from where this is, where I
24 a dated up, straight out the track and you pass

1 the -- what did you call it -- mule train, and
2 that, which is the power centers and all that.

3 And there was a charger there on the off
4 side, I believe. And then I came on out the track
5 and met the other guys as they were finishing up
6 down the other end. I believe that's the way it
7 went.

8 Q. Did anyone pre-shift the tail entries of
9 the longwall?

10 A. I have no idea.

11 Q. Mr. Skaggs, going back up to the top here
12 on the violations and hazardous conditions. Sir,
13 as a person who has been certified in the State of
14 West Virginia, do you really feel that the face
15 area means the tail entry on the wall, the
16 tailpiece on the headgate side of the longwall, do
17 you really feel that that is the full area of the
18 face?

19 A. No, I did not say that was the full area.
20 I said the whole thousand foot across there is the
21 face.

22 But at that time, that -- I considered
23 that the face because that is as far as I can get.
24 And that's why I informed him that none of the rest

1 of it had been done.

2 Q. Have you ever used this as a tool, down
3 where the remarks is, to make statements that you
4 -- of what you could not do or that you couldn't do
5 because of a problem? You can put remarks down
6 here.

7 A. I know what you're saying, but I cannot
8 remember whether I ever used it or not like that.
9 Probably so somewhere along the line.

10 Q. Given the fact that you put here, on the
11 top part here, the face, which is a zero CH₄ and
12 none observed, and that you reported it, do you
13 feel that that is an adequate fire bossing for that
14 area?

15 A. For the entire longwall, is that what
16 you're asking?

17 Q. Yes.

18 A. No.

19 Q. When you signed it down here as the
20 pre-shift examiner, and the statements up here in
21 the top part shows that you checked all these
22 areas, do you feel that that is a good judgment on
23 your part to sign a pre-shift report?

24 A. Yes, because I checked -- the supports to

1 me was the crib blocks, the cribs that was standing
2 there and timbers that was down through there, down
3 by the track and the intake.

4 The power center, which you called a mule
5 train, I walked around it, there was nothing
6 abnormal there. The chargers, the scoops that was
7 on charge, the lids were up, everything was
8 normal. And the track, I walked out the travel
9 way, I take it as the track, but that's how travel
10 in and out.

11 Q. But once again, sir, do you feel that the
12 examination you made was an adequate fire boss
13 examination for the longwall section prior to
14 sending anyone underground?

15 A. I'm saying that they could have went into
16 the point where I stopped, or to the end of the
17 track, let me rephrase that, to the end of the
18 track there, then Larry Browning or another foreman
19 could have went on and done what they had to do,
20 and then that would have been suffice for what --
21 across the face or whatever.

22 Q. And when you give Larry Brown this report
23 outside, did he make -- again, I'll ask you this
24 question once, but did he make any comment that he

1 was concerned that this was not an adequate fire
2 boss examination of the longwall mines?

3 A. No, sir. Again, as I can remember, the
4 only statement he made to me was, that is typical
5 on a long weekend, when we were discussing the
6 jacks or shields or whatever.

7 Q. When you arrived at the mine on April the
8 4th, who was monitoring the -- was anyone
9 monitoring the communication and tracking while you
10 were underground?

11 A. Yeah, we have a dispatcher and, again, he
12 was over at UBB.

13 Q. And what time does he arrive, do you have
14 any idea?

15 A. I have no clue.

16 Q. Did you have a tracking device on you,
17 sir?

18 A. Yes.

19 Q. And what kind of tracking is it?

20 A. Whatever you call that little thing to
21 carry on your belt. I forgot to mention that a
22 while ago, but, yes, there is a tracking device on
23 me at all times. It's just -- normally it's hooked
24 to my belt, and I don't even think about it.

1 Q. Did Larry Brown ever mention anything to
2 you about going back through the cut-through and
3 coming around by the tail and checking anything?

4 A. No, sir.

5 Q. So Larry Brown accepted what you gave him,
6 and went ahead and let the people go underground?

7 A. As far as I know.

8 Q. Okay. Let's go back just for a second to
9 Exhibit 4, and let's go back here, sir, to the
10 numbers. You have got your intake.

11 Does all these numbers look like about the
12 same handwriting to you?

13 A. Yes, sir.

14 Q. And you're saying -- who do you believe
15 entered these numbers?

16 A. That, I cannot answer. I don't have no
17 clue.

18 Q. Given the situation that you and the other
19 two fire bosses was in, and you realize the
20 longwall had to be fire bossed, and you feel that
21 either of the three was knowledgeable enough to
22 give a good adequate fire boss examination, what do
23 you feel should have been done at that time?

24 A. Well, I guess in hindsight, as you want to

1 call it or whatever, I guess we should have backed
2 up to the mouth of the longwall and dangered it off
3 until it was done, until somebody in there that was
4 familiar with it could have done it.

5 But in everybody's defense, we are
6 certified foremens by the State, and common sense
7 plays a lot to the mining industry.

8 Q. Have you ever heard the expression at the
9 mines, you have got a person that's in charge all
10 the time. The person that -- qualified person
11 outside that if you have a problem you can call?

12 A. Yes.

13 Q. Okay. Did it ever cross your mind to call
14 outside and have someone to contact Mr. Hager?

15 A. Probably not. I can't ...

16 MR. JARRELL: That's all the questions.

17 EXAMINATION

18 BY MR. GODSEY:

19 Q. I have just got a couple more to ask you.

20 When you was up on the longwall, went over
21 there, was any of the lights on the longwall --
22 were they powered on the longwall?

23 A. You mean on the shields?

24 Q. Yeah.

1 A. Did you call them jacks and everything?

2 Q. Uh-huh.

3 A. No.

4 Q. When you left the shield and you said you
5 walked -- did you walk down the belt any, or did
6 you go across the track and go out?

7 A. No, I came right back out to the track,
8 which is only in your break, to come out the break.

9 Q. What was the conditions -- you said the
10 shields outby towards the belt, out the belt, what
11 did it look like, or what you could just see in the
12 certain vicinity there? Was it black or was it --

13 A. No, it looked like it had been dusted. It
14 was gray. I can't specify when it was dusted, but
15 it was gray.

16 MR. GODSEY: That's about all I have.

17 EXAMINATION

18 BY MR. BECK:

19 Q. I just want to clarify one thing.

20 The Saturday, the day before, did the
21 longwall produce coal?

22 A. I can't remember. Probably so.

23 Q. Okay. Then Sunday, and I think they did,
24 and then Sunday was idle?

1 A. Yes.

2 Q. And Monday they went back to producing
3 coal?

4 A. Sometime Monday night, yeah, after --
5 you're calling Monday after midnight, yes.

6 Q. So what we're calling a long weekend is
7 one day?

8 A. One day, actually, to the best of my
9 knowledge anyway. I mean, I can't remember exactly
10 when they stopped producing, but ...

11 Q. Okay. So even if they produced on Friday,
12 it would still be two day --

13 A. Two day. And again that, you know.

14 Q. Really not a long weekend?

15 A. Really not a long weekend.

16 MR. BECK: That's all I have.

17 MR. KOERBER: Any other questions by
18 anybody? Okay.

19 Mr. Skaggs, I know you had the opportunity
20 to speak a little bit earlier, you wanted to make a
21 comment, which was fine. But now we're going to
22 give you an opportunity again to make any
23 statements, clarify anything, say anything that you
24 desire, the floor is yours if you have anything

1 additional that you would like to add.

2 THE WITNESS: Well, as I stated earlier
3 and you let me speak earlier, again, I don't feel
4 that I done anything out of the -- in the wrong or
5 out of the ordinary.

6 Most of these guys were my friends and
7 it's hard to deal with them. And -- I don't have
8 anything. Just, I don't feel that I done anything
9 wrong or anybody done anything wrong.

10 Again, I don't know what happened,
11 probably will never ever know what happened.
12 That's why we have you all. And that's about the
13 best I can say.

14 MR. KOERBER: Anything else at all, sir?

15 THE WITNESS: Not at this time.

16 MR. KOERBER: Let's go off the record
17 now.

18 (Interview concluded.)
19
20
21
22
23
24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of JOHN P. SKAGGS, SR., was duly taken by
6 me and before me at the time and place specified in
7 the caption hereof.

8 I do further certify that said proceedings
9 were correctly taken by me in stenotype notes,
10 that the same were accurately transcribed out in
11 full and true record of the testimony given by
12 said witness.

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

20 My commission expires the 6th day of March
21 2019.

21 Given under my hand and seal this 3rd day of
22 March 2011.

23

Jenny Taylor
Notary Public

24