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Statement Under Oath of Travis Holdren

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STATEMENT UNDER OATH

OF

TRAVIS HOLDREN

taken pursuant to Notice by Danielle Ohm, a Court Reporter and Notary Public in the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia, on Tuesday, June 8, 2010, beginning at 1:00 p.m.

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is June
5 8th, 2010. I'm with the Office of the Solicitor, U.S.
6 Department of Labor. With me is Eric Sherer, an
7 accident investigator with the Mine Safety and Health
8 Administration, an agency of the U.S. Department of
9 Labor. Also present are several people from the State
10 of West Virginia. I ask that they state their
11 appearance for the record.

12 MR. MCGINLEY:

13 Patrick McGinley, the Governor's
14 independent investigation team.

15 MR. FARLEY:

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

18 MR. O'BRIEN:

19 John O'Brien, West Virginia Office of
20 Miners' Health, Safety and Training.

21 ATTORNEY BABINGTON:

22 There are several members of the
23 investigation team also present in the room today.

24 Eric will be conducting the initial questioning.

25 All members of the Mine Safety and Health

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

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

1 your assistance in this investigation.

2 You may have your personal attorney

3 present during the taking of this statement or another

4 personal representative if MSHA has permitted it, and

5 you may consult with your attorney or representative

6 at any time.

7 Your statement is completely voluntary.

8 You may refuse to answer any question. 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 can ask clarifying questions

13 as appropriate. For the record, do you have a

14 personal representative or a legal representative with

15 you today?

16 MR. HOLDREN:

17 No.

18 ATTORNEY BABINGTON:

19 Thank you. Your identity and the content

20 of this conversation will be made public at the

21 conclusion of the interview process and may be

22 concluded in --- may be included in the public report

23 of the accident unless you request that your identity

24 remain confidential or your information would

25 otherwise jeopardize a potential criminal

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

11 MR. HOLDREN:

12 No.

13 ATTORNEY BABINGTON:

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

1 do not understand a question asked, please ask to
2 rephrase it. Please answer each question as fully as
3 you can, including any information you've learned from
4 someone else.

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

9 After we've finished asking questions,
10 you'll have an opportunity to make a statement,
11 provide us with any information that you believe to be
12 important. If at any time after the interview you
13 recall any additional information that you believe
14 might be useful, please contact Norman Page at the
15 contact information provided to you in that letter.

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

25 MR. FARLEY:

1 Travis, I also want to advise you that
2 the West Virginia Coal Mine Health and Safety
3 regulations also protect coal miners from
4 discrimination. And I want to give you a memorandum
5 with some contact information for the West Virginia
6 Board of Appeals, along with a business card for
7 myself and Bill Tucker, our other lead investigator,
8 and advise you that in the event that you should
9 suffer any discrimination for talking with us, feel
10 free to contact either of us or the Board of Appeals
11 at that address.

12 MR. HOLDREN:

13 Okay. Thank you.

14 MR. MCGINLEY:

15 And on behalf of the independent
16 investigation team, I'm sure that the Federal and
17 State members of the investigation want to say that
18 the basic reason we're here is because 29 miners lost
19 their lives and their --- you know, their widows,
20 their children, their family, they want some answers,
21 and that's what we're going to try to do. And so
22 that's why your cooperation and truthfulness in
23 response is of great importance and will be helpful to
24 all of those folks.

25 -----

1 TRAVIS HOLDREN, HAVING FIRST BEEN DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 -----

4 EXAMINATION

5 BY MR. SHERER:

6 Q. First of all, thank you for coming down here this
7 afternoon. It's been tough on almost everybody the
8 past couple months or so. Will you please state your
9 full name and spell your last name?

10 A. Yes, Travis Holdren. It's H-O-L-D-R-E-N.

11 Q. Will you please state your address and telephone
12 number?

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

14 (b) (7)(C)

15 Q. Are you appearing here voluntarily?

16 A. Yes.

17 Q. Have you been offered any compensation for
18 appearing?

19 A. No.

20 Q. Thank you. Has anyone else interviewed you
21 concerning the accident and your knowledge of the
22 conditions of the mine?

23 A. No.

24 Q. Okay. Thank you. How many years of mining
25 experience do you have, Mr. Holdren?

1 A. Three and a half.

2 Q. Okay. Could you give just a brief description of
3 your employment history in coal mining?

4 A. I've been to 12 different mines in this town and
5 I've run basically every piece of equipment and done a
6 little bit of everything in the mine that needed done,
7 so I've been around to know what goes on in it.

8 Q. Where are you currently employed at?

9 A. Sand Creek Mines.

10 Q. Okay. Thank you. Were you employed at the Upper
11 Big Branch Mine prior to the explosion?

12 A. No.

13 Q. Okay. Were you a contractor at Upper Big Branch
14 Mine?

15 A. No, I was at Parker Peerless two months before.

16 Q. Two months before. Did you have any connection
17 with Upper Big Branch Mine?

18 A. No. I was there the --- for two months and during
19 whenever the explosion happened.

20 Q. Oh, you were there after the explosion?

21 A. I was there during the explosion. I was there
22 that day of it.

23 Q. Oh, jeez. Could you explain what you were doing
24 there that day?

25 A. I was running scoop and everything and cleaning

1 the section. We was on our way out whenever it
2 happened.

3 Q. Okay. And that was your first day at Upper Big
4 Branch?

5 A. No. We'd been --- like I said, my section had
6 just gotten moved from there from Parker Peerless ---

7 Q. Okay.

8 A. --- down to UBB and just started that section.

9 Q. Okay. Approximately when did you guys arrive at
10 Upper Big Branch?

11 A. Right around February.

12 Q. Okay. So you've been there a couple months or so?

13 A. Yes.

14 Q. Okay. What did you do the first day that you got
15 down to Upper Big Branch? Could you tell me about
16 that, please?

17 A. Well, we went and done safety and went over the
18 maps and then took us down where the section was going
19 to be. They made us walk airway back out that day.
20 But mostly that day we got to know the mines and they
21 took us and showed us where everything was and all in
22 the mines.

23 Q. Thank you. Could you please tell me what training
24 and retraining you've had?

25 A. I've had my annual, yearly retraining two weeks

1 before the explosion. And I've had all of the
2 smokehouse training and the air bay training.

3 Q. Okay. How about the SCSR training? When was the
4 last time you had that?

5 A. I've had it in all the retraining, and usually
6 every three months.

7 Q. Okay. Thank you. Have you been trained in the
8 refuge alternatives?

9 A. Yes.

10 Q. Thank you. Do you have any Federal or State
11 mining certifications?

12 A. No, I don't.

13 Q. Are you aware of a document called an enhanced
14 performance agreement?

15 A. No, I ain't.

16 Q. Okay. Thank you. You said that you work on the
17 barrier section. Which portal do you normally enter
18 to get there?

19 A. We would enter from the UBB side.

20 Q. Okay. Which shift do you normally work?

21 A. We work two weeks of day and two weeks of evening
22 shift, swing shift.

23 Q. Okay. And then you repeat that cycle?

24 A. Yeah.

25 Q. Okay. Were both of those production shifts?

1 A. Yeah.

2 Q. Okay. How did you travel to the section from
3 where you entered the portal?

4 A. We went down the track way by Plumley Switch and
5 down the beltlines. The track goes all the way to the
6 section.

7 Q. Okay. Did you travel through any equipment doors
8 on your way to the section?

9 A. Two of them.

10 Q. Okay.

11 A. Two airlock doors.

12 Q. Where are those doors located at, approximately?

13 A. Right up here. They're a ways in there, I know
14 that. And there may be one already up there. So
15 they're probably ---.

16 Q. Are they approximately where the Ds are located on
17 this map?

18 A. Yeah.

19 Q. Okay, all right. Good. That's all we need. Were
20 these doors maintained in good condition?

21 A. Yeah, they worked all the time. They made sure
22 they worked.

23 Q. Were they automatic doors?

24 A. Yeah.

25 Q. Okay. Who was the section boss?

1 A. Brandon Davis.

2 Q. Was he a good section boss?

3 A. Yeah. He was one of the best ones I've worked
4 with.

5 Q. Good. Was he the section boss the entire time
6 you've been at UBB?

7 A. Yeah.

8 Q. Okay. Thank you. Have you been injured since
9 you've been working with Massey organization?

10 A. Yeah, I (b)(7)(C) a while about my first year
11 in the mines, running the scoop. (b)(7)(C)
12 (b)(7)(C)

13 Q. Oh, jeez. Did you take any time off?

14 A. No, instead of taking the time off I asked them if
15 I could have light duty outside working and all to
16 help outside. And they said that was fine and they
17 would do it.

18 Q. Okay. Thank you. How would you describe the
19 roof, rib and floor on the barrier section there?

20 A. The floor was good. The ribs, we had rollouts,
21 which is here and there in it, but the top, it was
22 pretty bad at times.

23 Q. Okay. Do you think that was because you were
24 between this longwall panel?

25 A. Yeah.

1 Q. Okay. Roughly, how high was the mining out there
2 in the barrier section?

3 A. In between 12 and 14 foot at times.

4 Q. Oh, jeez, that's high. Was that all coal or did
5 you take top or bottom?

6 A. That was all coal.

7 Q. All coal. That's a lot of coal.

8 A. They'll take the coal out from the top. Some of
9 it would fall and they'd have to go back in and clean
10 up and then bolt it back up.

11 Q. Uh-huh (yes). How about the ventilation on the
12 barrier section, was it adequate?

13 A. Yeah.

14 Q. Okay. Did you ever notice any unusual changes or
15 low airflows there on the barrier section?

16 A. No. We always had good air up there.

17 Q. Okay. Good. How about the rock dust and cleanup
18 program?

19 A. Whenever --- my shift on our --- before I left the
20 section it was clean. The only place that wasn't
21 clean was where the equipment was setting, dusted up.

22 Q. That's good. Are you aware of mining ever taking
23 place in this mine without ventilation curtains in
24 place?

25 A. Yeah, I'd heard about it, but I don't know who had

1 done it and all.

2 Q. Okay. How about the ventilation changes? Have
3 you ever heard of them being made at this mine while
4 people were still underground?

5 A. No, not with people underground, I haven't heard
6 of it. I've heard of ventilation changes.

7 Q. Okay. Have you heard of any problems with the
8 quantity of air or the airflow direction of this mine?

9 A. No, not on the section that I was on, and I hadn't
10 heard it from nobody else.

11 Q. Have you ever been sent home or told not to show
12 up to work due to ventilation related problems at UBB?

13 A. No.

14 Q. Okay. Are you aware of any problems with methane
15 outbursts or methane inundations at this mine?

16 A. No.

17 Q. Okay. Have you ever worked or traveled to the
18 longwall or any of the longwall development sections?

19 A. No.

20 Q. Okay. Have you heard of any problems or concerns
21 about the longwall or the developing sections for the
22 longwall?

23 A. No, they always just told us to not hit the high
24 line, not hit the water lines. Keep the longwall
25 running.

1 Q. There you go. Did you ever work by yourself, have
2 to go off to the section or do anything like that?

3 A. Just to get supplies. That's about as most that
4 I've ever done.

5 Q. So would you take your scoop out to get supplies
6 or what?

7 A. Yeah, they was usually about four breaks off the
8 section, if that.

9 Q. Oh, okay. Are you aware of advance notice of MSHA
10 inspections or State inspections of this mine?

11 A. No.

12 Q. You were never told to clean up things because
13 there was company on the property?

14 A. No.

15 Q. Okay. Are you aware of methane monitors on this
16 section or any other section in this mine being
17 tampered with so that they wouldn't indicate the full
18 range of methane?

19 A. No.

20 Q. Okay. Thank you. Do you have any knowledge of
21 miners being subjected to retaliation or threats for
22 reporting safety issues or other concerns at this
23 mine?

24 A. No.

25 Q. Okay. Are you familiar with the S1 and the P2

1 programs?

2 A. Yes.

3 Q. What are those, please?

4 A. It's safety first, production second, and I forgot
5 what the M is.

6 Q. Okay.

7 A. I just remember them two.

8 Q. Okay. As far as production, are you aware of or
9 have you ever heard of someone having to report
10 production on a regular basis or explain why equipment
11 is down?

12 A. Yeah, that was an every shift thing.

13 Q. Okay. Do you know who that had to be reported to?

14 A. Gary May.

15 Q. Okay. Gary May. Who is the ---?

16 A. Mine foreman outside.

17 Q. Okay. Do you think he ever report that further up
18 the line?

19 A. I'd say so, but I don't know who he had to go
20 through and that from there.

21 Q. Okay. Are you aware of or you ever heard of
22 someone having to report potential safety issues or
23 hazards on a regular basis?

24 A. No.

25 Q. Okay. Thank you. Which of these programs, S1 or

1 P2, got the most emphasis at UBB?

2 A. The P1.

3 Q. The P ---?

4 A. P2.

5 Q. P2?

6 A. Yeah.

7 Q. Okay. Thank you. Okay. Let's shift gears just a
8 bit here. I'd like to talk about the April 5th
9 explosion. Were you at the mine at the time of the
10 explosion?

11 A. Yeah.

12 Q. Could you please tell us where you were at and
13 give us a little ---?

14 A. We was just outside the portal. We have just got
15 outside the portal.

16 Q. Okay. How did you learn of the explosion? Can
17 you please describe any --- anything you saw or
18 anything you felt?

19 A. Right. Just as we got out there was a gush of air
20 come out of the portal and the fans stopped and
21 started turning backwards.

22 Q. Oh, jeez.

23 A. So we knew something big had happened, so we went
24 in and tried to see what needed to be done.

25 Q. Do you recall what time that happened?

1 A. Around 3:30.

2 Q. 3:30, okay. Did you look at your watch or a
3 clock?

4 A. We're usually outside there between 3:15, 3:30.
5 They start at 4:00, and that gives us time to get
6 everything exchanged out and let them know what ---
7 mark everything up and all.

8 Q. Okay. Sure. How long did the pressure come out
9 of the portals and the fan reverse and such as that?
10 Do you have a feeling for how long that was that ---?

11 A. The pressure coming out of the portal didn't last
12 real long, but the fans ran backwards for a while.
13 And then they went over and checked on them. They
14 started running right, the electricians did.

15 Q. Okay. Was there any dust or smoke that came out
16 of the portals?

17 A. Yeah, there was dust came out of it, but not very
18 much ---

19 Q. Okay.

20 A. --- from that side.

21 Q. Sure. This is pretty long distance from the
22 longwall, isn't it?

23 A. Yes.

24 Q. What was your first thought when this happened?
25 Did you imagine what it could entail or ---?

1 A. We really couldn't tell what it was. I knew it
2 was either a rock fall or something big, but then
3 after I got to thinking and all of us guys talking and
4 trying to figure what was going on, we knew that it
5 wasn't a rock fall, that would turn the fans
6 backwards.

7 Q. Who was the responsible person on this shift, do
8 you recall?

9 A. Gary May.

10 Q. Okay. What instructions, if any, did you receive
11 after this event?

12 A. We was told to stay in the bath house and they may
13 need us and just to wait there, they tell us either to
14 go or if they needed us.

15 Q. Okay. Who told you that?

16 A. A woman came down there. She came in in a
17 helicopter just after it had happened, just a little
18 bit afterward.

19 Q. Oh, okay.

20 A. She told us just stay there, if they needed
21 us ---.

22 Q. Are you familiar with the name Elizabeth
23 Chamberlin?

24 A. I believe that was her.

25 Q. Okay. How long were you in, around that area

1 after the event?

2 A. About an hour and a half.

3 Q. And what did you do there?

4 A. They came out and they told us that there was
5 nothing we could do. We could either go home or stay
6 and help if we wanted to. And most of us wanted to
7 get to a phone to call our families and all.

8 Q. Sure.

9 A. So I left.

10 Q. Okay. Were you involved in the subsequent rescue
11 and recovery work?

12 A. No.

13 Q. Okay. Was that your last day at Upper Big Branch?

14 A. Yeah.

15 MR. SHERER:

16 Okay. That's all I got.

17 EXAMINATION

18 BY MR. FARLEY:

19 Q. Travis, just a few. If you were working on the
20 barrier section and you entered the UBB Portal ---

21 A. Uh-huh (yes).

22 Q. --- did you ever travel anywhere other than the
23 track entry to and from the section?

24 A. We traveled the intake the first day we worked
25 there.

1 Q. On foot?

2 A. On foot.

3 Q. Okay. Now, anywhere else in the mine that you
4 traveled to?

5 A. The farthest I've been in the mines was to the LBB
6 Switch, which is where we had to park our mantrip
7 until they got our section in far enough to put a
8 track in through it.

9 Q. Okay. When you said that the fans were turning
10 backwards or running backwards, did anybody --- did
11 you have a conversation with anybody about that? Did
12 they explain it ---?

13 A. We all was talking about it and just said that
14 either the fan --- either a rock fall hit and doesn't
15 have enough air to turn it backward or forward. Or
16 something big had happened and the air just made it
17 turn backwards. None of us could really figure it
18 out.

19 Q. Okay. Approximately how long was it before it
20 started back as it should have been?

21 A. Probably three to four minutes before they went
22 over there and got it going right again.

23 Q. Now, when you say they went over there and got it
24 going right again, ---

25 A. Uh-huh (yes).

1 Q. --- who went over there?

2 A. Electricians was in there. They went over to see
3 what was wrong with the fan.

4 Q. Do you know who they were?

5 A. No, I don't. I was just told the electrician went
6 over and the fan was running right again.

7 Q. Okay. Do you remember who told you that?

8 A. Brandon Davis, my boss.

9 Q. Your boss, okay. All right. While you worked at
10 UBB on the barrier section, was it normal routine for
11 your section boss to call out production and down time
12 at intervals throughout the shift?

13 A. Yeah. Yeah.

14 Q. How often did he call out?

15 A. I think it was twice a shift.

16 Q. Okay. Do you know who he spoke to when he called
17 out?

18 A. No, I don't. I never did ask him that. He just
19 said he had to call out reports, but you know.

20 Q. Did he write down like, the continuous miner, he
21 --- it would be required for him to call out?

22 A. Yeah.

23 Q. Okay. Now, prior to April the 5th, what was your
24 last shift before that day?

25 A. My last shift was --- that was my first day of the

1 dayshift.

2 Q. Okay.

3 A. We'd just left our shift and was on our way out.

4 Q. Okay. What was your last shift before that day?

5 A. Before that day I was evening shift. The night
6 before that weekend, before the Easter weekend.

7 Q. Okay. And would that have been Friday ---
8 Thursday or Friday?

9 A. Thursday.

10 Q. Okay. During your shift on April the 5th, did you
11 hear anything about the longwall being down, not
12 operating at any point?

13 A. No, we never did hear much about the longwall
14 there.

15 Q. Okay. All right. Now, on April the 5th or on any
16 day since, have you heard anything to indicate that
17 there might have been some type of a ventilation
18 change in the mine on Sunday, April 4?

19 A. No.

20 MR. FARLEY:

21 Okay. Pat.

22 EXAMINATION

23 BY MR. MCGINLEY:

24 Q. Mr. Holdren, you said no one contacted you before
25 you came in here to discuss what you experienced on

1 the day of the explosion?

2 A. No.

3 Q. And you didn't get any messages from any lawyers
4 from Massey, saying they'd like to talk to you?

5 A. No, they wanted to talk to me basically the same
6 thing but they just told me that if I wanted somebody
7 with me I could. That's all I needed to know, so I
8 told them I would go.

9 Q. Where did you meet with them?

10 A. I met them at the Elk Run office.

11 Q. And you spent about 45 minutes with them?

12 A. Not even that.

13 Q. Half an hour?

14 A. I'd say even less than that, really. I showed up.
15 They said if I wanted somebody here, I could have it.
16 I said, well, that's all I need to know. I said I
17 need to get to work. I was probably there maybe 15
18 minutes at the tops.

19 Q. Did they ask you any questions about what --- you
20 know, what happened when you came out of the mine
21 right there before it blew?

22 A. No.

23 Q. They didn't ask you any questions at all?

24 A. No.

25 Q. What did they say to you? Did they explain to you

1 why they wanted you to come in?

2 A. Like I said, they went in the first time and they
3 just said if I wanted somebody here that I could have
4 somebody here. And I said, well, I'll tell you right
5 now. That's about only thing I need to know. I said,
6 I got to get to work because I've got to be there.

7 Q. When did that happen, that discussion?

8 A. I ain't sure of the date.

9 Q. Well, just a rough estimate, if a month ago, a
10 week ago?

11 A. Probably a month and a half ago.

12 Q. And before you had that conversation with them,
13 did you know you might be called in to answer
14 questions in this investigation?

15 A. I figured I would be.

16 Q. Okay. And so did you know before you went to work
17 that day that they wanted you to talk to the lawyers?

18 A. Yeah, they had told --- they had a schedule paper
19 sent up there saying you had to be down there at this
20 time to see them at all. And they just put it on a
21 day I had to work.

22 Q. And where was this schedule? Was it posted on a
23 board or did they give it to you?

24 A. No, it was on --- just on a faxed out piece of
25 paper. The mine printed out piece of paper stuck on

1 what we call the white board at the mines.

2 Q. Okay. So they expected you to look and see that
3 and ---

4 A. Yeah.

5 Q. ---- know when you were supposed to be there?

6 A. Yeah.

7 Q. Did you talk to anybody else that's been
8 interviewed by the Massey lawyers?

9 A. No, I don't work with nobody from the UBB anymore.

10 Q. No, right, right. Nobody that got transferred
11 over to where you work?

12 A. They did up to Hunter, and before I could even get
13 around anybody that I've worked with, they shipped me
14 down there to Sand Creek.

15 Q. You said that as you went to work there at UBB
16 there were two airlock doors?

17 A. Yeah.

18 Q. And you said they were automatic?

19 A. Yeah.

20 Q. Did they work or ---

21 A. Yeah.

22 Q. --- did you have to get out? They always worked?

23 A. They always worked.

24 Q. Okay. Did you notice whether they were dented?
25 Have any sign of wear?

1 A. They had some signs of wear where equipment had
2 bumped them, but nothing that would affect the air,
3 really.

4 Q. Did you ever come up to the doors and find them
5 open?

6 A. No.

7 Q. No. You said that first year of working for
8 Massey you hurt (b)(7)(C) running the scoop and you
9 had asked them for light duty outside the mine. How
10 long were you on light duty?

11 A. Two weeks.

12 Q. And did you go to the doctor for the problem with
13 (b)(7)(C) ?

14 A. Yeah.

15 Q. And what was the diagnosis?

16 A. (b)(7)(C)

17 Q. And that barrier section, were there any problems
18 with water?

19 A. Yeah, at the beginning of it thee was water from a
20 pump that was in the intake, coming into it, and we
21 had to set another pump and get the water out of it.

22 Q. Was there ever an accumulation of water?

23 A. Whenever they forgot to turn on the pump one day.

24 Q. When the pumps were running, water wasn't a
25 problem?

1 A. No.

2 Q. You said where you were working at UBB they always
3 had --- you always said they had good air up there.

4 Q. Yeah.

5 A. Have you heard, generally, that there were air
6 problems in other parts of the mine?

7 A. No, I hadn't heard that there were air problems
8 anywhere else.

9 Q. You said you'd heard of ventilation changes in the
10 mine.

11 A. I've heard of them probably the day before my
12 shift back whenever we was going in. They said
13 they've done some changes, but the air was good.
14 They've had readings with the fire bosses and
15 everything. We went in to work like a normal shift.

16 Q. And what day was that? Was that April 5th or some
17 other day?

18 A. The 5th.

19 Q. So somebody said that there'd been some
20 ventilation changes and now they got it clear?

21 A. Whenever we got under there, my boss told me that
22 they had done some air changes, but we still had good
23 air, that they had said it was fine.

24 Q. Do you have any idea why he would tell you that?

25 A. He just said that they were trying to get more air

1 up toward the longwall and all.

2 Q. So --- go ahead.

3 A. He was telling me that they thought they needed
4 more air up there because they was trying to start
5 another section above ours.

6 Q. And so he thought you might be concerned that if
7 they were channeling more air to the longwall that
8 where you were working might have less air?

9 A. Yeah.

10 Q. And he wanted to try to ---?

11 A. He just wanted to make sure we knew that it was
12 still all right. Everything was still reading the
13 same and all.

14 Q. So you had other conversations with him from the
15 time you got there about air?

16 A. We always had our safety meetings outside with
17 him. Then we went in and before we got on to the
18 section, always read part of the roof and rib plan.
19 Then he'd tell us what needed to be done and let us
20 note what had been done and all, what the other crew
21 had done and all.

22 Q. And did you have your safety meeting before you
23 went in the mine?

24 A. Yeah.

25 Q. How long would that generally take?

1 A. Usually between 45 minutes to an hour.

2 Q. And what are some of the problems that you can
3 recall you were informed of in the safety meeting from
4 the previous shift?

5 A. Just that we had bad top in an area that was
6 falling out at the roof bolter that they had to clean,
7 that they would clean up, to watch that area, to watch
8 a rib somewhere that was --- may fall out. Or we may
9 have set sand jacks where the rib had rolled out,
10 stuff like that.

11 Q. Were there any roof falls significant roof falls
12 that occurred in that barrier section where you were
13 working?

14 A. No, not really.

15 Q. What do you mean, not really?

16 A. Maybe a foot or two in some spots.

17 Q. Did your boss ever tell you other than on the 5th
18 that they were --- had been ventilation changes, but
19 you were going to have adequate air in your section?

20 A. No.

21 Q. That was the only time he ever talked ---

22 A. Yeah.

23 Q. --- about ventilation?

24 A. Yeah.

25 Q. You said you knew what S1 and P2 are?

1 A. Yeah.

2 Q. And you said P2 is production second and S1 is
3 safety first?

4 A. Uh-huh (yes).

5 Q. Yes?

6 A. Yeah.

7 Q. So other than S1 meaning safety first, what else
8 does it mean?

9 A. That's all I'd ever been told about it, was safety
10 first.

11 Q. That's all safety first means to you, is that
12 there's this program, S1, and it means safety first?

13 A. That's what I've been told since I started there.
14 It means be safe first, and then do production next.

15 Q. And other than being told that, you don't know
16 anything about S1?

17 A. no.

18 Q. Did you ever hear of the S1 manual?

19 A. No, I haven't.

20 Q. Do you know any formalized policies that were in
21 effect at Upper Big Branch or any of the other Massey
22 mines where you work that relate to S1 and P2?

23 A. No.

24 Q. Do you know what M3 is?

25 A. I've heard of it, but like I said, I hadn't used

1 that phrase in so long, really, I just ---.

2 Q. Have you ever been in a Massey mine when an
3 accident happened?

4 A. Yeah.

5 Q. Was it a lost-time accident?

6 A. Yeah.

7 Q. And after that accident did anybody talk to you
8 about it?

9 A. On our safety meeting the following week they
10 always --- any lost-time accident we've had there, the
11 next day even they explained to us how to prevent it
12 and whatnot.

13 Q. Did that accident happen in your section?

14 A. No.

15 Q. Bear with me for a moment. Now, you were asked
16 about something called an enhanced agreement or
17 enhanced contract, do you remember that, a few minutes
18 ago?

19 A. Yeah.

20 Q. And you said you didn't know anything about it?

21 A. No, it's been so long since I went through any of
22 the paperwork I done when I first got hired on or
23 signed any contract with them.

24 Q. Did you sign a contract with them?

25 A. When I first was hired on, yeah.

1 Q. Three years ago? About three years, three and a
2 half?

3 A. Yeah.

4 Q. When did you --- do you recall when exactly
5 when ---?

6 A. It was January 1st, 2008.

7 Q. Did that contract provide that if you signed it
8 you could work for three years, have a job for three
9 years, do you remember?

10 A. Yeah.

11 Q. And did it say that if you signed it you would get
12 certain bonuses and raises that you wouldn't get if
13 you didn't sign it?

14 A. Yeah.

15 Q. And do you know what would happen if you quite or
16 were discharged for some reason by Massey?

17 A. It had been so --- like I said, so long since I'd
18 --- I can't remember it.

19 Q. Do you remember that, if I refresh your
20 recollection, that you'd have to give back all the
21 raises and bonuses if you quit or were terminated?
22 Does that ring a bell?

23 A. No, they never went over that part even with me
24 that I can recall.

25 Q. If I show you a document. The dates on the

1 document is 12/14/07. It's a Performance Coal Company
2 letterhead. Subject is enhanced agreements. I'm
3 going to ask you to look at it and see if this looks
4 familiar to you, if you might've --- if that might be
5 the agreement you signed.

6 A. The day I was hired on to Performance, we went in.
7 They just had all the papers there, they said sign
8 this. Initial this here, there, there. Sign this
9 here. That's all you needed to know.

10 Q. Did you not read anything you signed? I mean,
11 people do that. I, you know ---.

12 A. Yeah.

13 Q. I'd do that sometime.

14 A. Yeah, but the more we was with Marfork and we was
15 doing was transferring from one to the other one, we
16 just had to fill out all the paperwork again. So we
17 figured it was all the same and all set there and
18 filled it out.

19 Q. So nobody explained what you were signing?

20 A. They said it was all the same stuff that we filled
21 out for Marfork and they just needed it filled out for
22 them.

23 Q. Did you understand that if you quit working for
24 Massey that you were agreeing not to work at any Massey
25 mine for a year after you quit within a certain radius

1 of the mine?

2 A. I don't remember them ever going over that with
3 us.

4 Q. Did you ever talk to any other folks that worked
5 at Massey about those kind of requirements?

6 A. No.

7 Q. When you came out of the mine on April 5th, you'd
8 just gotten out and you said there was a gush of air
9 out of the portal and the fan sotpped and reversed.
10 And you said dust came out of the portal. Did that
11 dust have any color? Do you recall?

12 A. It was just white in the rock dust.

13 Q. Was it like rock dust? Is that what you thought
14 it was?

15 A. Yeah.

16 Q. Did you ever see anything like that before?

17 A. No.

18 Q. Did that dust cover the ground and turn it white?

19 A. Yeah.

20 Q. It did. And what kind of --- how big of an area
21 outside the portal was it?

22 A. Not real big, probably about 10, 12 feet out front
23 of it.

24 Q. Did you talk to any of the folks that were there
25 at the time about that white dust, that that was

1 unusual?

2 A. I just told them that we just knew that there was
3 air coming out of there and we figured it was the rock
4 dust that blew out.

5 Q. Which way does the air usually go with regard to
6 that portal?

7 A. It usually --- a small amount comes out the doors,
8 but anyways --- not that amount.

9 Q. You never experienced anything like that?

10 A. No.

11 MR. MCGINLEY:

12 I don't have any other questions.

13 MR. SHERER:

14 Let's take a brief ---?

15 ATTORNEY BABINGTON:

16 Yeah, let's take a quick couple-minute
17 break.

18 SHORT BREAK TAKEN

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. I got just a few follow-up questions, Mr. Holdren.

22 A. All right.

23 Q. What was the section bosses and people like that's
24 attitude toward safety, for example, shutting
25 equipment down or slowing down production to address

1 safety hazards?

2 A. Brandon, my boss, was real strict on safety.

3 Q. What about upper management's attitude toward
4 safety, do you know?

5 A. I don't really know.

6 Q. Thank you. You mentioned that the coal is 14 feet
7 or so high on this section. How did they take gas
8 checks up at the roof of this coal seam?

9 A. With their probes.

10 Q. Okay.

11 A. On the bolters.

12 Q. Okay. How about the ATRS on the bolters?, do you
13 know if that will reach the roof?

14 A. We had two good extensions on it.

15 Q. Okay. Thank you. You mentioned that you were
16 injured several years ago and you got light duty for a
17 couple of weeks. Did you ask for that or did the
18 company ask if you wanted that?

19 A. I asked for that.

20 Q. Thank you. Did the company have a representative
21 go to the doctor with you when you were injured?

22 A. No.

23 Q. Okay. Do you know if the continuous miners on the
24 section have scrubbers?

25 A. Yeah, I think they did. Yeah.

1 Q. Were they using those scrubbers here on the
2 barrier section?

3 A. No, we used shortcuts.

4 Q. Okay. Twenty (20) foot cuts?

5 A. Yeah.

6 MR. SHERER:

7 Okay. That's all I have.

8 RE-EXAMINATION

9 BY MR. FARLEY:

10 Q. You said your boss was real strict on safety. Can
11 you give us a couple examples of when he was real
12 strict on safety?

13 A. If he'd go and a cable had an nick in it or
14 something, tell them to shut it down. If a rib was
15 about to roll in a area that a buggy was running to,
16 he would stop the buggy from running down, have us
17 clean the rib up. We'd get it out of the way for
18 nobody to get hurt. If your place needed ventilated
19 he'd say, that needs done before we can even go in
20 that area, and get it done. He was strict on it.

21 Q. And so were there times when a place where you're
22 going to work needed ventilation and they had to get
23 it done before you started?

24 A. Like after the bolter blow it out, yeah.

25 Q. I'm sorry?

1 A. Just like after the bolter blow it out and I'd
2 just cleaned it and I'd put the curtain back up. And
3 he'd say, you need to put one over here just to help
4 you get air up in there and I'd go help put up
5 whatever needed done to get air over there.

6 Q. When you asked for light duty after you (b)(7)(C)
7 (b)(7) , how did you know to do that?

8 A. Well, I just asked if they had anything I could
9 do, if I could maybe do something light outside or
10 just help outside until I got to where I could bend my
11 (b)(7)(C) little bit.

12 Q. Did you know that it was common for Massey to let
13 folks go on light duty if they injured themselves?

14 A. Yeah.

15 Q. That happened frequently?

16 A. Yeah, to help families out and guys that couldn't
17 afford to miss work and all. They just asked if they
18 had anything they could do, like light duty around
19 outside the mine.

20 Q. So that would be good for the person that was
21 injured and their family because they could keep
22 getting a check?

23 A. Yeah.

24 Q. what kind of injuries --- just in your knowledge,
25 what kind of injuries would people get that they'd

1 give them light duty on?

2 A. Pulling muscles, stuff that they'd recover quickly
3 on. Something --- broke a limb or something, they'd
4 say no, you can't do nothing. Go home. If you got
5 stitches or need bandages, anything, then they'd say
6 no, you can't work. You'd get dirt in it. Go home.

7 Q. So anybody got stitches, that'd be a lost time
8 injury?

9 A. Yeah.

10 Q. Have you seen people get cut and need stitches
11 pretty often?

12 A. No.

13 Q. Half a dozen times?

14 A. Not even that. The most I've seen is twice from
15 the whole time I've been in the mines.

16 Q. What other injuries have you seen that cause
17 people to lose time?

18 A. I haven't seen them, but I've heard of them and
19 been at the mines when it was happening. I seen a guy
20 get his hand hit with a Flexco hammer making a splice.
21 Broke his fingers. A guy got his hand caught on the
22 roof bolt, broke his hand while putting it up. And
23 then most recently a rock fell on a guy, one of the
24 buggy men up on the section that I'm on now, and got
25 his leg hurt.

1 Q. Oh, you're at the mine where you're at now?

2 A. Yeah.

3 MR. FARLEY:

4 Okay. No further questions. Thank you.

5 RE-EXAMINATION

6 BY MR. SHERER:

7 Q. One more question. When you were doing your light
8 duty, did you ever work as a dispatcher?

9 A. Yeah.

10 Q. What did you do as a dispatcher?

11 A. Mostly answer the phone, so they took care of the
12 belts and everything.

13 Q. Did you make reports or fax reports as part of
14 that duty?

15 A. Yeah.

16 Q. What sort of reports were those?

17 A. Production reports. They just got handed to me
18 and said, this needs faxed to this number.

19 Q. Okay. Could you explain what a production report
20 is to us?

21 A. It tells how much down time in a shift is done,
22 the amount of coal, how long the buggies took to dump
23 and that's about all I know about them. I haven't
24 really messed with them or looked at them. I just
25 done what I was told.

1 Q. Just passed them on. Do you know who those went
2 to?

3 A. Not really. Just gave me a number and said, this
4 is the number they need to go to.

5 Q. Okay. When you were acting as a dispatcher, did
6 you ever pass on any sort of notification that the
7 instructor was on the property?

8 A. No.

9 Q. Are you aware of anyone else passing on that
10 notification?

11 A. No, not that I'm aware of.

12 Q. Okay.

13 RE-EXAMINATION

14 BY MR. FARLEY:

15 Q. How many fax numbers were you given?

16 A. Two. If one didn't go through you tried to put it
17 through on the other one.

18 Q. Okay. Do you remember what the numbers were?

19 A. Not right off the top of my head.

20 Q. Okay.

21 RE-EXAMINATION

22 BY MR. MCGINLEY:

23 Q. I got a couple follow-ups here. You said with
24 these production reports you were faxing, that they
25 --- it would indicate both production and downtime on

1 a section?

2 A. Yeah, I know they max on them because I --- bosses
3 told me you got to put them on there, but I don't know
4 what else. That's the only way I knew ---.

5 Q. Sure, sure. Then downtime, was that, you know, a
6 miner had broken down. You know, they give a reason?

7 A. Yeah.

8 Q. And then the amount of time it was down?

9 A. Yeah.

10 MR. MCGINLEY:

11 Okay. That's it.

12 RE-EXAMINATION

13 BY MR. SHERER:

14 Q. Okay. Do all Massey operations have to fax in
15 those reports on a regular basis?

16 A. Yeah.

17 Q. Who directed you to fax in those reports?

18 A. The nightshift dispatcher said that they need
19 these faxed in these times and all before I leave and
20 all.

21 MR. SHERER:

22 Okay. That's all I got.

23 MR. FARLEY:

24 Nothing.

25 MR. MCGINLEY:

1 Nothing.

2 ATTORNEY BABINGTON:

3 All right. On behalf of MSHA and the
4 Office of Miners' Health, Safety and Training, I want
5 to thank you for appearing and answering questions
6 today. Your cooperation is very important in the
7 investigation as we work to determine the cause of the
8 accident. We request that you not discuss your
9 testimony with any person aside from your personal
10 representative. After questioning other witnesses, we
11 may call you if we have any follow-up questions. If
12 at any time you have any additional information
13 regarding the accident that you'd like to provide to
14 us, please contact us at the contact information
15 previously provided.

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

20 A. No.

21 ATTORNEY BABINGTON:

22 Okay. Thank you. and again, I want to
23 thank you for your cooperation today.

24 * * * * *

25 STATEMENT UNDER OATH CONCLUDED AT 2:00 P.M.

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Danielle Ohm, a Notary Public in and for
the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Danielle Ohm