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Transcript of the Testimony of Joseph Tilley

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STATEMENT UNDER OATH
OF
JOSEPH TILLEY

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia, on Saturday, June 12, 2010, beginning at 11:36 a.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Bandytown Fan Map

31*

*exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is June 12th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Tim Watkins, an accident investigator with the Mine Safety and Health Administration, also an agency with the U.S. Department of Labor. Also present are several people --- one person from the State of West Virginia. I ask that he state his appearance for the record.

MR. FARLEY:

Yes. Terry Farley with the Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

Tim Watkins will be conducting initial questioning today. All members of the Mine Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep confidential all information that is gathered from each witness who voluntarily provides a statement until the witness statements are officially released. MSHA and the State of West Virginia shall keep this information

1 confidential so that other ongoing enforcement
2 activities are not prejudiced or jeopardized by a
3 premature release of information. This
4 confidentiality requirement shall not preclude
5 investigation team members from sharing information
6 with each other or with other law enforcement
7 officials. Your participation in this interview
8 constitutes your agreement to keep this information
9 confidential.

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

19 You may have your personal attorney
20 present during the taking of this statement or another
21 personal representative if MSHA has permitted it, and
22 you may consult with your attorney or representative
23 at any time. Your statement is completely voluntary.
24 You may refuse to answer any question and you may
25 terminate your interview at any time or request a

1 break at any time. For the record, do you have a
2 personal representative with you today?

3 MR. TILLEY:

4 No.

5 ATTORNEY BABINGTON:

6 Thank you. Your identity and the content
7 of this conversation will be made public at the
8 conclusion of the interview process and may be
9 included in the public report of the accident unless
10 you request that your identity remain confidential or
11 your information would otherwise jeopardize a
12 potential criminal investigation. If you request to
13 keep your identity confidential, we will do so to the
14 extent permitted by law. That means that if a judge
15 orders us to reveal your name or if another law
16 requires us to reveal your name or if we need to
17 reveal your name for other law enforcement purposes,
18 we may do so. Also, there may be a need to use the
19 information you provide to us or other information we
20 may ask you to provide in the future in other
21 investigations into and hearings about the explosion.
22 Do you understand?

23 MR. TILLEY:

24 Yes.

25 ATTORNEY BABINGTON:

1 Do you have any questions?

2 MR. TILLEY:

3 No.

4 ATTORNEY BABINGTON:

5 After the investigation is complete, MSHA

6 will issue a public report detailing the nature and

7 causes of the fatalities in the hope that greater

8 awareness about the causes of accidents can reduce

9 their occurrence in the future. Information obtained

10 through witness interviews is frequently included in

11 these reports. Since we will be interviewing other

12 individuals, we ask --- we request that you not

13 discuss your statement with any person aside from a

14 personal representative or counsel.

15 A court reporter will record your

16 interview. Please speak loudly and clearly. If you

17 do not understand a question asked, please ask the

18 interviewer to rephrase it. Please answer each

19 question as fully as you can, including any

20 information you've learned from someone else.

21 I'd like to thank you in advance for your

22 appearance here. We appreciate your assistance in

23 this investigation. Your cooperation is critical in

24 making the nation's mines safer.

25 After we've finished asking questions,

1 you'll have an opportunity to make a statement,
2 provide us with any other information you believe to
3 be important. If at any time after the interview you
4 recall any additional information that you believe
5 might be useful, please contact any of us or Norman
6 Page at the contact information provided in the letter
7 that we gave you.

8 Finally, any statements given by miner

9 witnesses to MSHA are considered to be an exercise of
10 statutory rights and protected activity under Section
11 105(c) of the Mine Act. If you believe any discharge,
12 discrimination or other adverse action is taken
13 against you as a result of your cooperation with this
14 investigation, you're encouraged to immediately file
15 --- you're encouraged to immediately contact MSHA and
16 file a complaint under Section 105(c) of the Act.

17 MR. FARLEY:

18 I would like, also, to advise you that

19 the West Virginia Coal Mine Health and Safety
20 regulations protect miners against discrimination.

21 And should you experience any such treatment as a
22 result of giving us this interview, I want to give you
23 some contact information so you can contact the State
24 of West Virginia to file a claim if need be; all
25 right?

1 -----

2 JOSEPH TILLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
3 AS FOLLOWS:

4 -----

5 OFF RECORD DISCUSSION

6 EXAMINATION

7 BY MR. WATKINS:

8 Q. Okay. You ready?

9 A. Yeah.

10 Q. Okay.

11 A. Yes.

12 Q. Mr. Tilley, do you go by Joe, Joseph? What do you
13 go by?

14 A. Well, I usually go by Scotty, but our boss, we had
15 two of them on our crew, two Scotty's, so they called
16 me Joe and ---.

17 Q. Okay. Whichever one you want to be called.

18 A. But I'd prefer Scott.

19 Q. Okay. I'll try to remember that.

20 A. Okay.

21 Q. Okay. Just for the record, could you please state
22 your full name and spell your last name, please?

23 A. Joseph Scott Tilley, T-I-L-L-E-Y.

24 Q. Okay. And what is your home address and telephone
25 number, please?

1 A. (b) (7)(C)

2 Q. Okay.

3 A. (b) (7)(C)

4 Q. Okay. Are you appearing here today voluntarily?

5 A. Yes.

6 Q. Okay. Scotty, how many years of mining experience
7 do you have?

8 A. Close to two.

9 Q. Close to two?

10 A. Yeah, somewhere around there.

11 Q. Has a lot of that time been at Upper Big Branch?

12 A. Yes.

13 Q. Okay. What's your current position?

14 A. I'm currently located at Horse Creek Eagle, One
15 Section, moving belt.

16 Q. Okay. And you went there ---?

17 A. As soon as --- two weeks after the explosion ---

18 Q. Two weeks after?

19 A. --- transpired I was sent to ---

20 Q. Okay.

21 A. --- several different mines.

22 Q. Okay. What was your title at UBB?

23 A. Move crew.

24 Q. Move crew?

25 A. Yes.

1 Q. Okay. Who was your boss? Who supervised you?

2 A. Kenny Farmer.

3 Q. Kenny Farmer?

4 A. Yes.

5 Q. Okay. And what were your areas of responsibility?

6 A. Well, actually we was move crew/outby, so we'd
7 shed one section and we was another crew outby, then
8 whatever, which our --- Shawn Locker, the hoot owl
9 mine foremen worked with us, too.

10 Q. Okay.

11 A. So it was all crew, and then Kyle Anderson had his
12 crew of five men, so they worked seven days a week
13 over there on the One section. So in order for us to
14 get a day off, we'd share with them, you know, vice
15 versa.

16 So we mainly worked in towards the Glory Hole and
17 One section, and that's our main areas that we took
18 care of.

19 Q. Okay. When you refer to One section, are you
20 referring to what we've got labeled as ---

21 A. Yeah.

22 Q. --- Headgate 22?

23 A. Yeah.

24 Q. Okay. How many men were on your crew?

25 A. Kenny's crew, there'd be three of us ---

1 Q. Three of you? And who are they?

2 A. --- and Kenny. That'd be Scott Wilson, Tom
3 Fleming and myself and Kenny Farmer.

4 Q. Okay. Your daily activities, what did they ---
5 what'd you do during the day, just on a typical day?

6 A. Well, usually splices or, you know, getting a move
7 ready and moving belt, just ---

8 Q. Okay.

9 A. --- just your normal things.

10 Q. Okay. Did you ever have occasion to go on the
11 longwall any at all?

12 A. No.

13 Q. Okay.

14 A. The only thing we done with the longwall was ---
15 well, we called the Mother Drive right there on that
16 belt line. We'd rob --- you know, when that longwall
17 would move up, we'd rob their belt. That's the only
18 thing we had to do with them. And we made splices on
19 their belt.

20 Q. Okay.

21 A. That's the only thing we had to do with them.

22 Q. Did you work the date of April 5th?

23 A. Yes. We got out probably 9:30 that morning and
24 then ---.

25 Q. Okay. What is your normal --- what shift are you

1 on?

2 A. Hoot owl.

3 Q. Hoot owl?

4 A. Yeah.

5 Q. What time did you start?

6 A. Start time was 11:30.

7 Q. 11:30.

8 A. Yes.

9 Q. And you worked until --- what's normal?

10 A. Normal, 8:00, 8:30. Normal. But we had got out
11 --- got out around 9:00 that morning probably.

12 Q. Okay. And you were all on One Section that day?

13 A. That night that I recall we was on, yeah, the
14 Mother Drive belt.

15 Q. Okay.

16 A. I recall --- I'm pretty sure we was making splices
17 there, and then we had went towards the outside of
18 Ellis, helping another crew still setting the
19 flow-through right there about 10, 15 breaks in from
20 the Ellis Portal where they were starting a new
21 section.

22 Q. When you say you was at the Mother Drive, is that
23 the one on Headgate 22 section or the One, the current
24 mother belt?

25 A. The mother belt. That'd be the longwall. They

1 run right through there.

2 Q. Okay. And that'd be on Headgate One North?

3 A. That would be --- yeah, as you're going up towards
4 the Glory Hole --- let's see here.

5 Q. Why don't you just, just grab a highlighter ---

6 A. Yeah.

7 Q. --- there and just --- let's just mark the area
8 that you was ---. A pink highlighter, so ---.

9 A. I guess the Mother Drive would be around --- right
10 here, probably right here.

11 Q. Okay, okay.

12 A. Yeah.

13 ATTORNEY BABINGTON:

14 For the record, witness marked, roughly,
15 the intersection Six North Belt and Headgate One
16 North.

17 A. Yeah.

18 BY MR. WATKINS:

19 Q. Okay. Did you spend the whole shift in that
20 location?

21 A. No. That I recall that we spent maybe a couple
22 hours, and then approximately from 4:30 or 3:30,
23 something like that, we headed out, like I said, going
24 towards the outside to help the other crew with their
25 setting up the flow-through for the North section.

1 MR. FARLEY:

2 Excuse me. So I don't get ---

3 MR. WATKINS:

4 Go ahead.

5 MR. FARLEY:

6 --- get --- so I don't get confused here

7 on what you're saying. When you're talking about

8 working at the Mother Drive on April the 5th, you mean

9 down here where you just circled; right?

10 A. Yeah, that's where, you know, the longwall is

11 and ---.

12 MR. FARLEY:

13 Okay. Now, because there's a Mother

14 Drive installation going on around the 22 Headgate

15 belt; right?

16 A. Yes. Yes.

17 MR. FARLEY:

18 Okay. But you were not there ---

19 A. No.

20 MR. FARLEY:

21 --- on the 5th? Okay, all right. Go

22 ahead. Sorry.

23 MR. WATKINS:

24 That's okay. No, that's fine.

25 BY MR. WATKINS:

1 Q. Do you know if there was any interruption in the
2 production on the longwall when you were there? Did
3 they stop the longwall any that you know of?

4 A. That I know of, the only stopping of the longwall
5 was the belt goes down. That's the only thing that
6 --- or we rob the Mother Drive or ---. That's the
7 only stopping of the longwall that I know of.

8 Q. Okay. Did you hear any reports of anybody--- from
9 anybody that they'd had to stop production on the
10 longwall that --- while you was underground that
11 day, the 5th?

12 A. No, not that day. No, because I didn't hear
13 anything. But that Friday before, I had heard rumors
14 that they had stopped and told everybody, get outside.

15 Q. And who did you hear that from, do you remember?

16 A. Actually my buddy was telling me, he said ---
17 asked me if I heard about it, and I said, no, I have
18 not. And I don't know who he received his information
19 from, but ---.

20 Q. Okay. Who's your buddy?

21 A. That'd be Tom Fleming.

22 Q. Okay.

23 A. He asked me if they had evacuated that Friday
24 before.

25 Q. Did he hear a reason why they were evacuated?

1 A. No. He just asked if I'd heard about it.

2 Q. That's the only time you've heard any time of ---
3 any type of rumors as far as having to pull off the
4 section or pull out of the mine?

5 A. You're talking about around that --- around the
6 time?

7 Q. Any time that you've worked in the last two hears
8 that you worked there, did you ever hear of --- have
9 occasion or hear of occasion where they pulled the,
10 pulled the people?

11 A. Yes.

12 Q. Okay. Do you remember when and what it was for?

13 A. Be air that I know of. They made them evacuate
14 because of air and which we had two occasions that we
15 --- they sent the evening shift home. And that night
16 they sent most the red hats home besides two of them
17 that's on Kenny's crew. And we went in and fixed two
18 doors right there at 78 Break. Flipped those around
19 and made other alterations to the air.

20 Q. Okay.

21 A. Because they had shut them down because there's no
22 air. We had went in and changed the doors around and
23 that's one night that I was sent home because of air.
24 And one night we had come in --- Kenny's crew and
25 Shawn, you know, was mixed together --- and had ---

1 I'm not sure. I can't remember that boss's name from
2 --- that would be on the new tailgate that was
3 running.

4 They went in and built several stoppings and
5 knocked stoppings just to fix air, and we had built
6 several stoppings and everything to knock them down
7 and to fix air, you know, for the big air change they
8 had.

9 Q. Do you remember when this was?

10 A. I'd say maybe around March probably.

11 Q. It was in March? Okay.

12 A. Yeah, somewhere around there. I'm not definite on
13 the time, though.

14 Q. Would you say it'd be, like, a couple weeks prior
15 to the explosion or longer or ---?

16 A. It would be longer, but after all those
17 alterations, well, whoever went in, I'm pretty
18 definite they sent the men home because the air was
19 wrong again, because ---

20 Q. Okay.

21 A. --- yeah, the president or whatever had come in to
22 fix that. That I heard of it just messed it up even
23 more, so they had to come in and do alterations
24 theirselves.

25 Q. Okay. Who was the president?

1 A. Persinger, Wayne.

2 Q. Wayne?

3 A. Yeah.

4 Q. Okay. Now, the doors that you mentioned, are they
5 shown on this map, the doors that you worked on?

6 A. 78 Break, so ---.

7 Q. Break 78.

8 A. Right there. Okay. We had fixed those first set
9 of doors.

10 Q. Are they shown on this map by any chance?

11 A. Yeah, they'd be right there, one right there.

12 Q. Okay. Could you just go ahead and circle those?
13 Are they there?

14 A. I'm assuming these are doors. Your little Xs are
15 the ---?

16 Q. Well, the Xs probably should be overcasts.

17 ATTORNEY BABINGTON:

18 There's Ds right there. Do you recall
19 that being the area or does look like the wrong entry?

20 A. Yeah, here they are. I'm sorry.

21 BY MR. WATKINS:

22 Q. Okay.

23 A. There's your double doors.

24 Q. Okay. And what was wrong with the doors?

25 A. The way the air was going it would not keep them

1 shut or anything else, so we switched them around.

2 Q. So those weren't automatic doors? You had to ---?

3 A. They was until several people may have run into
4 them, and it did not work for several months.

5 Q. Okay.

6 A. In which we had --- that night we had --- they'd
7 sent evening shift home and then Everett Hager and
8 Terry more, all them, went in there and we was sitting
9 there waiting outside for several hours. And they
10 sent most the red hats home besides two. It would be
11 Tom Fleming and Derek something. And we went in,
12 switched those doors around and came straight outside.

13 Q. Okay. I thought you mentioned something about
14 working on some stoppings?

15 A. That was prior. Before, you know ---

16 Q. Oh, okay. Okay.

17 A. --- when I told you when Wayne Persinger passed
18 the air up even more, so ---.

19 Q. Okay. Now, when --- now, when did you work on the
20 doors? How long before the April 5th?

21 A. I'm really not for certain.

22 Q. Okay.

23 A. So it would take me --- what I'm saying --- it may
24 be wrong what I'm saying, but I don't remember. Maybe
25 two months before, maybe.

1 Q. Okay. So was that before or after you were
2 working on the stoppings or Wayne had come in and
3 worked on the stoppings?

4 A. This was before. This was after.

5 Q. Okay. Okay.

6 A. I'm sorry.

7 Q. That's okay. No, I'm just ---.

8 A. Dead wrong or whatever.

9 Q. No, you probably said it right. I just want to
10 make sure I understand you. Okay. So after you guys
11 worked on the doors, were they automatic after that
12 point or you just turned them around and they still
13 had ---?

14 A. We just turned them around and still the same old
15 open a hundred doors before you get where you're
16 going.

17 Q. Okay. So after you guys worked on the doors and
18 the --- did they ever get the stoppings fixed to where
19 the air was going in the right direction?

20 A. After we worked on them I assume they had, because
21 what I had heard, they sent the men home the next day
22 because the air was messed up even more than what we
23 had started with.

24 Q. Okay. When you said the air was messed up, are
25 you referring to the air on the belt line going the

1 wrong direction or what do you ---?

2 A. Not enough air, you know, ventilating through, I
3 guess.

4 Q. Okay.

5 A. What I understood what they was saying.

6 Q. Okay. Did you ever have any occasion, I guess, to
7 work on the CO systems or anything like that?

8 A. No, I was never involved with any seals. Only
9 time I went with seals when I was first red hat
10 and ---.

11 Q. No, I'm sorry. I said CO system.

12 A. Oh, the COs?

13 Q. Yeah.

14 A. No, I had no involvement in those.

15 Q. All right, okay. You didn't have to install them
16 or move them up or anything like that?

17 A. No.

18 Q. Okay. How did you learn about the accident on
19 April the 5th?

20 A. I was sleeping, which I --- and I was woke up
21 around approximately 3:30. I was getting ready to go
22 shave my head, and my fiancé had called. And she said
23 she had heard the news and she told me to turn on the
24 news and watch, which I was surprised to see what
25 happened. It was just a shock, you know?

1 Q. Did you ever go back to the mine after --- work at
2 the mine after the 5th?

3 A. No.

4 Q. Did you guys ever detect any methane or anything
5 while you was working in the mine?

6 A. No.

7 Q. Have you ever heard anybody talk about
8 encountering methane?

9 A. I had heard, yes, but you know, just --- you know,
10 just talk. You know, talking to me about it, so ---.

11 Q. Do you remember where they found it at, where they
12 was talking about finding it at?

13 A. It'd be Headgate 22.

14 Q. On Headgate 22?

15 A. Yes.

16 Q. Do you remember how much methane that they ---?

17 A. No, I do not.

18 Q. Okay. What about as far as the equipment and
19 stuff goes? Did you ever hear anybody talk about
20 bridging out equipment, bridging out sensors or
21 anything like that?

22 A. I had heard no --- nothing that's like that.

23 Q. Okay. Was you involved any with the rock dusting
24 or was there another crew that done the rock dusting?

25 A. They had their own rock dusting two-men crew track

1 duster, and they dusted every night. They had their
2 own --- where they wanted them to go, they'd go dust
3 every night. But the Headgate 22 belt line wasn't
4 dusted very well. It was pretty black. And the
5 longwall belt wasn't dusted very well either.

6 Q. When was the last time you was up on the longwall
7 belt?

8 A. Maybe March, 1st of March, somewhere around there
9 probably.

10 Q. Okay.

11 A. And I had went with another crew, because I don't
12 know what happened that night. And I showed up a
13 little bit late, so I went with another crew and we
14 was changing out rollers and everything else.

15 Q. Did you ever have any discussions or hear any
16 discussions with people concerning the amount of, you
17 know --- you said the dust was inadequate, I guess, on
18 those section --- on those belts. Was there ever any
19 discussion with anybody about --- regarding the amount
20 of dust that was applied?

21 A. Prior to the explosion before, you know, they had
22 been wrote up, I assume they have, on the Headgate 22
23 belt line. And our crew had been told to dust from a
24 little bit past from the new --- where they set up the
25 new Mother Drive. You go into those double doors.

1 Q. Just inby the Glory Hole?

2 A. Inby the Glory Hole, yes.

3 Q. Okay.

4 A. And we had dusted several breaks and our duster
5 had messed up, and which next night was told to do for
6 regular Headgate 22's guys, it would be Kyle
7 Anderson's guys, to dust that belt line, as far as I
8 remember. Whether or not they done it or not, but we
9 had dusted several breaks ourselves and then turned it
10 over to them the next night.

11 Q. Okay. Your duster, is it a track mounted duster
12 or what kind of duster?

13 A. We have a duster that hooks up to the PTO and the
14 scoop and we just drag the hose, you know, so ---.

15 Q. How much dust do you usually put down?

16 A. We just --- we make it white.

17 Q. Okay.

18 A. Our bosses told to make it white. That's what we
19 do. And he goes over us and checks us. Kenny Farmer
20 was very good about that. When we was on our own
21 section, our belt line was --- stayed dusted, which he
22 made sure of. He definitely believed in it.

23 Q. Okay.

24 EXAMINATION

25 BY MR. FARLEY:

1 Q. All right. I'm going to back up a little. You
2 said that the Headgate 22 belt and the longwall belt,
3 in your opinion, needed rock dusted?

4 A. In my opinion, yes.

5 Q. Okay. When did you last see the Headgate 22 belt?

6 A. Maybe two and a half, three weeks prior.

7 Q. Okay, all right. And what about the longwall
8 belt?

9 A. The longwall, it had been a couple --- longer than
10 that, a month and a half more than that, so ---.

11 Q. Okay. The last time you saw them?

12 A. The last time I had saw, yes.

13 Q. Okay. Now, what about down through here toward
14 this, at this Mother Drive construction site outby the
15 22 Headgate dumping point here?

16 A. That stayed dusted. Oh, this? The new one you
17 said?

18 Q. Uh-huh (yes).

19 A. Oh, I'm sorry. It was in construction, which they
20 did keep it rock dusted in that area.

21 Q. Now, when you say it needed rock dusted, was it
22 black or did it have some rock dust?

23 A. Had some. It wasn't completely black.

24 Q. Did it look like it had been maybe hand dusted?

25 A. Very little, I'd say.

1 Q. Okay. All right. Was there a lot of fine, dry
2 coal dust in the area on either the longwall belt or
3 the 22 Headgate belt?

4 A. Not so much, no, there wasn't.

5 Q. Okay. All right. Now, the way I'm getting it,
6 you worked around the belts quite a bit?

7 A. Yeah.

8 Q. But did you make belt examinations at any time?

9 A. What are you trying to say?

10 Q. Well, I mean, do you have mine foreman, fire boss
11 papers?

12 A. No. No, nothing like that.

13 Q. Do you have a belt examiner's ---?

14 A. No, sir.

15 Q. Okay. All right. I got you. Are you considered
16 a member now or a contractor?

17 A. Member.

18 Q. Okay. How long have you been a member?

19 A. Like I said, I've almost --- around two years I've
20 been in. First two months I worked as a red hat when
21 I hired on, so ---.

22 Q. Okay. What contractor outfit did you work for?

23 A. David Staley (sic).

24 Q. David Stanley?

25 A. Yes.

1 MR. FARLEY:

2 Okay. I think that's about it.

3 EXAMINATION

4 BY ATTORNEY BABINGTON:

5 Q. I just have two quick ones. Did you ever
6 experience an air reversal on a section while you were
7 working there?

8 A. No. The only thing I know is Headgate 22 was a
9 very hot region to work in. It was hardly no air up
10 there.

11 MR. WATKINS:

12 When you say hot, are you talking about
13 temperature hot or methane or both?

14 A. It was a very hot region at Headgate 22.

15 MR. WATKINS:

16 Okay.

17 A. The longwall, it was very --- you know, had plenty
18 of air, but the Headgate 22, it was short of air, so
19 it was very hot up there, in my opinion, so ---.

20 MR. WATKINS:

21 Okay. Thanks.

22 BY ATTORNEY BABINGTON:

23 Q. Do you have any idea why there was low air on
24 Headgate 22?

25 A. I assume with the alterations, which I don't know

1 if they were fixing up the air with Wayne. I don't
2 know what they were trying to do, but I guess they was
3 working on it, so I don't know.

4 Q. Did Headgate 22 have low air for the entire time
5 that you worked up there or for the last few months?

6 A. Towards the end it got a little bit better, but
7 from anywhere from the start of that, it was hot. It
8 was short of air that I thought, so ---.

9 RE-EXAMINATION

10 BY MR. WATKINS:

11 Q. I think I asked you once if you ever heard about
12 any --- about any complaints anybody might have, any
13 concerns. Did you ever express any concerns to
14 management or --- as far as --- you know, you
15 mentioned the rock dust not being quite up to par and
16 maybe some low air on the headgate section. Did you
17 ever mention that to anyone?

18 A. No, I did not.

19 Q. Okay. Have you ever heard anybody else mention,
20 mention that stuff to them, to the management people?

21 A. I'm sure they knew about it, so ---. Whether or
22 not they --- I know they was working on it, so whether
23 or not they got everything right or whatever ---.

24 Q. Okay.

25 A. But they was working on it.

1 ATTORNEY BABINGTON:

2 All right. Well, we marked --- witness
3 marked one map. That was a Bandytown Fan map, so that
4 will be Tilley One. And that map is part of the
5 record.

6 (Tilley Exhibit One marked for
7 identification.)

8 ATTORNEY BABINGTON:

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

22 If you wish, you may now go back over any
23 answer you've given during this interview. You may
24 also make any statement that you'd like to make at
25 this time.

1 A. No statement.

2 ATTORNEY BABINGTON:

3 Okay. Thank you. And again, I want to
4 thank you for your cooperation in this matter.

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7 STATEMENT UNDER OATH CONCLUDED AT 12:30 P.M.

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1 STATE OF WEST VIRGINIA)

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4 CERTIFICATE

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

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

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

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



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22 *Alicia R. Brant*
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