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Transcript of the Testimony of **Billy Massey**

**Date:** June 18, 2010

**Case:**

Printed On: June 23, 2010

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STATEMENT UNDER OATH

OF

BILLY MASSEY

taken pursuant to Notice by Cynthia Piro Simpson, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, June 18, 2010, beginning at 1:00 p.m.

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P R O C E E D I N G S

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ATTORNEY BAXTER:

My name is Derek Baxter. Today is June 18th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is John Godsey, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

MS. MONFORTON:

And I am Celeste Monforton with Governor Manchin's special team.

ATTORNEY BAXTER:

There are also several members of the investigation team present in the room today. Mr. Godsey, Mr. Farley and Ms. Monforton will be conducting the 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

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

16 Government investigators and specialists

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

25 You may have your personal attorney

1 present during the taking of this statement or another  
2 personal representative, if MSHA has permitted it, and  
3 may consult with your attorney or the representative  
4 at any time. Do you have a personal representative  
5 here today?

6 MR. MASSEY:

7 No.

8 ATTORNEY BAXTER:

9 Your statement is completely voluntary.

10 You may refuse to answer any question and you may  
11 terminate your interview at any time or request a  
12 break at any time. Since this is not an adversarial  
13 proceeding, formal Cross Examination will not be  
14 permitted. However, your personal legal  
15 representative may ask clarifying questions as  
16 appropriate.

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



1 us to reveal your name or if another law requires us  
2 to reveal your name or if we need to reveal your name  
3 for other law enforcement purposes, we may do so. We  
4 request that you refrain from discussing your  
5 statement with others who may be interviewed. Also,  
6 there may be a need to use the information you provide  
7 to us or other information we may ask you to provide  
8 in the future in other investigations into and  
9 hearings about the explosion. Do you understand?

10 MR. MASSEY:

11 Yes, I understand.

12 ATTORNEY BAXTER:

13 Okay. And one thing to bear in mind,  
14 too, if you could please --- instead of nodding your  
15 head, you have to speak so the court reporter can hear  
16 you clearly. Thank you.

17 MR. MASSEY:

18 Do you want to speak up, because I do  
19 have a hearing problem.

20 ATTORNEY BAXTER:

21 Okay. And do you have any questions so  
22 far?

23 MR. MASSEY:

24 No. No, sir.

25 ATTORNEY BAXTER:

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

11 A court reporter will record your  
12 interview. Please speak loudly and clearly. If you  
13 do not understand a question asked, please ask me to  
14 rephrase it. Please answer each question as fully as  
15 you can, including any information you've learned from  
16 someone else.

17 I would like to thank you in advance for  
18 your appearance here. We appreciate your assistance  
19 in this investigation. Your cooperation is critical  
20 in making the nation's mines safer. After we have  
21 finished asking questions, you'll have an opportunity  
22 to make a statement and provide us with any other  
23 information you believe to be important. If at any  
24 time after the interview you recall any additional  
25 information that you believe might be useful, please

1 contact Norman Page at the telephone number or e-mail  
2 address provided to you. And did you hear everything  
3 I read earlier?

4 MR. MASSEY:

5 Yes, I did.

6 MR. FARLEY:

7 Mr. Massey, on behalf of the Office of  
8 Miners' Health, Safety and Training, I'd like also to  
9 advise you that the state law protects you against  
10 discrimination, too. And should you suffer any  
11 discrimination at the hands of your employer or anyone  
12 else for participating in this interview, I'm giving  
13 you some contact information to file a claim, if need  
14 be. Thank you.

15 ATTORNEY BAXTER:

16 Please swear the witness in.

17 -----  
18 BILLY MASSEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
19 AS FOLLOWS:

20 -----  
21 EXAMINATION

22 BY MR. GODSEY:

23 Q. Thank you for coming here today, Mr. Massey. I  
24 know this may be a little difficult for you, and if  
25 you need a break or anything, just let us know and

1 we'll take some time out. For the record, could you  
2 state your full name and spell your last name?

3 A. Billy Jo Massey, M-A-S-S-E-Y.

4 Q. And your home address?

5 A. (b) (7)(C) .

6 Q. And your telephone number?

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

8 Q. Are you appearing here today voluntarily?

9 A. Yes.

10 Q. I'm going to read you a couple statements here, so  
11 just bear with me. Has anyone made any promises to  
12 you for giving this statement or offered you any  
13 rewards in exchange for making this statement?

14 A. No.

15 Q. Has anyone threatened you or warned you not to  
16 provide the statement?

17 A. No.

18 Q. Has anyone from the company or a person  
19 representing the company talked to you concerning the  
20 explosion?

21 A. No.

22 Q. And just some general information. How many years  
23 of mining experience do you have?

24 A. I started in October of '73.

25 Q. Can you give us the places you worked?

1 A. Started at Kessler Coal Company and went to ---  
2 which at the time was Armco Steel. Went from Armco to  
3 U.S. Steel, which was Carbon Fuel, which U.S. Steel  
4 bought out. And worked there until they shut it down.  
5 I worked for a contractor, Jeff McCoy, from Cannelton  
6 property. And then I went to contracting for Bill  
7 Farley, low places, in '95, which was at UBB. And  
8 then in 2000 they hired me.

9 Q. Are you presently employed?

10 A. Still employed with them. I'm just under a  
11 doctor's care right now.

12 Q. Still at UBB. Okay. The following questions I'm  
13 about to ask you, they'll pertain all to Upper Big  
14 Branch Mine, where you worked. And you said the first  
15 day you was at Upper Big Branch was what, in 2000? Do  
16 you remember what date and month it was in 2000?

17 A. As a contractor, it was 1995.

18 Q. Okay. When did you officially start working for  
19 UBB?

20 A. In October of 2000.

21 Q. Do you remember what your first job assignment  
22 was?

23 A. Track.

24 Q. On the track crew?

25 A. Yep.

1 Q. Okay. I know it's a long time ago, but do you  
2 remember what the area --- the first area you traveled  
3 underground at UBB, the first day you went there?

4 A. The south side.

5 Q. What did they do ---?

6 A. We was repairing track.

7 Q. Did they take you through a tour or did they ---?

8 A. Well, like I said, I had been there since '95 as a  
9 contractor. I knew the mine. I traveled it five  
10 years.

11 Q. Did you carpool with anybody?

12 A. No.

13 Q. And what time did you normally arrive at the mine?

14 A. Between 5:30 and 6:00.

15 Q. So you were on the dayshift?

16 A. Yeah.

17 Q. And your time, what time did your shift start at?

18 A. 6:30.

19 Q. And it went to where?

20 A. 3:30.

21 Q. And on April 5th, the day of the explosion, your  
22 official job title was?

23 A. Supply.

24 Q. A motorman?

25 A. Motorman.

1 Q. Okay. Just start at the beginning of that day and  
2 just --- when you got there, and just take us what you  
3 did throughout the day, from 6:30 to 3:30, just ---.

4 A. Well, every morning, you know, you have to wait  
5 for the motors to come outside, so we go up in the  
6 yard and set a car on --- you know, we'll leave one  
7 end off and get our supply list, and Gene would load  
8 it while we'd wait for the motor. A lot of things we  
9 had were in the supply house, like bits and steel, you  
10 know, steel and that that we had to carry out by the  
11 track, picked up and brought it in.

12 Q. Who was your supervisor? Who gave you the orders  
13 --- who do you answer to?

14 A. Everett Hager.

15 Q. And is he the one who gave you the supply list of  
16 what ---?

17 A. No. No. They might have called out or the  
18 section boss, when he gets in on dayshift, he'll call  
19 out what they need.

20 Q. Do you know who that was?

21 A. Dino. Dean Jones.

22 Q. Okay. Go ahead. I interrupted you. Where you  
23 were loading up flatcars and stuff.

24 Q. Usually when the motor is right outside, we have  
25 to change batteries. Very seldom we ever have enough

1 charge in them to get back because it was so far.  
2 We'd change and pick our supply cars up. And by that  
3 time, the longwall or the other section would holler,  
4 we need this, can you drop this off. And if they  
5 needed something, we'd drop it off on the way in for  
6 them.

7 Q. So it varied every morning what time you went  
8 through the portal?

9 A. Yeah. Yeah, it varied. Sometimes it may be 9:00,  
10 9:30. But we got started in because they'd be talking  
11 to us --- the longwall would need shearer bits, so you  
12 got to go get them.

13 Q. Did you have to wait much for the crew to come  
14 out?

15 A. No, no, no.

16 Q. They were all ---?

17 A. No, just the ones that had the motors. A lot of  
18 times we'd go in and switch out with the coal crews  
19 and that. You know, either they'd get in a spur or we  
20 would. And sometimes, you know, dispatch --- they'd  
21 be so busy, we would kind of meet each other. We just  
22 --- one or the other go to the closest spur, you know,  
23 switch out. That's to be expected.

24 Q. On that Monday, when you started underground, what  
25 portal did you say you went in?



1 A. UBB.

2 Q. I know. The north or ---?

3 A. North, yeah.

4 Q. Go on from there. Do you remember what you  
5 remember that day, who you talked to and stuff?

6 A. Didn't really talk to no one, just the dispatcher  
7 on the radio. You know, give you clearance at the  
8 Ellis Switch, and you'd call him and he'd give you  
9 clearance to 78 Break.

10 Q. What did it look like? You had to go through  
11 airlock doors there at north?

12 A. Yeah.

13 Q. Are they mechanical or are they ---?

14 A. Yeah, they was --- that's the only set that was  
15 working.

16 Q. Did anybody ever leave those doors open?

17 A. No.

18 Q. You never seen them open?

19 A. No.

20 Q. Please take us there from the doors all the way up  
21 to the Ellis Switch. What did the entry look like,  
22 the track look like, the belt, you know, rock  
23 dust ---?

24 A. It was dusted. It looked good, I mean, other than  
25 I'd say clearance, you know, where the ribs was rolled

1 in and stuff. It could have probably used more  
2 clearance. But as far as the dust and the track and  
3 everything, it looked to be in good shape.

4 Q. Has anyone ever brought the clearance up to the  
5 management, maybe or --- help you out on that?

6 A. I don't know.

7 Q. Is it to a point where it's rubbing?

8 A. Yes. It was to the point where it --- you know,  
9 it rubbed and ---. I had said several things, you  
10 know, to the point of how are we getting by with this,  
11 you know, low clearance when Dishman was ---

12 Q. Now, who's ---?

13 A. --- clearance. He was state inspector.

14 Q. Okay.

15 A. He was --- that was his pick, was track, because  
16 he had a friend that was killed, you know, where the  
17 switch. His brother and I could run the switch, and  
18 he was real picky on it.

19 Q. Could you come up to the map and take a pen or a  
20 marker and show us the route that ---?

21 ATTORNEY BAXTER:

22 We'll mark this as bill Massey Exhibit  
23 One.

24 (Bill Massey Exhibit One marked for  
25 identification.)

1 OFF RECORD DISCUSSION

2 BY MR. GODSEY:

3 Q. Start there at the portal, the one that you said  
4 that you entered, the North Portal.

5 A. That's where we entered.

6 Q. Just mark it, how you traveled that day.

7 WITNESS COMPLIES

8 A. We just went up --- that's the mainline. We  
9 traveled all the way up past the ---.

10 BY MR. GODSEY:

11 Q. Three North belt?

12 A. Yeah, all the way up.

13 Q. Up to?

14 A. Seventy-eight (78) Break. We made a right inby  
15 the longwall, all the way up toward --- even up here  
16 to Dino's section.

17 Q. Excuse me just a minute. Dino's section, is  
18 that ---?

19 A. We went the wrong way.

20 Q. Went the wrong way.

21 MR. FARLEY:

22 Dino would be --- would have been on the  
23 22 Headgate?

24 A. Twenty-two (22) Headgate.

25 MR. FARLEY:

1 Right.

2 A. Yeah, the 22 Headgate. This must be the  
3 cut-across where they ---. We call it Two section.  
4 This was up in North mains, abutted off.

5 MR. FARLEY:

6 Is it fair to say that when you started  
7 underground at the UBB North Portal you went --- you  
8 traveled to the 22 Headgate section?

9 A. Yeah, went straight to 22 Headgate.

10 MR. FARLEY:

11 Okay. Did you come up --- when you  
12 passed 78, did you come up the diagonal here?

13 A. Yeah.

14 MR. FARLEY:

15 Directly towards 22 Headgate?

16 A. Yeah.

17 MR. FARLEY:

18 Okay. All right. We got it.

19 BY MR. GODSEY:

20 Q. Now, when you'd bring your supplies up, you got up  
21 to the 78 Break and come to the doors, what condition  
22 were those doors in?

23 A. Well, they wasn't working. You had to work them  
24 by hand.

25 Q. What shape were they in?

1 A. They were off the track.

2 Q. Did you have a ---?

3 A. Where they set them in, right, you know, the doors  
4 will sit down in the rail, supposed to have rubber on  
5 the bottom of it. And rubber was on them, but still  
6 you had that much gap under them. In other words,  
7 they wasn't airtight.

8 Q. In other words, a lot of leakage?

9 A. A lot. Where they had one set had been run into.  
10 They had a set laying there that hadn't been changed.

11 Q. And this is on the day of the explosion?

12 A. Yeah.

13 Q. And would they have them to an extent where there  
14 was a large gap, I mean, the doors where they'd come  
15 together?

16 A. Just the one set where, like I said, something had  
17 hit them. And it wasn't a large gap, but it just ---  
18 on the bottom corner of it. But any time --- you  
19 know, you can't have, to me, airlock doors on a track.  
20 You're going to have leakage. There's just no way to  
21 seal them.

22 Q. What did the track --- how did it look? What sort  
23 of rock dusting?

24 A. The track and that was dusted good.

25 Q. Did you get to see --- did you look at the belt

1 any?

2 A. Yeah. The belt's like --- where we went under the  
3 belt and stuff, it looked good because, like I said,  
4 the trickle dusters run all the time around the belt  
5 heads and that. And they would try to shut them off  
6 like at the shift change to --- because a lot of dust  
7 come over on the track, too.

8 Q. Have you ever noticed there where they've done  
9 those trickle dusters where maybe you may have noticed  
10 one day that the air was going a different direction  
11 it was the previous time you were there?

12 A. No. It always came right out in the face.

13 Q. Have you ever --- how many times have people  
14 talked to you about having ventilation problems up on  
15 the 22 Headgate or Tailgate? Do you know any problems  
16 they've had up there?

17 A. No. Just low air, you know.

18 Q. They've discussed that with you?

19 A. Not discussed it. They've said, well, we ain't  
20 got much air up in the face.

21 Q. Who told you that?

22 A. The scoop man and that. And I said, well, Dino,  
23 you know, he's sending people, you know, to look for  
24 some things, was any stoppings blown out or --- find  
25 out what the problem is. And he would have ---

1       Everett and them, they would be coming up the other  
2       way, you know, trying to find if there was a problem,  
3       seeing it was air.

4       Q. How often would this happen?

5       A. Probably --- I know of at least once it happened.

6       MR. FARLEY:

7       And when was that?

8       A. That was --- that was probably back before April,  
9       like in February, you know, low air. And they --- you  
10      know, like I said, they'd try to get on top of it,  
11      find out what was wrong.

12      BY MR. GODSEY:

13      Q. How many times that you know of where they made  
14      ventilation changes with people underground?

15      A. I don't recall any, no major changes.

16      Q. What kind of minor changes; do you know?

17      A. Just maybe hang curtain, you know, across one  
18      entry or something to force air across a section.

19      Q. Do you ever --- in the last few days or the day of  
20      or previously haul many Kennedy stoppings in there or  
21      many blocks --- extra blocks?

22      A. We always hauling block. I mean, ---.

23      Q. I mean, do you ever haul any extras like for  
24      building more stoppings?

25      A. Oh, yeah. Yeah.

1 Q. Do you know where they were building these  
2 stoppings at?

3 A. At the mouth of the wall. We call it the mouth of  
4 the wall, where we unload them at Five or Six Break.

5 Q. Were they having trouble with any stoppings  
6 crushing out or anything that you're aware of?

7 A. Yeah, I'm aware of they had some crushing out.  
8 But like I say, they would --- we'd haul block and  
9 then try to rebuild them.

10 Q. Do you know where that was?

11 A. One of them was at the mouth of the wall, around  
12 the mainline, probably in the 50s. The end one was  
13 crushed out. They put block up there to redo it, too.

14 Q. When was the last time that they would need fixed?

15 A. I couldn't say for sure on when the last time was.

16 Q. Well, what was --- do you know what was causing  
17 it? Was the floor heaving or the roof?

18 A. I'd say floor.

19 Q. Did they have a lot of floor heaving in the ---?

20 A. Oh, yeah. The bottom busted all along the track.

21 Q. From where to where? I mean, where did it ---?

22 A. Like from Ellis Switch all the way up straight to  
23 78 you could see places where the bottom had hooved,  
24 you know, pushing the track up. At Ellis Switch and  
25 the curve, you know, they had to take the track out



1 and cut the bottom down.

2 Q. What was the extent was it heaving, six inches,  
3 five inches?

4 A. I'd say probably a foot.

5 Q. Did you have any trouble on the section when this  
6 happened?

7 A. Oh, yeah.

8 Q. What section?

9 A. The longwall section, when they was driving it up,  
10 the bottom hooved all up the track entry there. You  
11 know, it was ---.

12 Q. Was that for the entire length of the longwall  
13 panel there?

14 A. Yeah, from the mouth of it all the way up to the  
15 face, you know, where they set up, they would get a  
16 lot of bottom, you know, hooving and ---.

17 Q. What about rib problems, any rib problems?

18 A. Just what the hooving was causing, you know,  
19 rolling, nothing what you would say major, you know,  
20 Five, Six, 15, the bottom would pop and the ribs would  
21 pop off.

22 Q. Did it have very many standing supports up through  
23 there?

24 A. Oh, yes.

25 Q. What did that consist of? What kind of supports

1 were they?

2 A. They were --- use Heinzmann jacks, then they went  
3 to sand jacks. Anywhere they had a problem, they  
4 thought a rib was coming in, they would set sand  
5 jacks. Between the belt and track you had a line of  
6 sand jacks, with one set every five, ten foot maybe,  
7 the whole line right up --- it's like you'd set a line  
8 of breakers. Every time they moved belt, they set  
9 their jacks.

10 Q. Did you observe this heaving yourself?

11 A. Yeah.

12 Q. Has anyone talked to you about --- on the section  
13 lately about the floor heaving or any problems with  
14 the floor?

15 A. No.

16 Q. What about floor gas, anybody ever ---?

17 A. No. Like I say, we was in the return that day,  
18 three of us, with our detectors. We didn't detect no  
19 gas.

20 Q. What return were you in?

21 A. On Dino's section, Headgate 22.

22 Q. Okay.

23 A. Supply doors.

24 Q. What were you doing there?

25 A. Trying to get a scoop down to get a highline sled?

1 Q. How many were with you?

2 A. There was five of us.

3 Q. And where did you get the scoop from?

4 A. The section.

5 Q. Up in the face?

6 A. Yeah.

7 Q. And who brought it down?

8 A. Ralph.

9 Q. Ralph Plumley?

10 A. Ralph Plumley.

11 Q. And how did you get it? Did you bring it down the  
12 return or ---?

13 A. Down the return.

14 Q. Did you bring it through the airlock doors or ---?

15 A. All I know is he come down the return and got  
16 within sight of us and the scoop quit, quit tramping.  
17 The tram loader would run, but it wouldn't tram. So  
18 he --- we kept turning it off and on. Finally, it  
19 started tramping again. It got down to the supply  
20 doors and quit.

21 Q. You're talking about supply doors. Now, what does  
22 that do?

23 A. That's at the mouth of the section, where we was  
24 supplying the section.

25 Q. Okay.

1 A. We'd have to take everything off, set it beside  
2 the track or between the doors for the scoop to get  
3 down there to get it.

4 Q. So you say you haul from the track through the  
5 return up to the section?

6 A. On a scoop, yeah.

7 Q. What did the return look like?

8 A. It was dusty. It was in fairly good shape. I  
9 mean, it was rough because of mud and water and slick.

10 Q. How much water was in there?

11 A. Oh, probably ankle deep. It wasn't nothing major,  
12 you know.

13 Q. Was it throughout the return?

14 A. Yeah, just like we're talking sweat. There was no  
15 big waterholes.

16 Q. Where was the water coming from?

17 A. I'd say it was coming from the top of if that, it  
18 was sweating.

19 Q. Did they have any --- I'm going to jump around  
20 here a lot, but did they have any problems on that  
21 section with the roof?

22 A. Not that I'm aware of, no.

23 Q. let's go back down to the airlock doors. What  
24 happened then, after you couldn't get the scoop  
25 through? How many people tried to work the scoop,

1       tried to get it going?

2       A. Ralph and one of his men helped get it. And like  
3       I said, all we know to do, you know, you keep turning  
4       it off and on, see if the tram would kick in. And it  
5       wouldn't move, so we decided, well, it was getting  
6       close to quitting time, about probably 2:30. Bruce  
7       said, well, we'll just go out and we'll tell John  
8       Henline, the evening shift electrician, the last set,  
9       somebody had to fix it so it could slant.

10      Q. Okay.

11      A. So we left it there and we got on the motors and  
12      Brown got on his ride and followed us.

13      Q. Okay. Let's stop right there. I'm going to come  
14      back to that point in just a minute. Briefly, when  
15      you came up from Ellis Switch, what all did you do the  
16      rest of that morning when you came up to --- well,  
17      what did you supply that day?

18      A. We supplied Dino's section.

19      Q. Is that the only one?

20      A. Yes. As far as I'm aware, yeah.

21      Q. And you spent the entire day up there?

22      A. Yeah. We always do because about, like I say, by  
23      the time we unload and took our supplies and pick up  
24      all the trash --- and like I said, Everett wanted the  
25      highline sled out, so --- he said, I'll send Ralph up,

1 you know, to help you because they had a big rock in  
2 front of it. So they were going to bring him down to  
3 get the scoop through and try to get it. And it takes  
4 so long to come from UBB to get to the section, you  
5 know. A lot of times you don't get there until 10, 11  
6 o'clock in the day.

7 Q. What's the travel time on there, average?

8 A. The most --- about an hour each way.

9 Q. Who all did you --- other than the one you saw  
10 there in that return with Ralph, did you see --- talk  
11 to anyone else up there?

12 A. No. Well, Everett come up.

13 Q. Everett?

14 A. Hager, the superintendent.

15 Q. Did you see a fire boss up there?

16 A. No, unless he went up the belt. He may have went  
17 by while we was in the return, though, because he  
18 would walk up the track and then come back down the  
19 belt or he'd walk up a belt to come down the track.

20 Q. How did the belt and the track look up there on 22  
21 Headgate that day?

22 A. I wasn't even on the belt that day. The track was  
23 in good shape. But as far as the belt, I couldn't  
24 say.

25 Q. Do you bring bulk dust up there or do you

1 bring ---?

2 A. Yeah. We bring bulk and bag.

3 Q. How much do you bring --- how much dust do you  
4 bring up there, on the average?

5 A. On average, we try to keep ten bulk and three to  
6 four pallets of 40-pound dust for the scoops.

7 Q. And how many days --- maybe I asked you. How many  
8 days do you all supply them dust?

9 A. Oh, about twice a week.

10 Q. Do they have trickle dusters on the section?

11 A. No, just the headgates. Just at the belt heads.

12 Q. Did they have a regulator in the return there  
13 anywhere where you were?

14 A. No. No problems that I'm aware of.

15 Q. Do you know any places --- any of the sections  
16 that had regulators?

17 A. No.

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. I want to make sure I got what you said straight.  
21 When you passed 78, you came up the diagonal straight  
22 to 22 Headgate on April 5th; is that right?

23 A. Uh-huh (yes).

24 ATTORNEY BAXTER:

25 Is that a yes?

1 A. Yes.

2 BY MR. FARLEY:

3 Q. Now, if I understood you correctly, you indicated  
4 that the track entry was well rock dusted; is that  
5 right?

6 A. Yes, it was.

7 Q. Okay. Was that from 78 all the way to 22  
8 Headgate?

9 A. All the way.

10 Q. Okay.

11 A. I think ---.

12 Q. They got a trickle duster sitting at 78. They had  
13 one sitting at the longwall head and one sitting at  
14 the head that 22 dumped on.

15 Q. Okay.

16 A. And they kept them full because we supplied them  
17 dusters, too. We try to keep at least two pallets of  
18 dust at each one so they wouldn't run out.

19 Q. Okay.

20 A. When you went down the return with Dino with the  
21 scoop looking for that sled, any conversation with  
22 anybody about how things were going that day?

23 A. Well, Dino wasn't down there.

24 Q. Okay. I'm sorry.

25 A. Ralph sent one of his men up to get the scoop.



1 Q. Okay. Did you see Dino while you were up on  
2 22 ---?

3 A. No. No. He was up in the faces.

4 Q. Did you talk to anybody else on the section crew?

5 A. The scoop man had left. He was down there getting  
6 supplies whenever we got there. He got his supplies  
7 and left.

8 MR. GODSEY:

9 Who is he, the scoop man? You said the  
10 scoop man came down there?

11 A. Yeah. It was --- let me think of his name now.  
12 Ronald Maynor. We called him --- you know, nickname,  
13 we called him Whiney because he was always crying  
14 about something, you know, always can you do this for  
15 me, can you do that for me.

16 MR. GODSEY:

17 I believe every mine's got one of those.

18 A. We'd tell him, well, Whiney, can't you do nothing  
19 for yourself. Yeah, but can you take that ---?

20 BY MR. FARLEY:

21 Q. Who was your partner again?

22 A. Bruce Bickers.

23 Q. Bruce Bickers?

24 A. Yeah.

25 Q. Okay. Did you normally work with Bruce every day?

1 A. Every day.

2 Q. Okay. What time did you leave 22 Headgate, headed  
3 to the outside?

4 A. It was probably something 'til 3:00 or maybe  
5 earlier because --- they changed our start time to  
6 6:00. We worked from 6:00 to 3:00. And we got  
7 outside, it was probably right at 3:00.

8 Q. Okay.

9 A. So running empty, you can make the trip probably  
10 in 30, 40 minutes, if you push it.

11 Q. Were you pushing it that night?

12 A. Yeah. Always quitting time pushing.

13 Q. I understand.

14 A. You know the track. You know where you can run  
15 and where you can't run.

16 Q. Okay. So it's probably fair to say that you left  
17 22 Headgate anywhere from 2:15, 2:20, 2:25, something  
18 like that; is that fair?

19 A. Yeah.

20 Q. Earlier in the day when you --- as you passed by  
21 78 and up that diagonal toward 22 Headgate, did you  
22 notice any burning sensation in your eyes? Anything  
23 unusual?

24 A. No, nothing unusual.

25 Q. Anything at all?

1 A. No.

2 Q. Okay. When you went by the longwall belt on the  
3 way out, do you know if it had coal on it?

4 A. No. I can't --- it was running, but I don't know  
5 if it had coal on it or not.

6 Q. Okay.

7 A. You can't really hear, you know, with motors and  
8 cars clanging on the track. You couldn't hear what  
9 was going on with the heads or not, they make so much  
10 noise.

11 Q. All right. So I don't suppose you had any  
12 communication with anybody on the longwall that day?

13 A. No.

14 Q. Okay. I think you said Everett Hager was  
15 underground at some point. Did you talk to him when  
16 he was underground?

17 A. Yeah.

18 Q. Where did you see him?

19 A. Up there where we was unloading supplies.

20 Q. Did he say anything about the longwall being down?

21 A. Not as I recall, no.

22 Q. Okay. Do you know what time he was underground?

23 A. It was in the afternoon. Everett's like a fairy  
24 diddle, he'll show up anywhere. You know, he may say  
25 he's on Dino's section.

1 OFF RECORD DISCUSSION

2 BY MR. FARLEY:

3 Q. Yeah. Go ahead.

4 A. Told us, you know, about getting the highlines  
5 set. I said, you have to have it because the section  
6 had to have highline. There wasn't any outside. And  
7 we turned around, and he was gone.

8 Q. Okay.

9 A. The next thing we heard from him, he was calling  
10 up to Ellis Switch, you know, going outside.

11 Q. Okay.

12 RE-EXAMINATION

13 □BY MR. GODSEY:

14 Q. Have you been carrying any extra roof support  
15 material up there to any of those sections, you know,  
16 more than normal?

17 A. No more than normal, no.

18 Q. What all type of supports they use up there?

19 A. They use the torque tension, six-foot bolts and  
20 cable bolts.

21 Q. What length cable bolts?

22 A. Eight foot.

23 Q. Do they ever --- did anybody mention ever having  
24 much roof problems up there on any section?

25 A. No. Uh-uh (no). Matter of fact, they would

1 holler, wait for the cable bolts. They didn't like  
2 putting them up. They had roof control plans. A lot  
3 of times if they ran out, we'd have to take them 10 or  
4 12, and they really frowned on that.

5 Q. What about bits? How were they on roof --- drill  
6 bits?

7 A. We'd take them in two buckets every morning. We'd  
8 pick them up and take them in, bring the old ones out.

9 Q. So the roof is pretty easy to drill they say?

10 A. Uh-huh (yes).

11 Q. Okay. Do you know what it was made up of?

12 A. No. No, I don't, not up in the face. I don't  
13 know what they had up there.

14 Q. Okay.

15 A. We very seldom ever got to the face.

16 Q. Did you ever --- how many times did people talk to  
17 you about having problems --- I mean, on the 22? I  
18 know I asked you before about having ventilation  
19 problems. What about block, bringing ventilation  
20 block up there, did you normally bring it? How much  
21 would you bring ---?

22 A. We always take at least eight piles of block.  
23 Where they moved a belt, they would give them four,  
24 you know. They'd give them four for each stoppings.

25 Q. What size block did they use?

1 A. Where it sits right in solid block.

2 Q. Did they wet lay them or did they dry stack them?

3 A. Dry stack them and plaster on both sides. Plaster  
4 one and bring the other one.

5 Q. Okay. How about curtain, line curtain, did they  
6 use much of it or ---?

7 A. Well, we would haul in probably anywhere from two  
8 to four rolls a curtain a day with two rolls of fly  
9 pad material every day.

10 Q. Is that just the 22 Headgate or ---?

11 A. Yeah, just the 22 Headgate.

12 Q. Okay. What about 22 Tailgate, what was their  
13 supply like? What did you have to carry ---? Did  
14 they use as much material as 22 Headgate?

15 A. No, they didn't use as much material.

16 Q. What about curtain?

17 A. Curtain? Usually they took their own curtain in  
18 because they --- I mean, our size. They would throw  
19 their curtain on the trip and take it in as they went  
20 and their bits.

21 Q. Okay.

22 A. The only thing we'd have to take would be roof  
23 bolts, miner bits. As far as bits and curtain, they  
24 would it in themselves.

25 Q. What was the mining height up on 22 Headgate? The

1 mining height?

2 A. It probably run to five, six foot.

3 Q. And did you supply them with many timbers or ---?

4 A. Only when they called for one. You know, if they  
5 had a problem, they would call, you know, we need a  
6 load of cribs or we need a load of timber. We'd try  
7 to get it in there to them.

8 Q. Okay. Are you around the phone very often?

9 A. We try to keep the phones set up, but --- when we  
10 supply.

11 Q. Is any section foreman on --- anywhere on the 22  
12 Headgate that has maybe stopped producing because of  
13 air or something, and he's called outside to report  
14 it, and he was told to get back in the coal?

15 A. Not that I know of.

16 Q. What about people calling underground saying  
17 there's an inspector, a State or Federal inspector on  
18 the property? Did you ever hear anybody say that?

19 A. No.

20 Q. So you never heard anybody call in?

21 A. No. But I know that they always know when they  
22 come through the gate.

23 Q. How did they know that?

24 A. Well, there would be the one way, that was for the  
25 guard to call up there and tell ---.

1 Q. Was that his job to call up there ---?

2 A. I guess it was because every time one come through  
3 the gate, you know, we got a man coming.

4 Q. Okay. Then what would happen? Would the  
5 dispatcher ---?

6 A. Whoever was outside would probably call into the  
7 section. That may not be the dispatcher. It might  
8 be, you know, one of the bosses or --- but ---.

9 Q. So that was no surprise --- they was never  
10 surprised by ---?

11 A. Let's just say that everybody knowed that the man  
12 was on the property.

13 Q. Okay.

14 A. You know, they don't know where he's going, but  
15 they was aware he was there.

16 Q. That day, April 5th, is there anything else, as  
17 you think about it, that you saw or felt that was not  
18 as usual as it was on the previous day, I mean, maybe  
19 air temperature, a stopping or something that's just  
20 not the way it was on your last shift?

21 A. No.

22 Q. Did anybody mention to you about anything?

23 A. No, they didn't. No.

24 Q. I mean, I'm going to ask you ---.

25 A. No problems whatsoever, any kind of ventilation



1 problem or ---.

2 Q. What was your last shift that you worked prior to  
3 April 5th? Did you work Saturday or ---?

4 A. The Saturday before.

5 Q. The week before or just two days before?

6 A. Two days before.

7 Q. What kind of work went on that Saturday?

8 A. We just supplied. About all we do is supply, you  
9 know.

10 Q. Were they running coal?

11 A. Yeah.

12 Q. Which units were running coal?

13 A. One and Two both. I think One and Two both was  
14 running ---.

15 Q. That was on a holiday now.

16 A. Holiday?

17 Q. Yeah. Was that Memorial Day weekend or something  
18 like that?

19 MS. MONFORTON:

20 Easter.

21 BY MR. GODSEY:

22 Q. Easter. I'm sorry.

23 A. Easter.

24 Q. Yeah.

25 A. I don't know if we worked Easter. I didn't ---

1 Easter? That was Good Friday. No, I didn't work.

2 Q. You didn't work Friday or Saturday?

3 A. Friday, Saturday, Sunday. We took a three-day  
4 weekend.

5 Q. Did the longwall work?

6 A. Oh, yeah.

7 Q. Do they work Friday, Saturday, Sunday?

8 A. And Headgate 22 worked. I don't know if they  
9 worked all three days. I think they left everybody  
10 off Easter Sunday, which was the first I ever knowed  
11 of, you know, shutting down for --- other than  
12 Christmas.

13 Q. Okay. On April 5th, when you were there, did you  
14 notice any floor heaving on that day?

15 A. No. That was all --- like I said, you know, I  
16 didn't see where it was any worse than what it was  
17 prior.

18 Q. Okay. I'm going to go back just a little bit.  
19 This is 1995 to 2000. You worked for a contractor.  
20 What did you do then?

21 A. Laid track.

22 Q. And do you remember who you worked for?

23 A. Ralph.

24 Q. Ralph Plumley?

25 A. Ralph Plumley.

1 Q. Everybody knows Ralph, huh?

2 A. Everybody.

3 Q. Is he a pretty stickler on laying track?

4 A. Yes.

5 Q. And in 2000 to 2005, what did you do?

6 A. 2000 to 2005?

7 Q. Yeah.

8 A. I was track up until the motorman retired, and I  
9 got his job.

10 Q. Is there anything else you worked in the mines  
11 other than track and the motorman?

12 A. Not up there, no.

13 Q. On the last shift you worked before April 5th, did  
14 your same routine?

15 A. Same routine.

16 Q. Did anybody mention to you about any ventilation  
17 problems then or anything?

18 A. No.

19 Q. Has anybody ever made any thoughts about any  
20 safety issues they've had there, where they felt like  
21 they had a safety problem?

22 A. No.

23 Q. What would happen to, say, you or anyone else who  
24 went to upper management and said, we've got a problem  
25 here, we need it fixed or if you would bring it up to

1       them, what would be the reaction of upper management,  
2       say Chris Blanchard or one of them?

3       A. If you went to Everett, Everett would check into  
4       it. Everett would check into it.

5       Q. What would the other ones do?

6       A. Well, they'd probably want to know what made you  
7       authority on mining.

8       Q. But would they do anything to you? Would  
9       they ---?

10      A. No.

11      Q. Did you know of anybody --- did you know of  
12      anybody --- did you know of the men who worked behind  
13      the longwall, the pumpers, the water men, behind the  
14      longwall, who had to pump the water behind there?

15      A. No.

16      Q. You didn't ever see any of those?

17      A. I never talked to any of them.

18      Q. I guess sometimes you're by yourself, I'd say,  
19      alone? Are you ever alone underground?

20      A. Yeah.

21      Q. Do you have a methane monitor assigned to you?

22      A. Yes.

23      Q. Have you been trained in --- who maintains it?

24      A. The fire bosses. I mean, they calibrate every 30  
25      days. And I maintain it because, you know, you had to

1 take your charger home to charge it if you wanted to  
2 keep it. If you put it on charge there, go back, you  
3 wouldn't have any.

4 Q. What kind of a methane monitor did you have?

5 A. The three function.

6 Q. Was it a Solaris?

7 A. Yeah.

8 Q. What did you do to it daily?

9 A. We checked --- you know, you got to do your visual  
10 check and check your grades and everything on it, make  
11 sure it worked, make sure the battery is charged.

12 Q. Did you ever find any methane?

13 A. No.

14 Q. Did anybody ever talk to you about finding any?

15 A. Harvey, you know, where he checks the seals and  
16 that. He said he never found --- the only methane he  
17 really was concerned with was down around the  
18 northwest, in behind them seals. But up around, you  
19 know, where we was traveling, 78 through there, one,  
20 two-tenths. He never found nothing there or anywhere.

21 Q. You worked there in 2003 to 2004. Do you remember  
22 ever having --- on the longwall, having a floor  
23 outburst of methane?

24 A. No.

25 Q. Ever miss any work?

1 A. No.

2 Q. Can you tell me if the sections use belt air to  
3 ventilate with? Do they use belt air to ventilate the  
4 sections?

5 A. Belt, yep.

6 Q. They all used belt air. And you was talking about  
7 earlier, have you seen lately, in the last month or so  
8 or since March, any upper management being underground  
9 more than usual, you know, like people --- the  
10 vice-president or president underground?

11 A. The vice-president, he stayed underground. He  
12 stayed underground. A lot of times he was right in  
13 with us because I used to kid him about him just being  
14 a high-paid doorman. They got you riding with me so  
15 you can open the doors.

16 Q. What all would he do under there? Did he leave  
17 you --- you'd take him so far and drop him off?

18 A. Yeah, he'd get off and he would walk the returns  
19 or the intake or ---. He was checking --- he'd check  
20 on everything, really.

21 Q. How many people --- did he ever have anybody with  
22 him?

23 A. The safety --- a lot of times safety people would  
24 be in there to --- they wouldn't be with him, but they  
25 would come in and do the same thing. He would

1 take --- like maybe I'd drop him off at 78 and ---  
2 Willie May used to be the safety coordinator up there.  
3 He would ---.

4 Q. Berman?

5 A. Yeah, Berman. He may be down at the Ellis Switch  
6 checking on something.

7 Q. What would he be checking on?

8 A. They checked --- constantly check on air, rock  
9 dust. Just any kind of problem that they might think  
10 they got they would be checking on.

11 Q. Do they ever have --- how many times have they had  
12 people with them, going back in the returns or ---?

13 A. None that I know of. Any time that they was with  
14 us, they was by theirselves.

15 Q. And I may have asked you this, but do you know of  
16 any --- how many times they made ventilation changes  
17 with people underground?

18 A. I can't recall of any, no. I'm not saying they  
19 didn't do it, but I --- like I said, I can't recall  
20 because, like I said, most of our work was right on  
21 the track and, you know, the sections.

22 Q. We were talking about track. How much trouble did  
23 you have out of the belt? Did you ever have to work  
24 on the belts or anything?

25 A. Yeah, gob-outs.

1 Q. Do they have land mines there for ---?

2 A. Yeah.

3 Q. Would you see a lot of float dust on a belt there?

4 A. No. Around them belt heads.

5 Q. Did they have people assigned to belt head to ---?

6 A. Yes, to fire boss, one to fire boss them.

7 Q. How many shovelers would they have on the belt?

8 Would they have people assigned just for that?

9 A. They had two or three people that was on the belts  
10 every day, shoveling.

11 Q. Do you know who they were?

12 A. I know one of them was Bobby Atkins. And they  
13 would just give him whoever, you know, if you had  
14 extra, to go help them.

15 Q. What kind of trouble would the CO monitor system  
16 give them? You know, do you have a lot of alerts on  
17 the CO system?

18 A. It was always going off.

19 Q. What was causing that?

20 A. I never did know.

21 Q. Did they --- what would they do when they got an  
22 alert on the dispatcher --- or outside? What would be  
23 their normal procedure? What would they do?

24 A. He would call the fire boss or whoever, you know,  
25 was closest to go check it, whether it be an



1 electrician to, like I say, a fire boss. We got a  
2 monitor going off at such and such a break. We need  
3 to check it. It's showing, you know, something on a  
4 screen.

5 Q. What did it usually show?

6 A. I don't ---.

7 Q. Did they ever tell you what was wrong with it,  
8 what would cause it to go off so much?

9 A. No.

10 Q. Did that kind of give you a sense of false  
11 security? Was it going off like a backup horn, you  
12 know, go continuously all the time, and after a while  
13 you forget about it?

14 A. Yeah. It goes off so much ---

15 Q. You just don't pay attention to it?

16 A. --- you don't pay no attention to it.

17 Q. Did that concern any of the miners there?

18 A. No. If it did, they didn't say nothing about it.

19 Q. What are some of the concerns that the miners ---  
20 I know you all talk, at the head with the mine? What  
21 were some of the main things that they said, well, you  
22 know, we'd like to have it better or it could be made  
23 better if somebody would put the time and effort to  
24 it?

25 A. Mostly to do away with them airlock doors and put

1 up overcasts. You had a continuous flow of air so  
2 the --- you know, every time somebody goes through it,  
3 you're losing air.

4 Q. Do you know if anybody ever --- how many times  
5 people talked on a section about somebody leaving  
6 those doors open and getting a fire, what would they  
7 do, if it happened, where would they go?

8 A. They would all meet at the power box, like you're  
9 supposed to. And you --- when 22 first started in  
10 there, you'd go in, they'd say --- you know, at the  
11 mouth of the section, leave the doors open. The next  
12 day you go in they'll say, you got to close these  
13 doors. Keep them closed. I'd tell --- well,  
14 yesterday they was to be left open.

15 Q. Now, when was this?

16 A. That was when Headgate 22 started.

17 Q. Okay. Now, do you know about when that started?

18 A. I think probably back in February or March.

19 Q. Of this year?

20 A. Yeah.

21 Q. Okay. You know, I don't know --- I don't think  
22 they can figure out ---. I mean, you get one  
23 inspector to go in there and the doors got to be  
24 closed. Tomorrow, somebody says open.

25 Q. Who would tell you this?

1 A. Everett.

2 Q. He'd tell you one day to open it and one day  
3 they'd tell you to close it?

4 A. Yeah. They want it shut. The next day you go in,  
5 they want them left open.

6 Q. Would somebody tell him that or ---?

7 A. I guess so.

8 Q. Do you know who that would have been?

9 A. No. No, I don't.

10 Q. That's kind of silly.

11 A. I mean, ---.

12 Q. When you all --- like the end of the shift there,  
13 when the mantrips come out or when a mantrip is going  
14 in, do they leave all the doors open until everybody  
15 gets through? What's the procedure on that?

16 A. You go through them one at a time.

17 Q. Okay.

18 A. You go up one section, you know, get in, close it,  
19 go ahead open the other one. It would wear you out on  
20 the motor. I mean, you got four sets of doors right  
21 there together.

22 Q. Yeah.

23 A. You'd go through --- you know, get out and open a  
24 section, go through, get off, walk back around your  
25 car, shut the door, open it up, do the same ---.

1 Q. Would you call that poor planning?

2 A. Yes, I would. Time consuming.

3 Q. Did they ever explain to you why they wanted to  
4 use man doors instead of overcasts?

5 A. Quicker and cheaper.

6 Q. Is that their --- let me ask you, what would ---  
7 Massey, what would they put first, production or  
8 safety?

9 A. I would say production, the way they pushed.

10 Q. I mean, how did they push?

11 A. Like shortcutting like that right there. I mean,  
12 overcasts would have taken care of ---. I'm not  
13 saying it would have solved the problem, but it would  
14 have helped the air a lot. It would have been  
15 uninterrupted.

16 Q. Do they ---?

17 A. You can put up a set of doors quicker than you can  
18 build an overcast.

19 Q. Where were some other shortcuts?

20 A. I didn't like the way they done their belt heads.  
21 There was no way to clean them, really, without taking  
22 a water hose and washing it out.

23 Q. Well, how did they build them? How did they do  
24 it?

25 A. The way everything was enclosed and they set their

1 drives and that. Because I asked them once, I said,  
2 why can't you cut this on an angle, you know, on a  
3 grade to where you can cut a sump behind this head and  
4 take a hose and wash everything down behind it and a  
5 pump back on the belt? Too much time. I said, why  
6 can't you put monorail up at these heads for where  
7 these motors to go out? You don't have to try to  
8 manhandle it over with a come-along, hook that  
9 monorail, slack it over, pick it up? Too much time.

10 Q. Well, you've been there a long time, okay. Has  
11 this been like that the whole time with planning from  
12 the get-go? It wasn't planned?

13 A. Wouldn't plan, just the quickest way to do it and  
14 get back in coal.

15 Q. Well, you work on the belt a lot. You must have  
16 seen several people hurt there. I mean, how often do  
17 people go out or take people out?

18 A. Yeah.

19 Q. How do they do that? Do they take them --- do  
20 they take them to the hospital or ---?

21 A. Yeah.

22 Q. Do they try to get them put on light duty or ---?

23 A. Like if the injury is not bad, you know, they'll  
24 have light duty for them.

25 Q. Do they usually have a safety man or a company

1 person with them?

2 A. Go to the hospital, yes.

3 Q. And have you ever been --- excuse me. I may have  
4 asked this. Have you been injured or ---?

5 A. One time.

6 Q. Did you have to go to the hospital?

7 A. No.

8 Q. Okay. Once you got to the hospital, did anybody  
9 talk to you about maybe the safety man or the company  
10 person tried to persuade the doctor to put them on  
11 light duty instead of having lost time?

12 A. No. I never --- the ones I talked to never  
13 mentioned nothing about, you know, any of the company  
14 people trying to persuade the doctor there.

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. You know how sometimes when the --- on your motor  
18 you drive into the mines going to some particular area  
19 and you can see how they rock dusted last night?

20 A. Uh-huh (yes).

21 Q. You know how that is?

22 A. Yeah. It look like it snowed.

23 Q. It looks all black. Now, on April 5th, I asked  
24 you how the rock dust on the track looked from 78 up  
25 to the 22 Headgate section, and you said it looked

1 pretty good.

2 A. It didn't look like it snowed, but it was white.

3 Q. Well, prior to being --- when was the last time  
4 you went up through there and it looked like it had  
5 just been rock dusted, that you can remember?

6 A. Probably two to three weeks.

7 Q. Okay.

8 ATTORNEY BAXTER:

9 And so you said it did not look like it  
10 had snowed?

11 A. It was white that morning. But like I said, it  
12 wasn't --- didn't look like it snowed, like it was  
13 just dusted.

14 BY MR. FARLEY:

15 Q. And I think you explained ---?

16 A. One rock dust crew trying to dust track and the  
17 belts and --- you know, it keeps them quite busy.

18 Q. I think you explained that it was a nuisance when  
19 you were hauling supplies to go through doors because  
20 you had to get out and stop and so forth. Could you  
21 get a motor and two supply cars between the two ---  
22 between the doors? Was there one of the places where  
23 you couldn't get a motor and two supply cars fit  
24 between two doors?

25 A. Yes.

1 Q. Where was that?

2 A. That was from 78. Those doors above 78. One  
3 motor an done car you got between the doors. The  
4 other one waited.

5 Q. Okay.

6 A. And the same way with the longwall. It never ---  
7 it never allowed enough room for, you know, two motors  
8 and two cars.

9 Q. What did you have to do when you was bringing two  
10 cars and you came to doors?

11 A. We never was coupling. You know, we brought  
12 singles.

13 Q. Okay.

14 A. We'd just go through them.

15 Q. You'd bring two motors?

16 A. Yeah, two motors, two cars.

17 Q. Okay.

18 A. But when it was hauling shields, they'd have to  
19 stop and break them apart and ---. You know, like I  
20 said, it's a real nuisance, time consuming. They  
21 would holler, what took you so long to make the trip?  
22 I'd say, get on the motor by yourself and try it.  
23 When you've got five or six sets of these doors to go  
24 through ---.

25 Q. I understand. On April 5th, how many cars did you



1 take into the mine that day?

2 A. I took one in and Bruce took one in.

3 Q. Two motors, two cars?

4 A. Two motors, two cars.

5 Q. When you headed to UBB at the end of the shift,  
6 was anybody following you?

7 A. Ralph.

8 Q. Ralph?

9 A. Yeah.

10 Q. Ralph Plumley?

11 A. He followed us down to Ellis Switch, but he went  
12 out Ellis and, you know, we'd go out UBB.

13 Q. Do you know if Ralph closed the doors behind  
14 you ---

15 A. Yeah.

16 Q. --- as he would come out?

17 A. Yeah. Ralph would never leave them open.

18 Q. Okay. On the dayshift , April 5th, the new shift,  
19 who was the dispatcher that day?

20 A. I have no idea.

21 Q. Did you talk to somebody?

22 A. Yeah, we talked with him, but I couldn't tell you  
23 who he was. It's been --- it seems like forever to  
24 me.

25 Q. Okay. Did you ever talk to the guy --- during

1       your dayshift, did you ever talk to a guy outside  
2       named Greg Clay?

3       A. No, I didn't.

4       Q. Okay. All right.

5       MR. GODSEY:

6       Let's take about a ten-minute break.

7       SHORT BREAK TAKEN

8       ATTORNEY BAXTER:

9       Back on the record.

10       BY MR. FARLEY:

11       Q. Mr. Massey, I think you said that on April 5th you  
12       got outside about 3:00 p.m.; is that right?

13       A. Yes.

14       Q. Can you take me through what happened then, when  
15       you got outside.

16       A. When we got outside, the loader man, Gene, he  
17       always set his cars off, you know, so they didn't get  
18       trash on them. We put the motor stuff in the --- what  
19       we call the motor hole on the south side. We put them  
20       over to ---.

21       BRIEF INTERRUPTION

22       A. We put the motors up in what they call the motor  
23       hole where they ---.

24       BY MR. FARLEY:

25       Q. That's outside; right?

1 A. Yeah, it's outside. We started walking back  
2 towards the motor barn. That's when we heard the fan.  
3 It sounded like --- we thought the motor was burning  
4 up on it, but it had been throwed in reverse. And  
5 Gene even heard it over the motor running. He stopped  
6 and said, what's wrong with that? And just like a  
7 minute or so it just went back to normal, and the dust  
8 was blowing out of the return. I told Bruce, I said,  
9 well, the barrier section is going to be mad because  
10 they called for the road as we went by, coming up  
11 behind us. I said, somebody in there rock dusting and  
12 then going to have to travel through it, I said,  
13 they're going to be mad.

14 We still wasn't aware nothing was going on. We  
15 put our lights and tools up, and Bruce went up and  
16 filled the paperwork out and took a shower. And then,  
17 you know, as we come by Ellis down there we wasn't  
18 aware of nothing, because there was no sign of  
19 nothing. Whenever I heard it, it was on the scanner,  
20 after I got home. They started calling for all the  
21 ambulances and said they'd had an explosion at LBB ---  
22 or UBB, Upper Big Branch. And it was just chaos from  
23 that point on.

24 Q. Did you go back to work after that?

25 A. No. No, I haven't been back.

1 Q. Okay. Now, to make sure I got you right here, you  
2 was putting the motors up, the fan ---?

3 A. It was roaring so loud, you couldn't hear yourself  
4 talk. Like me and you're --- you had to holler back  
5 and forth it was making so much noise.

6 Q. And you saw dust coming out the return?

7 A. Yeah. It just looked somebody was in there rock  
8 dusting.

9 Q. Like a white dust?

10 A. White, yeah.

11 Q. You showered and left?

12 A. We showered and left because we still wasn't aware  
13 that nothing was going on.

14 Q. Okay.

15 A. Like I said, when we come by Ellis down there,  
16 there was no visual sign of anything going on there.  
17 We thought, just another normal day.

18 Q. Which way did you go to get you home?

19 A. Go to Whitesville and go down the river.

20 Q. Okay. You would have passed the road up to Ellis  
21 on your way home ---

22 A. Yeah.

23 Q. --- on your left?

24 A. Yeah.

25 MR. FARLEY:

1 All right. I have nothing else.

2 RE-EXAMINATION

3 BY MR. GODSEY:

4 Q. Just a few questions there. You said when Ralph  
5 and you all came out. Who was the last trip out?

6 A. Ralph.

7 Q. And there was a couple questions --- have you ever  
8 been to Eight North?

9 A. Eight North?

10 MR. FARLEY:

11 Yeah. Above here, going from ---.

12 A. That's inby ---

13 BY MR. GODSEY:

14 Q. Twenty-two (22).

15 A. --- 22?

16 Q. Yeah. What's the floor like up there? Do you see  
17 much heaving in that area?

18 A. Not until you get up around the end of the track.

19 Q. What's it like up there? How much is it heaving?

20 A. It's bad up there, a lot of ---.

21 Q. What's bad? I mean, how ---?

22 A. The bottom.

23 Q. I mean, how ---? Heaved up a foot?

24 A. A foot, foot-and-a-half.

25 Q. Is that all over or just ---?

1 A. Just like the last probably ten breaks of track.  
2 Right at the end of the track there had been a roof  
3 fall, which covered the rail trucks up.

4 Q. How big a fall was it originally?

5 A. Oh, probably five-foot thick. Just the  
6 intersection dropped out.

7 Q. Was it above the entry?

8 A. Yeah. Probably right in it, because you used  
9 48-inch bolts, and it probably fell out.

10 Q. Do you know when it fell?

11 A. When they pulled out of it. After they pulled  
12 back.

13 Q. It's been some time?

14 A. Yeah, it's been some time.

15 Q. Okay. Have you been to a place called the Glory  
16 Hole?

17 A. Oh, yes.

18 Q. What does that consist of?

19 A. Right now, nothing. They quit using it. But it,  
20 too, has a problem with the bottom heaving, and not as  
21 bad as the rest of it.

22 Q. Is it about the same way as on Eight North?

23 A. Yeah.

24 Q. What's the temperature like over there?

25 A. Hot.

1 Q. Do you know what causes that?

2 A. Yeah. The exhaust coming down from the Glory Hole  
3 itself, where everything there was running. I haven't  
4 been over there since they shut it down.

5 Q. Okay.

6 A. But I know when it was running, it was hot.

7 Q. Was anybody permanently stationed over there to  
8 work over there?

9 A. Jim Bolger took care of it.

10 Q. Did he make any complaints about it being so hot?

11 A. No.

12 Q. And has any Massey attorneys interviewed you since  
13 --- you haven't talked to anyone?

14 A. No.

15 Q. Okay. And you stated right now you're not  
16 working?

17 A. No.

18 ATTORNEY BAXTER:

19 Are you on disability right now?

20 A. Yeah, short-term.

21 BY MR. GODSEY:

22 Q. And I guess you're aware that every so often that  
23 you have to run respirable dust on some of the  
24 occupations under ground. Do you know of any time  
25 that --- where a foreman or something has taken a pump

1 and placed it in an intake or in a belt or somewhere?

2 A. No, not unless they were told, you know, well,  
3 hang this up here at the belt head or hang it up here  
4 on the belt ---

5 Q. Do you know ---?

6 A. --- and come back and pick it up at quitting time?

7 Q. Well, do you know of any time that someone's taken  
8 like one off of a ---

9 A. No.

10 Q. --- designated occupation and they put ---?

11 A. No. The men I know would not allow it.

12 Q. Just asking. Have you heard anybody or talked to  
13 anybody about having complaints about bridging out  
14 methane monitors on continuous miners or placing  
15 plastic bags or something over the perimeter?

16 A. No.

17 Q. All right. I may have talked to you about this,  
18 but in March you said they made a major ventilation  
19 change. Do you remember what happened to cause that  
20 ventilation change? It was on the longwall.

21 A. When they were setting the longwall up, I believe  
22 they had changed ventilation around to try to get air,  
23 you know, to the longwall, to the miner sections. I  
24 don't know what kind of a change they made, but I know  
25 they put a set of airlock doors up at the mouth of



1 Ellis going to UBB.

2 Q. Okay. Had they had a problem ventilating 22  
3 Headgate for a long --- since it's been up there?

4 A. No.

5 Q. Do you know when their ventilation problem  
6 started?

7 A. No.

8 Q. Have you been there when they --- going to work,  
9 they delayed you all going underground for any reason,  
10 any concern, either safety or ---?

11 A. The only reason you'd get delayed was if they shut  
12 the mantrips down.

13 Q. Have you ever been underground ---?

14 A. Or a fan check. You know, they'll ---.

15 Q. Oh, excuse me. Have they ever brought you all out  
16 of the mines during the day when something was  
17 happening, a problem ---?

18 A. No.

19 Q. Has anyone talked to you about being concerned  
20 about working there, safety?

21 A. No, no safety matters.

22 Q. I mean, anyone told you that they were concerned  
23 about going to work for their own safety?

24 A. No.

25 Q. How would you describe the overall ventilation

1 system for UBB, adequate or ---?

2 A. It was adequate. But like anything else, it had  
3 room for improvement.

4 Q. How much improvement do you ---?

5 A. Like I said, you got the airlock doors. I,  
6 myself, I'd be --- I could do away with them and build  
7 overcasts. Continuous flow of air is a whole lot  
8 better than, you know, breaking the air to go through  
9 a door.

10 Q. Well, has anybody ever complained to you all ---  
11 complain about when the doors are left open about  
12 losing air on the section?

13 A. No. Like I said, at the mouth of 22, they were  
14 having trouble making up their mind whether they're  
15 supposed to be open or supposed to be closed.

16 Q. Okay. Did you have a good or --- is there certain  
17 people in management that you had a better good  
18 impression of or bad impression of? Like Chris  
19 Blanchard, what did you think of --- was he a good  
20 manager?

21 A. Me, no.

22 Q. What are some of the reasons?

23 A. In my opinion, he wanted it his way or no way,  
24 like you know, whether --- you got somebody standing  
25 there that's got 35 to 40-some years of experience

1       trying to tell you the better way to do something, and  
2       we're going to do it this way. You know, it's like  
3       when he said something, it wasn't --- no other way to  
4       do it.

5       Q. But would he listen to you when nobody would  
6       listen?

7       A. He would listen, but that's as far as it went.

8       Q. How old is he? I mean, probably about what's his  
9       --- does he got a lot of experience?

10      A. He might be 31, 32.

11      Q. We was talking earlier about the floor heave. Up  
12      on 22 Headgate, can you describe how that --- the  
13      extent of the floor heave up there again?

14      A. It probably --- in places up there, it probably  
15      hooved up a foot.

16      Q. What area?

17      A. Mostly in the track.

18      Q. Track.

19      A. I don't know why. The track in the middle entry,  
20      it seemed like it all wants to push to the middle.

21      Q. Okay. Did you ever travel the other entries?

22      A. No, just right there at the supply doors.

23      Q. Okay.

24      MR. GODSEY:

25      Anything?

1 MR. FARLEY:

2 No.

3 BY MR. GODSEY:

4 Q. So if you have anything you want to tell us, tell  
5 us. Anything that you thought of or something ---  
6 you've been there a long time and you've been --- you  
7 know, you've been a miner for 35-plus years. What's  
8 your opinions on this event that we had April 5th?

9 A. Like I said, I was --- the air --- like I said,  
10 they had air, but it could have been better,  
11 uninterrupted by overcasts, and --- I'm not saying it  
12 would have helped until they find out, you know, what  
13 happened, but I'm leaning toward maybe either hit a  
14 gas well or, like I said, the bottom was busted, where  
15 they was mining between 118 and 116, old Bethlehem  
16 Mines, and they --- it could have built up behind the  
17 wall and they might have had a major fall back there  
18 and pushed it up And before the sniffer had a chance  
19 to shut down, it could ignite, if it happened on the  
20 belt.

21 Q. Are you talking about --- oh, those are the mines  
22 that are adjacent to ---?

23 A. Yes. Yes, old Bethlehem Mine.

24 Q. The one right next to the south of the active  
25 portal. I see.

1 A. Well, they've been closed down since the '80s,  
2 early '80s, and chances are they had quite a bit of  
3 methane.

4 Q. Did you ever work there? You said you worked ---.

5 A. No. I had a brother-in-law that worked there  
6 until it shut down.

7 Q. On the last shift you told me you said you and  
8 Ralph came out and Ralph went on out Ellis and you  
9 came out UBB. Did you stop anywhere --- on that  
10 switch anywhere, on Ellis Switch? Did you stop for  
11 any amount of time?

12 A. Just to go through the doors.

13 Q. Which way was the air traveling up there?

14 A. It was coming outby.

15 Q. Was it going outby?

16 A. I'm pretty sure it was coming outby.

17 Q. What was the normal ---?

18 A. Outby.

19 Q. It's always going outby?

20 A. Yeah, just --- it wasn't no great deal just to  
21 move with it. It seemed like it was coming outby.

22 Q. I keep saying I've got one more question. I've  
23 got one more. There at the mouth of that 78 Crosscut,  
24 whatever, when you all came out with Ralph and all the  
25 --- did you all ever see any mist or some kind of

1 vapor?

2 A. No.

3 Q. It was clear all the way up?

4 A. Other than what's from the trickle dusters, you  
5 know.

6 Q. And the trickle duster, was it running at the  
7 time?

8 A. I think they shut it off because of the shift  
9 change.

10 Q. How much time before shift change ---?

11 A. Whenever they'd walk the belts to fire boss,  
12 they'd usually try to shut them off to give the air  
13 time to clear so they wouldn't be traveling in it.  
14 Where they'd set them on the heads, a lot of dust  
15 would come over on the track. So they'd try to keep  
16 it clear.

17 Q. I want to thank you yourself for just talking to  
18 us today and giving us information. And if you have  
19 to, you know, always when you leave the place, talking  
20 --- you're walking home or something, going home, you  
21 always think of something else you might wish you have  
22 said. But if you think of anything else in the next  
23 day or two, whatever, next week, contact us. We'd  
24 sure appreciate the information. Because it seems  
25 like you know what's going on.

1 A. I just hope nobody has been called out on  
2 something that, you know, nobody caused. I really do.  
3 Greed and stuff over this about, you know, trying to  
4 put the blame on somebody and make him have to pay for  
5 it.

6 Q. Do you know of anybody that we could talk to? Do  
7 you know of anybody, additional person that we could  
8 talk to that may have some information on Mr. --- that  
9 might help us. So if you was to think about it, let  
10 us know because we'd like to have all the information  
11 that we can get.

12 ATTORNEY BAXTER:

13 On behalf of MSHA and the Office of  
14 Miners' Health ---.

15 MR. FARLEY:

16 Excuse me. One more question, please.

17 Sorry. I promise.

18 RE-EXAMINATION

19 BY MR. FARLEY:

20 Q. On April 5th, on your way out, did you go by the  
21 Mother Drive area?

22 A. Yes, I did.

23 Q. Did you see anybody around there?

24 A. I can't remember if the fire boss was there or not  
25 or if he got --- he might have been on the belt. I

1 didn't see, but he could have been onto the belt head  
2 doing something or back at the take-up.

3 Q. Okay.

4 A. But when we --- as far as I know, he was not --- I  
5 mean, he wasn't out by the track.

6 Q. Because I asked you earlier if any time when you  
7 passed from 78 to 22 Headgate you experienced any  
8 burning in your eyes ---?

9 A. He was a young man, so he was probably working.  
10 The older one would have probably been standing there,  
11 the fire boss.

12 Q. Okay. Somebody in that general vicinity had  
13 called out that afternoon and indicated that their  
14 eyes were burning, and that's why we asked the  
15 question about your eyes.

16 A. Like I said, we didn't stop. I mean, ---.

17 Q. Okay. Well, there's no reason to stop.

18 A. You know, it might have been something there. We  
19 just came right on through and it didn't have time to  
20 affect us. I'm not saying that it wasn't there,  
21 but ---.

22 Q. Okay. All right.

23 MR. GODSEY:

24 You was heading for the ---.

25 A. We set sail for the mouth. It was time to go.



1 MR. FARLEY:

2 I understand.

3 ATTORNEY BAXTER:

4 On behalf of MSHA and the Office of

5 Miners' Health, Safety and Training, I want to thank  
6 you for appearing and answering questions today. Your  
7 cooperation is very important to the investigation as  
8 we work to determine the cause of the accident. We  
9 request that you not discuss your testimony with any  
10 person, aside from your personal representative.

11 After questioning other witnesses, we may call you if  
12 we have any follow-up questions that we feel that we  
13 need to ask you. If at any time you have additional  
14 information regarding the accident that you would like  
15 to provide to us, please contact us at the contact  
16 information that was previously provided to you.

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

1 wages and immediate temporary reinstatement to your  
2 most recent position with the company, pending a  
3 complete investigation of your complaint. In order to  
4 file such a complaint, you should contact the MSHA  
5 District 4 office.

6 For more information concerning your  
7 rights as a miner under the Mine Act please visit  
8 MSHA's website at [222.msha.gov](http://222.msha.gov). If you wish you may  
9 now go back over any answer you've given during this  
10 interview and you may also make any statement that  
11 you'd like to make at this time. Again, I want to  
12 thank you for your cooperation in this matter.

13  
14 \* \* \* \* \*

15 STATEMENT UNDER OATH CONCLUDED AT 2:40 P.M.

16 \* \* \* \* \*  
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1 STATE OF WEST VIRGINIA )

2

3

4

CERTIFICATE

5

I, Cynthia Piro Simpson, a Notary Public in

6

and for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

22

A handwritten signature in black ink that reads "Cynthia Piro Simpson".

23

24

25