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STATEMENT UNDER OATH
OF
MICHAEL DICKENS

taken pursuant to Notice by Danielle Ohm, 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, Room C-137, Beaver, West Virginia, on Thursday, June 24, 2010, beginning at 3:00 p.m.

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A P P E A R A N C E S (cont.)

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

One

Map

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* Exhibit not attached

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ATTORNEY HAMPTON:

My name is Polly Anna Hampton. Today is June 24, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Jasey Maggard, 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 now.

MR. O'BRIEN:

John O'Brien with the West Virginia Office of Miners' Health, Safety and Training.

MR. JARRELL:

Dan Jarrell, Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

Patrick McGinley with the Governor's independent investigation team.

ATTORNEY HAMPTON:

There are also several members of the investigation teams also present in the room today. Mr. Maggard will be conducting the initial portion of the questioning.

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

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

1 Miners' Health, Safety and Training. We really
2 appreciate your assistance in this investigation.
3 You may have a personal attorney present
4 during the taking of the statement or a personal
5 representative if MSHA has permitted it, and you may
6 consult with this attorney/representative at any time.
7 Your statement is completely voluntary. You may
8 refuse to ask any question and you may terminate your
9 interview at any time or request a break at any time.
10 Since this is not an adversarial proceeding, formal
11 Cross Examination will not be permitted.

12 Just so the record is clear, do you have
13 a personal representative with you today?

14 MR. DICKENS:

15 (Indicates no).

16 ATTORNEY HAMPTON:

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 will do so to the extent
25 permitted by law. That means that if a Judge orders

1 us to reveal a name or if another law requires us to
2 reveal your name or if we need to reveal your name for
3 other law enforcement purposes, we may do so. Also,
4 there may be a need to use the information you provide
5 to us or other information we may ask you to provide
6 in the future in other investigations into and
7 hearings about the explosion. Do you understand?

8 MR. DICKENS:

9 Uh-huh (yes).

10 ATTORNEY HAMPTON:

11 Do you have any questions?

12 MR. DICKENS:

13 (Indicates no).

14 ATTORNEY HAMPTON:

15 Could you say yes or no?

16 MR. DICKENS:

17 Yes. No, I don't have no questions.

18 ATTORNEY HAMPTON:

19 Okay. After the investigation is
20 complete, MSHA will issue a public report detailing
21 the nature and causes of the fatalities in the hope
22 that greater awareness about the causes of accidents
23 can reduce their occurrence in the future.
24 Information obtained through witness interviews is
25 frequently included in these reports. Since we will

1 be interviewing other individuals, we request that you
2 not discuss your testimony with any person aside from
3 a personal representative or an attorney.

4 As you can see, a court reporter will
5 record your interview, so please speak loudly and
6 clearly. If you do not understand a question, please
7 ask the questioner to rephrase it. Please answer each
8 question as fully as you can including giving any
9 information that you've learned from someone else.
10 I'd like to thank you in advance for your appearance
11 here. We appreciate your assistance in this
12 investigation. Your cooperation is critical in making
13 the nation's mines safer.

14 After we have finished asking questions,
15 you will have an opportunity to make a statement and
16 provide us with any other information that you believe
17 to be important. If at any time after the interview
18 you recall additional information that you believe
19 might be useful, please contact Norman Page at the
20 telephone number or the e-mail address provided to you
21 in the letter.

22 Any statements given by miner witnesses
23 to MSHA are considered to be an exercise of statutory
24 rights and protected activity under Section 105(c) of
25 the Mine Act. If you believe any discharge,

1 discrimination or other adverse action is taken
2 against you as a result of your cooperation with this
3 investigation, you are encouraged to immediately
4 contact MSHA and file a complaint under Section 105(c)
5 of the Act.

6 MR. O'BRIEN:

7 Mr. Dickens, on behalf of the Office of
8 Miners' Health, Safety and Training, I'd like to
9 inform you that you do have some protection rights
10 against discrimination coming out of this interview.
11 If you would experience that, I'm going to give you
12 some information that you can contact these folks.
13 Under West Virginia Code 22A-1-22, you have those
14 rights. If you do file a complaint, you must do that
15 within 30 days.

16 Also, I'd like to give you the business
17 cards of Mr. Terry Farley, which you may --- he's one
18 of our lead investigators, and Bill Tucker, who is
19 also a lead investigator. So if you have any
20 questions, feel free to call those folks. Any
21 questions?

22 MR. DICKENS:

23 No.

24 MR. O'BRIEN:

25 Thank you.

1 ATTORNEY HAMPTON:

2 Okay. Could you swear in the witness?

3 -----

4 MICHAEL DICKENS, HAVING FIRST BEEN DULY SWORN,

5 TESTIFIED AS FOLLOWS:

6 -----

7 EXAMINATION

8 BY MR. MAGGARD:

9 Q. Could you please state your full name and spell
10 your last name, please?

11 A. Michael Newt Dickens, D-I-C-K-E-N-S.

12 Q. And could you give us your address and telephone
13 number?

14 A. It's (b) (7)(C)

15 Phone number's (b) (7)(C)

16 Q. Michael, are you appearing voluntarily today?

17 A. Yes.

18 Q. Has anyone from the company approached you, such
19 as lawyers and asked you any questions pertaining to
20 the accident?

21 A. I talked to Massey lawyers.

22 Q. And who did you talk to?

23 A. I don't remember their names.

24 Q. And how long ago?

25 A. Just a couple weeks after it happened.

1 Q. Did they give you any instructions on anything to
2 do with answering questions that we might ask?

3 A. They said tell the truth.

4 Q. How many years of mining experience do you have?

5 A. Almost six.

6 Q. And has this always been at --- where do you
7 currently work?

8 A. Headgate 22.

9 Q. Headgate. That was prior to the accident, you
10 worked on Headgate 22?

11 A. Yes.

12 Q. Where do you currently work?

13 A. I'm still down at UBB, but just going to drilling
14 sites and fuel up and keep generators going.

15 Q. And your six years of employment, that's always
16 --- has that always been for Massey ---

17 A. Yes.

18 Q. --- Energy? And how many years did you work at
19 UBB?

20 A. All of about two months over at UBB.

21 Q. And what's your position at UBB?

22 A. Electrician.

23 Q. And have you always been an electrician?

24 A. No.

25 Q. How long have you been an electrician?

1 A. I was certified on June 17th of last year.

2 Q. Could you tell us a little bit about your training
3 that you received at Massey?

4 A. You mean electrical training?

5 Q. Electrical training, annual refresher, just
6 whatever you tell us.

7 A. Well, we had to --- every year we done the
8 retraining and the electrical retraining now.

9 Q. When's the last time you had electrical
10 retraining?

11 A. I think it was last November.

12 Q. And how was your training --- did you go through
13 an initial apprentice program?

14 A. Yes.

15 Q. And who was you working under?

16 A. Dave Terry. Well, he was the teacher. You mean
17 like on the job?

18 Q. On the job.

19 A. Greg Shrewsberry.

20 Q. And what shift did you work?

21 A. Third shift.

22 Q. And could you tell who the boss was or foreman on
23 that shift?

24 A. Kyle Anderson.

25 Q. And was he the person responsible for preshifts,

1 and he was the section boss? He wasn't the ---?

2 A. Section boss, yes.

3 Q. Who did you directly work under?

4 A. Bill Craig.

5 Q. Okay. And where did you normally portal at?

6 A. Ellis.

7 Q. Ellis. Could you kind of walk us through, you
8 know, a typical day that you had that you had at UBB
9 working third shift at Headgate 22?

10 A. I usually get there about 30 minutes before shift,
11 get dressed and walk about a break or two underground
12 to the mantrips, ride to the section.

13 Q. And tell us about the work you did during the
14 shift. What was you responsible for?

15 A. Breakdowns --- I mean, preshift, I mean, like your
16 --- just breakdowns.

17 Q. Did you do examinations?

18 A. Yes.

19 Q. Did you have to record those in electrical books?

20 A. Yes.

21 Q. What pieces of equipment did you inspect?

22 A. Last miner, which is 4918, shuttle car on 17505
23 and the feeder.

24 Q. Have you always worked on the continuous miner
25 section? Have you ever worked on longwall? Is there

1 anything else?

2 A. I was up there for the times they've been up
3 there.

4 Q. Were you responsible for monitor calibrations on
5 the miner, the left side miner?

6 A. Yes, I have to calibrate them.

7 Q. Did you also do the right side miner from time to
8 time or just always the left side miner?

9 A. I've done both sides.

10 Q. Okay. When would be the last time that you
11 checked one or both of the miners, check methane
12 monitor to calibrate?

13 A. I don't really know the exact date, but I'm going
14 to say about a week before this happened, somewhere in
15 there.

16 Q. And was they in good working order, or could you
17 tell us a little bit about how they would work?

18 A. At that time, it was good working.

19 Q. You didn't have to change any parts or
20 anything ---

21 A. No.

22 Q. --- to get them working? Did you ever get up
23 there on the section when they were running coal and
24 see if the methane monitor was working? Or did you
25 most of the time get there later than ---?

1 A. We usually made it to the mantrip.

2 Q. You usually met the second shift?

3 A. At the mantrip, yes.

4 Q. And where was that?

5 A. A couple breaks outby the power center. It's ten
6 breaks, I think.

7 Q. So how far was the track back from the face?

8 A. Just about ten breaks.

9 Q. Okay. And so you --- but did you ever get there
10 earlier and they keep running a little later and ---?

11 A. I have seen them run, yes.

12 Q. Had you ever noticed any methane readings on that
13 section, on the miner when it was running?

14 A. When it was running? Not that I recall.

15 Q. Did you --- when you worked, did you carry your
16 own personal multi-gas detector?

17 A. Our boss did.

18 Q. But you didn't have one?

19 A. No, not my own, no.

20 Q. How many people on your section on third shift had
21 one other than your boss?

22 A. The foreman up there, he'd have one and our
23 electrician boss.

24 Q. Okay. Now, from time to time, did you ever have
25 to work outby the section on anything else?

1 A. Yes, I have.

2 Q. And what --- give us some examples of some other
3 work you had to do outby the section?

4 A. Changing roller, belt head rollers. That's all, I
5 guess, at the moment.

6 Q. Did you ever have to do any work outby by yourself
7 or ---?

8 A. No, not by myself.

9 Q. Who would normally work with you?

10 A. On the outby? It was either --- I'd say Billy
11 Graham.

12 Q. Okay. Would you ever get left alone without a
13 detector from time to time?

14 A. Not that I know of.

15 Q. Could you tell us about the working conditions on
16 that section? How did the ventilation appear to you
17 when you worked up there? Was it hot when you was
18 working on the section?

19 A. Yes, but two weeks before this happened it seemed
20 like they got the air fixed and it was a lot better.

21 Q. Two weeks prior to this?

22 A. Around two weeks.

23 Q. Okay. Do you know what they done to make it
24 better and get more air up on the headgate section?

25 A. No, I don't know what they done.

1 Q. So what did you notice about it that led you to
2 believe that there was a more air up there on the
3 section?

4 A. It was cooler. And we always had a sign at the
5 fire boss, high voltage center. There wasn't much
6 air. It wouldn't swing at all. When somebody opened
7 the doors outby, you could tell because it would stop.

8 Q. Did that happen very often, that the sign would
9 stop swinging or ---?

10 A. Yeah, up until about two weeks before that. Then
11 you just noticed when somebody opened the doors coming
12 into the section.

13 Q. How much --- and could you point out on the map
14 which doors that caused the biggest problem with that?

15 A. I mean, I wouldn't know, but I saw ---. I guess
16 it would be the ones going down to our section.

17 Q. Okay. Could it possibly be this last set of doors
18 next to this overcast, or do you know?

19 A. Yes, down in our section.

20 Q. Could you kind of maybe mark on this map --- are
21 you real familiar with the way you traveled in this
22 mine? Could you mark a map up for us how you normally
23 traveled to the section? Maybe we could start from
24 here at Break --- what they normally call Break 78 and
25 just kind of mark your normal route of travel up to

1 the headgate section for us.

2 ATTORNEY HAMPTON:

3 I'm handing you a blue marker so that you

4 can mark this route. And I'm going to mark this map

5 that is a 1/200 scale map as Exhibit Number One

6 Dickens 6/24/10.

7 (Dickens Exhibit Number One marked for

8 identification.)

9 A. That's the manual.

10 BY MR. MAGGARD:

11 Q. So this is the manual. Okay.

12 A. Back in this area ---.

13 Q. So this is the belt entry; right?

14 A. So it was adjacent to the belt; right?

15 Q. Yeah. You went through double sets of doors;

16 right?

17 A. Yes. Seventy-eight (78) Break.

18 MR. MAGGARD:

19 He's marking this with a blue

20 highlighter.

21 ATTORNEY HAMPTON:

22 Maybe a little so that we can see it.

23 A. Go through these doors right here. I'm sure how

24 far back it was.

25 ATTORNEY HAMPTON:

1 Could you actually maybe draw a line out
2 here and write route?

3 A. Route what, now?

4 BY MR. MAGGARD:

5 Q. Route of travel to the section. Could you tell us
6 about the doors through this route --- there are
7 several sets of doors up through here. Were they left
8 open very often or just sometimes or had you ever seen
9 them open?

10 A. I've seen them open.

11 Q. And would both doors be open or one door or ---?

12 A. A lot of times it would just be one door.

13 Q. And I mean, would that --- how often would that
14 happen in a week, say one of them open?

15 A. I don't know about a week. Just ---.

16 Q. How about two weeks? Would it happen once in two
17 weeks, once in three weeks, whenever you saw?

18 A. If it was open, it'd be open until --- that one
19 would be open until somebody fixed it. I mean, just
20 like one of the doors would be swung open.

21 Q. Okay. And I mean, how often did you see the vent
22 --- like behind the power center the high voltage sign
23 or curtains settle down in on the --- how often would
24 you think that there wasn't much air on the section?
25 How often would that happen? Would it happen every

1 shift or every other shift or just give us some idea
2 of what you saw there?

3 A. I mean, I wasn't constantly looking at it. You
4 know what I mean?

5 Q. Right. But how often did you notice?

6 A. I'd say --- I'd say at least once every two days
7 just walking by and happened to look.

8 Q. And could you tell --- was the doors up there
9 damaged?

10 A. Yes, every one.

11 Q. Was it because they was running into it with the
12 supplies or equipment or ---?

13 A. Yeah. I mean, I never seen them do it, but I
14 mean, that's just ---.

15 Q. Had you --- did you have to go and help unload any
16 supplies from time to time at Headgate 22 Section,
17 help the supply man?

18 A. I wouldn't --- like, if they'd bring torques in,
19 I'd go down there and get them.

20 Q. Would they ever pull two flat cars at the same
21 time with the supply car or mantrip? Did you ever see
22 that?

23 A. Yes, I have seen that.

24 Q. Was that very often or just from time to time?

25 A. That's from time to time.

1 Q. Could you tell us about --- had you ever walked
2 this beltline on Headgate 22?

3 A. Yes.

4 Q. When was the last time you did that?

5 A. Wasn't too long ago before that.

6 Q. What was the condition of the beltline that you
7 were working on?

8 A. You mean as far as rock dust and cleaning and
9 stuff?

10 Q. Rock dust, the roof, cleaned and whatever you can
11 tell us about it.

12 A. Well, sometimes you'd see it'd need some dust and
13 a few rocks and stuff like here and there.

14 Q. Was the dust thinly --- like rock dust thinly
15 applied or was it thick, or just tell us what you
16 thought about that?

17 A. I guess about average. I don't know.

18 Q. Was it white or black, grey or dark grey or ---?

19 A. After they dusted, it'd be white.

20 Q. When was the last time they dusted it?

21 A. I don't know.

22 Q. What was the last shift you was on Headgate 22?

23 A. Sunday night.

24 Q. Sunday night. And did you walk the beltline then?

25 A. Not that I recall.

1 Q. Did you see any parts of the beltline during your
2 shift?

3 A. I seen the feeder and the tailpiece.

4 Q. How did the face area look? Had they applied any
5 rock dust on it? Was it clean when you got there or
6 after you left? Do you recall doing any cleanup on
7 the section on the third shift ---

8 A. No.

9 Q. --- prior to the Monday morning shift?

10 A. No, we didn't.

11 Q. How did the face area look?

12 A. I don't remember, to be honest with you. I mean,
13 I'm saying I'm not for sure.

14 Q. Was there any accumulations, loose coal up there
15 that they hadn't cleaned up yet?

16 A. Not that I can remember.

17 Q. Was there any water accumulations in the face?

18 A. They were, but I don't remember what was then.
19 The bottom broke up and all the water was gone.

20 Q. The bottom broke and the water was gone. How much
21 water?

22 A. I would say right at the top of my boots for
23 about, I don't know, a break maybe.

24 Q. And how many breaks outby of the face or was that
25 in the face? What entry was that in?

1 A. It was --- it was in one --- Number One entry and
2 I would say it was a break outby the face.

3 Q. Had you ever seen that happen before?

4 A. Yes.

5 Q. And in that situation, was it filling up the whole
6 entire section or ---?

7 A. No, it was just in the --- just in the one entry.

8 Q. Okay. Was it like the --- 25-foot long water
9 hole, or how big of a water hole was it?

10 A. I would say it was close to the hole of the break.

11 Q. And how long was your break?

12 A. I can't remember if they was on 80 foot centers or
13 100 foot centers. I don't remember.

14 Q. And you didn't have your --- Billy Graham or ---
15 you said Billy Graham or Barry Shrewsberry was your
16 boss. Billy Graham traveled with you some; right?

17 A. I'm --- I was outby with him just a time or two.

18 Q. Did Billy do any outby examinations, electrical
19 work?

20 A. Yes.

21 Q. But Barry Shrewsberry was your boss and he carried
22 a detector and Kyle Anderson; right?

23 A. Now, Shrewsberry, he went to outby --- I don't
24 recall how long it was. It wasn't --- was just like
25 --- with Andrew Lucas.

1 Q. Andrew Lucas?

2 A. Yes.

3 Q. Did Andrew have a detector?

4 A. Yes.

5 Q. But out of all these times, I mean, had you ever
6 heard them say that they detected any methane or had
7 you ever seen them detect methane on Headgate 22?

8 A. .2, .3 is the most I ever seen on Headgate 22.

9 Q. And how were they taken the readings? Was that
10 just in midair or ---?

11 A. When they taking were readings, they held it up to
12 the top.

13 Q. Was that in the face or was that outby in the last
14 crosscut or ---?

15 A. Wherever we was working at.

16 Q. Had you ever heard of anybody else getting a
17 higher reading than .2 or .3?

18 A. On Headgate 22?

19 Q. Or anywhere else. Let's say Headgate 22 first and
20 then maybe you can tell us if you'd ever heard it on
21 any of the other sections or outby or ---.

22 A. As far as on Headgate 22, I've not, but I was
23 talking to a guy the other day that was telling me
24 that he would go into the return and the doors going
25 to the return, the man door and his spotter would go

1 off, but I mean, that's just the other day he told me
2 that.

3 Q. Do you have any idea what area of the mine it was
4 --- that was at? Did he indicate where it was at?

5 A. I honestly don't remember.

6 ATTORNEY HAMPTON:

7 What was that guy's name?

8 A. Glenn Ullman.

9 BY MR. MAGGARD:

10 Q. And when he said it went off, did he say it went
11 off at --- I looked at it and it said a certain
12 percentage or did he say?

13 A. He said, but I honestly don't remember. I think
14 he told me five percent.

15 Q. Was he doing the examination? Was he just
16 traveling somewhere in the return?

17 A. He was a fire boss.

18 Q. All right. Do you know if --- and what did you
19 say his name was?

20 A. Glenn Ullman.

21 Q. Glenn Ullman, like U-L-L-M-E-N or A-N?

22 A. I think it's A-N.

23 Q. Do you know if he had to report that? Did he
24 report it to anybody or ---?

25 A. He told me he reported it.

1 Q. Did he say if he heard anything --- who'd he
2 report it to, do you know?

3 A. I think he said he put it in the books.

4 Q. And how long ago do you estimate this occurred?

5 A. I don't know. He never told me no times.

6 Q. Okay. Had you ever been to Tailgate 22, what you
7 call Two section, I guess?

8 A. No, I was never --- let's see. We still wouldn't
9 be on 22 --- Tailgate 22, no.

10 Q. Okay.

11 A. I knew about where it was at, though. But if I
12 was there, I wouldn't remember.

13 Q. And you said you visited the longwall before.
14 What was the purpose?

15 A. I went up there and helped them deload track and
16 take structures.

17 Q. And how long ago was that?

18 A. That was probably five years ago.

19 Q. And you've never been on the active longwall
20 section that's shown on this map as 050-0 that started
21 in September of '09?

22 A. No, I was on that panel when we drove it up.

23 Q. So you were involved with driving the Headgate One
24 North toward Bandytown?

25 A. Yes.

1 Q. And from what --- was you involved with the
2 driving of that panel from beginning to the finish of
3 it or ---?

4 A. I started this --- yes, I believe.

5 Q. Could you tell us a little bit about that area,
6 what you observed down Headgate One North, any
7 hazardous conditions you might have encountered and
8 kind of point us to the location on the map?

9 A. The only thing I know was the bottom was heaving.
10 It was --- I forget what break it was. This is after
11 we'd already come out. I mean, as far as when we was
12 driving, might have had a little bit of water. That's
13 really all I can remember.

14 Q. Did you ever hit any methane down that panel?

15 A. Not that I can recall.

16 Q. Did you ever see water bubble from ---?

17 A. Yes.

18 Q. And how bad was it? Was it bubbling like a sauna
19 or just slightly bubbling or ---?

20 A. Just bubbling. I don't know.

21 Q. Did you ever see anybody check methane readings
22 when it was like that?

23 A. Yes.

24 Q. And what do you recall?

25 A. Never no methane. I don't remember never getting

1 methane, and I checked myself and I seen them check
2 it.

3 Q. And where was this occurring at on Headgate One
4 North? Was it past where the curtain longwall was at
5 or before it or in the middle of it? Could you kind
6 of estimate?

7 A. To be honest with you, I'm --- I just remember it.
8 I don't remember where we was at.

9 Q. Did you ever see the bottom hoove like you have in
10 Headgate 22 and the water disappear on Headgate ---?

11 A. I don't remember --- I don't remember all that on
12 this one.

13 Q. How was the rib and roof conditions on Headgate
14 One North?

15 A. At times they would be a little bad.

16 Q. When you say a little bad, what do you mean?

17 A. I mean loose stuff falling out and ---.

18 Q. Did you have to build a lot of cribs or do a lot
19 of additional support in any places while you
20 were ---?

21 A. I remember them doing the crib and timbers where
22 they cut a little wide in places.

23 Q. Had you ever heard anybody that was working on the
24 belt on the Headgate One North complain or say that
25 they felt that it was pretty rough in that area or

1 conditions weren't very good, anything you can recall?

2 A. Not that I recall when we was driving it, no.

3 Q. What about afterward?

4 A. Just the bottom was hooving. I can't remember
5 what break they said. I know they had said they'd
6 take the miner back in there and cut it a little bit
7 to get stuff in there or out of there.

8 Q. Tell me about the conditions of the equipment on
9 the section, something that you probably know more
10 about than anything else. How did the equipment look
11 to you? Can you tell us a little bit about
12 coincidentally how it's maintained, what you guys did
13 up there, and tell us about cables, anything you can
14 think of. Did you have any problem --- tell us a
15 little bit, did you have any problems with certain
16 pieces of equipment prior to the accident something
17 that may have been occurring often? Just kind of
18 explain what you know about the equipment on Headgate
19 22.

20 A. As far as the equipment being like that, I don't
21 remember. Like, we just had a new cable put on the
22 left miner, which is 4918. And as far as splices and
23 stuff, we checked them. I know we checked all the ---
24 we took a feeler gauge and checked all the panels, and
25 nothing stands out that would constantly go wrong with

1 something.

2 Q. How was the miners --- how many years had they
3 been up in UBB? Were they new miners or somewhat new
4 or old or ---?

5 A. Both of them, how long they been in there? Let me
6 see. I know one was older than the other one. I want
7 to say they was up there, I guess, four years maybe.

8 Q. Was any kind of modifications made to the
9 equipment, anything that made it change, travel
10 controls or SCR drives or any kind of splices on the
11 machine or anything you know of that --- anything new
12 on the machines that you was involved with that was
13 added to them or ---?

14 A. The only thing I knew was new cable on the left
15 miner.

16 Q. Okay.

17 A. No modifications that I know of.

18 Q. How about the shuttle cars, roof bolters? I don't
19 think you mentioned a roof bolter, but I'm not sure.
20 Did you ever do any work on roof bolters?

21 A. Yes.

22 Q. How many did you have on that section?

23 A. Two.

24 Q. When you --- were they in good shape or ---?

25 A. Yeah, I thought they was. We never worked on them

1 very often.

2 Q. When you did examinations, did you check for
3 grounding to make sure the machines were properly
4 grounded or how did you normally do that?

5 A. To check a machine if it was grounded? Put like
6 one lead on the face and one on the ground.

7 Q. No, to make sure the machine frame was grounded.
8 The grounding conductors intake, did you do any kind
9 of tests on that?

10 A. No.

11 Q. Did you ever see any machine arcing, arcing
12 between machines or anything?

13 A. No.

14 Q. Okay. Did you ever do any power center checks or
15 just did you do anything else other than check roof
16 bolter and shuttle car, feeder, left miner?

17 A. Yeah, I've helped some checking power center.

18 Q. And just what kind of condition was that in, the
19 power center? They keep them in pretty good shape?

20 A. Yes.

21 Q. How did they do on cleaning equipment? Did they
22 keep them pretty clean?

23 A. Yes. I mean, sometimes they would get dirty,
24 but ---.

25 Q. Did you ever travel with inspectors on the

1 section?

2 A. Yeah, a couple weeks we was at ---.

3 Q. And did he arrive --- did he travel in with you
4 prior to the shift?

5 A. Yes, he traveled with me.

6 Q. And was he checking electrical equipment or what
7 was ---?

8 A. He was going to check electrical equipment, but he
9 shut them down over air.

10 Q. And do you recall why he shut you down over air?

11 A. Yes. He went to the face. He got like --- let's
12 see --- like 7,000 over there, 7,200 on there or
13 something like that.

14 Q. And how long did it take to correct that?

15 A. Well, they had just enough to run when dayshift
16 got there.

17 Q. So what time --- how long did it take them to get
18 enough air? How much did they need, do you recall?

19 A. They needed 20,000 the last open break.

20 Q. Is that what they had what when he released you
21 all to go back to work? Was he there when it was
22 created, I guess is my question?

23 A. Well, I have to think. I know when we was walking
24 to the back --- when we was getting ready to go back
25 to the mantrip, he come up front and told them that

1 they had. But the 20,000 in the last open break I
2 last seen was 15 ---.

3 Q. Did they have trouble maintaining the 20,000?

4 A. Yes.

5 Q. And what did they do when they couldn't maintain
6 20,000, do you know?

7 A. They sent somebody outby, I'm not sure what they
8 done. They send somebody outby.

9 Q. And how long would it take for that person to get
10 back before they had it?

11 A. I'm going to say an hour, an hour and a half
12 maybe.

13 Q. And when that occurred and you were there, who
14 normally worked on that?

15 A. Kyle Anderson.

16 Q. And where is Kyle working at now?

17 A. Maybe Slip Ridge.

18 Q. Before the accident, you worked Sunday night.
19 What was Kyle working then? Was he on that shift with
20 you?

21 A. I'm not sure if he worked that day or not.

22 Q. Did you have your own personal communication
23 radio?

24 A. Yes.

25 Q. And how did that work and how far up Headgate 22

1 did it work?

2 A. It'd probably work three or four breaks away.

3 Q. And what entries was the leaky feeder cable
4 installed?

5 A. Number Two entry.

6 Q. Number Two. Was any other lines in One or Three?

7 A. Lifeline in One.

8 Q. Lifeline was in One. The beltline, was it in One?

9 A. Yes.

10 Q. Okay. Was there lifeline in Two?

11 A. Yes. Lifeline in every one.

12 Q. Okay. But only the Number Two entry had a leaky
13 feeder installed; is that right?

14 A. To the best of my knowledge, yeah.

15 Q. Okay. Do you know about down on the Six North or
16 Seven North areas from Break 78 how many cables they
17 had installed?

18 A. I have no idea.

19 Q. Okay. On Headgate 22, was there a tag reader on
20 that section?

21 A. Yeah.

22 Q. Where was it located? Do you recall?

23 A. No. I mean, it was hanging there, but I don't
24 know.

25 Q. Do you recall --- can you tell us a little bit

1 about what they told you when you got the tag readers
2 and how you was instructed to use them?

3 A. I think you can hold that button down five seconds
4 for help or something like that. You hold it down for
5 --- I can't remember. You hold it down for longer
6 than a minute. I'm not sure.

7 Q. When you entered Ellis Portal, how did you know
8 that you were checked in?

9 A. You mean as far as my tag on the outside? We had
10 a board up in the office.

11 Q. Had a board in the office. A check-in, check-out
12 board?

13 A. Yes.

14 Q. Okay. How would you know that the tracking
15 computer had logged you in when you entered the mine?

16 A. I don't know.

17 Q. When you traveled from Ellis, would you have to
18 contact dispatch or --- to get permission to use the
19 track or ---?

20 A. Yes.

21 Q. Where would you start doing that and where would
22 you have to stop from time to time to make it to
23 Headgate 22?

24 A. We had a phone right there at --- where the rides
25 were at and what CBs, where the handheld ones we would

1 carry. And then that would get us through to the
2 Ellis Switch on 78, and then sometimes the mouth of
3 our section, sometimes it was more.

4 Q. And other than that, did you contact the
5 dispatcher any after that, if you needed to travel
6 anywhere else in the mine?

7 A. Yeah, if we needed to travel, we talked.

8 Q. Just on the track; correct?

9 A. Yeah. That's the only place I was, on the
10 Headgate 22 track.

11 Q. Okay. All right. When did you first hear about
12 the accident on April 5th?

13 A. Sometimes that evening.

14 Q. And did you go to the mine or ---?

15 A. I tried to. Couldn't cross the bridge.

16 Q. And what time did you get there or try to get
17 there?

18 A. About 6:00 or seven o'clock.

19 Q. Did you just --- did you return home or ---?

20 A. Yes.

21 Q. When was your next day working at UBB?

22 A. That night. I was supposed to be working that
23 night.

24 Q. But after that, you went to UBB that evening ---
25 did you go back for a while or was --- or what was

1 your next day that you worked at UBB?

2 A. To be honest with you, I don't remember. Just too
3 much going on at that time. I don't know.

4 Q. When you were coming out --- what time did you get
5 outside on April 5th, that morning?

6 A. I'm going to say eight o'clock. I'm not for sure.

7 Q. Had you --- that morning when you was upon on
8 Headgate 22, did you ever have any kind of burning
9 sensations to the eyes or any kind of --- did you
10 notice anything unusual?

11 A. Nothing at all.

12 Q. Okay. What about when you was coming out Ellis
13 Portal, which entry do you normally come out, One,
14 Two, Three, which portal?

15 A. I don't know. We just part of the way. I'm not
16 sure which entry.

17 Q. Okay. But when you come down Ellis to the mains
18 and stuff, you ride adjacent to the belt entry; is
19 that correct?

20 A. Yes.

21 Q. Did you --- I know it was early in the morning.
22 You was probably tired, but --- or did you notice it
23 going in --- did you notice the beltline as you was
24 traveling in or out from Ellis Portal up to Headgate
25 22?

1 A. As far as seeing the belt, we'd just see it from
2 like seven or eight breaks in from Ellis to --- it was
3 right before you got to Ellis Switch.

4 Q. Okay. Do you recall how it looked as you was
5 traveling up there? Did you see any accumulations
6 or ---?

7 A. No, I never seen nothing.

8 Q. Did it look clean or white, or just tell us what
9 you --- fire, how did it look? Notice anything?

10 A. I didn't notice anything.

11 Q. Okay.

12 MR. MAGGARD:

13 I'm done.

14 EXAMINATION

15 BY MR. O'BRIEN:

16 Q. You go by Mike?

17 A. Yeah.

18 Q. Okay. Can I call you Mike?

19 A. Yes.

20 Q. Okay, Mike. Bear with me. I may repeat some
21 questions, so just bear with me. You talked about a
22 Glenn Ullman; is that correct?

23 A. Yes.

24 Q. Did he say where that five percent ---?

25 A. If he did, I don't remember. If I can think of

1 it, I would tell you.

2 Q. And did he report it to anyone that you know of?

3 A. He said he put in the books.

4 Q. In the books. What was Glenn's reaction when he
5 told you he found five percent on the methane?

6 A. Scared.

7 Q. All right. On the section, you guys were
8 maintenance shift; correct?

9 A. Yes.

10 Q. Normally you parked the miner outby the flies
11 generally?

12 A. Outby, yes, sir.

13 Q. Okay. Miner or miners sitting there generally
14 often has the power on in, in the miners, sometimes
15 just sitting there with power on it?

16 A. Sometimes, yeah.

17 Q. Okay. As you walked by, have you ever seen a
18 methane monitor read any methane?

19 A. I've seen .1, .2 maybe.

20 Q. Okay. Just sitting there?

21 A. Yes. Didn't calibrate it.

22 Q. If you calibrate it in, what would it do?

23 A. Go back to zero.

24 Q. Back to zero. Okay. You were speaking earlier
25 about a sign in the last couple weeks started swinging

1 at the power center. And as I understand you, you say
2 occasionally it would stop?

3 A. Yes.

4 Q. And you think that's maybe because of doors open
5 or something?

6 A. Yes.

7 Q. Okay. Before that two weeks standing still, the
8 sign, was it moving?

9 A. Sometimes.

10 Q. It was?

11 A. Sometimes.

12 Q. Okay. Did it move more often than other times?
13 Just the opposite of what you saw over the last two
14 weeks. Was it kind of steady, then all of a sudden
15 maybe it start swinging?

16 A. Sometimes, yeah.

17 Q. Slow down after short periods?

18 A. I mean, I didn't stand around and watch it.

19 Q. Do you think maybe that was due to --- do you have
20 any idea what that might have been due to?

21 A. Low air.

22 Q. Maybe doors or ---?

23 A. Doors, yes.

24 Q. Okay. I think you were asked about burning
25 sensations. Did you ever smell anything unusual,

1 particularly the last night or in the last few days?

2 A. No.

3 Q. What was the shift that you worked previous, prior
4 to the 5th? Did you work that ---?

5 A. I went in Sunday night.

6 Q. Sunday night. That was your last shift; correct?

7 A. Yeah.

8 Q. Did you go in Saturday night --- when was your
9 last time you went in before that?

10 A. I worked dayshift Friday and Saturday.

11 Q. Okay. Did you see any unusual testing going on?

12 A. No.

13 Q. During that time --- as traveling across the
14 section, did you ever hear anyone's methane detector
15 alarm go off?

16 A. No.

17 Q. How was the section curtains when you guys went
18 in? Did you ever have to repair them to get them
19 ready for the dayshift or were they pretty much in
20 pretty good shape?

21 A. Usually they were in pretty good shape. Sometimes
22 I've seen ---.

23 Q. Just tighten them up if they were down?

24 A. I'm not saying they wasn't ---.

25 Q. Oh, I understand. Did you ever have to help on

1 any air changes as an electrician? Did they ever keep
2 you in to help in an air change?

3 A. They keep me box to make sure power went back in.

4 Q. Is that on every air change or ---?

5 A. Just that one.

6 Q. Which one was that, do you remember? What was
7 involved in ---?

8 A. I don't know. They just told --- only thing I
9 knew was they said they was going to do an air change.
10 They told Andrew and Kyle stay on section and me go to
11 the box outby.

12 Q. The rest of the people in the mine, were they in
13 the mines, or did they have to come out or ---?

14 A. I think the rest of them --- I mean, they keep
15 some electricians and bosses.

16 Q. Besides electricians and bosses, was there anybody
17 else left in the coal mines during the air change that
18 you know of?

19 A. No, none of them were.

20 MR. O'BRIEN:

21 That's all I have right now. Thank you.

22 EXAMINATION

23 BY MR. MCGINLEY:

24 Q. So you worked dayshift on Friday and Saturday
25 before the explosion?

1 A. Yes.

2 Q. And was the longwall running then? Do you know?

3 A. As far as I know, they were.

4 Q. Do you know whether the longwall was up and
5 running on Sunday?

6 A. On Sunday, I don't know.

7 Q. What time --- you talked about being on the third
8 shift, but I don't think anyone has asked you when you
9 started. You mentioned you got out on April 5th about
10 8:00. Generally, when would you go in and when would
11 you come out?

12 A. Usually, we start --- starting time's 11:30.

13 Q. Okay.

14 A. And we're usually outside between 8:00 and 8:30.

15 Q. So on Sunday night, you got in --- you started
16 going in at 8:30 or --- I mean, 11:30 or ---?

17 A. Yes.

18 Q. And what time did you head up to where you were
19 working?

20 A. I takes about 45 minutes to an hour depending if
21 they were setting ---.

22 Q. Did you ordinarily see the crews coming out if
23 they'd been working in the longwall or continuous
24 mining?

25 A. Yeah, we'd see them sometimes.

1 Q. Did you see them that Sunday night come out?

2 A. You mean Monday morning come out?

3 Q. Yeah, Monday morning. That's basically ---.

4 A. Not that I recall.

5 Q. We're just trying to figure out whether they were
6 producing coal that second shift before you went in.

7 Do you have any idea about that?

8 A. I just know what --- just on Headgate 22. You
9 know what I mean?

10 Q. Sure. Did you see any sort of the outside
11 management in the mines on the Friday or Saturday
12 nights when you went in --- Saturday, Sunday morning?

13 A. No, I didn't see nobody.

14 Q. Did you hear anybody talk about ventilation
15 problems that weekend or right before the weekend
16 either from your section or anyplace else in the mine?

17 A. I heard them say they was --- this is after the
18 fact, but I heard them say somebody was supposed to
19 make an air change. But then they told me I was
20 supposed to double it in there, so I don't know.

21 Q. I mean, it would be helpful if we were able to
22 learn if there were some air changes made over that
23 weekend. Can you suggest somebody we could talk to
24 about that that might know maybe?

25 A. Well, I've not heard anybody say so. I really

1 don't know.

2 Q. After the explosion, you heard somebody talking
3 about there were air changes made over the weekend;
4 right?

5 A. After the fact, yeah.

6 Q. Right. Can you tell us who was talking about
7 that?

8 A. There was a lot of people talking about it.

9 Q. Okay. Do you have any sense of whether that's
10 credible or whether there's a chance that happened
11 or ---?

12 A. Well, after the --- they said that the guy that
13 was supposed to make the air change, they said he made
14 it and then other people told me he wasn't even there.

15 Q. Who was it that they thought had made the air
16 change?

17 A. Chris Blanchard.

18 Q. Okay. Did they mention anybody else besides Chris
19 Blanchard?

20 A. That's the only name I can remember.

21 Q. And so was it about two weeks before the explosion
22 you noticed a difference in the air up where you were
23 working?

24 A. Yes, we had more air.

25 Q. And were you concerned before that change was made

1 about the amount of air that you were getting up where
2 you were working?

3 A. Yes, I was concerned.

4 Q. Were people on your crew and people working in
5 that area concerned about it?

6 A. Yes.

7 Q. Basically everybody was concerned; is that fair?

8 A. Yes.

9 Q. And do you think the section foremen were --- they
10 were telling --- their supervisors were concerned
11 about the air?

12 A. I think they were, but I mean, I don't know.

13 Q. No, I understand. I mean, is that consistent with
14 your experience, that they were concerned enough about
15 you all that ---

16 A. Yes.

17 Q. --- they would be telling folks outside?

18 A. Yes, I was confident that they was.

19 Q. Do you have any sense from your own experience,
20 with talking to other folks, whether there were these
21 --- strike that.

22 How long of a period --- and I'm not looking to
23 pin you down on the exact period of time, but over
24 what period of time would you say when you working up
25 there, the 22 section there, Headgate 22, was the

1 general sense among you and the other guys that there
2 wasn't enough air? Was this going on for a week,
3 months?

4 A. It was going on for a while.

5 Q. Months? Going back to the first of the year?

6 A. Yeah, I'd say probably.

7 Q. Did you have any sense that the section foremen
8 might be telling their bosses about the air problems,
9 but there was pressure on them not to write it down?

10 A. No, I don't know about that.

11 Q. Okay. Do you think --- did you have the sense
12 your concern about the air during that period of time
13 before that change two weeks before the explosion was
14 of sufficient concern that somebody might have thought
15 of calling the MSHA hotline or the Massey hotline?

16 A. I don't know. I heard some guys talking about
17 that. Whether they did or no, I don't know.

18 Q. Do you know --- what do you know about the Massey
19 hotline? Do you know there was one?

20 A. Yes.

21 Q. Were people comfortable calling that?

22 A. I don't know.

23 Q. Would you have been comfortable calling that?

24 A. Yes, I would have called it.

25 Q. What about the MSHA hotline?

1 A. I would have called that.

2 Q. Do you have any sense of why you had to work so
3 long without adequate air? I mean, what would have
4 been a reason for not correcting that condition? Or
5 did you hear people talking about, you know, why
6 aren't they getting enough air up here?

7 A. I've heard that talk, yeah.

8 Q. What were people saying about, you know, why that
9 would be?

10 A. I don't know. I don't they'd send people to walk
11 our intake and stuff because our intake would make up
12 the whole thing. I know that several times they said
13 that they sent people up there. I mean, I've never
14 actually seen the people.

15 Q. Right. You said there was an inspector there and
16 there wasn't enough air, less than 20,000 feet. That
17 was sort of a shift change time.

18 A. That's when we got to the section.

19 Q. Okay.

20 A. Around 12 o'clock.

21 Q. Okay. Had inspectors been there over that period
22 of months before the air exchange that there would
23 have been a little more citations or the inspectors
24 would have been saying, hey, you don't have enough
25 air?

1 A. I don't know. Seems like they would always have
2 it. You know what I mean? They figured somebody was
3 coming.

4 Q. Was it pretty much common knowledge that somebody
5 would get a call in from outside saying there's an
6 inspector on the property?

7 A. No. Sometimes we'd see him out there before we go
8 underground or something.

9 Q. Ever hear the expression we've got company or it's
10 a cloudy day?

11 A. I've heard that, yeah.

12 Q. What does that mean to you?

13 A. Inspectors are here. Cloudy day, I've not heard
14 that one.

15 Q. You said Andrew Lucas took Mr. Shrewsberry's
16 place. Do you remember about when that was, just
17 roughly?

18 A. Roughly, September last year.

19 Q. 2009?

20 A. Yes.

21 Q. Just a couple more things. You were asked about
22 the doors and were sometimes they were found open.
23 And I think it wasn't clear from the record exactly
24 where that was. I think the --- you all were talking
25 about up here.

1 MR. MCGINLEY:

2 Have we marked this map as an exhibit?

3 MR. O'BRIEN:

4 We have.

5 BY MR. MCGINLEY:

6 Q. Could you take a different color, maybe this red
7 or pink color and indicate on ---?

8 MR. MCGINLEY:

9 Is this Exhibit One?

10 ATTORNEY HAMPTON:

11 Yes.

12 BY MR. MCGINLEY:

13 Q. Dickens Exhibit One. Where those doors were
14 located, just so that when we read the transcript
15 we'll know specifically where you're talking.

16 A. Two sets right there at the mouth of the section.

17 Q. Okay. You want to draw a circle and maybe you can
18 then write --- draw a line out and say doors, write
19 down doors.

20 WITNESS COMPLIES

21 ATTORNEY HAMPTON:

22 The witness has circled four locations on
23 Exhibit One and labeled each of these locations in
24 pink with the word doors.

25 BY MR. MCGINLEY:

1 Q. And were either of those sets of airlock doors
2 supposed to work automatically?

3 A. They did for a little bit.

4 Q. At the beginning when they were first installed?

5 A. Yeah.

6 Q. And then somebody had to get out and open them?

7 A. Yes.

8 Q. And then go through and then close them?

9 A. Yes.

10 Q. And so both of those sets of doors would sometimes
11 be open or just one of them? I mean, you know, 78
12 Break and where's the other?

13 A. This is one --- it's mouth of the section there.

14 Q. Okay.

15 A. It's like one break inby.

16 Q. In both of those places there were doors sometimes
17 open?

18 A. Yeah, like you got two doors. One side would be
19 --- like if they'd hit it or whatever, it would be
20 open 'til somebody came and straightened it back out.

21 Q. I see. And if you would close it, did they
22 sometimes --- would they reopen on their own and you
23 might have to go back and close it if you notice?

24 A. Yeah, you would have --- whichever one first to
25 hold the other one sometimes.

1 Q. Okay. Did that concern you, the fact that they
2 weren't closing properly?

3 A. Yeah. Actually it bothered me worse.

4 Q. Really? Did that ---?

5 A. I mean, because they would have been bent and
6 deepen holes.

7 Q. So could you hear or feel air going through them
8 even when they were closed?

9 A. Yes.

10 Q. And how long did that go on before they, you know,
11 replaced them? Do you have any sense of when, just
12 ballpark estimate?

13 A. They replaced them once since they've been in, but
14 I'm ---.

15 Q. So even after they replaced them, they were still
16 a problem, they'd get a hit and ---

17 A. Yeah, somebody would hit him.

18 Q. --- get banged up?

19 A. I mean, that's the only way I can see them getting
20 tore up. I never actually seen them get ---.

21 Q. Sure, sure. The problem was, though, that they
22 --- in your view, they weren't working properly? They
23 weren't sealing air; is that right?

24 A. Yes.

25 MR. MCGINLEY:

1 Okay. I don't have any other questions.

2 Thank you.

3 ATTORNEY HAMPTON:

4 Let's take a two-minute break before we
5 resume questioning.

6 SHORT BREAK TAKEN

7 ATTORNEY HAMPTON:

8 Let's go back on the record.

9 RE-EXAMINATION

10 BY MR. MAGGARD:

11 Q. Michael, I asked you a little bit about methane
12 monitors. Did you ever find one not working when you
13 arrived on third shift?

14 A. Not working was --- just been ---?

15 Q. A fall, a fall condition, F4 or something weird?
16 Did you ever have to fix one when you immediately
17 arrived on the section?

18 A. No.

19 Q. Did you ever see one with a fall condition that
20 somebody else may have worked on?

21 A. Not that I'm aware of.

22 Q. Did you ever see a display not light up? Did you
23 ever hear or see one that was jumped out, bypassed?

24 A. No.

25 Q. Okay. Where did you charge your scoops in ---

1 where was your scoop charge at, scoop charging?

2 A. Last I remember, it was one break outby the power
3 center.

4 Q. And where was the power center located?

5 A. It was in the Number Two entry.

6 Q. Okay. So what break --- would you mark --- I
7 don't know where you think it might have been, 'cause
8 you were there real close to the time of the accident,
9 so you know about the right location it'd be. Where
10 was it?

11 ATTORNEY HAMPTON:

12 So this is the power center he's marking?

13 BY MR. MAGGARD:

14 Q. Mark the power center and where you believe the
15 charger was at.

16 WITNESS COMPLIES

17 ATTORNEY HAMPTON:

18 The witness is circling in orange and has
19 drawn an arrow with the label power center indicating
20 where the power center was. And it says also labeled
21 in orange marker where he believed the charger was for
22 the scoop.

23 A. They had two chargers over there.

24 BY MR. MAGGARD:

25 Q. Were both of them located in the same area or ---?

1 A. They was close. Sometimes it'd be in front of the
2 boxes. Sometimes it'd be a break behind or two breaks
3 behind it. I honestly don't remember exactly where it
4 was.

5 Q. Okay. Was they --- curtains by the charger or was
6 it just --- it was right in the entry or ---?

7 A. It was back in the break against the stoppings.

8 Q. Did they curtain it off or put doors up or
9 anything?

10 A. Sometimes they knock a hole in the stoppings ---

11 Q. Okay.

12 A. --- to give out to the return.

13 Q. Okay. And which way was the air traveling on the
14 belt, in the outby direction or inby direction?

15 A. I don't --- for sure outby, I think. I'm not a
16 hundred percent sure.

17 Q. What stopping did they knock a hole out, in the
18 beltline side or on the return side in the Number
19 Three entry?

20 A. The one charger was --- it'd been knocked towards
21 the --- the hole had been up towards the belt on the
22 One entry.

23 Q. And how far was the --- where was your last set of
24 brattices built, permanent brattices? How far back
25 from the face? Do you know? Was it --- where was

1 your feeder at?

2 A. Across from the power center.

3 Q. Was we talking about the feeder?

4 ATTORNEY HAMPTON:

5 The witness has marked in orange where he

6 believes the feeder was located.

7 BY MR. MAGGARD:

8 Q. Did you take the batteries off the scoops or leave

9 them on when you charged them?

10 A. Both.

11 Q. So you had to stay in there?

12 A. No. You can just set these on the ground.

13 Q. Set them on the ground. What did you --- what did
14 you have for fire protection, fire extinguishers?

15 A. Fire extinguishers and rock dust.

16 Q. Okay. What was the condition of the charger?

17 A. Good.

18 Q. Did you have any kind of --- use any kind of fire
19 proofing in the break or just rock dust?

20 A. Rock dust for fire protection.

21 Q. Okay. On the Friday and Saturday, do you know of
22 anybody that had to volunteer to do any kind of outby
23 work or additional work?

24 ATTORNEY HAMPTON:

25 Just so we're clear, do you mean Friday

1 and Saturday before the explosion?

2 MR. MAGGARD:

3 Before the explosion.

4 A. Not that I'm aware of.

5 BY MR. MAGGARD:

6 Q. Did they have anything posted on the bulletin
7 board or anywhere that they asked for volunteers or
8 see anything posted?

9 A. No, I didn't see anything.

10 Q. On the --- you said two weeks ago that --- you
11 believe it was two weeks ago prior to the accident
12 that an inspector was on Headgate 22 Section and had
13 to write a citation for low air; ---

14 A. Yes.

15 Q. --- is that correct?

16 A. Yes.

17 Q. Did the second shift run coal prior to him
18 arriving? Was it a production shift?

19 A. No, because I think it was holiday.

20 OFF RECORD DISCUSSION

21 BY MR. MAGGARD:

22 Q. So what holiday do you recall that --- he came in
23 --- was it your first shift after a holiday?

24 A. Yeah, I think Sunday was Easter.

25 Q. Okay. I'm talking about the two weeks prior to

1 the accident ---

2 A. Oh, two weeks prior.

3 Q. --- that he was there. Is that what you --- I may
4 have to clarify that a little bit. I think you did
5 say that it was two weeks prior to the accident that
6 you believe the inspector traveled in with you ---

7 A. Yes.

8 Q. --- from Ellis and went to the section and had to
9 write a citation. Do you remember, was there a second
10 shift working prior to you arriving ---

11 A. I don't remember.

12 Q. --- and did they produce coal?

13 A. I don't remember.

14 Q. You don't remember. Was it on the weekend? Was
15 it like a Sunday night, or do you remember what night
16 it was?

17 A. Yeah. It was either Sunday night or Monday night,
18 I think, but I'm not for sure.

19 Q. Okay. Have you ever witnessed anybody make a
20 comment about safety concerns at the mine to
21 management, to a supervisor or anyone else?

22 A. I'm not sure what you mean.

23 Q. Have you ever witnessed somebody say, hey, I think
24 it's unsafe on Headgate 22, we have low air up there,
25 I think we need to get some air, something like that?

1 A. You're saying if I heard somebody say that?

2 Q. Yeah, made a safety concern or a complaint to a
3 supervisor.

4 A. Not that I can recall.

5 Q. Do you think the if --- how do you feel --- would
6 you feel comfortable or would you feel uncomfortable
7 making a complaint about low air on Headgate 22 to
8 let's say the superintendent?

9 A. I would feel comfortable.

10 Q. Okay. Would you feel comfortable making that
11 complaint to the --- to Chris Blanchard?

12 A. Yes.

13 Q. And how do you feel he would accept that
14 complaint?

15 A. I don't know. I've only talked to the man once or
16 twice, so I really don't know.

17 Q. Okay. But do you feel that some of the other guys
18 might have felt threatened or would be scared and
19 would be afraid to be retaliated against by making a
20 safety complaint?

21 A. I don't feel that way.

22 Q. I know we've asked you a bunch of questions and
23 went over a lot of things here. First, I just got a
24 couple more. The doors that we've got marked here,
25 let's take the doors up here at the mouth of Headgate

1 22, which you have circled. Which direction would
2 those doors open?

3 A. They would open inby.

4 Q. Inby. Okay. And when they were opened inby, how
5 would the air --- would it hit you in the back or how
6 would it go? I mean, would it blow the doors up? I
7 mean, tell us about that. How would the air go?

8 A. There would --- come inby from the mouth of the
9 section.

10 Q. Okay. But the doors --- the air would come
11 inby, ---

12 A. Yes.

13 Q. --- but the doors would open inby? Is that what
14 you're saying?

15 A. Yeah. Your intake was on both sides of the doors,
16 just gone around and coming up.

17 Q. So you're saying that when --- let's say both
18 these doors --- this door here was open. Would it be
19 hard or easy to open that door right there, the second
20 door?

21 A. It would be easy.

22 Q. Okay. But the doors open inby; right?

23 A. Best I can remember.

24 Q. Could you show the direction of air on the map,
25 which way it would go when you opened the door?

1 A. Inby.

2 Q. Okay. Could you mark that for us, please?

3 MR. MCGINLEY:

4 Maybe use a different color.

5 ATTORNEY HAMPTON:

6 I'm handing you a yellow Sharpie. Why

7 don't you use the green? It will be easier to see.

8 Try to make it a thick line so that we can see it.

9 And could you draw arrows? I mean, arrows indicating
10 the direction of the air.

11 WITNESS COMPLIES

12 BY MR. MAGGARD:

13 Q. Could you make a notation --- would you put air
14 direction here, please, when doors are open.

15 WITNESS COMPLIES

16 A. Air direction. What'd you say next?

17 BY MR. MAGGARD:

18 Q. When the doors are open. You've marked that the
19 direction is inby the doors, but are you actually
20 meaning that the air is going inby from outby the
21 doors?

22 A. Yes, it starts outby and come inby through the
23 doors.

24 Q. Okay. How about the --- could you also make a
25 notation here that these doors swing outby, please?

1 A. Swing inby.

2 Q. Or I mean inby. Sorry.

3 ATTORNEY HAMPTON:

4 Just write the word inby next to the word

5 doors. Thank you.

6 BY MR. MAGGARD:

7 Q. Okay. Now, let's do these doors at around Break
8 80, 83 the same way. Can you tell us what direction
9 those doors open?

10 A. The first one went inby, the second went outby.

11 MR. MCGINLEY:

12 Could you speak up just a little bit,
13 please?

14 A. The first one went inby, the second set went
15 outby.

16 BY MR. MAGGARD:

17 Q. And when you say --- are you saying this door ---
18 these two doors at --- I guess that's Break 80?

19 A. Eighty (80) or 81 the best I can remember.

20 Q. They swung inby? Okay.

21 ATTORNEY HAMPTON:

22 The witness is marking these doors with
23 the label inby and outby to indicate the direction of
24 the doors.

25 MR. O'BRIEN:

1 In pink.

2 ATTORNEY HAMPTON:

3 In pink.

4 BY MR. MAGGARD:

5 Q. Okay. When you opened the first set of doors, 80
6 or 81, which way would the air try to go --- let's say
7 when you opened the first door, how would you ---?

8 A. It would come outby.

9 Q. Try to come outby. Okay. Would you mark that
10 down, please?

11 ATTORNEY HAMPTON:

12 Draw the direction of the air in green
13 marker again with arrows indicating ---.

14 MR. MAGGARD:

15 We might as well separate from ---. It's
16 getting hard to see the green because this is already
17 marked green. You know what I'm saying?

18 ATTORNEY HAMPTON:

19 Uh-huh (yes). I see.

20 MR. MAGGARD:

21 Can we use like ---?

22 ATTORNEY HAMPTON:

23 How about orange?

24 MR. MAGGARD:

25 Maybe we can just draw an arrow out here

1 and say that when these --- the first door is open the
2 air tries to travel outby. Okay?

3 ATTORNEY HAMPTON:

4 Okay. The witness has marked in green
5 marker when open air goes outby, and that's true for
6 both sets of doors.

7 MR. MAGGARD:

8 Or is it ---?

9 ATTORNEY HAMPTON:

10 The witness has indicated that for the
11 other set of doors that open outby that when they are
12 open the air travels inby in green marker.

13 MR. MAGGARD:

14 Thank you.

15 BY MR. MAGGARD:

16 Q. Have you ever seen the second shift run dust or
17 dust pumps?

18 A. I've seen dayshift.

19 Q. Okay. And when they did that, did you see
20 anything unusual about what they was doing? Did the
21 --- leaky pumps, carrying --- wiring them properly or
22 anything?

23 A. I seen them carrying them, but I've never seen ---
24 you mean like laying around or something?

25 A. Yeah.

1 Q. I guess that's about it, but I do want to ask you
2 about if you'd have any opinions on what might ---
3 could have happened on April 5th, if you have any kind
4 of helpful information that you would like to provide
5 to the accident investigation team?

6 A. I wish I had an answer, I honestly do. I can work
7 dayshift Friday and Saturday and then work Sunday
8 night. I never seen nothing unusual. I just don't
9 have an answer.

10 Q. Have you heard any good suggestions from anyone
11 that made sense to you that might be beneficial to the
12 accident investigation?

13 A. One thing that makes sense to me is the crack at
14 the tailgate of the longwall.

15 Q. And why do you feel that way?

16 A. Because there was air going down through there,
17 going out that side. If anything --- and they were
18 supposed to get done welding a couple minutes before
19 that, but that's hearsay on that welding.

20 Q. Have you ever seen them do welding on the
21 longwall?

22 A. On the wall, no.

23 Q. Did they normally bring --- did they normally have
24 a welding lead all the way along the longwall that was
25 easy to hook up to?

1 A. No idea.

2 Q. Okay. If they were welding up there, what do you
3 recall that they were welding on the longwall?

4 A. I don't know if I've ever heard. They just said
5 they were cutting on one end of ---.

6 Q. Okay. Do you have any idea why there was four
7 victims near midface level between, you know, the
8 headgate and tailgate? Why would they be congregated,
9 four people around midface?

10 A. I have no idea.

11 Q. Is there anything else that you might tell us that
12 you think would --- may be helpful?

13 A. Not that I can think of.

14 Q. And you said that you were there for six years.
15 Do you remember another outburst on the longwall maybe
16 near the time you started at UBB?

17 A. I've heard talk about it, pop offs.

18 Q. What do you remember --- what kind of talks did
19 you hear about that?

20 A. Just a pop off. The bottom of the crack at 57 and
21 they just had a pop off.

22 Q. And how long did that pop off --- how long did it
23 take for it to clear out? How long was people off
24 work or out of the mines, whatever?

25 A. The best I can remember, they said two days.

1 Q. Okay. Do you remember any other pop offs like
2 that ever happening, smaller ones or ---

3 A. No.

4 Q. --- have you ever heard of anything?

5 A. No.

6 Q. Okay. Have you ever had to stay home or not go
7 inside the mine because of any ventilation changes?

8 A. Yes, I've had to stay outside.

9 Q. And when do you recall the last one was that you
10 couldn't go in the mine?

11 A. It was a while ago. I don't know.

12 Q. Got a guess?

13 A. I don't have a guess.

14 Q. How long did it take them to do the ventilation
15 change?

16 A. We was out there for about, I would say, 4:00 or
17 five o'clock the best I can remember. They told us to
18 go home --- or no, I take that back. We went to the
19 section, got to the section and had to turn around and
20 come back out because it was quitting time.

21 Q. It was quitting time --- you went to the section
22 on your regular shift?

23 A. No, they kept us outside.

24 Q. Oh, 'til almost quitting time, but then they ---?

25 A. Yeah.

1 Q. Why did they take you back inside?

2 A. I don't know.

3 MR. MCGINLEY:

4 I'm sorry. Did you say I don't know?

5 A. Yes, I don't know.

6 BY MR. MAGGARD:

7 Q. Who made the ventilation change?

8 A. I can't remember.

9 Q. Do you recall what kind of change was made?

10 A. I just know they said they was tearing stoppings
11 down. It's been six months to a year ago.

12 Q. But had you ever noticed any other ventilation
13 changes being made while you were there?

14 A. While I was there?

15 Q. Underground or ---?

16 A. To my knowledge, no, just that one time they
17 wouldn't let us in there.

18 Q. Was anybody --- I know you thought they mined up
19 there. It's a rumor, I guess. Is that what you said,
20 that they were running over the weekend?

21 A. Yes.

22 MR. MCGINLEY:

23 The weekend before, or the Easter
24 weekend?

25 MR. MAGGARD:

1 Right, right.

2 BY MR. MAGGARD:

3 Q. Was there any other ones that you had heard about
4 prior to that?

5 A. No. Like I said, they said that that guy wasn't
6 even there that day, so I don't know.

7 Q. Who normally made the ventilation changes in this
8 mine?

9 A. As long as I can remember, it was Wendell Wills.
10 Like this last one, I don't remember who it was.

11 MR. MAGGARD:

12 That's all that I have.

13 RE-EXAMINATION

14 BY MR. O'BRIEN:

15 Q. Clarification question. You spoke about pop off?

16 A. Yes.

17 Q. Now, for my benefit, were you referring to gas
18 being released out of the bottom or a methane
19 ignition?

20 A. I guess the methane coming up out.

21 Q. Okay. Sometimes I ---.

22 A. I mean, it's just hearsay.

23 Q. I've heard ignitions called pop offs also, and
24 that's the reason I was asking. Appreciate it.

25 RE-EXAMINATION

1 BY MR. MCGINLEY:

2 Q. A couple more questions, Mike. You heard the term
3 S1 and P2.

4 A. Yes.

5 Q. What's S1 mean to you?

6 A. Safety first.

7 Q. What else does it mean? Does it mean anything
8 else?

9 A. I don't know what you're saying.

10 Q. I mean, is there something --- S1 manual you're
11 asked to read or ---? I mean, safety first, you don't
12 know anything else about it?

13 A. I just know safety first.

14 Q. And that's it?

15 A. Manual, I don't know about it.

16 Q. What about P2, what does that mean, if you know?

17 A. I don't know, but I'm --- I can't remember.

18 Q. You said Wendell Wills made ventilation changes
19 before anyone?

20 A. This was a couple years ago. He don't --- P2 is
21 production second.

22 Q. What's that mean other than the current
23 production?

24 A. That's all I know.

25 Q. Okay. So Wendell Wills made some ventilation

1 changes in the past. Who would have made them more
2 recently?

3 A. I'm sorry. I can't remember.

4 Q. I understand. You told us that for months there
5 wasn't adequate air up at the Headgate 22 and people
6 were concerned about it. At one time, the inspector
7 found inadequate air and issued a citation. And you
8 were all talking about it and you thought your boss
9 would have communicated that outside?

10 A. Yes.

11 Q. You said you'd be --- you and everybody else in
12 the crew would not have any problems talking to upper
13 management like Chris Blanchard. What I don't
14 understand is, did you not --- you and the guys you
15 worked with not communicate about your concerns and
16 then did your concerns grow over, you know, a series
17 of months it didn't get fixed?

18 A. Well, it would be fixed for a while and go back
19 and back and forth.

20 Q. So how long would it be fixed, just a couple of
21 days?

22 A. It varied.

23 Q. What's the longest? Again, I'm not trying to ---.
24 What is the longest you wouldn't have adequate air up
25 there since the beginning of 2010 before --- would it

1 go back --- what period of time was there not enough
2 air?

3 A. You mean like the longest time there wouldn't be
4 enough air?

5 Q. Either way. I mean, I'm just trying to get a
6 sense. Was it, you know, half the time there wasn't
7 adequate air, the other half there was or 90 percent
8 of the time you felt like there's not enough air and
9 10 percent? Just ---.

10 A. I'm going to say 70 percent of the time I felt
11 like there was enough.

12 Q. Is or is not?

13 A. Was enough.

14 Q. And 30 percent of the time there was not?

15 A. Not enough air.

16 Q. Okay.

17 MR. MCGINLEY:

18 I have no other questions.

19 ATTORNEY HAMPTON:

20 Any more follow-up? No? On behalf of

21 MSHA and the Office of Miners' Health, Safety and

22 Training, I want to thank you for appearing and

23 answering questions today. Your cooperation is very

24 important to the investigation as we work to determine

25 the cause of the accident. We request that you not

1 discuss your testimony today with any person aside
2 from an attorney or a personal representative. After
3 questioning other witnesses, we may call you if we
4 have any follow-up questions. And if at any time you
5 have any additional information regarding the accident
6 that you would like to provide to us, please contact
7 us at the information that was provided to you in the
8 letter.

9 If you wish, you may now go back over any
10 answer that you've given or give us an additional
11 information that you would like to say.

12 A. I just hope I helped out.

13 ATTORNEY HAMPTON:

14 Okay. Again, we would like to thank you
15 for your cooperation. Thank you very much.

16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 6:00 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Danielle Ohm