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Transcript of the Testimony of Michael Medley

Date: July 1, 2010

Case:

Printed On: July 10, 2010

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

MICHAEL MEDLEY

taken pursuant to Notice by Alison Salyards, 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 Thursday, July 1, 2010, beginning at 10:14 a.m.

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A P P E A R A N C E S

ROBERT S. WILSON, ESQUIRE

U.S. Department of Labor

Office of the Regional Solicitor

1100 Wilson Boulevard

22nd Floor West

Arlington, VA 22209-2247

JOHN O'BRIEN

Safety Inspector

West Virginia Office of Miners' Health,

Safety and Training

Welch Regional Office

891 Stewart Street

Welch, WV 24801-2311

ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

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

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PATRICK C. MCGINLEY
West Virginia Independent Investigation
West Virginia University College of Law
P.O. Box 6130
Morgantown, WV 26506-6130

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Good morning. My name is Bob Wilson. I
5 am with the Office of the Solicitor, United States
6 Department of Labor. With me is Erik Sherer, an
7 investigator with the Mine Safety and Health
8 Administration. Today is July 1, 2010. We're here to
9 conduct an interview of Michael Medley. There are
10 also individuals representing the State groups
11 involved in the investigation. I'll ask that they
12 state their appearance for the record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MR. MCGINLEY:

20 Patrick McGinley, with the Governor's
21 independent investigation team.

22 ATTORNEY WILSON:

23 There are other individuals present in
24 the room. They are all members of the different
25 groups investigating the accident. All members of the

1 Mine Safety and Health Administration Accident
2 Investigation Team and all members of the State of
3 West Virginia Accident Investigation Teams
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 witness
8 statements are officially released. MSHA and the
9 State of West Virginia shall keep this information
10 confidential so that other ongoing enforcement
11 activities are not prejudiced or jeopardized by a
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. Everyone's participation in this interview
17 constitutes their agreement to keep this information
18 confidential.

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

1 Virginia Office of Miners' Health, Safety and
2 Training. We appreciate your assistance in this
3 investigation.

4 You may have with you an attorney or a
5 personal representative if you so desire. Do you have
6 a representative or attorney with you today?

7 MR. MEDLEY:

8 No.

9 ATTORNEY WILSON:

10 Mr. Medley, your statement is completely
11 voluntary. You may refuse to answer any question.
12 You may terminate your interview at any time or you
13 may request a break at any time. This is not an
14 adversarial proceeding. Cross Examination type
15 questions will not be permitted, but each of the
16 parties will be permitted to ask follow-up questions
17 as appropriate.

18 Your identity and the content of this
19 interview will be made public at the conclusion of the
20 interview process and may be included in public
21 reports of the accident, unless you request that your
22 identity remain confidential or your information would
23 otherwise jeopardize potential criminal
24 investigations. If you request us to keep your
25 identity confidential, we will do so to the extent

1 permitted by law. In other words, if a judge orders
2 us to reveal your name or if some other law requires
3 us to reveal your identity, we may need to do so.
4 There may also be a need to use the information that
5 you provide to us or other information that you may
6 provide in the future in other investigations or
7 hearings concerning the explosion. Do you have --- do
8 you understand what I've said about your right to
9 request a confidential statement?

10 MR. MEDLEY:

11 Yes.

12 ATTORNEY WILSON:

13 And do you have any questions?

14 MR. MEDLEY:

15 No.

16 ATTORNEY WILSON:

17 After the investigation is complete, MSHA
18 will issue a public report detailing the nature and
19 the causes of the fatalities in the hope that greater
20 awareness about the causes of accidents can reduce
21 their occurrence in the future. Information obtained
22 through these interviews is frequently included in
23 those reports. Because we will be interviewing other
24 witnesses, we request that you not discuss your
25 testimony today with anyone outside this room.

1 MR. MEDLEY:

2 Okay.

3 ATTORNEY WILSON:

4 A court reporter will be recording the
5 interview, so please speak loudly and clearly. If you
6 do not understand a question, please ask that the
7 question be rephrased. Please answer each question as
8 fully as you can, including any information that you
9 may have learned from someone else.

10 Again, I would like to thank you in
11 advance for your appearance here today. We appreciate
12 your assistance in the investigation. Your
13 cooperation is critical in making the nation's mines
14 safer.

15 After we have finished asking questions
16 and before we go off the record, I will give you an
17 opportunity to add any additional information that you
18 feel may be relevant to the investigation. At that
19 time you may also make a statement if you so desire.
20 If at any time after the interview you recall
21 additional information that you believe might be
22 useful, please contact Norman Page, who is MSHA's lead
23 accident investigator, at the contact information that
24 was provided to you in the letter that we sent to you.
25 And I have another copy of that letter that I'll give

1 to you right now. Terry, did you have something you
2 would like to add?

3 MR. FARLEY:

4 Yes. Mr. Medley, on behalf of the West
5 Virginia Office of Miners' health, Safety and
6 Training, I'd like to advise you that the West
7 Virginia Coal Mine Health and Safety Regulations also
8 protect miners against any potential discrimination
9 that might result from you participating in this
10 interview or this investigation. I want to provide
11 you with some contact information should you
12 experience any such treatment. And I want to advise
13 you that if something like that does occur, you should
14 file a complaint within 30 days. Now, you have my
15 business card along with one from Mr. Bill Tucker, who
16 is also another lead underground investigator.

17 ATTORNEY WILSON:

18 Pat, did you have anything before we
19 swear the witness in?

20 MR. MCGINLEY:

21 Yeah. Mr. Medley, I just wanted to say
22 that we're all here to try to figure out what happened
23 at Upper Big Branch, and we know the families of the
24 men we lost are counting on us to try to figure this
25 out. And if anybody has a responsibility, to see that

1 they're held responsible. If not, we can go forward.
2 So your fully truthful recollections and responses to
3 our questions are very important if we're going to be
4 able to do what those families would like us to do.

5 ATTORNEY WILSON:

6 All right. Mr. Medley, do you have any
7 questions before we begin?

8 MR. MEDLEY:

9 No.

10 ATTORNEY WILSON:

11 All right. Then at this time I'll ask
12 that you face the court reporter, and she'll swear you
13 in.

14 -----

15 MICHAEL MEDLEY, HAVING FIRST BEEN DULY SWORN,

16 TESTIFIED AS FOLLOWS:

17 -----

18 ATTORNEY WILSON:

19 Would you please state your full name for
20 the record?

21 A. Michael J. Hugh Medley.

22 ATTORNEY WILSON:

23 I'll turn it over at this time to Erik
24 Sherer, who will begin the questioning.

25 EXAMINATION

1 BY MR. SHERER:

2 Q. Good morning, Mr. Medley. We want to thank you
3 for coming down here. Could you please tell us your
4 address and telephone number?

5 A. (b) (7)(C) . And you
6 said my ---?

7 Q. Telephone number.

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

9 Q. Thank you. Are you appearing today voluntarily?

10 A. Yes.

11 Q. Have you been interviewed or did somebody with the
12 company talk to you about the events at the mine?

13 A. Yes.

14 Q. Who was that, please?

15 A. The Massey lawyers.

16 Q. Do you recall where they spoke with you?

17 A. At Revolution Mines and at the Elk Run office.

18 Q. So there was two separate interviews?

19 A. Yes.

20 Q. Do you recall about when those took place?

21 A. I couldn't even tell you.

22 Q. Did they talk to you about what you may testify if
23 we wanted to interview you?

24 A. They never mentioned nothing about you all.

25 Q. Okay. Did they ask you to get back to them after

1 you were interviewed by the State or the Federal?

2 A. No, sir.

3 Q. Thank you. Roughly, how many years of mining
4 experience do you have?

5 A. Just a little over five.

6 Q. Five years. Has it all been with Massey?

7 A. Yes, sir.

8 Q. Was it all at Upper Big Branch or did you work for
9 some other mines?

10 A. No. I worked for Sidney down in Kentucky, and I
11 worked for Aracoma.

12 Q. How long were you at Upper Big Branch?

13 A. Probably about three years right at it.

14 Q. And were you there continuously or did you work
15 there for a while and go to another mine and then come
16 back?

17 A. I started at Logan's Fork, but I was working
18 through UBB. And they laid me off for about four
19 months, and then I come back to Logan's Fork and then
20 went up to UBB.

21 Q. Do you recall about when you first went up to UBB?

22 A. Let's see. It was June --- it was like June the
23 3rd of '06.

24 Q. Okay. Thank you. And you're presently employed
25 as a longwall electrician?

1 A. Yeah.

2 Q. Is that the position that you've held the entire
3 three years or so that you were at Upper BB?

4 A. No, sir.

5 Q. Okay. What else have you done?

6 A. They first brought me as a utility man, and then I
7 went as a jacksetter. And then I stayed listed as a
8 jacksetter until I become an electrician.

9 Q. Did you just --- did you get your electrical
10 certification while you were at UBB?

11 A. Actually I got it just before I went to UBB, but
12 it was while I was employed through Performance.

13 Q. Okay. Where are you currently employed?

14 A. I'm back at Logan's Fork.

15 Q. What do you do as a longwall electrician? Can you
16 give us just a rough idea of your duties?

17 A. Well, I was on the third shift. I just come in,
18 fix what's broken, I guess you would say.

19 Q. Sure. So primarily maintenance ---

20 A. Yeah.

21 Q. --- related? Do you work on mostly electrical
22 equipment or do you also do mechanical repairs?

23 A. Usually more so mechanical than electrical.

24 Q. Do you ever do any welding or cutting?

25 A. A little bit.

1 Q. Do you know or do you recall if you tried to get
2 the shearer back up near the headgate before you did
3 any welding or cutting?

4 A. Can you rephrase that?

5 Q. Did you try to schedule any welding or cutting so
6 that the shearer was back up near the headgate or did
7 you just weld or cut wherever it was at along the
8 wall?

9 A. Oh, it just depended on what you had to do. I
10 mean, if it was on the shearer --- of course, you
11 liked for it to be on the head so you didn't have to
12 carry everything, but you know, if it was on the tail,
13 that's where you had to work on it.

14 Q. Okay. Do you recall if there was a welding lead
15 that went down the pan line?

16 A. Yes.

17 Q. Did that lead --- first of all, was that a single
18 lead or a double lead with a ground?

19 A. It had a ground in it.

20 Q. Okay. So there was a ground and a hot lead?

21 A. Yes.

22 Q. Were there plugs on that lead or did you splice
23 into that lead?

24 A. There was plugs. There was one --- I know there
25 was one at the head and one at the tail. And I want

1 to say there was one around mid-face ---

2 Q. Okay.

3 A. --- but I'm not positive on that one.

4 Q. Okay. Thank you. You say you might have worked
5 the third shift?

6 A. Yeah.

7 Q. When did that shift start and end?

8 A. When we went back to Performance, it started at
9 11:30, and we'd usually get outside at usually right
10 around 8:00, give or take a little.

11 Q. Okay. Was that a production shift or a
12 maintenance shift?

13 A. That was a maintenance only.

14 Q. Did you ever run any coal on that shift?

15 A. Not really what you'd call running coal. We'd
16 maybe run it on up to the head. And if it's 20
17 shields from being there, ---

18 Q. Sure.

19 A. --- we'll run it on up, but ---

20 Q. Sure.

21 A. --- not just to go up there and run coal all day.

22 Q. Not production, but you're not put it in coal to
23 test out for something ---

24 A. Yeah.

25 Q. --- possibly? Okay. Do you report to someone

1 else, like an electrical chief or a master
2 electrician?

3 A. We had a chief on --- well, actually we had two
4 chiefs on third shift that I had to answer to,
5 but ---.

6 Q. Were they your normal boss?

7 A. What do you mean normal boss?

8 Q. Who was your --- mainly gave you directions? Was
9 it like a longwall coordinator or a longwall foreman?

10 A. You had the chiefs, I guess. The chiefs was my
11 boss. We had a third shift foreman that was their
12 boss. And then you had the coordinator and the
13 maintenance chiefs outside.

14 Q. Okay. Do you recall who those individuals were?

15 A. One of the chiefs was Shannon Dickens and the
16 other one was Robert Hale.

17 Q. Those were the electrical chiefs?

18 A. Yeah, the underground third shift chiefs.

19 Q. And who was the longwall boss?

20 A. Larry Brown and Keith Stanley was the third shift.

21 Q. So there were two bosses on the third shift. Was
22 there some way they split their work up?

23 A. Well, they run a five and three schedule.

24 Q. Oh, okay. so it was just rotation?

25 A. Yeah.

1 Q. I see.

2 A. So the only time everybody was together was, you
3 know, on the lap nights.

4 Q. Sure. Who was the people they reported to outside
5 you mentioned?

6 A. I guess the chiefs mainly went to Danny Laverty or
7 Delbert Bailey. Your longwall foreman went to Harold
8 Lilly, Timmy Davis, Jack Roles, one of them.

9 Q. They were the longwall coordinators?

10 A. Yeah.

11 Q. Which portal did you go in?

12 A. I was on the Performance side.

13 Q. Performance side. Is that the Ellis Portal?

14 A. No, the UBB, Performance, the original side.

15 Q. Oh, okay. And you traveled up to the longwall
16 near the rail mantrips. Do you recall if you went
17 through many equipment doors?

18 A. Yeah, the double doors. You went through, I
19 guess, 12 sets, something like that.

20 Q. It's a lot of doors. Do you recall if those doors
21 were maintained in good order?

22 A. Yeah, they was structurally good.

23 Q. Did you ever notice any leakage of air?

24 A. I had a little bit, but I mean, just around the
25 edges of the door.

1 Q. Have you ever seen those doors dented up or
2 damaged?

3 A. Yeah, a few times.

4 Q. Did they repair them somehow?

5 A. Yeah. They'd usually replace them I'd say
6 probably within a day, if that long.

7 Q. Okay. Did you ever come up on them and find one
8 or more of the doors open?

9 A. Not that I can recall.

10 Q. Do you know or did you hear of the first crew out
11 opening the doors up and the last crew, if they're
12 going pretty close the same time, closing the doors?

13 A. Just if you had like mantrip to mantrip, because
14 you could get both of them in between the doors, and
15 then they'd shut a set and then open another set, ---

16 Q. Okay.

17 A. --- but not that they were leaving them.

18 Q. Thank you. What about the ventilation on the
19 longwall, was that always adequate?

20 A. I felt like it was.

21 Q. You had plenty of air?

22 A. Yes.

23 Q. Do you recall if that air, while you were on the
24 longwall, ever fluctuated, like it would ever get ---
25 there would be more air and then less air or possibly

1 a change in direction of air?

2 A. Nothing that I can recall right off.

3 Q. Did you hear of a reversal of air, where the air
4 actually flowed from the tail to the head?

5 A. Nothing that I've heard.

6 Q. What about methane? Was methane ever a problem on
7 or around the longwall?

8 A. None that I seen.

9 Q. Okay. How many methane sensors were on the
10 longwall and where were they; do you recall?

11 A. You had two that was stationary besides the ones
12 that people carry. You had one on he shearer and one
13 on the tail.

14 Q. Okay. Do you recall ever looking at the readouts
15 on those methane sensors and do you recall what the
16 average methane that it would show was?

17 A. Usually it was zero, but I mean, every now and
18 then it would get to like a .1, and we would check it
19 out, gas it off, recalibrate it, everything like that.

20 Q. Okay. Did you carry a handheld methane detector?

21 A. I did not.

22 Q. Okay. Have you heard of any problem with methane
23 outbursts around or along the longwall?

24 A. No, I have not.

25 Q. Okay. How about floor hooving, do you recall if

1 there was any floor hooving or cracks along or around
2 the longwall?

3 A. Nothing that I've ever paid much attention to, if
4 it has.

5 Q. Okay. Sure. What about water, were there ever
6 problems with water on the wall?

7 A. Yeah. I mean, you know, it was the longwall, but
8 there was always water across the face, nothing --- it
9 wasn't ever like roofed out, but you know, there was
10 always ankle-deep water or better.

11 Q. Okay. How about water that started to come up on
12 the backboards, did you ever notice that?

13 A. I've seen it like that a couple times, but ---.

14 Q. Do you recall if there was any water pumps to
15 remove water along or around the longwall? Did you
16 ever have to work on those?

17 A. Like there was some back in behind us. I don't
18 really know where they're at.

19 Q. Okay.

20 A. We set one across the face one time. I think we
21 was coming up on a long weekend or something, and they
22 had us idle there. Well, actually, what was it? Had
23 a ventilation change or something like that, and we
24 had to set a pump across the face somewhere just to
25 make sure there wasn't no water got up there around

1 us.

2 Q. Do you recall what type of pump that was?

3 A. I couldn't even tell you.

4 Q. Was it a submersible pump or did the pump sit up
5 out of the water or was it in the water?

6 A. It was just a normal underground pump, I guess.

7 Q. Sure. Okay. Were you ever sent home or told not
8 to show up for work because of ventilation problems in
9 the working mine?

10 A. No.

11 Q. Have you heard of problems with methane someplace
12 besides the longwall, on one of the production --- or
13 the development sections possibly?

14 A. Nothing that I've heard of.

15 Q. Have you ever heard of any ventilation problems
16 anywhere else in the mine, low air, reversing air,
17 anything like that?

18 A. Uh-uh (no). I've not.

19 Q. Okay. Are you aware of any other problems that
20 were --- that took place within, say, a week or so of
21 the explosion?

22 A. No, nothing that was --- nothing like that, I
23 mean.

24 Q. Okay. Are you aware of any air changes that took
25 place within a week or so before the explosion?

1 A. Not within a week or --- maybe a month or two.

2 Q. Okay.

3 A. What about did the longwall operate over the
4 entire weekend prior to the explosion?

5 A. No. They were off Sunday.

6 Q. So they worked Saturday. Do you recall which
7 shift they shut down on Saturday?

8 A. It would have been the end of second shift.

9 Q. So the third shift didn't work on Saturday night?

10 A. Exactly.

11 Q. What shift started back on either Sunday night or
12 Monday morning, do you recall?

13 A. Third shift on Sunday night.

14 Q. And did you have to work on Sunday night?

15 A. Yes, sir.

16 Q. Do you recall anything that seemed unusual on that
17 shift, anything you saw or heard or possibly even
18 smelled?

19 A. Nothing. Nothing that was up there. I mean,
20 nothing I seen.

21 Q. Okay. Was there any problem with the longwall,
22 any maintenance-related problem that you're aware of
23 on that shift?

24 A. What do you mean problem? I mean, what's ---?

25 Q. Any --- we've gotten some testimony that they were

1 having problems with the hinge pin on the shearer
2 ranging rod. Do you recall anything about that?

3 A. Nothing. Nothing on the hinge pin.

4 Q. Okay. What did you work on that night?

5 A. We had to put a new cable blade on and put some
6 flies in the face chamber.

7 Q. Just normal stuff?

8 A. Yeah. And you know, bits and servicing stuff like
9 that.

10 Q. Sure. How had the longwall been operating over
11 the preceding few days? Had there been any major
12 breakdowns that you're aware of?

13 A. Nothing that I can recall.

14 Q. Let me tell you what we know about the longwall
15 right now. And you probably heard some of this
16 already. We know that the shearer had cut out at the
17 tailgate and was actually out --- or part of the
18 shearer was out in the tailgate. They had cut, I
19 think, some roof for clearance. We know that the pan
20 line was clear of coal, it had run most of the load,
21 if not all of the load of call, off the pan. We know
22 that the water was turned off in the headgate. And
23 what we don't know right now is whether that occurred
24 prior to the explosion or possibly somebody in the
25 recovery had turned that off, because you know, if the

1 pressure was still on, it may be leaking and ponding
2 up. We have to check that out a little better. We
3 know that the shearer had been down most of the
4 dayshift on Monday with hinge pin problems. We know
5 that the wall had probably been back up and running
6 about 15 or 20 minutes prior to the explosion. We
7 know that the explosion was roughly an hour before the
8 end of that shift, so we think they would probably had
9 been trying to get some coal in that period of time.
10 We know that the victims were found near the center of
11 the wall. And the victims that weren't near the
12 center of the wall were up near the headgate. Do you
13 have any idea of what may have been going on on the
14 wall, given those conditions?

15 A. No. I don't know of any reason that they wouldn't
16 be at the shearer.

17 Q. Exactly. That's why we're a little confused
18 ourselves. Is there something near the center of the
19 wall that may have been a maintenance issue or may
20 have broken down?

21 A. The only thing I can think of is if a shield was
22 left back or, you know, a dog bone maybe broke where
23 it had split, but nothing that if the chain was
24 running, nothing that they would have been back up
25 there without the shearer.

1 Q. Okay. Would the dog --- if a dog bone was broken,
2 do you think it would have shown up as they shuffled
3 in on the tail?

4 A. No. It would have showed up when they were ---
5 when the snake come by, wherever it was broke at.

6 Q. Sure. Okay. We certainly appreciate your expert
7 opinion because you know a lot more about that wall
8 than we do. Do you know if there was ever any advance
9 notice of inspectors on the property, either State or
10 Federal?

11 A. Nothing that I was ever told.

12 Q. Okay. You never heard something on the mine phone
13 like we got company or anything like that?

14 A. Not me. I mean, I'm usually down the face,
15 so ---.

16 Q. Okay. Do you think that the mine ventilation was
17 adequate at all times?

18 A. I felt like it was on the longwall.

19 Q. Did you ever hear of problems anywhere else?

20 A. Nothing that I've heard.

21 Q. Did you know if major ventilation changes were
22 made while miners were underground?

23 A. Just the people that was working on it is the
24 only ones I've been told.

25 Q. Okay. Do you know the boss on the 22 Headgate,

1 Dean Jones? I think he was referred to as Dino?

2 A. Dino. If he walked by me, I knew him, but not to
3 the point where --- you know, we wasn't hanging out
4 after work.

5 Q. Okay. Sure.

6 A. If I seen him there, I'd know him, but ---.

7 Q. How about the people on his crew, did you know any
8 of those fellows?

9 A. Very few. I think Deward Scott, I think he was on
10 that crew. He lived right below me and --- just
11 basically passing people.

12 Q. Sure. Did you ever hear either from any of those
13 people on that crew or even secondhand that they had
14 problems with ventilation or problems with methane?

15 A. Nobody that I talked to.

16 Q. Thank you. Did you ever hear of mining on the
17 development sections taking place without ventilation
18 curtains or ventilation curtains pulled back while
19 they were mining?

20 A. Nothing that I've ever been told.

21 Q. Did you ever hear of methane monitors being
22 bridged out or possibly having something put over the
23 sensor head?

24 A. Not that I can recall.

25 Q. Do you think miners were ever subjected to

1 retaliation or threats for reporting safety issues or
2 other concerns?

3 A. No.

4 Q. Okay. Where were you when the explosion took
5 place; do you recall?

6 A. I was at home in bed.

7 Q. Did you take part in any of the rescue and
8 recovery efforts?

9 A. No.

10 Q. Thank you.

11 MR. SHERER:

12 That's all the questions I've got.

13 Terry?

14 EXAMINATION

15 BY MR. FARLEY:

16 Q. Mr. Medley, on your last shift on April the 5th,
17 were there any pumps on the longwall face at that
18 time?

19 A. None that I can recall at that time.

20 Q. Now, if I got you correctly, at the end of your
21 shift or when the longwall production crew arrived on
22 the morning of April 5th, the longwall and the shearer
23 were fully operational; ---

24 A. Yes.

25 Q. --- is that correct?

1 A. Yes.

2 Q. Were you there when they started producing coal?

3 A. I was on my way out. I wasn't up on the --- at
4 the face.

5 Q. Okay. Had they arrived before you left?

6 A. Yeah. They were coming up the entry as we was
7 going by.

8 Q. Okay. Do you --- when you say they were coming up
9 the entry, whereabouts were they?

10 A. Just, you know, outby the last open break.

11 Q. Okay. All right.

12 A. We had our toolboxes. We was talking to them and
13 then ---.

14 Q. All right. Do you remember about what time that
15 was that you passed them?

16 A. I couldn't even tell you. They normally get up
17 there --- let's see. They leave outside from about
18 6:00, so they should have been coming by us probably
19 6:45, something like that.

20 Q. Now, was there any reason at that time for them
21 not to commence running coal immediately when they got
22 there?

23 A. No. No. As long as the belts was running,
24 everything should have been good to go.

25 Q. Okay. Now, I think you've said that as far as you

1 know, the longwall had good air while you worked
2 there.

3 A. Uh-huh (yes).

4 Q. Now, even though you had good air, do you recall
5 any time during the month of March when the velocity
6 of the air changed?

7 A. I couldn't tell you when it was. Sometime while
8 we were on his panel they --- for some odd reason they
9 pushed more air up toward us, and I think --- and this
10 is kind of rumored. I think somebody told me that the
11 air was like 189 cubic feet, 189,000, something like
12 that, and I don't know why. And then when the miner
13 section got started, they started putting air their
14 way, so ---.

15 Q. Okay. Now, when you say the miner section, which
16 miner section do you mean?

17 A. It would have been the One section going out
18 toward over the belt and the pan.

19 Q. Is that the one they called 22 Headgate?

20 A. Yeah, I guess that's 22.

21 Q. Okay. All right. Now, was that sometime in March
22 or before?

23 A. I couldn't even tell you.

24 Q. Okay.

25 A. It would have probably been before March because I

1 went back to hoot owl in January. Yeah, it should
2 have been before March, but I'm not a hundred percent
3 positive.

4 Q. Okay. That's fine. Now, how long was it you
5 worked on the longwall just before the explosion?

6 A. What do you ---?

7 Q. As you worked on the midnight shift, how long was
8 that, as a longwall electrician?

9 A. Oh, I been an electrician for probably a year and
10 ten days or something like that prior to the
11 explosion.

12 Q. Okay. Now, were you on this longwall on the
13 midnight shift for that entire period of time?

14 A. No, I was on the production. Let's see. I
15 started on hoot owl and sometime --- I can't really
16 tell you. I went to production and then December the
17 --- probably December the 31st was the last day I
18 worked with that crew.

19 Q. Okay. And is that when you ended up on midnight?

20 A. That's when they put me back on the ---.

21 Q. Okay.

22 EXAMINATION

23 BY MR. MCGINLEY:

24 Q. From listening to your answers, Mr. Medley, it
25 sounds like there were no problems that you were aware

1 of or that you can recall at Upper Big Branch in terms
2 of safety; is that correct?

3 A. Yeah.

4 Q. So were you aware that in the year before the
5 explosion there were more than 40 serious safety
6 violations issued by MSHA to the Upper Big Branch
7 Mine?

8 A. A year prior?

9 Q. Yeah, during the previous year.

10 A. No, I had no idea.

11 Q. You had no idea?

12 A. I had worked at Logan's Fork.

13 Q. So when --- I mean, in the year prior to the
14 explosion, you were at Upper big Branch; right?

15 A. Yeah, from probably June of last year.

16 Q. Right. And during that period there were ---
17 actually, going back to April, before you got there,
18 but during that period up until the time of the
19 explosion there were more than 40 (d) Orders, serious
20 safety violation orders, issued at Upper Big Branch.
21 Are you saying you were totally unaware of that?

22 A. I didn't know of it.

23 Q. And you were asked whether you knew of the air
24 reversal. There was an MSHA order finding that there
25 had been reversed air for several weeks in the mine.

1 You never heard of that?

2 A. Not that I can recall. I can't ---.

3 Q. When you talked to the Massey miners --- you said
4 you talked to them twice.

5 A. The miners?

6 Q. I'm sorry. The lawyers.

7 A. Oh, the lawyers.

8 Q. You talked to them twice?

9 A. Yes.

10 Q. In two different places?

11 A. Yes.

12 Q. Why did you ---? We've talked to other people
13 who've talked to Massey miners, but nobody's indicated
14 they've talked to them twice. Why did you talk to
15 them twice?

16 A. I don't know. They just --- they hollered at the
17 mines I was at and told me they wanted to have an
18 interview --- or a follow-up meeting and ---.

19 Q. So where did the first meeting with the Massey
20 lawyers take place?

21 A. At Revolution.

22 Q. Okay. And there were two lawyers there talking to
23 you?

24 A. Yes.

25 Q. And one was a woman or both men?

1 A. No, they were both men.

2 Q. And how long did that interview last?

3 A. Maybe 45 minutes to an hour, something like that.

4 Q. And did they tell you that if anybody questioned
5 you about things that went on at the mine, you didn't
6 have to volunteer anything? I'm asking you that
7 because other people have told us that when they
8 talked to the Massey lawyers.

9 A. It seems that way, but ---.

10 Q. As I told you before, it really would be helpful
11 if you probed your mind. We're trying to find out
12 what happened here. Now, I know that after this
13 explosion, it's been some time that's passed. It's
14 hard to remember. But if you could sort of squeeze
15 your brain and remember things, that would be helpful
16 to us. So in asking you about the Massey lawyers, did
17 they --- do you think they might have said, you don't
18 have to volunteer anything if people ask you
19 questions?

20 A. About the only thing I can remember them saying
21 is, you know, they asked me about the methane
22 monitors, asked me if I had ever bridged one out
23 and ---.

24 Q. That was a pretty upsetting question for them to
25 ask you, wasn't it?

1 A. What, that if I ---?

2 Q. To ask you if you bridged out any methane
3 monitors?

4 A. It wasn't upsetting to me. I mean, I hadn't ever
5 done it.

6 Q. Sometimes methane monitors would malfunction; is
7 that correct?

8 A. Yes.

9 Q. And they might go off and it was just a
10 malfunction; is that right?

11 A. The way I've always understood them.

12 Q. so how were you trained to disconnect them so that
13 the monitor can be fixed?

14 A. I was never --- I've never worked on it basically.
15 I've stood there with people while they've worked on
16 it, but I've never done it myself.

17 Q. So if the monitor on the equipment, say, on the
18 shearer shut down the shearer because it was
19 malfunctioning, what would they do?

20 A. The only thing I've ever seen is them take the
21 sniffer off the shearer and put a new one on, re-hook
22 it up.

23 Q. Massey lawyers interviewed you for 45 minutes at
24 Revolution, and then when did they tell you they
25 wanted you to come back and talk to them?

1 A. I got up at Logan's Fork one day and they said
2 they --- they called up to the mines and said they
3 wanted to have a follow-up meeting with me.

4 Q. Okay. And how long did that meeting last?

5 A. Ten, 15 minutes.

6 Q. Obviously you already talked to them. Were you
7 surprised to know they wanted to talk to you again?

8 A. A little bit because, you know, I had done talk to
9 them one, so ---.

10 Q. Right. So why did they --- what did they ask you
11 when you went back?

12 A. Just the same stuff, really. I mean, they asked
13 me about the methane monitors again and ---.

14 Q. What did they ask you about the methane monitors?
15 I mean, they already asked you whether you ---.

16 A. This was two different guys this time.

17 Q. Sure. I understand. Yeah. But they had already
18 gone through that with you, right, ---

19 A. Yeah.

20 Q. --- the first time; yes?

21 A. Yes.

22 Q. And then you came back and they asked you about
23 methane monitors again. What did they want to know
24 about the methane monitors the second time?

25 A. Asked where they was located. I told them. They

1 asked again if --- you know, if I had ever been --- if
2 I was ever told that they had been bridged out, and I
3 told them no. then again they asked me if I had ever
4 done it, and I said no. And that was basically it.

5 Q. Did they tell you that if anybody bridged out the
6 methane monitors that was a serious problem?

7 A. They didn't, but I mean, I already knew.

8 Q. Sure. And how long ago was that second interview?
9 Was it the last couple weeks?

10 A. No. It's been probably a month or better.

11 Q. Okay. Have you talked to anybody else with Massey
12 or Performance, other than the lawyers, about your
13 work there in relation to the explosion?

14 A. No.

15 Q. Has anyone asked you to tell them if you were
16 interviewed by the FBI, by State or Federal officials?

17 A. No.

18 Q. You said there was water a couple of times on the
19 longwall. You said, well, you know, if it's a
20 longwall that, yeah, there's going to be some water.

21 A. Uh-huh (yes).

22 Q. Do you recall saying that?

23 A. Yes.

24 Q. But there was some serious problems with water at
25 the longwall while you were working there, weren't

1 there? I mean, the water went over the shearer at
2 least on occasion; isn't that right?

3 A. Never that I know of, not across the shearer.

4 Q. How high did it go?

5 A. I don't know, maybe --- I remember it once getting
6 two or three inches from the top of the backboard.

7 Q. And wasn't there a time when a shearer had to be
8 shut down for a couple days because of water problems
9 for an extended period of time?

10 A. Something in behind the wall with water but not on
11 the face.

12 Q. What was going on behind the longwall that kept
13 you from running the shearer?

14 A. I really don't know. They said something about
15 the water had got high back there and they was going
16 to have to pump it, and they didn't want people behind
17 the wall while they were trying to get it pumped.

18 Q. The Massey lawyers, what else did they ask you
19 about, other than about the methane monitors, for 45
20 minutes?

21 A. They asked me if anything abnormal happened that
22 morning, asked me if I talked to the guys as we left,
23 just stuff like that. I mean, ---.

24 Q. Did anything jump out at you that you were
25 surprised they asked?

1 A. Just, you know, stuff like asking me what I said
2 to the guys and --- which was just personal stuff, you
3 know.

4 Q. Sure.

5 A. It had nothing to do with the mines.

6 Q. Right. A little bit like the questions you've
7 heard today?

8 A. Yeah, just stuff like that is what they asked me.

9 Q. Have you heard that there was someone from
10 management underground on that Easter weekend changing
11 the air ventilation?

12 A. Not that I was told.

13 Q. No. Have you heard that?

14 A. Not that I've heard.

15 Q. Okay. You worked at Aracoma?

16 A. Yes.

17 Q. Were there safety problems at Aracoma? Strike
18 that.

19 Let me ask you another question. When did you
20 work at Aracoma?

21 A. It was about a year after the fire.

22 Q. After the fire?

23 A. Yeah.

24 Q. So in your safety training there, did anybody
25 explain where there had been safety problems there

1 prior to the fire and basically talk about how Aracoma
2 was going to be operating more safely?

3 A. They talked about they was not --- I don't want to
4 say push. They I guess you could say was trying to
5 keep an eye on --- no, that don't sound right either.

6 Q. Just try to put it in your own words. We're not
7 trying to hold you to some details. I'm just trying
8 to get --- we're trying to get a sense of what you
9 meant.

10 A. I mean, I think the way that they said it is that
11 we were trying to be safer since everything, you know,
12 we are trying to --- I don't really want to say
13 pushing safety, but they were trying to be safer, I
14 guess you could say.

15 Q. Which makes since; right?

16 A. Yeah.

17 Q. So you knew that there had been some serious
18 safety problems at Aracoma before you got there?

19 A. I knew there had been a fire.

20 Q. And two men had died?

21 A. Yeah. I know that. I mean, I see the news. It
22 just ---.

23 Q. But the management and the bosses didn't really
24 talk about that to you; is that fair?

25 A. They didn't talk to me about it, which at that

1 time I was a jacksetter, so ---

2 Q. Sure.

3 A. --- I came in, got my stuff, went underground, I
4 came out and I went to the house.

5 Q. That's generally the way you approach your job
6 even now, right, just do your work?

7 A. Do my work. I mean, I'll talk to them outside,
8 this is what I got done, this is what is needed to be
9 done, but I don't --- I'm not sitting there at the
10 mines hanging out after work.

11 Q. When you were working, were you aware that there
12 were production reports frequently being called out at
13 the mine with regard to what the longwall was doing on
14 a shift? Did you know about that?

15 A. I think it was called out every 30 minutes, I
16 believe.

17 Q. Of course you weren't on the --- did you ever work
18 on the production shift at the longwall?

19 A. Yeah.

20 Q. Before you --- you said you went on the hoot owl
21 sometime before January of 2010; is that right?

22 A. Yeah.

23 Q. So how long did you work on the production shift?

24 A. At UBB I would say probably three months,
25 something like that.

1 Q. So you knew that they were calling out every 30
2 minutes?

3 A. Yeah.

4 Q. To see how the longwall was moving. And who would
5 call that out?

6 A. The headgate man.

7 Q. And did --- you were an electrician at that point?

8 A. Uh-huh (yes).

9 Q. But did you --- were you aware of the boss they
10 were talking about production and whether they were on
11 schedule or falling behind? Were there discussions of
12 the boss with the crew about production?

13 A. No. I mean, you know, run safe, be careful.

14 Q. I'm talking about production. That's good they
15 talked about safety, but I'm asking about production.
16 Was the level of production discussed among the boss
17 and the crew?

18 A. Nothing really. I mean, you know, you would get
19 there at work and they would say, oh, production has
20 been down this month. You know, is there anything we
21 can to do help, you know, get more coal? I
22 mean, ---.

23 Q. Did they say to you we want to get more coal
24 and ---?

25 A. Yeah.

1 Q. But we don't want to have as much downtime. We
2 have got to produce coal. I mean, is that a --- that
3 was just a ---?

4 A. Not so much the downtime, but when they --- you
5 know, we needed to produce more.

6 Q. With regard to downtime, were you aware that the
7 quicker you get a problem fixed, that the shearer was
8 operating, the happier the bosses would be?

9 A. Yeah. I mean, ---.

10 Q. Were there ever times when you were trying to fix
11 something and the longwall was down and they were
12 saying, let's get --- come on, let's get this going?

13 A. Yeah. I mean, they --- you know, they wanted to
14 get back in coal, but ---.

15 Q. Is that expression, get back in coal, a saying
16 that everybody that you work with understands?

17 A. Yeah.

18 Q. What does that mean?

19 A. It means we get to drilling in the black stuff and
20 putting it on the belt. That don't mean go cut both
21 the methane monitors off, bridge it out and let's go.
22 That means, okay, there's a problem with something,
23 let's fix it, let's get going.

24 Q. Are you surprised to learn there were so many
25 serious violations at the mine when you were ---

1 during the last year there when you were working there
2 and you didn't know anything about them?

3 A. Well, you said there was 46 what?

4 Q. Forty (40) some. I don't know what exactly the
5 number was. I've got it here.

6 A. Well, what was the serious violations? I mean,
7 what's ---?

8 Q. Well, serious enough to be considered possibly
9 putting the mine on a pattern of violations and some
10 of them required withdrawal of miners, but you didn't
11 know anything about them? You weren't --- nobody told
12 them to you in safety meetings?

13 A. We may have discussed them. It's just ---.

14 Q. Well, safety is important, so wouldn't you
15 remember?

16 A. Yeah, about a crib blockage in the entry. That's
17 a violation.

18 Q. For reversed air for a couple of weeks?

19 A. So there was 46 times that the air was reversed?

20 Q. I'm not asking. I'm just trying to see what
21 you --- I'm just asking. I'm just trying to see what
22 you remember. And I know it's hard to remember and
23 what you've said to us that you weren't aware of
24 any --- underlying basis for any of these serious
25 violations at the --- that the mine received and

1 nobody --- you can't remember talking about them. And
2 I just want to --- if that's what you recall, that's
3 fine. I just want to understand what you meant.

4 A. They've talked about it. Us being on third shift,
5 there's not a whole lot of dust moving across the
6 face, so you're not seeing the air backwards. The
7 biggest part of the time MSHA comes on dayshift. So
8 usually by the time I get there on third shift,
9 they've done got the problem fixed.

10 Q. Right.

11 A. I mean, not always, you know, but a majority of
12 the time. You know, I remember hearing a couple times
13 that MSHA shut them down, but I don't recall what it
14 was for.

15 Q. Right. And it wasn't brought up at safety
16 meetings?

17 A. Well, yeah, they talked about it as just you're
18 talking about --- even from then until now it's been
19 what, two months or right at it?

20 Q. Yes.

21 A. That's a pretty good while to remember everything.

22 Q. Sure. I understand. It's been over a period of
23 time we're asking about, so it's not unusual that
24 everything sort of merges together and your memory is
25 hazy. We're just trying to help you remember, if you

1 can help us, because as I said, there are people
2 depending on us to try to figure out what happened so
3 we can tell these families what happened. Are you
4 familiar with the terms S1 and P2?

5 A. Yeah.

6 Q. What does P2 mean?

7 A. Production --- I believe the way it's said,
8 production comes second.

9 Q. And what's S1?

10 A. Safety comes first.

11 Q. What else does S1 mean other than safety first?

12 A. You'll have to rephrase that.

13 Q. Well, do you know anything else about s1 other
14 than it means safety first?

15 A. You know, check your roof, ribs. Is that what
16 you're asking me?

17 Q. Well, I'm just --- Massey says they have a
18 program, S1, P2 ---

19 A. And M3.

20 Q. --- and M3. So I'm asking you what you know about
21 these things. And with regard to S1, it means safety
22 first, and what else does that mean?

23 A. You know, watch each other's back, the buddy check
24 with your rescuer, check roof and rib. If I see
25 something that's bad, let someone know, you know.

1 Q. Have you ever done that?

2 A. Yeah.

3 Q. What have you seen that's bad?

4 A. Just like we was down on the tail, flipping the
5 tail sprocket one time. The top looked back. I told
6 a --- I guess it was Shannon Dickens at the time, I
7 told him. We went and got cribs, built a crib there
8 in the tail and, you know, finished our job.

9 Q. Do you now anything about an S1 manual?

10 A. Yeah.

11 Q. What is that?

12 A. It's a manual, telling you, you know, a lot of the
13 safety stuff, telling you that it's first and just
14 different stuff like that.

15 Q. Do you have a copy of it?

16 A. I probably do somewhere in my paperwork. It's ---
17 I've not looked at it in a while. Actually, I take it
18 back. They gave me one whenever I come back up here
19 after they laid me off.

20 Q. That would have been about --- what year was that?

21 A. 2007, '06 or '07.

22 Q. Is there anything in that S1 manual that's
23 different than what you learned in your safety
24 training before you went to work?

25 A. Nothing that I can recall right off.

1 Q. It's basically saying to you follow your safety
2 training; is that correct? You have to ---.

3 A. Yes. Yes.

4 Q. You said no one that you talked to talked about
5 problems on the 22 Headgate section. Did you mean no
6 one who worked on that section?

7 A. Not really, just no one I ---.

8 Q. You never heard any --- that there were any
9 problems with --- of any kind at the Headgate 22
10 section?

11 A. Nothing that I've ever talked to them about.

12 Q. Well, has anybody ever talked to you and --- you
13 know, maybe they didn't work there, but they said I've
14 been talking to Dino or talking to one of the men on
15 the longwall 22 crew, you know, they're having this
16 problem or that? And the one thing we're interested
17 in is ventilation, but there could be other problems,
18 water problems, a bad roof, floor hooving. Have you
19 heard any --- had any discussions or heard anything
20 about that, those sorts of problems or any other
21 problems that ---?

22 A. It seems like they hit a spot that had some water,
23 but they --- if I remember right, it seems like they
24 hit a spot that had water, but they got a pump in
25 there and ---

1 Q. Took care of it.

2 A. --- got it pumped out.

3 Q. Okay.

4 A. Nothing I can think off of ventilation.

5 Q. Were you aware that there was a continuing effort
6 to resolve ventilation problems at Upper big Branch in
7 the year before the explosion?

8 A. Well, what exactly do you mean? I mean, what ---?
9 I know that we had the water behind us that they said
10 choked the air down, I believe is the way I was told.

11 Q. There were a couple entries that were roofed out
12 with water in that --- in the air return; right?

13 A. I guess it was in the return.

14 Q. Is that what you heard? Or what did you hear, I
15 should ask you?

16 A. I heard that there was water behind us that was
17 choking the air down.

18 Q. And about when would that have been, do you have
19 any sense of that?

20 A. I have no idea.

21 Q. A ballpark figure. I mean, it wasn't in 2000.
22 Was it in the last year?

23 A. I mean, it had been within the last year, but I
24 don't --- I can't recall when it was or anything like
25 that.

1 Q. Well, within the last year is good. That's
2 helpful. Did any boss or management tell you that
3 2003 and 2004 there were methane bursts from the floor
4 at the longwall and that the mine had to be evacuated
5 for a number of days because the mine filled up with
6 methane?

7 A. Nothing that I recall.

8 Q. You would recall that if somebody told you?
9 Doesn't that sound serious to you?

10 A. Yeah. I mean, that sounds pretty big, you know,
11 but that I can think of, no --- I don't remember
12 anybody saying anything like that.

13 Q. If you --- would you like to know --- strike that.
14 Assuming that there were methane outbursts at the
15 longwall back in 2003 and 2004, would you like to know
16 what the signs of --- the indications that there was
17 --- the face and the mine was going to fill up with
18 gas, what they were? If you could know that when it
19 started, maybe you could do something like get out of
20 the mine? Would you like to know what would indicate
21 that that outburst was coming?

22 A. Yeah. I mean, yeah, I'd like to know, but ---.

23 Q. Would that be helpful to you in terms of safety
24 first?

25 A. I guess you could say it just depends.

1 Q. Well, if you heard a noise and it got real loud
2 and sounded like a jet engine and that was an
3 indication of a methane outburst right there where you
4 were working, you would want to know that, wouldn't
5 you?

6 A. Yeah.

7 Q. And you would get the heck out of there, is that
8 right, ---

9 A. Yeah.

10 Q. --- I mean, if you knew what that sound meant?

11 A. Yeah.

12 MR. MCGINLEY:

13 I don't have any other questions. Thank
14 you, sir.

15 ATTORNEY WILSON:

16 Terry, any follow-ups?

17 MR. FARLEY:

18 No.

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. I've got a few, Mr. Medley. If the shearer was
22 down on the tail, cut out into the tailgate and
23 something happened, do you think the crew would try to
24 evacuate back up the face or do you think they would
25 go around the shearer and try to get out the tailgate?

1 A. It depends on which way it happened, I guess you
2 could say. If it happened --- however you want to
3 look at it, I'd call it outby, going toward the head,
4 and they're going to try to go off the tail.

5 Q. Okay.

6 A. If it happened in the tail entry and they could
7 see it, they would try to go back toward the head.

8 Q. What about something happening back in the gob,
9 would that affect it, which way they went?

10 A. I'd say --- if it was back in the gob, I'd say
11 they never seen it, if I was guessing.

12 Q. Okay. Sure. I appreciate that. Do you recall
13 your first day when you came back from Logan's Fork?
14 Do you recall what you did that day?

15 A. The first day back from Logan's Fork?

16 Q. Uh-huh (yes). That's what, about a year ago or
17 three years ago?

18 A. Well, I guess probably setting up the face. I
19 mean, ---.

20 Q. So you just went to the face and started working?
21 Did anybody go over the ---?

22 A. Well, No. I'll take that back. We had --- I was
23 outside for a week, getting equipment ready, helping
24 on the shields. They was working on the shields and
25 stuff like that.

1 Q. And that's when they moved the wall back?

2 A. That's while they were in the process of moving
3 everything.

4 Q. Before you went underground at UBB, did they go
5 over the escapeways and the maps and ---?

6 A. Yeah, the mine maps. I think, yeah, they had to
7 do task training on me again for the rides. We done
8 that outside. What else was it? We went up to the
9 section that night --- well, I won't say that night,
10 but like the first night I was up there and walked the
11 escapeway out of Ellis side.

12 Q. Okay.

13 A. They had to do a few other task training outside.
14 I can't recall right off what everything was.

15 Q. Sure. Thank you. Do you recall the curtains in
16 the headgate that were basically directing the air
17 down to the longwall face, were those curtains always
18 tight?

19 A. They were usually pretty tight. On third shift
20 we'd loosen them up every once in a while, try to get
21 a little bit of air off of them, you know.

22 Q. Okay. Sure. Do you recall ever going into the
23 wall or possibly coming off of it noticing those
24 curtains weren't tight, that they were flapping
25 around, maybe didn't have as much pressure on it?

1 A. Not flapping around like that, may have a corner
2 down, but the utility man that I was with when I was
3 on production, which was Chris, one of the guys that
4 was up there, his first job was to go up, take the
5 curtains, tighten them up. Rick Lane, he always went
6 up there and he tightened --- he made sure everything
7 was tight before they ever even went to the face.

8 Q. Did you ever notice any curtains on the tailgate
9 side?

10 A. Not that I can recall. I really didn't go out
11 there much.

12 Q. Sure. What about --- you mentioned you worked on
13 the production shift for a while. What about washing
14 down the shields and stuff, did you ever notice coal
15 dust accumulated along the shields, maybe back in the
16 hoses and stuff like that?

17 A. A little bit from time to time. You know, I
18 usually stayed from the head down to about 60, 80
19 shield, and unless they were down, ---

20 Q. Sure.

21 A. --- then I'd spray off in the shields, on the
22 shields, the pan line, the pontoons, anything like
23 that. The boss, Rick Lane, would follow them on down
24 toward the tail spraying off, so ---.

25 Q. So you kept them pretty clean?

1 A. We tried to keep them pretty clean.

2 Q. Good. Were you ever concerned about just the
3 general safety of the mine prior to the explosion?
4 Did you ever worry about anything?

5 A. Not really. I mean, it was a mines, so you know,
6 I didn't feel like I could just run around in there
7 like an idiot or nothing, but you know, ---

8 Q. Sure.

9 A. --- nothing major.

10 Q. Okay. When you first heard about the explosion
11 --- in fact, how did you first hear about the
12 explosion; do you recall?

13 A. A little restaurant that I go eat at, and two
14 girls that worked there heard about it on the radio or
15 something like that, and they come up and woke me up,
16 beating on the door, because we had --- there was
17 three of us that worked up there. I was, of course,
18 in the bed. My dad was just getting ready to start
19 underground, and then Grover was up there. So they
20 come up there to check on me and my dad. And they
21 knew Grover pretty good, too, so ---.

22 Q. What was the first thought when you heard about
23 that? Did you think it was --- did you think about
24 what possibly could have caused that explosion or
25 anything like that? Do you recall anything like that?

1 A. Not right off. My first reaction, of course, they
2 told me it was at 4:30, is what they were told. And I
3 knew my dad would have been up there, so I took off
4 running through --- actually, I didn't think about
5 anything else, just to be honest with you. I run
6 through the house getting ready to go try to find out
7 what happened.

8 Q. Okay. Did you go up to the mine?

9 A. I first talked to them over at the guest house and
10 they said --- the guest house next to us, and they
11 said that it happened at 3:00, like 3:05 I believe is
12 what they told me. So I felt better about him
13 possibly not being there, but I still didn't know for
14 sure. And I drove up to the Ellis Portal, and I got
15 maybe a hundred foot from the turnoff, and then that's
16 when they started clearing people out to --- so that
17 the ambulances and everything like that could get
18 there and the rescue teams.

19 Q. And roughly --- do you recall about what time that
20 was?

21 A. I guess they told me probably about 6:00, 6:30,
22 7:00, somewhere in that area.

23 Q. Is there anything else that you can recall that
24 you think may be useful to us in trying to figure out
25 how this explosion occurred and especially anything

1 that could help us prevent accidents like this in the
2 future at other mines?

3 A. Nothing that I can think of right off.

4 Q. Okay. Thank you.

5 MR. SHERER:

6 That's all I've got.

7 ATTORNEY WILSON:

8 Terry, anything?

9 MR. FARLEY:

10 No.

11 ATTORNEY WILSON:

12 Okay. Then I want to thank you on behalf
13 of MSHA and the State of West Virginia for appearing
14 here today and answering our questions. Your
15 cooperation is important to the investigation as we
16 work to determine the cause of the accident. Again, I
17 want to remind you because we are interviewing
18 additional witnesses, we request that you not discuss
19 your testimony with anyone. After questioning other
20 witnesses, if we have any follow-up questions that we
21 feel we need to ask, we may contact you. And if you
22 think of any other additional information, please
23 contact us at the contact information that was
24 provided to you.

25 I do want to inform you of your rights

1 under the Mine Act as a miner. Any statements given
2 to MSHA are considered to be an exercise of statutory
3 rights and protected activity under Section 105(c) of
4 the Mine Act. If you believe any discharge,
5 discrimination or any other type of adverse action is
6 taken against you as a result of your cooperation with
7 this investigation, we encourage you to immediately
8 contact MSHA and file a complaint under Section 105(c)
9 of the Act. Remedies under the Mine Act include back
10 wages and immediate temporary reinstatement to your
11 most recent position with the company, pending a
12 complete investigation of your complaint. IN order to
13 file such a complaint, you should contact the MSHA
14 District four office in Mount Hope. And you can find
15 additional information concerning your rights under
16 the Mine Act at MSHA's website, which is www.msha.gov.
17 Before we conclude and go off the record,

18 I do want to give you an opportunity. If there's
19 anything else that you would like to add to the
20 record, you may do so at this time.

21 A. Nothing. Nothing I got on my mind.

22 ATTORNEY WILSON:

23 All right. Then again, thank you for
24 your cooperation, and we'll go off the record.

25 * * STATEMENT UNDER OATH CONCLUDED AT 11:30 A.M. * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards