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Transcript of the Testimony of Timothy Daniel

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STATEMENT UNDER OATH

OF

TIMOTHY DANIEL

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 15, 2010, beginning at 8:18 a.m.

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2

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* Exhibit not attached

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 an attorney with the Office of the Solicitor,
6 United States Department of Labor. With me is Jasey
7 Maggard. He's an investigator with the Mine Safety
8 and Health Administration. Also present are officials
9 with the State of West Virginia.

10 MR. FARLEY:

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

13 MR. O'BRIEN:

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

16 MR. MCGINLEY:

17 And I'm Patrick McGinley, with the
18 Governor's independent investigation team.

19 ATTORNEY WILSON:

20 Today is July 15, 2010. We are here to
21 conduct an interview of Timothy Daniel. All members
22 of the Mine Safety and Health Administration Accident
23 Investigation Team and all members of the State of
24 West Virginia Accident Investigation Teams
25 participating in the investigation of the Upper Big

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

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

25 Mr. Daniel, you may have with you an

1 attorney or a personal representative if you would
2 like. Do you have a representative or attorney with
3 you?

4 MR. DANIEL:

5 No.

6 ATTORNEY WILSON:

7 Your statement today is completely
8 voluntary. You may refuse to answer any question and
9 you may terminate the interview at any time. If you
10 need to take a break at any time, just let me know and
11 we'll go off the record.

12 This is not an adversarial proceeding.

13 Formal Cross Examination type questions will not be
14 permitted. However, follow-up questions will be
15 allowed as appropriate. Your identity and the content
16 of this conversation will be made public at the
17 conclusion of the interview process and may be
18 included in a public report of the accident, unless
19 you request that your identity remain confidential or
20 if your information would otherwise jeopardize a
21 potential criminal investigation. If you request that
22 we keep your identity confidential, we will do so to
23 the extent permitted by law. In other words, if a
24 judge orders us to reveal your identity or some other
25 law requires us to do so, we may reveal your identity

1 at that time. Also, there may be a need to use the
2 information that you provide to us in other
3 enforcement-type actions, other investigations or
4 hearings concerning the explosion. Do you understand
5 your right to request confidentiality?

6 MR. DANIEL:

7 Yeah.

8 ATTORNEY WILSON:

9 And do you have any questions about that?

10 MR. DANIEL:

11 No.

12 ATTORNEY WILSON:

13 After the investigation is complete, MSHA
14 will issue a public report detailing the nature and
15 the causes of the fatalities in the hope that greater
16 awareness about the causes of accidents can reduce
17 their occurrence in the future. Information obtained
18 through these witness interviews is frequently
19 included in those reports. We will be interviewing
20 other witnesses, and so we request that you not
21 discuss your testimony today with anyone outside of
22 this room. A court reporter will be recording the
23 interview, so please speak loudly and clearly. If you
24 do not understand a question, please ask that the
25 question be rephrased. Please answer each question as

1 fully as you can, including any information that you
2 may have learned from someone else.

3 Again, I would like to thank you for
4 coming here today. We appreciate you giving us your
5 time. Your cooperation is critical in making the
6 nation's mines safer. After we have finished asking
7 questions, we will provide you with an opportunity to
8 add any additional information that you think is
9 relevant, and you may even make a statement at that
10 time if you so desire. If at any time after the
11 interview you recall any additional information that
12 you think may be useful, please contact MSHA. You can
13 contact Norman Page, who is MSHA's lead accident
14 investigator here at the Mine Academy. And we had
15 previously sent you a letter. And originally, you
16 were scheduled to be here on June 25th, and so the
17 letter refers to that day. But I'll give you another
18 copy of that letter in case you don't have it anymore,
19 and that letter contains the contact information here
20 at the Mine Academy, and you can contact us there.

21 Terry?

22 MR. FARLEY:

23 Mr. Daniel, on behalf of the West
24 Virginia Office of Miners' Health, Safety and
25 Training, I want to advise you that West Virginia Coal

1 Mine Health and Safety Regulations, like the Federal
2 Regulations, also provide protection against potential
3 discrimination of any coal miner participating in
4 these type of investigative interviews. I'm going to
5 pass along to you some contact information from the
6 West Virginia Board of Appeals, which hears complaints
7 from miners regarding potential discrimination claims.
8 It's addressed in Chapter 22(a), Article I, Section 22
9 of the West Virginia Code. Also, this document has my
10 phone number and a phone number for Bill Tucker, who
11 is our lead underground investigator, I'm out of
12 business cards or I'd give you one, and a mailing
13 address for the Board of Appeals. We caution you on
14 --- in one area. If you should have a problem, you
15 need to file a complaint within 30 days of when the
16 problem occurred.

17 MR. DANIEL:

18 All right.

19 MR. FARLEY:

20 Or you can contact Bill or me at any
21 time, too. Okay?

22 ATTORNEY WILSON:

23 Pat?

24 MR. MCGINLEY:

25 I would just add, I think, on behalf of

1 all of us that we're here to try to find out what the
2 cause of the explosion was. And we know that the
3 families of the men that were killed are counting on
4 us to try to make that determination, so your help,
5 your truthful responses to our questions are really
6 important, and we appreciate you being here.

7 ATTORNEY WILSON:

8 All right. Mr. Daniel, at this time I'll
9 ask that you face the court reporter, and she will
10 swear you in.

11 -----

12 TIMOTHY DANIEL, HAVING FIRST BEEN DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 -----

15 ATTORNEY WILSON:

16 Would you please state your full name for
17 the record?

18 A. Timothy Wayne Daniel.

19 ATTORNEY WILSON:

20 And would you give us your address and
21 telephone number, please?

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

23 (b) (7)

24 ATTORNEY WILSON:

25 All right. Terry Farley will begin with

1 the questioning.

2 EXAMINATION

3 BY MR. FARLEY:

4 Q. Mr. Daniel, how long have you been a coal miner?

5 A. Underground, for three years.

6 Q. Okay.

7 A. I don't know if you count outside as coal mining.

8 Q. Sure.

9 A. I worked outside at UBB for about four years.

10 Q. Then you went underground?

11 A. Yeah.

12 Q. So counting the two, about seven years?

13 A. Yeah.

14 Q. What did you do outside before you went
15 underground?

16 A. Worked on the overland belts.

17 Q. Okay. All right. So if my math is correct, you
18 must have started sometime in around 2003?

19 A. Yeah, October 2003.

20 Q. And that entire seven years has been with
21 Performance Coal and UBB?

22 A. Two times --- well, one time was --- I went to
23 Marfork and worked at the central plant. I got laid
24 off right after I went underground. I think I was
25 underground for about five months and got laid off for

1 about --- well, laid off for like a week or two. Then
2 they put me at the central plant for a couple months,
3 then I come back underground.

4 Q. Okay. So when did you come back to UBB full time
5 underground? Can you remember around ---?

6 A. It was, I think, August. No, it was --- what was
7 it? November of 2007.

8 Q. Okay. So you were at UBB from then until the time
9 of the explosion?

10 A. Yeah.

11 Q. Okay. Where are you working now?

12 A. Marsh Fork, up in the --- it's Marfork Mine.

13 Q. Okay. How long have you been there?

14 A. Ever since --- a couple months. I can't remember
15 what exactly --- sometime in May is when I went.

16 Q. Okay.

17 A. End of April, first part of May.

18 Q. Okay. After the UBB explosion, were you off work
19 for a while? Were you laid off for a period of time
20 or anything?

21 A. No. I was --- I stayed there ---

22 Q. Okay.

23 A. --- during --- while they was getting the men out
24 during the recovery.

25 Q. I understand. Now, I understand you're an

1 electrician; ---

2 A. Yeah.

3 Q. --- is that correct? How long have you been an
4 electrician?

5 A. Since January of '09.

6 Q. Okay. About 15 months or so ---

7 A. Yeah.

8 Q. --- at the time of the accident? Do you have any
9 other West Virginia miner certifications?

10 A. Uh-uh (no).

11 ATTORNEY WILSON:

12 Is that a no?

13 BY MR. FARLEY:

14 Q. Got a miner's certificate?

15 A. Just coal miner's certificate and my electrician's
16 card.

17 Q. You don't have a mine foreman or fire boss ---?

18 A. No.

19 Q. Okay. Now, prior to the explosion on April 5th,
20 what was the last shift that you worked at UBB?

21 A. Third shift that night before, which would have
22 been ---.

23 Q. Monday morning?

24 A. Yeah, Monday morning.

25 Q. Okay. Did you normally work the midnight shift?

1 A. Yeah.

2 Q. Okay. How long had you been on the midnight
3 shift?

4 A. Ever since I went underground. But there was a
5 time last year where --- it was mostly the majority of
6 last year I was on production, day and evening, swing
7 shift.

8 Q. Okay. Now, let me just work backwards here. This
9 year, 2010, have you been on the midnight ---?

10 A. Oh, yeah, all year.

11 Q. Okay. Now, which section were you working on,
12 let's say, this year?

13 A. I think I was on about every section this year.

14 Q. Okay.

15 A. I was on --- okay, well, the portal section,
16 barrier section and I think the tailgate.

17 Q. Tailgate 22, is that what you mean?

18 A. Yeah. I didn't know if they had 21 or 22.
19 Tailgate 22.

20 Q. All right. Now, which section were you working on
21 in the month prior to the accident?

22 A. The barrier section, and I was up on Tailgate 22 a
23 week before.

24 Q. Okay. Now, how much time did you spend on
25 Tailgate 22?

1 A. A week.

2 Q. Okay. Would that have been the week before the
3 accident?

4 A. Yeah, five, six days. I can't remember.

5 Q. Okay. All right.

6 ATTORNEY WILSON:

7 Terry, excuse me. Just so that the
8 record is clear, when you say Tailgate 22, on the map
9 you're referring to MMU-40 ---

10 A. Yeah.

11 ATTORNEY WILSON:

12 --- or 0040?

13 A. Yeah.

14 ATTORNEY WILSON:

15 Okay.

16 MR. FARLEY:

17 Thanks, Bob.

18 BY MR. FARLEY:

19 Q. Okay. When you were working on the Tailgate 22
20 section, who did you report to? Who was your
21 supervisor?

22 A. Mine was Terry Claypool. He was our maintenance
23 chief on the hoot owl.

24 Q. Was he like a salaried person?

25 A. At one time he was. He wasn't at the time.

1 Q. Okay. Now, were you an hourly employee?

2 A. Yes.

3 Q. You didn't have any supervisory duties?

4 A. No.

5 Q. Okay. Now, your midnight shift work, I assume it
6 was primarily maintenance of ---

7 A. Yeah.

8 Q. --- equipment?

9 A. Yes.

10 Q. Were you involved in maintaining permissibility on
11 any of the equipment?

12 A. Yes.

13 Q. Was that a daily routine?

14 A. That's weekly. Permissibility is weekly.

15 Q. Okay. Were you responsible for maintaining the
16 methane monitors on any of the mining machines?

17 A. Yes.

18 Q. Was that a daily or weekly ---?

19 A. I think it's --- I'm pretty sure it's weekly, but
20 it could be only monthly. We calibrate them I think
21 at least once a week anyways.

22 Q. Would you go through how you go about calibrating
23 the methane monitor on the continuous monitor?

24 A. Okay. It's got the way you do it on the readout.

25 And first you got to apply zero air for a minute, then

1 apply a magnet, and AC will pop up there and it will
2 flash. And whenever it stops flashing, you apply 2.5
3 percent CH4 to the sniffer for --- you apply it until
4 --- it will show you --- okay, it will show CP. And
5 where CP goes off, CC will come on. That's when it
6 says --- that's when calibration is done.

7 Q. Okay.

8 A. And then it will count down to zero. And usually
9 we will gas it off again to make sure it's working
10 properly.

11 Q. Okay. All right. Now, on the Tailgate 22 section
12 the week --- the five or six days you were there
13 before the explosion, did you have occasion to
14 calibrate the methane monitor on a continuous miner
15 machine?

16 A. Did we calibrate it?

17 Q. Yes, sir, during that five or six-day period you
18 were there?

19 A. Yeah, I'm pretty sure I did.

20 Q. Okay.

21 A. If you asked me a month or two ago, I probably
22 would remember exactly if we did or not, but I'm
23 pretty --- yeah. Yeah, we did. I remember now.

24 Q. Okay. Was it functioning okay?

25 A. Yes, it was --- yes, it was good.

1 Q. Was there one continuous miner on 22 Tailgate ---

2 A. Two.

3 Q. --- or two?

4 A. Two.

5 Q. Now, would the same have been true for the other
6 miner, too?

7 A. I --- yeah, I'd say it was working right. I
8 didn't calibrate it, but ---.

9 Q. Would somebody else have done that?

10 A. Yeah.

11 Q. Do you know who might have done that?

12 A. The right miner's responsibility was Randy's,
13 Randy Lafferty. Mine was the left miner.

14 Q. Okay. On your midnight shift crew on 22 Tailgate,
15 obviously you've got Mr. Claypool, yourself and Randy
16 Lafferty. Who else was part of your crew?

17 A. They had a move crew up there, which we're on the
18 hoot owl together, but they're not electricians. But
19 I guess we're considered the same crew. I think
20 there's the boss and two or three guys he had.

21 Q. Do you remember who that boss was on the
22 midnight ---?

23 A. His nickname is Jaybird. I don't know what his
24 real name is.

25 Q. Jaybird. Do you remember what he looked like?

1 Was he young, old, tall, short?

2 A. He was young. He might --- I don't think he was
3 no older than 30, 32, at the most. He was about
4 5'10", skinny. I think blondish-brown hair.

5 Q. Okay. All right. Now, his two or three person
6 crew, do you remember their names?

7 A. One was Jason Griffith ---

8 Q. Okay.

9 A. --- and the other one was Poco. I'm not sure what
10 his real name was. And the other one was a red hat,
11 and I cannot remember his name for nothing.

12 Q. That's all right. When you were on --- this five
13 or six-day period when you were on 22 Tailgate, did
14 you carry a methane detector yourself?

15 A. No.

16 Q. Did someone in your crew carry one?

17 A. I'm pretty sure Randy had one, and I'm pretty sure
18 Terry had one. And I know for a fact Jaybird had one.

19 Q. Okay. Now, during this five or six-day period
20 that you were working at 22 Tailgate, did anyone that
21 you were aware of detect any methane
22 concentrations ---

23 A. No.

24 Q. --- at the time?

25 A. Not that I'm aware of.

1 Q. Did you see anyone take a methane test?

2 A. I'm sure Jaybird did whenever he fire bossed, but
3 I never did see him while he was fire bossing.

4 Q. Okay. Did you guys do any welding or cutting
5 during that five or six-day period?

6 A. I didn't that week. I'm not sure if Terry or
7 Randy did either, so I'm not a hundred percent sure,
8 but I know I didn't.

9 Q. All right. In your conversations with other
10 people, did anyone report to you that they detected
11 any methane concentrations on the 22 Tailgate
12 sections?

13 A. No.

14 Q. Okay. If you're looking at the map here, of
15 course, this is the 22 Tailgate section. Now, the
16 first question, this shows us about one, two, three,
17 four, five, six or seven crosscuts inby the crossover
18 here. Is this map accurate as best you can remember?

19 A. Yeah. Yeah, as I remember.

20 Q. Had you advanced any further?

21 A. I don't believe.

22 Q. Okay. And the map I think indicates the intake
23 coming up the right side on Number Three and returning
24 down the left side in Number One, is that how you
25 remember it?

1 A. Yeah.

2 Q. Okay. What is your recollection of the
3 ventilation on the Tailgate 22 section during that
4 five or six-day period when you worked there?

5 A. Well, we had quite a bit of air. The air was
6 pretty good. I don't know how much we had, but it
7 felt like we may have had quite a bit.

8 Q. Okay. Now, when you say it felt like you had
9 quite a bit, was there anything --- any sign,
10 something waving in the wind that led you to believe
11 that other than the fact you could feel it?

12 A. Yeah. We had high voltage signs at the Number
13 Three, was the power entry. We had high voltage signs
14 up and they were back and forth. And the curtains up
15 on the section was --- I think some --- I think it was
16 the fly pads, I'm not sure, but they was hanging out
17 like that with the air pushing them.

18 Q. Okay. They were swaying?

19 A. Yeah.

20 Q. Before your shift or on the way in when you
21 arrived, did you have occasion to have any
22 conversations with the evening shift coal production
23 crew on 22 Tailgate?

24 A. That night before ---?

25 Q. Yes.

1 A. No. Nobody worked the night before us.

2 Q. Well, on any of the other days that you worked up
3 there, did you usually have any conversations with any
4 of them?

5 A. I don't believe so. Usually we switched out with
6 them somewhere on the track, and I never did talk to
7 any of them. I don't remember us stopping and talking
8 to them.

9 Q. Okay. So you passed them on the way in?

10 A. Yeah.

11 Q. All right. Now, we understand that there was a
12 construction site of some sort in this area, which
13 would have been outby the 22 Headgate section, where
14 the 22 Headgate belt would dump onto the Seven North
15 belt, this area where I'm pointing here, around ---
16 it's identified as Crosscut 130 on the map. We
17 understand there was a Mother Drive construction site
18 in that area. Were you familiar with it?

19 A. I just seen a little bit of it as we passed by. I
20 know they was working on it.

21 Q. What did you see when you passed by?

22 A. Beltline and it looked --- the Mother Drive. I
23 guess that's a belt head. And that's pretty much what
24 I saw.

25 Q. And did you ever talk to anybody who worked with

1 that Mother Drive crew?

2 A. No, I didn't.

3 Q. Okay. At any time did you hear any stories about
4 this work in the Mother Drive construction site
5 affecting the ventilation on the 22 Tailgate section
6 or the 22 Headgate section?

7 A. No, I never did hear.

8 Q. Okay. If you were there five or six days on 22
9 Tailgate, it's been brought to our attention that
10 there might have been an event on 22 Tailgate section
11 on the evening shift where the air coming to the
12 section was actually coursing up the conveyor belt
13 entry at a much higher velocity than it was coming up
14 on the intake, which is sort of ass backward, so to
15 speak. Did you hear anything about that?

16 A. No.

17 Q. Did you experience anything like that when you
18 were working on 22 Tailgate?

19 A. No.

20 Q. So the intake air was in the intake then?

21 A. Uh-huh (yes).

22 Q. Okay. Do you recall --- did you have any
23 experience or have the opportunity to experience how
24 much air was coming up the conveyor belt to the
25 section?

1 A. I mean, the time I walked down through, I never
2 did feel a whole lot of air coming up through there,
3 no more than what was in the intake.

4 Q. Okay. Was there a box check curtain across the
5 section belt around the tailpiece?

6 A. I know there was an overcast down there where the
7 beltline went underneath it, but I don't think there
8 was --- maybe at the feeder there might --- I believe
9 there was a curtain.

10 Q. Okay. Was it swaying or blowing in any particular
11 direction?

12 A. I can't remember.

13 Q. Okay. That's fine. Was there a scoop charger or
14 battery charging station of any kind on the 22
15 Tailgate section?

16 A. Yeah.

17 Q. Do you remember about where it was located?

18 A. I know one was there between --- okay, the belt
19 entry there between --- right around --- I'm trying to
20 think where it was at. We come --- there was some ---
21 a set of doors here and there was two doors here.

22 Q. When you say here, you're talking about right
23 here? Would that be ---?

24 A. Yeah.

25 Q. If you're traveling north from the longwall

1 headgate entries, the double doors would be the in the
2 Number Three entry as you're passing north about one
3 crosscut inby the headgate entrance?

4 A. That might be Number Two entry. I'm not sure.
5 Yeah, that is Number --- yeah, they drove it that way.

6 Q. If you're headed north that way, that would be
7 Number Three?

8 A. Yeah, it is.

9 ATTORNEY WILSON:

10 Why don't we circle in blue those doors
11 that you're referring to and just write out in the
12 margin --- put an arrow out to here and just write
13 doors.

14 WITNESS COMPLIES

15 BY MR. FARLEY:

16 Q. Now, I want to ask about any scoop charging or any
17 battery charging stations in the ---.

18 A. I'm pretty sure there was a scoop charger right
19 here ---

20 MR. MCGINLEY:

21 Maybe use a different color.

22 A. --- between the ---.

23 MR. FARLEY:

24 Maybe grab us a different color there.

25 ATTORNEY WILSON:

1 I will do that. Green. Put an X and
2 then maybe out here ---.

3 BY MR. FARLEY:

4 Q. Draw a line out here someplace and write scoop
5 charger.

6 WITNESS COMPLIES

7 A. And I'm pretty sure there was another one
8 somewhere in here, right through here.

9 BY MR. FARLEY:

10 Q. All right. Maybe make another mark and draw
11 another line out here.

12 WITNESS COMPLIES

13 BY MR. FARLEY:

14 Q. Okay. Now, ---.

15 ATTORNEY WILSON:

16 We'll go ahead and mark this as Daniel
17 Exhibit One.

18 (Daniel Exhibit One
19 marked for identification.)

20 BY MR. FARLEY:

21 Q. During your last shift at UBB prior to the
22 explosion here, did you happen to pass by either of
23 these charging stations?

24 A. Yes. I was at that one right there right before
25 we left to come outside.

1 Q. Okay. Now, you're pointing towards the one
2 closest to the section?

3 A. Yeah, between the two double --- two sets of
4 double doors.

5 Q. Okay. Did you notice anything unusual about the
6 charging station when you were there?

7 A. No.

8 Q. Any different smell or odor?

9 A. No. We was working on a scoop that was down right
10 there.

11 Q. Okay.

12 A. I don't recall smelling anything different.

13 Q. Okay. Was the scoop still down when you left?

14 A. Yeah.

15 Q. And do you know what the problem with it was?

16 A. I can't remember right now.

17 Q. Okay. Did you pass by the other charging station
18 on your way out?

19 A. I don't believe on my way out.

20 Q. Now, on your last shift at --- on Tailgate 22 on
21 April 5, did you notice anything different that night,
22 anything out of the ordinary, anything different about
23 the air, the ventilating curtains? Did you smell
24 anything different?

25 A. No. The only thing that was there was more water.

1 Q. Okay. When you say more water, where was the
2 water?

3 A. It was right there at the feeder, from One all the
4 way to Three.

5 Q. How much water?

6 A. Almost knee deep.

7 Q. Okay. Now, from One to Three. Over what area did
8 it cover? If you were traveling inby and you
9 encountered the water, if it's from one side to the
10 other, over what distance?

11 A. From One to Three, it would be 300 feet.

12 Q. I know it would be that wide, but how long was it?

13 A. How long?

14 Q. Yeah. How big was the waterhole?

15 A. Oh, it was probably about 15 by 100 foot, ---

16 Q. Okay.

17 A. --- that waterhole --- or 300 foot, I mean 15 by
18 300 foot.

19 Q. Okay. Pretty good-sized waterhole?

20 A. Yeah.

21 Q. Was this some kind of a slag or low spot?

22 A. Yeah. They was starting to --- they was going
23 uphill getting out of it, but there was water further
24 outby, too, ---

25 Q. Okay.

1 A. --- that section, but there was a lot at the
2 feeder that day, that night.

3 Q. All right. Now, during the five or six days that
4 you worked on the 22 Tailgate section, did you notice
5 any floor hooving?

6 A. Yeah. Yeah, up in the face the bottom was
7 hooving, and you could hear the top and stuff making
8 noise. And you could hear --- you could hear it and
9 then it sounded like the top, but it might have been
10 the bottom, you could actually feel a little bit of
11 vibration in your feet.

12 Q. How often did you experience that?

13 A. The bottom, a couple of times. I heard the top a
14 few times a night.

15 Q. Okay. Now, when the floor --- did it cause the
16 floor to raise? Did it crack? Can you describe that
17 for me?

18 A. It cracked and one part of it raised up probably
19 --- I think about a foot.

20 Q. Okay.

21 A. That was --- I'm pretty sure that was between One
22 and Two.

23 Q. Okay. When was the last time you experienced
24 that; do you recall?

25 A. It was that week before. My second or third day

1 up there.

2 Q. Okay. Were you standing in the area when it
3 happened?

4 A. Whenever it happened, it didn't raise right then.
5 You could just feel the vibration in the floor. And I
6 believe later on or it might have been before then is
7 whenever the bottom was hooved up.

8 Q. All right. The double doors that you identified
9 down here outby the 22 Tailgate section, did these ---
10 or these other doors here, actually, these doors
11 seemed to allow access toward the longwall section; is
12 that --- would that have been correct?

13 A. As far as I know, it is. I never walked from
14 there over to the longwall. But from what I heard,
15 you could get over there.

16 Q. Okay. Do you know if the doors were ever used?
17 Did anybody use them on a regular basis?

18 A. These doors here?

19 Q. Yes, sir.

20 A. Yeah, every time we'd go to the section.

21 Q. Okay. And did you ever find those doors open ---

22 A. No.

23 Q. --- when you were coming or going from the
24 section?

25 A. No.

1 Q. All right. Now, we've got other doors. Now, when
2 you left your section, I'm taking it --- I'm
3 understanding you would have turned north and gone out
4 Seven North; is that correct?

5 A. Yeah.

6 Q. Now, there would have been several other places
7 where you would have encountered doors ---

8 A. Yeah, there's a lot.

9 Q. --- coming and going.

10 A. A lot of them.

11 Q. Now, what was the overall condition of these doors
12 you encountered?

13 A. Oh, they was good. Yeah, they was good. The only
14 complaint I had was they wasn't electric. Somebody
15 had to get out and open them themselves.

16 Q. Were any of them automatic that you could operate
17 with a switch?

18 A. I think just one about ten breaks coming inby the
19 UBB entries. I think there was only one actually
20 worked with a button.

21 Q. Did you notice any damage to any of the doors?

22 A. No, not that I recall.

23 Q. Did it appear that they sealed properly and did
24 they appear to leak in any case?

25 A. They seemed --- from what I remember, they sealed

1 pretty good.

2 Q. Okay. Now, again, traveling in and out of the
3 mine at the other locations, did you ever notice any
4 of those doors open on your way in or out of the mine?

5 A. No.

6 Q. Okay. Now, but you were only out on 22 Tailgate
7 for five or six days; right?

8 A. Uh-huh (yes).

9 Q. Now, other than that five or six days, had you
10 been in that area of the mine before?

11 A. Just this area here or this --- the whole area up
12 here on the map.

13 Q. Okay. You're pointing to the headgate entries
14 that were developed by ---?

15 A. Yeah, headgate, tailgate. Anywhere on this map,
16 is that what you're referring to?

17 Q. Yes, sir. When were you in those areas?

18 A. Okay. Let's see. When I first started
19 underground it was --- see, we drove --- this part
20 that was drove up down there at the return ---.

21 Q. Are you talking about Ellis Switch?

22 A. Yeah, above Ellis Switch. Before Ellis Switch was
23 even thought of. I helped --- I was on the hoot owl
24 when they drove that. A little bit more than halfway
25 up, that's when I got laid off, sent to the plant.

1 Q. Okay.

2 A. Then I come back and they was right here.

3 Q. You're pointing in the area of about 78 Switch?

4 A. Yeah. And I was there, around 78 Switch. And I
5 was with them where they was --- first started driving
6 the --- which at the time it wasn't the tailgate. It
7 was just miner section ---.

8 Q. Did they call that Two section at the time?

9 A. This was called One section at the time.

10 Q. One section, excuse me.

11 A. Yeah, One section first started driving this.
12 They drove it --- where was that? They drove it up to
13 about here.

14 Q. Is there a crosscut number there?

15 A. I think it was around 35 Break.

16 ATTORNEY WILSON:

17 And just for the record, you're referring
18 to what's on the map as the tailgate of the active
19 longwall; is that right?

20 A. Yeah. Yeah.

21 BY ATTORNEY FARLEY:

22 Q. Now, were you still on the midnight shift in those
23 days?

24 A. Yeah.

25 Q. And did you ever work on the coal production crew?

1 A. Not up here. Yeah. Yeah, for I think two days I
2 was on the production crew, filling in for Greg, when
3 they was somewhere up in here.

4 Q. You're pointing to the area in the ---

5 A. Headgate.

6 Q. --- One North --- in the North Headgate entries
7 around Crosscut 80?

8 A. My best guess would be around 65 Break.

9 Q. Okay. All right. Were you ever on the longwall
10 section?

11 A. No.

12 Q. Okay. We understand the longwall started up at
13 UBB sometime in September of 2009. What area of the
14 mine would you have been working at at that time?

15 A. Three section, which they refer it to the portal
16 section.

17 Q. Okay. All right. Let's start with this year.
18 Were there any instances where you were required to
19 evacuate the mine and maybe knock off and go home
20 because of ventilation problems?

21 A. No. No, we never had to leave because of it or
22 anything. We came in one night, and I believe they
23 was --- the mines was down over ventilation, and we
24 went home. I've never been underground ---
25 ventilation, when they had ventilation problems and we

1 got sent home.

2 Q. This night that you came to work and you had to
3 leave, was that for more than one day?

4 A. No, just one night.

5 Q. Okay. You lost one shift. Any other times where
6 you might have lost a shift because of ventilation
7 issues?

8 A. Last year I believe they had some problems, which
9 was almost --- I think we lost about a week.

10 Q. Prior to the week or so preceding the accident you
11 had been down at the other part of the mine, right,
12 down at the south end of the mine, the barrier portal?

13 A. The week preceding that?

14 Q. Yes.

15 A. Yeah. Yeah, I was on the barrier section.

16 Q. Okay. Do you know if you were ever kept
17 underground during an air change because you were an
18 electrician?

19 A. No, I wasn't. No.

20 Q. Okay. Were you working at UBB when a decision was
21 made to bring the longwall back to the mine?

22 A. Yeah, I was working there.

23 Q. Do you remember when that was?

24 A. Shoot. I'm trying to remember. It was sometime
25 in 2008.

1 Q. How did you hear about it? Do you remember?

2 A. Just rumors. And where they moved One section up
3 to drive the headgate is when I knew for sure that
4 they was going to do it.

5 Q. Okay. Sometime in 2008. Any idea when,
6 approximately?

7 A. I think the first part of summer.

8 Q. Okay.

9 A. The middle part of the year, somewhere around
10 there.

11 Q. Okay. Now, back to 22 Tailgate. In the week or
12 so that you were up there prior to the explosion, did
13 you ever travel the section conveyor belt to get from
14 one end to the other?

15 A. The section conveyor belt?

16 Q. Yes, sir.

17 A. Yeah. Yeah, that's the way we usually went to the
18 section. We would go through the doors and just walk
19 up the belt entry.

20 Q. Okay. Now, did you travel the 22 Tailgate section
21 belt on April the 5th?

22 A. Yeah. Yeah, that Monday morning.

23 Q. What did it look like?

24 A. Wet.

25 Q. Wet. Okay. Did it appear that it needed to be

1 rock dusted?

2 A. It was --- the majority of it was rock dusted, but
3 parts --- like if a rib would flake off or there was a
4 part that needed dusted again.

5 Q. Okay.

6 A. I guess just normal conditions.

7 Q. Okay. Do you recall any of the move crew people
8 rock dusting that belt during that shift?

9 A. I don't recall. I don't know if they did or not.

10 Q. We understand that sometime in the month or so
11 preceding the explosion that the return air course
12 from 22 Headgate and possibly even that of 22 Tailgate
13 may have been re-routed. Did you hear anything about
14 that?

15 A. Let's see. What was it? Somewhere around --- I
16 know they done an air change one night about maybe a
17 month --- two or three weeks to a month before that
18 happened. They done an air change. I don't know what
19 they did, but I just know they done one.

20 Q. Where were you when they did the air change?

21 A. The barrier section.

22 Q. Okay. Now, do you know if the air change was in
23 this part of the mine when the explosion eventually
24 occurred?

25 A. Yeah. Yeah. I'm about positive it was up through

1 there.

2 Q. Okay. How do you know that?

3 A. I think I heard them --- we had to come outside
4 that night, and I heard them talking on the phone
5 about a set of --- well, checking the air at the
6 overcast, and I forget what else I heard.

7 Q. Okay. Now, during the night that this air change
8 was made, did you notice any higher management level
9 people in the mine that night?

10 A. I'm not sure if ---.

11 Q. People you didn't routinely see.

12 A. I know the safety man --- the safety director was
13 there. And I think --- I'm not sure, but I'm wanting
14 to say I think Wayne Persinger was there that night.

15 Q. Would Persinger have been the vice-president or
16 something like that?

17 A. Yeah. Or it might have been Everett. It was one
18 of the two. I'm about positive one of the two was
19 there.

20 Q. By Everett do you mean Everett Hager?

21 A. Yeah, the superintendent.

22 Q. Okay. Did you see anyone else?

23 A. No. I didn't see them. I just heard them on the
24 phone.

25 Q. Okay. All right. Did you see Chris Blanchard?

1 Do you know who he is?

2 A. Yeah. I didn't see him. He may have been there.

3 I don't know.

4 Q. And do you know a guy by the name of Jason

5 Whitehead?

6 A. Yeah.

7 Q. Did you see him that night?

8 A. No.

9 Q. Well, during your midnight shift, did you ever
10 routinely see Blanchard or Whitehead or Hager during
11 your shift?

12 A. I don't --- no, I don't believe I ever seen them
13 on the hoot owl, which they may have been there, ---

14 Q. Okay.

15 A. --- just not have seen them.

16 Q. All right. I know you said that part of your
17 duties on the midnight shift were to maintain and
18 calibrate methane monitors. Was there ever an
19 occasion where anyone instructed you or requested that
20 you bridge a monitor or override it?

21 A. No.

22 Q. Did you ever hear of anyone else doing that?

23 A. No.

24 Q. No knowledge of that whatsoever?

25 A. No, not to my knowledge.

1 Q. Okay. All right.

2 MR. FARLEY:

3 Jasey?

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. How long had you worked on the barrier section?

7 A. A month, I believe, because they moved it. It was
8 down there and --- whenever it was down there I was
9 getting switched around a lot on the hoot owl.

10 Q. And when you say down there, where are you talking
11 about? On the south side of the mine?

12 A. Yeah, on the south side, where they just had
13 got --- about middle ways, the bottom of the map.

14 ATTORNEY WILSON:

15 And you're referring to the outby area

16 map, the scale one inch to 200 feet?

17 A. Yeah, just straight down. Right there where your
18 pen is at, over left. On over. On over. Right above
19 where it says seals and set floor, right there. I was
20 up in there on the barrier section. Then they got
21 done mining that, then they moved it up there to
22 Headgate 17.

23 BY MR. MAGGARD:

24 Q. And that would be probably close to 15 breaks from
25 Plumley Switch or 20 breaks?

1 A. I'd say about 15, and there was a curve. It took
2 your right hand and it was up in there. It was about
3 15 breaks and they drove those two little panels.

4 Q. So you was there for a month. What could you tell
5 us about that section? How was the rib conditions and
6 rock dust and anything else you can tell us?

7 A. Up there the ribs was bad on barrier section when
8 they moved to Headgate 17. The ribs was bad up there.

9 Q. Okay. So the section you were currently on or was
10 working, you had some rib conditions; correct?

11 A. Yeah.

12 Q. How about the rock dust? Was it white or was it
13 black?

14 A. No, it was white.

15 Q. Did they have a lot of rock dust in there?

16 A. I know it was rock dusted. I don't know if it was
17 a lot or not enough, but I'm sure they could always
18 use more rock dust when they dusted.

19 Q. Okay.

20 A. But I --- it was dusted, but I ain't going to
21 say ---.

22 Q. Was it hand dusted?

23 A. I don't know if they had one of them bulk dusters
24 up there or not, but I know it was hand dusted.

25 Q. Okay. What kind of ventilation did they have up

1 there; do you know?

2 A. I'm trying to remember. It was --- I'm pretty
3 sure it was split air.

4 Q. And you was there April 5th, that morning. Was
5 there split air on the face area when you was up
6 there?

7 A. The morning of April 5th I was on the tailgate ---

8 Q. Oh.

9 A. --- section.

10 Q. Oh, okay. So when was the last time you was on
11 the barrier, a week?

12 A. Yeah, about a week before.

13 Q. A week before the accident or was you ---?

14 A. About two weeks before the accident.

15 Q. Two weeks before the accident?

16 A. Yeah. And the week before the accident is
17 whenever I got put up here.

18 Q. Okay. But the day of the accident, you was where?

19 A. On Tailgate 22.

20 Q. Okay. I must have misunderstood that. But on the
21 barrier section, when you took care of the methane
22 monitors on what two miners or one miner ---?

23 A. We had two miners, and I took care of the --- I'm
24 pretty sure I took care of the left miner.

25 Q. Was you there when they first started that

1 section, tearing out, trying to make overcasts
2 and ---

3 A. Yeah.

4 Q. --- all of that?

5 A. Yeah, I was there.

6 Q. Okay. Do you remember --- recall any kind of
7 problems with ventilation or anything there in the
8 area ---

9 A. No.

10 Q. --- at that time? Do you recall any kind of
11 violations for ventilation on the barrier section?

12 A. Not that I recall.

13 Q. How did you feel that the air was on the barrier
14 section?

15 A. We had a lot.

16 Q. Did you have a lot of air?

17 A. Yeah. It was still coming. In the wintertime it
18 was cold. There was a lot of air.

19 Q. Did you have any methane monitor problems on that
20 section? Did any of them fail or you have to replace
21 any ---

22 A. No.

23 Q. --- or do any kind of work on them?

24 A. No.

25 Q. Did you do electrical exams on the tailgate

1 section?

2 A. What equipment did I ---?

3 Q. Yeah, did you fill out weekly books?

4 A. Yeah.

5 Q. So what equipment did you take care of?

6 A. Left miner, the feeder, the forklift, I believe.

7 Yeah, I think the forklift. I think just them three.

8 The forklift charger, too, but I can't remember where
9 it was at on the map --- or on the section.

10 Q. And do you recall any of the equipment having any
11 kind of conditions that needed, you know --- that you
12 all had to order any parts for? Was there any kind of
13 permissibility problems that you know of on any of the
14 equipment or --- anything you can tell us?

15 A. We taped up --- re-taped splices and worked on the
16 cables on the miner and the feeder. And the forklift,
17 I think we had to replace the seat in it. And I
18 believe the strobe light was messed up on it, and I
19 believe it was on order.

20 Q. So pretty much you thought the mine was in good
21 shape?

22 A. Yeah.

23 Q. Was there anything that was needed up on the
24 section that you were waiting on? I mean, was there
25 anything that you know of that needed repaired that

1 you didn't --- that wasn't repaired on the day of the
2 accident?

3 A. No, just the strobe light I think on the forklift
4 is the only thing.

5 Q. Back on the barrier section did you all have
6 communications up to that section?

7 A. Communication?

8 Q. Radio communication.

9 A. Yeah. It was at the mouth of the section.

10 Q. How many breaks was it ---

11 A. I was ---.

12 Q. --- at the mouth of the section?

13 A. I think about three, four. Three or four.

14 Q. And where would you have to go to ---

15 A. We ---.

16 Q. --- communicate?

17 A. We had phone communication at the feeder.

18 Q. What about radio?

19 A. I knew at the time we wasn't allowed to take them,
20 I believe, inby the power center.

21 Q. Was there a tracking device there for your
22 tracking tags?

23 A. Yeah, but I don't believe --- I'm not sure how far
24 it was moved up though.

25 Q. Okay. You said the doors were in pretty decent

1 shape that you recall. When you looked through those
2 doors, let's say you come through there and you could
3 see another mantrip or something, could you see the
4 mantrip through the door, the cracks in the door?

5 A. No, not that I remember.

6 Q. No cracks at all? I mean, they're completely
7 sealed?

8 A. They was --- as far as I remember, they was in
9 pretty good shape. They were still pretty good.

10 Q. Was there any damaged end where a mantrip had hit
11 them?

12 A. Yeah, there was a few of them bent up on the
13 bottom.

14 Q. Was there any of them hard to open, ---

15 A. No.

16 Q. --- had to use a bar or anything to open them ---

17 A. No.

18 Q. --- as you was going to the section or anything?

19 A. (Indicates no).

20 Q. Well, could you tell me about the condition at the
21 track entries as you, I guess --- what portal did you
22 come through?

23 A. UBB Portal.

24 Q. You come from UBB Portal and traveled to the
25 Tailgate 22?

1 A. Yeah.

2 Q. Could you tell us about how the conditions was, in
3 your opinion, up the track entry, up --- all the way
4 up the mains and north mains up to Ellis Switch and
5 how you felt the condition was all the way to Tailgate
6 22? What do you recall?

7 A. I thought they was pretty good. I mean, they had
8 a bunch of timbers and stuff set beside the track.
9 The ribs was rolled out a little bit, but the mine's
10 been there so long.

11 Q. Where do you think the worst conditions were as
12 far as ribs and roof? What areas ---?

13 A. Most of the ribs was about all the way up through
14 there, but the majority --- the worst spot was the
15 part of the mines that's been mined the longest.

16 Q. Did they do a lot of outby work to keep that ---
17 keep timbers and cribs up? Did you see them working a
18 lot outby?

19 A. When I first started underground, they had a good
20 outby crew, a bunch of men that kept up a bunch of
21 that stuff. Then that crew pretty much dwindled down
22 to like one or two guys and different --- they have a
23 different boss. I don't know --- I don't even know
24 who the outby boss was, if they even had one. But
25 when I first started underground, they kept care of it

1 pretty good.

2 Q. But later on you're saying that ---?

3 A. Yeah, the outby wasn't took care of as well as it
4 was when I first started underground.

5 Q. How about the rock dusting as far as the mine
6 outby went? I mean, how many people? Did they keep
7 doing that and ---?

8 A. I know they had a couple --- when I first started
9 up there they done that a lot on the hoot owl. I
10 mean, they kept up with outby stuff real well. And
11 then later on they just --- I think they was doing it
12 on the evening shift. I think there was a couple of
13 guys rock dusting on the evening shift.

14 Q. I mean, what --- do you recall any areas that ---
15 was they working as you come in the mine? Can you
16 remember the last place you had seen them working at
17 or rock dusting?

18 A. I can't remember.

19 Q. Why do you think that the outby areas --- you
20 know, they used to have crews that were taking care of
21 that. Why do you think that kind of slowed down? Was
22 there manpower issues or do you know?

23 A. I really don't know.

24 Q. Can you tell us about cleanup? Was there a lot of
25 trash or a lot of --- what did --- did they keep a lot

1 of --- did the people keep trash cleaned up in the
2 mine and removed or how did you ---?

3 A. There was quite a bit of trash in there. I mean,
4 they tried to keep up with it. I mean, like around
5 the --- I'm not sure. There's some places you'd see a
6 lot of trash and some --- some part of the mines
7 looked pretty good.

8 Q. Other than the equipment there on the tailgate
9 section there, the left side miner and the feeder and
10 the forklift charger, what other types of work have
11 you done recently that you can tell us about?

12 A. I really can't remember.

13 Q. You haven't worked on any kind of --- on any head
14 drives or fire suppression or any other pieces of
15 equipment other than that scoop down there that you
16 was talking about at the doors where the chargers was
17 at?

18 A. Are you talking about the week before on Tailgate
19 22?

20 Q. The last couple weeks before the accident.

21 A. I really couldn't tell you what I done. I mean,
22 we got work reports we filled out. I mean, if I seen
23 them I would be able to tell you what I done. But I
24 really can't recall what we was doing.

25 Q. So you filled out a work report on what you did

1 every shift; ---

2 A. Yeah.

3 Q. --- is that right? And when you filled that out,
4 who did you give that to?

5 A. I took it upstairs and put it in the maintenance
6 office. I'm not sure that I filled any reports out on
7 the barrier section, but I know when I started up on
8 the tailgate section we started --- I started filling
9 them out.

10 Q. Okay. And did all the --- was that just something
11 the electricians did?

12 A. Yeah.

13 Q. Okay. Did they give you --- who was in charge of
14 giving orders on what you all worked on on the third
15 shift?

16 A. I guess it would have been the dayshift
17 maintenance chief, which I believe Rick Nicolau was
18 the dayshift chief for our section.

19 Q. Right. And what sections did Rick take care of?

20 A. As far as I know, Headgate 22 and Tailgate 22.
21 They change that stuff around so much, it's hard to
22 remember.

23 Q. When you was up on the tailgate section and the
24 barrier section in the last week or so, have you
25 noticed any of the curtains not being hung when you

1 got on --- got up there on your shift or any of them
2 that fell down or anything you can tell us about the
3 curtains on the section, how you thought they was ---

4 A. No. They always ---.

5 Q. --- maintained?

6 A. As far as I can tell, they was all hung and
7 maintained pretty well.

8 Q. Had you been interviewed by Massey ---

9 A. Lawyers?

10 Q. --- after the accident?

11 A. Yeah.

12 Q. And how long ago was that?

13 A. A month and a half ago.

14 Q. What can you tell us about that interview? What
15 did they ask you?

16 A. About the same thing you all is asking.

17 Q. Did they give you any kind of instructions on ---

18 A. No.

19 Q. --- what to say, ---

20 A. No.

21 Q. --- what not to say or anything?

22 A. No. They just said tell the truth.

23 Q. Okay. When did you first hear about the accident?

24 I know you was there that morning.

25 A. About 4:30 that evening.

1 Q. And did they --- who did you hear about it?

2 A. My brother called me and told me.

3 Q. And you said you worked after the accident for a
4 while. What all did they have you do, and when was
5 your first day up there after the accident?

6 A. Up where?

7 Q. At UBB.

8 A. Oh, I come to work that night.

9 Q. Okay.

10 A. The accident happened that day. I come there that
11 night. And we done whatever we could, picked up
12 trash, put the mantrips on charge, whatever they
13 needed done.

14 Q. Do you recall who all was underground during the
15 time you was there? Was there people underground
16 trying to rescue or recover the ---?

17 A. Yeah. When I got there there was I think several
18 crews underground trying to find --- trying to rescue
19 the guys.

20 Q. And what do you remember about that? Do you
21 remember anything?

22 A. No, just them coming out and saying I think the
23 carbon monoxide level is too high and they said they'd
24 have to wait.

25 Q. Is there anything else that you can think of that

1 --- have you got any opinions about what might ---
2 could have happened to cause the accident on April
3 5th?

4 A. Something happened fast is the only thing I can
5 think of.

6 ATTORNEY WILSON:

7 Pat? Are you all right or do you want to
8 take a short break?

9 A. Oh, I'm good.

10 EXAMINATION

11 BY MR. MCGINLEY:

12 Q. Mr. Daniel, did you have a nickname?

13 A. No.

14 Q. We learned that there are a lot of folks that have
15 nicknames. Tell me about your discussion with the
16 Massey lawyers.

17 A. They just asked where I worked at, for how long.
18 Asked about the methane monitors and what kind of
19 conditions we have up on the tailgate section. That
20 was the majority of the conversation.

21 Q. How long did the interview last?

22 A. I think about an hour and a half.

23 Q. That's a pretty long interview for just covering
24 four or five things.

25 A. I'm sure there was more, but I can't recall what

1 all there was.

2 Q. There were two lawyers?

3 A. Yeah, a man and a woman.

4 Q. And where did this take place?

5 A. Marfork, the main office.

6 Q. How did you --- how were you informed that you
7 should go there for the interview?

8 A. How was I informed? Jason Bussey called me the
9 day before, told me to stop by in the morning, talk to
10 the lawyers.

11 Q. Did he give you a ---?

12 A. He asked me to. I told him I would.

13 Q. Did he give you a particular time?

14 A. Around eight o'clock.

15 Q. And who is Jason?

16 A. Jason Bussey. He's the HR --- I don't know if
17 he's the HR director, but he had something to do in
18 the HR department.

19 Q. So how did the lawyers start the conversation?

20 A. They introduced themselves and --- I really can't
21 remember.

22 Q. You said they asked about methane monitors?

23 A. (Indicates yes).

24 Q. What did they ask you?

25 A. What was --- if I ever, I think, seen somebody

1 bridge one out or ever heard of anybody bridging them
2 out.

3 Q. Why do you think they asked that?

4 A. I guess --- I don't know.

5 Q. Have you ever heard of anybody bridging out a
6 methane monitor?

7 A. No.

8 Q. Isn't it common for methane monitors to
9 malfunction?

10 A. It's not very common.

11 Q. But it does happen?

12 A. Yeah, it does happen.

13 Q. Shuts down the machine?

14 A. Yeah.

15 Q. So you don't --- you have to bridge them if you
16 want to move --- say you got a continuous miner that's
17 in an awkward position. You want to move it to ---.

18 A. I'd say if it's --- if a sniffer is messed up on
19 it, if it's in a cut, then you'd probably want to ---.

20 Q. You'd bridge it out; right?

21 A. Well, not exactly.

22 Q. Tell us what you did, and if you did something
23 with it.

24 A. If it's --- shoot. I guess more like
25 troubleshooting.

1 Q. Okay. Explain to us how you --- so you want to
2 move the equipment. It's shut down because the
3 methane monitor has malfunctioned. There's no gas
4 problem. So what do you do?

5 A. I'm not real sure. I don't know exactly how you
6 would do it.

7 Q. Well, you've seen it done?

8 A. No.

9 Q. Do you know about a law that says if there's a
10 methane monitor malfunction, that you can bridge it
11 out and run the machine for 24 hours?

12 A. No, I never heard of that. I don't know if it's
13 true or not. You say it was a law?

14 Q. No. I'm asking. Did you hear of that?

15 A. No.

16 Q. What's your training about methane monitors, when
17 they --- either they gas off or they stop the machine
18 because the monitor is malfunctioning?

19 A. I think on the monitors they got --- well, I know
20 they got a label on it that says like F something, F
21 something is a problem, like F1 means this problem, F
22 something means that problem.

23 Q. And then what do you do? I mean, is that part of
24 your training as an electrician?

25 A. Oh, yeah. You start troubleshooting.

1 Q. Yeah. If there's a methane monitor that
2 malfunctions and needs to be replaced, have you ever
3 been in that situation?

4 A. I don't recall, but I'm not saying I never was.

5 Q. Did Massey lawyers ask you about this, what I'm
6 talking to you about? You said questions that we had
7 asked you are similar.

8 A. Yeah, like I ever seen one bridged out or heard of
9 it.

10 Q. But did they ask you about when the monitor
11 malfunctions, whether you've done that, whether you
12 --- you used the term, what is it, ---

13 A. Troubleshoot.

14 Q. --- troubleshooted in order to get it started up?
15 Did they ask you about that?

16 A. I really don't remember. I don't recall. I mean,
17 they may have, but that's been a month and a half ago.
18 It's hard to remember every detail.

19 Q. Sure. I understand. Did the Massey lawyers talk
20 to you about the possibility that you would be
21 interviewed by, you know, either this group or law
22 enforcement personnel?

23 A. Yeah. I don't know if they meant you all or the
24 law enforcement. They said might be contacted by
25 other people.

1 Q. And they said tell the truth; right?

2 A. Yeah. They said don't lie.

3 Q. Right, because it's important. And what else did
4 they say? If you don't remember, you say I don't
5 recall?

6 A. No, they never did say that.

7 Q. How did they talk to you about the possibility of
8 being interviewed by the government?

9 A. They said we have a right. If we needed, we could
10 be represented by a lawyer or have somebody with us.

11 Q. So you haven't, yourself, --- what was the term
12 you --- I'm sorry, the ---

13 A. You all's term is bridge it out.

14 Q. --- you troubleshoot.

15 A. My term, if it ever happens, we'd be
16 troubleshooting the problem to fix it.

17 Q. Sure.

18 A. But I never bridged one out.

19 Q. There was a story on National Public Radio this
20 morning about a monitor being bridged out at Upper Big
21 Branch, and a Massey spokesperson, Mr. Gillenwater I
22 think is his name, said --- didn't deny this happened,
23 but said it was to move equipment, as I'm suggesting
24 to you. So while you haven't troubleshot a methane
25 monitor, were you trained on how to do that in those

1 circumstances where it was necessary to move
2 equipment?

3 A. No. Nobody's ever showed me how to, you all's
4 term, to bridge one out.

5 Q. Well, I'm using your term.

6 A. No, nobody's ever showed me that.

7 Q. You doubt that --- strike that.

8 Would you think it's probable that's happened
9 occasionally at UBB, not because of ---?

10 A. I really don't know. I couldn't tell you.

11 Q. You never heard anybody talk about it?

12 A. No.

13 Q. Did Massey lawyers give any documents, give you
14 anything, their card?

15 A. They may have gave me a card, but I really don't
16 know if they did or not.

17 Q. What year did you start working at UBB?

18 A. I started in 2003 outside.

19 Q. So do you remember the methane floor burst that
20 happened at the mine that caused the mine to shut down
21 for a couple days shortly after you --- shortly after
22 you started working there?

23 A. Yeah, I really --- I remember the belts shut off
24 and we hollered at the mines, wondering why the belts
25 was shut off. And they said they turned them off.

1 And then from there on we just heard rumors and stuff.
2 I mean, we went to the mines and they said they
3 encountered a bunch of methane on the wall, on the
4 longwall.

5 Q. And it was shut down for a couple days, do you
6 recall that?

7 A. I think it was close to a week that I recall.

8 Q. Okay.

9 A. I mean, it might have just been a couple days, but
10 I'm thinking it was more like five days.

11 Q. Well, the reports say that happened twice, once in
12 July 2003 and once in February 2004. Does that square
13 with your recollection?

14 A. Close.

15 Q. And was that a matter of concern among people that
16 were working there; do you recall?

17 A. I really never did talk to the underground guys
18 there much. I'm sure it was.

19 Q. Sure. Who was the superintendent at that time?

20 A. I think Wendell Wills was the superintendent. I'm
21 not sure who the mine foreman was --- well, Donald
22 Kelly was the mine foreman.

23 Q. And Wendell Wills stayed the superintendent until
24 around 2007?

25 A. Yeah, right before I went underground he was the

1 superintendent.

2 Q. Do you have any relatives that work for Massey?

3 A. Yeah. Yeah, my brother does.

4 Q. And what's he do?

5 A. He's a roof bolter operator.

6 Q. At what mine?

7 A. UBB.

8 Q. How long has he been there?

9 A. I want to say he was there probably about eight
10 months.

11 Q. So he's fairly new. Is he a Massey employee
12 or ---?

13 A. Yeah, he's a Massey employee.

14 Q. Was he interviewed by the Massey lawyers?

15 A. I'm pretty sure he has been.

16 ATTORNEY WILSON:

17 What's your brother's name?

18 A. Steven Daniel.

19 BY MR. MCGINLEY:

20 Q. So you were sent to different places in the mine,
21 and the last --- was it the last week you were at
22 Headgate 22?

23 A. Tailgate 22.

24 Q. Or Tailgate 22, that's right. Do you know why
25 they sent you there?

1 A. The hoot owl crew that was on Tailgate 22, they
2 put them with the Headgate 22 crew to --- I think they
3 was going to a five on/three off schedule. So they
4 needed more men to make that schedule, and there was
5 Terry Claypool and Randy was kind of working outby,
6 and I was on the barrier section at the time, and they
7 just took those two guys, which I was previously
8 working with them, and they put me back with them on
9 Tailgate 22.

10 Q. So that was pretty common while you've been
11 working there to be switched around?

12 A. Yes, it was very common.

13 Q. Did you weld ---

14 A. Yeah.

15 Q. --- at any point?

16 A. No, I don't --- not on the Tailgate 22 section I
17 never did.

18 Q. Right. How often did you weld?

19 A. I would say once or twice a week.

20 Q. When did you start work on the hoot owl?

21 A. 11:30.

22 Q. And when would you usually come out? Did it vary?

23 A. Yeah. Most of the time it was between 8:00 ---
24 between 8:00 and 9:00.

25 Q. And how many days a week?

1 A. Most of the time it was six. Sometimes it was
2 five. We was supposed to work six on/five --- six on
3 --- or six days one week, five days the next, but a
4 lot of times it was mostly six days.

5 Q. With Sunday off?

6 A. Yeah. Saturday night is considered Sunday shift,
7 so it was more or less Saturday night.

8 Q. Was the primary rock dusting at UBB done on the
9 hoot owl shift?

10 A. They were supposed to rock dust on production.
11 And a lot of times they would come behind with the
12 section rock dust and the bulk duster, which gets it a
13 whole lot better, puts more dust on the section.

14 Q. You said you filled out work reports when you
15 became an electrician; is that right?

16 A. Uh-huh (yes).

17 Q. You have to say yes.

18 A. Yes.

19 Q. Was it a preprinted form that you wrote on?

20 A. Yeah.

21 Q. Did it have a heading that would say --- what did
22 it say?

23 A. I think it may have said Performance Coal,
24 something like that. I think it had some ---.

25 Q. Date?

1 A. Yeah, it had a place for your date and your name,
2 shift. I can't remember what else it had on there.

3 Q. A space for you to write down ---?

4 A. And on the left-hand --- on the paper, on the
5 left-hand side, they have a column for each piece of
6 equipment you worked on. And right beside of it they
7 have a place for what you done, work performed on that
8 piece of equipment. It had --- I think it had any
9 accidents, PMs completed, checks and all that stuff.

10 Q. And who instructed you on how to fill out that
11 form?

12 A. I don't think I was --- on the proper way to fill
13 it out or to do it?

14 Q. Let's try the proper way to fill it out.

15 A. Nobody has really ever told me the proper way to
16 fill it out.

17 Q. Okay. Who told you to fill out?

18 A. It's pretty much self-explanatory.

19 Q. Okay.

20 A. On the tailgate section, Terry, my boss, told me
21 to fill it out.

22 Q. When did you start filling out those reports?

23 A. I can't remember if I done it on the barrier
24 section before then. I have no --- I done a lot the
25 last year and I think I kind of --- I think I quit

1 doing them the first part of the year, and then I
2 think mostly started back doing it whenever I went to
3 Tailgate 22.

4 Q. Were you supposed to write down how much time you
5 spent making repairs?

6 A. I think they wanted you to, but I never did write
7 that. That's ---.

8 Q. Paperwork?

9 A. Yeah. It's hard to remember how long it took you
10 to do a job, too.

11 Q. Did you ever have the maintenance superintendent
12 talk to you about what you had written in the reports?

13 A. No.

14 Q. So it was you hand in the report and you never saw
15 them again?

16 A. No. They hung them up on the wall on a clipboard.

17 Q. What was the purpose of that, if you know?

18 A. I guess so the maintenance foreman can look at
19 them, the maintenance superintendent of the mines
20 could look at them, the other section guys could look
21 at them, the producing guys see what we done.

22 Q. And do you have any idea how long the report would
23 be hanging up there? Just that week or ---?

24 A. I think it was mostly --- I think weekly, because
25 with --- see, we did our PMs. We hung them up with

1 our PMs. Our PMs, I think at the end of each week
2 they would take them and I don't know what they done
3 with them then. I don't know if they faxed to
4 somebody or kept them in a drawer or what.

5 Q. For the record, can you explain the term PM?

6 A. It's preventive maintenance. They want you to do
7 certain little jobs to each piece of equipment.

8 Q. Do you have a list of preventive maintenance that
9 you're supposed to do for each piece of equipment?

10 A. Yeah. Like that one --- like one night you'll
11 have it for like the left miner you got to do this.
12 The right miner, you got to do this. Buggy, you got
13 to do whatever.

14 Q. And would they have a checklist or ---?

15 A. Yeah. Yeah. They want your initials and they
16 have an estimated time it takes to do each job.

17 Q. And did you put down --- oh, they estimated the
18 time?

19 A. Yeah. Like a job would take five minutes, 30
20 minutes, an hour.

21 Q. Were those time estimates accurate?

22 A. Most of them was.

23 SHORT BREAK TAKEN

24 ATTORNEY WILSON:

25 We're back on the record.

1 BY MR. MCGINLEY:

2 Q. Earlier you were talking about water up in the
3 Tailgate 22 section, and you described it fairly
4 specifically. There was water at the feeder, Number
5 One to Three, knee deep and so forth. You also said
6 there was water further outby. Can you describe that?
7 What's the location?

8 A. There was water I think a couple breaks outby in
9 the intake, and there were several waterholes outby in
10 the return.

11 Q. And how deep were those?

12 A. A couple of them was --- the one in the return
13 especially was almost a couple feet deep.

14 Q. Did people ever have to wear waders? Do you see
15 them wear waders?

16 A. No, they --- just boots.

17 Q. Did you know there were water conditions where
18 people had to walk through pretty high water that
19 required them to wear waders behind the longwall?

20 A. I really don't know.

21 Q. You were talking about Tailgate 22 in that week
22 you were there before the explosion and you were
23 talking about feeling vibration in your feet and you
24 were hearing noise in the top. You weren't sure, you
25 know, precisely where the noise was coming from, I

1 guess; is that right?

2 A. Yeah.

3 Q. I just want to clarify. You said a couple of
4 times. A couple of times a night? A couple of times
5 during the week you were there?

6 A. You could hear the top at least a couple times a
7 night. And I think the couple times I heard it or
8 felt it in the bottom was just a couple times that
9 week.

10 Q. Now, how long would that vibration last?

11 A. Not even a second.

12 Q. But it was strong enough that you noticed it and
13 you remembered it?

14 A. Oh, yeah.

15 Q. Did that concern you at all?

16 A. Yeah. Yeah, I had a little bit of concern about
17 it.

18 Q. Did that ever occur at other places in the mine
19 where you've worked at UBB?

20 A. Yeah. Let's see. I heard the top quite a bit
21 when I was on the tailgate section. And I really
22 wasn't on the headgate section that much.

23 Q. Which ---?

24 A. Headgate 22, which would have --- is the headgate
25 for the longwall.

1 Q. Okay. I just wanted to make sure which one you
2 were describing. You said the bottom raised up about
3 a foot or ---?

4 A. Yeah. It was raised up about a foot. I walked
5 across. I seen a place that was cracked and the
6 bottom had hooved up. It was about --- pretty much
7 about a foot ledge there.

8 Q. You said the doors --- you described the doors
9 in --- up there near the 22 Headgate as being good?

10 A. Yeah. They sealed pretty well.

11 Q. Other people described the doors --- some of the
12 doors in other areas as being banged up pretty bad and
13 holes in them.

14 A. Most of the bottoms of them was banged up pretty
15 bad, but I mean, they still shut and they still sealed
16 fairly well.

17 Q. Well, we've heard from a lot of people that there
18 were doors that you would close and you would walk
19 away and they would open again.

20 A. I never did experience that.

21 Q. Did any of the doors ever catch on the bottom?

22 A. On the rail?

23 Q. Yeah.

24 A. One going --- I think this one up here going from
25 the Headgate 22 to the tailgate, I think you just had

1 to pull it up just a little bit and it'd shut really
2 good.

3 Q. I just want to clarify the record in response to
4 one question about the air change that you said
5 occurred two --- three weeks or a month before that
6 happened. And you meant the explosion; is that right?

7 A. Yeah. Yeah, before the explosion.

8 Q. And at that time, when there was the air change,
9 you heard a discussion on the phone about checking the
10 air at the overcast?

11 A. Yeah. I think it was the safety director said he
12 was checking the air at the --- on the other side of
13 the overcast. I don't remember if he said it was
14 better, worse or what it was.

15 Q. Now, he was the one on the phone that you heard?

16 A. Yeah.

17 Q. And who was he talking to; do you know?

18 A. I'm not sure.

19 Q. Outside?

20 A. I don't know if he was talking to somebody else up
21 there helping him on the air change or who.

22 Q. And what's his name?

23 A. He's the main safety director. I don't recall his
24 name. Any other time I would know it.

25 Q. How often did you see him underground since you've

1 been working underground at UBB or whoever was his
2 predecessor, if there have been others?

3 A. He had an assistant guy helping him on the evening
4 shift. And where if I was on production, then I seen
5 his assistant about every shift underground. But him,
6 I'm not sure. He was on the dayshift. I was on the
7 hoot owl. I'd see him in the morning. Sometimes he'd
8 be dressed to go underground. Sometimes he'd be
9 walking upstairs to go to his office.

10 Q. About what time did you see him on this occasion
11 when the air change was made a couple weeks before the
12 explosion? What time? Do you have any recollection
13 on what time during your shift that was?

14 A. When he was up there making the air change?

15 Q. Yes.

16 A. Oh, it was --- I think it was around four o'clock
17 that morning, 4:00 to 5:00.

18 Q. I just want to clarify this. Have you ever seen
19 him underground before --- that's the ---.

20 A. Before the explosion.

21 Q. Well, yeah, at any time you're working there.
22 You're usually working on the dayshift. I'm trying to
23 figure out whether that was unusual or not. And I
24 wouldn't mean it's unusual that you --- just because
25 you haven't seen him. I'm just wondering what your

1 experience was.

2 A. Was you asking if I seen him?

3 Q. Yeah. Did you ever see him underground during the
4 hoot owl shift before?

5 A. Oh, not on the hoot owl shift.

6 Q. But that was the only time you ever saw him?

7 A. I didn't see him. I heard him on the mine phone.

8 Q. Who was talking? Did you see whoever was talking
9 on the phone, if they were near you?

10 A. No. There was a phone in the electricians'
11 office, and I heard him holler and I picked it up.

12 Q. So you were outside?

13 A. Yeah, I was outside.

14 Q. Okay. I got you. What safety problems have you
15 reported to the management over the time you've worked
16 underground?

17 A. I don't think I've ever reported any to the
18 management.

19 Q. What safety problems have you seen?

20 A. Just mostly ribs rolling. That was on the
21 tailgate, on the tailgate section for the
22 longwall, ---

23 Q. Twenty-two (22)?

24 A. --- when they was driving it? Actually, that
25 would be Tailgate 21, I believe.

1 Q. Okay. So other than that, you never saw a safety
2 problem?

3 A. I'm sure I've probably seen a number of safety
4 problems, but that was probably the worst one, the one
5 that stood out the most.

6 Q. How bad was it?

7 A. Oh, it was pretty bad. Ribs almost an entry long
8 would roll out, and it was --- it was a common thing.
9 It was every day.

10 Q. Are you familiar with the terms S1 and P2?

11 A. (Indicates yes).

12 ATTORNEY WILSON:

13 Yes?

14 A. Yes.

15 BY MR. MCGINLEY:

16 Q. What do they mean?

17 A. Safety first, production second, and then you got
18 management third. That was M3.

19 Q. Did you ever see an S1 safety manual?

20 A. S1 safety manual? I don't know about a safety
21 manual, but we've got S1 safety sheets we got to fill
22 --- well, we sign safety talks. I don't believe I've
23 ever seen an S1 manual.

24 Q. Did you ever hear of an S1 safety manual?

25 A. I don't know if I ever heard of one or not.

1 Q. You don't recall ---

2 A. No.

3 Q. --- whether you heard ---?

4 A. No.

5 Q. So other than safety first, what else does S1
6 mean?

7 A. Safety first.

8 Q. Just a slogan? A good idea?

9 A. (Indicates yes). Be safe.

10 Q. Did you work on Easter weekend before the
11 explosion?

12 A. No.

13 Q. What days did you have off, if you recall?

14 A. I had off --- I was off Friday, Saturday and
15 Sunday, which would have been Thursday night, Friday
16 night and Saturday night.

17 MR. MCGINLEY:

18 That's all the questions I have for you.

19 Thanks.

20 RE-EXAMINATION

21 BY MR. FARLEY:

22 Q. If I understood your testimony correctly, you had
23 been working on the barrier section during February of
24 this year; is that correct?

25 A. I believe that was still at the time where I was

1 getting moved around.

2 Q. Okay.

3 A. I think I started permanently on the barrier
4 section I think around the first part of March. It
5 might have been the end of February or first part of
6 March.

7 Q. Okay. Now, during the month of March where would
8 you have worked underground?

9 A. The barrier section.

10 Q. Oh, excuse me. During the month of February,
11 where would you have worked?

12 A. Portal section and barrier section, but mostly
13 portal section. The barrier section, I believe, was
14 done. We was doing --- moving the section, I believe,
15 during that month.

16 Q. Okay.

17 A. And I might have been on the tailgate section a
18 couple of nights.

19 Q. Now, was there a company holiday around the middle
20 of February called ---?

21 A. Massey Appreciation Day?

22 Q. Yes.

23 A. Yeah. I'm pretty sure it was in February. It
24 might have been in January.

25 Q. Okay. Now, is that a regularly-scheduled holiday

1 for Massey employees?

2 A. I know we had it off last year. I think it was
3 --- I think it was Valentine's weekend. I think it
4 was that Monday after Valentine's Day.

5 Q. Okay. Could it have been around the 13th of
6 February?

7 A. I think it was more like the 15th or ---.

8 Q. Okay.

9 A. I don't know. What day was --- was Valentine's
10 Day on Sunday this year?

11 Q. Lord, I don't know.

12 A. If it was, it would have been the 15th.

13 Q. Do you recall if you worked on that holiday?

14 A. No, I didn't work it.

15 Q. Do you know if anybody else worked on that
16 holiday?

17 A. I think the headgate section did.

18 Q. Okay. Do you know if anybody worked on the
19 barrier section that day?

20 A. I don't believe so.

21 Q. Okay. Now, the holiday, which you think was on a
22 Monday, right, ---

23 A. (Indicates yes).

24 Q. --- do you know if anybody would have worked on
25 the 13th of February?

1 MR. MCGINLEY:

2 That was a Saturday.

3 ATTORNEY WILSON:

4 The 14th was a Sunday.

5 A. Okay. Yeah, nobody --- I'm pretty sure nobody
6 worked on the barrier section on the 13th.

7 BY MR. FARLEY:

8 Q. How do you know that?

9 A. I know I didn't work it for the 13th. We was all
10 supposed to have been off that weekend.

11 Q. Okay.

12 A. But there may have been a fire boss on that
13 section that day. I don't know.

14 Q. Okay.

15 A. But to my knowledge, nobody worked it.

16 Q. Did you ever work with an electrician named George
17 Holtzapfel?

18 A. Oh, I know a guy, an electrician, George, but I
19 don't know if his last name is Holtzapfel. Was he on
20 the barrier section?

21 Q. He could have been. Probably was.

22 A. I don't know if that was his last name or not. I
23 know there's an electrician named George on the
24 barrier section, but I don't know if his last name ---
25 if that was him or not.

1 Q. Have you worked with him at any time this year?

2 A. He was on production. I was on the hoot owl. We
3 just pretty much just passed each other on shift
4 change.

5 Q. Okay. Did you ever work a dayshift on the barrier
6 section ---

7 A. No.

8 Q. --- this year?

9 A. No.

10 Q. Okay. Did George Holtzapfel ever work a midnight
11 shift on the barrier shift, as far as you know, ---

12 A. No.

13 Q. --- when you were there?

14 A. No.

15 Q. Did you ever work with Rick Brown?

16 A. I don't believe.

17 Q. Mike Richards?

18 A. Let me see. The guys on the barrier section, the
19 hoot owl move crew, I don't know any of their names,
20 so I don't know if that's them or not.

21 Q. Okay.

22 A. But George Holtzapfel, was he an electrician?

23 Q. Yes.

24 A. Okay. I don't know.

25 Q. We believe a dayshift electrician on the barrier

1 section. What about Kevin Lambert, did you ever work
2 with him?

3 A. Yeah, I'm pretty sure. Yeah. Yeah. I know who
4 Kevin is.

5 Q. Where did you work with Kevin at?

6 A. He was on the barrier section. He was on the hoot
7 owl.

8 Q. Okay.

9 A. Then he got moved, I think, to evening shift
10 outby ---

11 Q. Okay.

12 A. --- about a week or two --- about two weeks before
13 the explosion.

14 Q. Okay. What about Brandon Davis, the section
15 foreman, did you ever work with him?

16 A. No.

17 Q. Any of the people I just mentioned, Brown,
18 Richards, Lambert, Davis, do you know any of them
19 personally? Did you ever talk to them away from the
20 job?

21 A. No. I seen Kevin at Walmart one time. It was
22 about ---.

23 Q. Okay.

24 A. But I don't know any of them personally.

25 Q. What about George?

1 A. Well, if it's the same --- if it's the electrician
2 up there, George, I don't know him personally. He
3 just says he knows some of my family, and we talk
4 about that at the jobsite. But personally, no.

5 Q. Okay. Do you know an outby maintenance foreman by
6 the name of Snow?

7 A. Keith Snow, yeah.

8 Q. Was he ---?

9 A. He was my boss on the barrier section.

10 Q. Okay. All right. On the midnight shift?

11 A. Yeah, on the midnight shift.

12 Q. Okay. Was he sometimes called Snowman?

13 A. Yeah.

14 Q. All right. Now, from conversations with any of
15 the people I mentioned or anybody else, did you ever
16 hear anything about an event on February 13th on the
17 barrier section where there was a problem with a
18 continuous mining machine and a methane monitor?

19 A. No, I never heard of it.

20 Q. Nothing?

21 A. No. I thought --- I thought we was off that
22 Saturday.

23 Q. I don't know. Apparently not everybody was.

24 Okay. But if I have got you correctly, you did not
25 work on February 13th?

1 A. I thought it was a three-day weekend. I don't
2 recall working that day. I might be mistaken.

3 Q. Okay. All right. You know, if you wouldn't mind,
4 check your ---

5 A. Paystub.

6 Q. --- paystubs and records and see if you did
7 actually worked that day or if you recall anything
8 about anyone else working that day.

9 A. Okay. I can check my paystub. It will --- I'll
10 find out then if I worked that day or not.

11 Q. Now, again, from conversations with any of those
12 people or with anyone else, did anybody talk and
13 discuss repairs made that day or troubleshooting done
14 that day regarding a methane monitor on a continuous
15 miner on the barrier section?

16 A. No. No, I never --- no, I never heard nothing
17 about that.

18 Q. Okay.

19 RE-EXAMINATION

20 BY MR. MAGGARD:

21 Q. When you were working on the barrier section, did
22 you do your preventative maintenance records? Did you
23 have to fill those out?

24 A. Yes.

25 Q. So is that something that every electrician on

1 that section would have had to do?

2 A. Yeah.

3 Q. Okay. You mentioned that, you know, if a methane
4 monitor had F1, F9, you would --- that would be an
5 indication that there was some kind of problem with a
6 methane monitor?

7 A. Yeah. It tells --- like F1 means this is the
8 problem. F-something means that's the problem. Just
9 lets you know what the problem was.

10 Q. And you've been an electrician for about a year
11 and a half; right?

12 A. Uh-huh (yes).

13 Q. Have you ever recalled ever seeing an F alarm come
14 up on a methane monitor?

15 A. I don't recall seeing one.

16 Q. But you know about that?

17 A. Yeah.

18 Q. And how do you know about that?

19 A. Where it's wrote on the readout.

20 Q. Okay.

21 A. Now, if you was to go and find one that had an F
22 whatever that said that the sensor needed to be
23 replaced or the whole module ---

24 A. Readout.

25 Q. --- readout needed to be replaced, would that be

1 something that you would put in your preventative
2 maintenance report to send back outside to show what
3 you did that night?

4 A. On a regular report I would, not on the PMs.

5 Q. Okay. So there's two different reports?

6 A. Yeah.

7 Q. There's a PM report and a maintenance report?

8 A. Uh-huh (yes).

9 Q. Okay.

10 ATTORNEY MCGINLEY:

11 You have to say yes or no.

12 A. Oh, yes.

13 BY MR. MAGGARD:

14 Q. Okay. I know you worked third shift. Who was
15 over you as far as the electricians --- who was over
16 outby work on the third shift and who was over the
17 barrier section?

18 A. Okay. Outby was Billy Graham and Greg
19 Shrewsberry. They I think --- Billy was the main
20 chief on outby. And on the barrier section, was Keith
21 Snow. He was the boss up there.

22 Q. Okay. What about on the dayshift, who would that
23 have --- or on the evening shift, who would have been
24 --- instead of Keith or instead of Billy Graham, who
25 would have been the chief then?

1 Q. On the outby?

2 A. Yeah, and the barrier section as well.

3 Q. They didn't have no chiefs for each section on the
4 evening section. They had just one chief, John
5 Henline. He was the outby chief. I don't know if he
6 --- well, I don't know if he was the outby chief or
7 just outby. I don't know what they had him labeled,
8 but he pretty much was the outby chief.

9 Q. What about dayshift?

10 A. I believe --- I believe Donut, David Taraczkozy,
11 was the chief up there.

12 Q. Was Donut a type of guy that would go underground
13 a whole lot or ---?

14 A. Yeah, I seen him underground on several occasions.

15 Q. And would he come --- would you see him before you
16 left on --- from the midnight shift ---

17 A. Yeah.

18 Q. --- underground or ---?

19 A. There's several times I seen him underground, but
20 most of the time I seen him outside at the end of my
21 shift.

22 Q. And how many guys would like Donut or Henline have
23 working for them, you know, doing things outby or on
24 the --- wherever? How many guys worked directly for
25 them?

1 A. John Henline had one guy work directly for him.
2 David Taraczkozy, he just --- just himself.

3 Q. Just himself?

4 A. Yeah.

5 Q. Did Henline or --- he tell you what needed to be
6 done that midnight shift whenever you come in? Who
7 told you what --- outside what you all needed to be
8 working on ---

9 A. Terry ---.

10 Q. --- when you was working the barrier section?

11 A. On the barrier section, Snow. I usually --- Snow
12 would be coming down in the warehouse and I would be
13 walking in there, too, and he would tell me what we
14 was doing that night.

15 Q. And who would tell him?

16 A. He usually had a note ---

17 Q. Okay.

18 A. --- from Donut.

19 Q. From Donut?

20 A. Yeah.

21 Q. Do you ever recall any methane monitor problems on
22 the barrier section ---

23 A. No.

24 Q. --- at all?

25 A. No, I don't recall any.

1 Q. Okay. But if you did and you worked on it, you
2 would fill out a report on that; ---

3 A. Yeah.

4 Q. --- is that correct?

5 A. Yes.

6 Q. Let me ask you something about --- I know you come
7 from the portal section. Was they moving equipment
8 out on the portal section? What was going on over
9 there?

10 A. I'm not sure exactly what they was doing. I know
11 that --- I really don't know --- I know they was
12 setting up, which --- up on what they call LBB. They
13 was setting up there, but I don't think they was
14 moving any of the equipment off the portal section up
15 to there.

16 Q. Okay.

17 A. I'm not sure exactly what ---.

18 Q. When was the last time you was on the portal
19 section; do you know?

20 A. That was --- I was on there --- I think I worked a
21 night up there about a month before the explosion, a
22 month and a half. I think they --- I think I had to
23 go up there. I think they had a bunch of stuff they
24 had to do and just needed an extra guy.

25 ATTORNEY WILSON:

1 While you're looking at your notes, let
2 me just ask ---. Your brother, what shift did he
3 work?

4 A. He worked evening shift.

5 ATTORNEY WILSON:

6 And on what section?

7 A. Tailgate 22.

8 ATTORNEY WILSON:

9 Thank you.

10 BY MR. MAGGARD:

11 Q. You was talking about Tailgate 22, that night
12 before the explosion on the 5th, that it had plenty of
13 air?

14 A. Uh-huh (yes).

15 Q. You worked up there like five days in a row or
16 six?

17 A. No, not in a row. I think I started up there that
18 Monday before, ---

19 Q. Yeah.

20 A. --- then we was off those three days, and we come
21 back Sunday night.

22 Q. From the time that you started up there until the
23 night of the explosion, did you notice an improvement
24 in the air or more air ---

25 A. No, ---

1 Q. --- possibly?

2 A. --- I honestly didn't notice I don't think any
3 improvements. I think it was about the same the whole
4 time.

5 Q. About the same? Okay.

6 EXAMINATION

7 BY ATTORNEY WILSON:

8 Q. So your brother worked the same section you did,
9 just the evening shift; is that right?

10 A. Yeah.

11 Q. Did you ever have conversations with him about
12 work or about the conditions up on that section?

13 A. Yeah. I usually talked to him about what they run
14 and stuff like that. He really never did say a whole
15 lot about the conditions or anything.

16 Q. He never mentioned any problems with the
17 ventilation or anything else?

18 A. No. No, he never mentioned that, which it's kind
19 of hard to talk to him where he's on the evening and
20 I'm on hoot owl. It's usually ---.

21 Q. Right. One of you is either at work or sleeping?

22 A. Yeah. I usually --- I might be able to catch him
23 on a weekend. I talk to him about once a week.

24 ATTORNEY WILSON:

25 Terry, do you have anything further?

1 MR. FARLEY:

2 No.

3 ATTORNEY WILSON:

4 Pat?

5 RE-EXAMINATION

6 BY MR. MCGINLEY:

7 Q. I'm just curious. You were talking about this ---
8 the idea of bridging out methane monitors, and you
9 referred --- you said, well, you call it bridging out.
10 I call it troubleshooting; is that correct? I mean,
11 do I understand you correctly?

12 A. Well, do you mean to make it run ---

13 Q. Yes.

14 A. --- illegally and stuff?

15 Q. No.

16 A. Just to make it run?

17 Q. Yeah.

18 A. That would be --- yeah, that would be --- my term
19 would be troubleshooting to figure out what the
20 problem is, why it's not running.

21 Q. Is that a term --- you know, is that a term that
22 generally the electricians at UBB use for that type of
23 thing?

24 A. I never really heard anybody talk about it a whole
25 lot hardly at all.

1 Q. But some?

2 A. Maybe a couple times. We really never --- as far
3 as I know, we really never did have that problem very
4 often.

5 Q. You said very often. I mean, that suggests that
6 it happens occasionally.

7 A. Yeah.

8 Q. But it's never happened in your presence, ---

9 A. No.

10 Q. --- the legal troubleshooting?

11 A. No, not the illegal ---.

12 Q. The legal ---.

13 A. Oh, the legal troubleshooting? No, we had a --- I
14 went up on --- where they was down here and changed
15 the readout, but that was --- nothing was bridged out
16 or anything like that. They told me --- the boss
17 said, change this out. I said okay. I put it in,
18 calibrated it and everything was fine. But it wasn't
19 nothing on production. It wasn't no F signals or
20 nothing like that.

21 Q. Would you know how to troubleshoot it to get the
22 machine working again if the monitor simply
23 malfunctioned?

24 A. I don't know. I'd probably have to look in --- I
25 would probably have to look at a print or something to

1 see what it was, which ones you have to --- what you'd
2 have to do to jumper it out or bridge it out.

3 Q. Or you could call somebody?

4 A. Yeah, you could call somebody. I'm sure somebody
5 there probably would know the troubleshooting
6 technique to get it to run.

7 MR. MCGINLEY:

8 That's all the questions I have.

9 RE-EXAMINATION

10 BY MR. MAGGARD:

11 Q. And who's the go-to people, in your opinion, I
12 mean, if you ---?

13 A. On the hoot owl?

14 Q. Yeah. Let's just say you was there and you wanted
15 to know how something is wired up like that or
16 anything else, who was a good person to go to?

17 A. On the hoot owl it would be Billy Graham or Greg
18 Shrewsberry. Terry Claypool is smart, too. He would
19 be a go-to guy.

20 Q. What about on dayshift or evening shift?

21 A. Evening shift, John Henline. Dayshift, Donut,
22 Virgil, Tom, Rick Nicolau. Any of them would be a
23 good source to figure something out.

24 Q. The PMS that you guys do, is that a part of the P2
25 program?

1 A. I'm not sure if it's --- yeah, I'd say it is ---

2 Q. Have you seen ---?

3 A. --- because they've got like I think a P2 manual
4 and it's got all kinds of ---.

5 Q. So have you read the P2 manual?

6 A. No, I've never read it. I just heard --- could
7 hear people talking, this is in the P2, this is P2,
8 that's P2.

9 Q. Do they have safety PMs that they do, like you've
10 got to go out and pick up trash, go out and check man
11 doors, just something --- you know, ---

12 A. No. Ours was mostly on ---.

13 Q. --- any kind of safety PM?

14 A. Ours is on equipment, like make sure canopy bolts
15 are tight, like frame, if it's broke, stuff like that,
16 or cracked.

17 Q. Thank you.

18 ATTORNEY WILSON:

19 Terry, any follow up?

20 MR. FARLEY:

21 No, none.

22 ATTORNEY WILSON:

23 Okay. Then I think we're through

24 questioning. I want to again thank you for coming in

25 today on behalf of MSHA and the Office of Miners'

1 Health, Safety and Training. Your cooperation is very
2 important as we work to determine the cause of the
3 accident. Again, I'll remind you we request that you
4 not discuss your testimony with anyone, including your
5 brother, because we will be interviewing additional
6 witnesses. After questioning other witnesses, we may
7 have some follow-up questions and may contact you.
8 And in the meantime, if you have any additional
9 information, such as your timesheet information back
10 in February, please contact either the State or MSHA
11 at the contact information that was provided.

12 Before we finish and go off the record, I
13 told you I'd give you an opportunity, if there's
14 anything else that you think is important that you
15 would like to let us know about or if you want to ---
16 would like to make any kind of a statement, you can do
17 that now.

18 A. No, there's nothing.

19 ATTORNEY WILSON:

20 Okay. Then, again, I want to thank you
21 for coming in this morning. We'll go off the record.

22 * * * * *

23 STATEMENT UNDER OATH CONCLUDED AT 10:15 A.M.

24 * * * * *

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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