



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Patrick Lomas

Date: July 15, 2010

Case:

Printed On: July 23, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
PATRICK LOMAS

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 1:22 p.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

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

2

3 ERIK SHERER

4 Mine Safety and Health Administration

5 1100 Wilson Boulevard

6 Arlington, VA 22209-3939

7

8 PATRICK C. MCGINLEY

9 West Virginia Independent Investigation

10 West Virginia University College of Law

11 P.O. Box 6130

12 Morgantown, WV 26506-6130

13

14 NORMAN PAGE

15 Miner Safety and Health Administration

16 100 Fae Ramsey Lane

17 Pikeville, KY 41501

18

19

20

21

22

23

24

25

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	7 - 12
5	STATEMENT	
6	By Mr. Farley	12
7	STATEMENT	
8	By Mr. McGinley	13
9	DISCUSSION AMONG PARTIES	13 - 15
10	WITNESS: PATRICK LOMAS	
11	EXAMINATION	
12	By Mr. Sherer	15 - 61
13	EXAMINATION	
14	By Mr. Farley	61 - 72
15	EXAMINATION	
16	By Attorney Wilson	72
17	EXAMINATION	
18	By Mr. McGinley	72 - 75
19	RE-EXAMINATION	
20	By Attorney Wilson	75
21	RE-EXAMINATION	
22	By Mr. McGinley	75 - 87
23	RE-EXAMINATION	
24	By Mr. Sherer	87 - 89
25		

I N D E X (cont.)

1		
2		
3	CLOSING STATEMENT	
4	By Attorney Wilson	89 - 90
5	DISCUSSION AMONG PARTIES	90 - 91
6	RE-EXAMINATION	
7	By Attorney Wilson	91 - 92
8	RE-EXAMINATION	
9	By Mr. Sherer	92 - 93
10	CERTIFICATE	94
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4		NONE OFFERED	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an investigator with the Mine Safety and Health Administration. Also present are officials with the State of West Virginia.

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. MCGINLEY:

I'm Patrick McGinley with the Governor's Independent Investigation Team.

ATTORNEY WILSON:

And today is July 15, 2010 and we're here to conduct an interview of Patrick Lomas. All members of the Mine Safety Health Administration Accident Investigation Team and all members of the State of West Virginia Accident Investigation Teams 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 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.

9 This confidentiality requirement shall
10 not preclude investigators 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 maintain
14 confidentiality.

15 Mr. Lomas, government investigators and
16 specialists have been assigned to investigate the
17 conditions, events and circumstances surrounding the
18 explosion that occurred on April 5th, 2010 in the
19 Upper Big Branch Mine-South. 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. Lomas, you may have an attorney or

1 another --- other personal representative present with
2 you during the taking of your statement. Do you have
3 an attorney or representative?

4 MR. LOMAS:

5 No, I don't.

6 ATTORNEY WILSON:

7 Your statement is completely voluntary.

8 You may refuse to answer any question and you may
9 terminate your interview at any time. This is not an
10 adversarial proceeding; it's a fact gathering
11 exercise. Formal Cross Examination will not be
12 permitted, but each of the parties will be asking
13 follow-up questions.

14 Your identity and the content of this
15 conversation will be made public at the conclusion of
16 the interview process and may be included in a public
17 report of the accident unless you request that your
18 identity remain confidential or if your information
19 would otherwise jeopardize a potential criminal
20 investigation. If you request us to keep your
21 identity confidential, we will do so to the extent
22 permitted by law. In other words, if a judge orders
23 us to reveal your name or some other law requires it,
24 we'll have to do so.

25 There may also be a need to use the

1 information that you provide to us or other
2 information that you may provide in the future in
3 other investigations or in hearings concerning the
4 explosion. Do you understand your right to request
5 confidentiality?

6 MR. LOMAS:

7 Yes.

8 ATTORNEY WILSON:

9 All right. Do you have any questions
10 about that?

11 MR. LOMAS:

12 No.

13 ATTORNEY WILSON:

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

24 A court reporter will record your
25 interview. Please speak loudly and clearly. If you

1 do not understand a question, please ask that the
2 question be rephrased.

3 MR. LOMAS:

4 Okay.

5 ATTORNEY WILSON:

6 Please answer each question as fully as
7 you can, including any information that you may have
8 heard from someone else.

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

14 After we have finished asking questions,
15 we will provide you with an opportunity to add any
16 additional information to the record that you believe
17 would be helpful to the investigation. At that time
18 you may also make any type of a statement if you so
19 desire.

20 If after the interview you recall any
21 additional information that you think might be
22 helpful, you can contact MSHA at the contact
23 information that was listed in the letter that we sent
24 to you. And Mr. Farley will give you some contact
25 information for the State. You can contact them as

1 well. Terry, do you want to add anything?

2 MR. FARLEY:

3 Yes. Patrick, on behalf of the Office of
4 Miners' Health, Safety and Training I'd like to advise
5 you that the West Virginia Coal Mine Health and Safety
6 Regulations, specifically West Virginia Code Chapter
7 22(a), Article One, Section 22 provide protection for
8 miners against potential discrimination for
9 participating in these types ---

10 MR. LOMAS:

11 Yes, yes.

12 MR. FARLEY:

13 --- of investigative interviews. I want
14 to give you a short memo here with some contact
15 information for the West Virginia Board of Appeals
16 which hears complaints regarding discrimination.
17 Also, you have my phone number and a phone number for
18 Mr. Bill Tucker, who's our lead underground
19 investigator. And we caution you that in the event
20 that you should have a problem, you would need to file
21 a claim within 30 days of that problem.

22 MR. LOMAS:

23 Yes.

24 MR. FARLEY:

25 All right.

1 ATTORNEY WILSON:

2 Pat?

3 MR. MCGINLEY:

4 I'd just add that before we were on the
5 record you mentioned your willingness to be open and
6 talk truthfully ---

7 MR. LOMAS:

8 Yes.

9 MR. MCGINLEY:

10 --- to us, and that's really important,
11 because we've got families that are wanting to have
12 some answers, and that's what we're trying to do.

13 MR. LOMAS:

14 Okay.

15 MR. MCGINLEY:

16 So I really appreciate that, that you
17 recognize that.

18 MR. LOMAS:

19 Yes, sir.

20 ATTORNEY WILSON:

21 All right. Mr. Lomas, would you face the
22 court reporter and allow her to swear you in?

23 -----

24 PATRICK LOMAS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
25 AS FOLLOWS:

1 -----

2 ATTORNEY WILSON:

3 Would you please state your full name for
4 the record?

5 A. It's Patrick Proud Lomas.

6 ATTORNEY WILSON:

7 And would you give us your address and
8 telephone number, please?

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

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

11 ATTORNEY WILSON:

12 All right. And I'll just remind you. We
13 talked about this off the record. You know, if you're
14 referring to the map, please identify what it is that
15 you're referring to.

16 A. Yes, sir.

17 ATTORNEY WILSON:

18 And also, try to keep in mind that, you
19 know, just shaking your head or saying uh-huh ---

20 A. Yes.

21 ATTORNEY WILSON:

22 --- isn't going to show up on the
23 transcript, so please, you know, speak out all of your
24 answers.

25 A. Yes, sir.

1 ATTORNEY WILSON:

2 Okay. So I'm going to turn it over to

3 Mr. Erik Sherer to begin the questioning.

4 MR. SHERER:

5 Thank you.

6 EXAMINATION

7 BY MR. SHERER:

8 Q. First of all, I want to thank you for coming by
9 this afternoon.

10 A. Yes.

11 Q. This is extremely important to our investigation.
12 Pat mentioned that we're doing this to provide closure
13 to the families. The other reason that we're
14 investigating this accident is we want to make sure
15 that this never happens again. It's the worst mining
16 disaster probably since the '60s, and we got to figure
17 out what happened so we can take the steps we need to
18 prevent it in the future. Are you appearing here
19 today voluntarily?

20 A. Yes.

21 Q. Has anyone else interviewed you or reviewed the
22 accident with you?

23 A. Yes. The first was the --- I forget the name of
24 the inspectors. They were special inspectors from
25 MSHA come to my house. And I asked them for a copy of

1 the notes also.

2 Q. Sure.

3 A. And they let me just make a photocopy of their
4 notes right there. I have those that I can --- I
5 don't think there'll be anything on those that won't
6 be on this today, but if you'd like, I could ---.

7 Q. No, no.

8 A. Okay.

9 Q. That's all right. That's okay.

10 A. And also, the company lawyers called in just to
11 --- called me in just to also look for --- you know,
12 talk about it, if there was anything I knew and seen
13 or anything I can help them understand the accident
14 better.

15 Q. These lawyers were representing Massey?

16 A. Yes.

17 Q. Do you recall when that interview took place?

18 A. That was approximately maybe two to three weeks
19 after the accident, probably three weeks after the
20 accident.

21 Q. Okay. Where'd that take place?

22 A. They had sent me down to Aracoma to work briefly
23 after the accident happened. And in that week, during
24 that week and a half that I was there, we were at the
25 safety building in Aracoma.

1 Q. Okay. How many lawyers interviewed you?

2 A. It was just the one speaking with me, but they had
3 a few others and spoke to all of us separately, so
4 each person had probably one with them.

5 Q. About how long did that interview last?

6 A. Probably about an hour and a half, sir.

7 Q. Okay. Do you recall what sort of questions they
8 asked you?

9 A. They pretty much just asked me mostly about my
10 job. I work on the leaky feeder, the tracking
11 communication system in the mine, ---

12 Q. Okay.

13 A. --- and not many people know a lot about the
14 system, so I think most --- most questions were
15 curiosity-based, sir.

16 Q. Sure. You can count me on that list, too.

17 A. That's what I assumed, sir.

18 Q. Thank you. Okay. How many years of mining
19 experience do you have?

20 A. Approximately five. I started in 2005, sir.

21 Q. Where'd you start at?

22 A. At Marfork Coal.

23 Q. Okay. Have you worked the entire time for the
24 Massey Corporation?

25 A. No, I briefly worked at Newtown Energy.

1 Q. Okay.

2 A. They have a name that everybody recognizes better
3 than that, Kanawha Eagle.

4 Q. Okay, sure.

5 A. I worked there for about a week and a half, two
6 weeks.

7 Q. Okay. But most of it was through Massey?

8 A. Yes, sir. Yeah.

9 Q. When did you start at the Upper Big Branch Mine?

10 A. About a year and a half ago. I think it was the
11 beginning of 2009.

12 Q. Have you done anything else in this mine besides
13 work on the communications system?

14 A. Yes, sir. I was an outby electrician on the
15 evening shift ---

16 Q. Okay.

17 A. --- for approximately one year ---

18 Q. Okay.

19 A. --- before I --- I'd just started the tracking
20 communication system about the beginning of this year.

21 Q. Okay. How long have you been an electrician?

22 A. Four --- three to four years, sir.

23 Q. Okay. Do you have any other certifications or
24 papers?

25 A. Yes, sir. I'm an assistant foreman and dust

1 sampler ---

2 Q. Sure.

3 A. --- color and other --- that's about it.

4 Certified welder.

5 Q. Okay. Very experienced individual.

6 A. I try to keep myself diverse, sir.

7 Q. That's great. So your primary duties since the

8 first of the year or so has been working on

9 communications?

10 A. Yes.

11 Q. Have you installed the leaky feeder system

12 throughout the mine or did you install it?

13 A. When I started it, the system was pretty much ---

14 I would say 95 percent installed. As sections were

15 advancing we would have to, you know, advance the line

16 up with it.

17 Q. Sure.

18 A. But none --- the communications system was all

19 installed. The tracking system is --- we pretty much

20 just started installing when I took it in, when I took

21 over.

22 Q. Okay. So you're saying that the communication

23 system covered about 95 percent of the active ---

24 A. Yes.

25 Q. --- part of the mine?

1 A. Yes, sir.

2 Q. Roughly what percentage of the mine was covered by
3 the tracking system? Do you know?

4 A. When I started, zero.

5 Q. Zero; okay.

6 A. Maybe --- well, maybe five percent.

7 Q. Okay. What percentage of the mine was covered at
8 the time of the explosion? Do you know? Or just make
9 a rough guess.

10 A. It's tough to say, because we try to cover as
11 broadly as we could. And then once we had it
12 generally covered, we would fine tune it and break it
13 up into smaller areas and be able to track more
14 efficiently. I would say probably 60 percent, 70
15 percent complete.

16 Q. Okay. That's pretty good coverage for probably
17 about three and a half, four months.

18 A. Yes, sir. It was long, long shifts when I took
19 over.

20 Q. I imagine so. I'm impressed. I'm going to ask
21 you some general questions about the mine.

22 A. Yes, sir.

23 Q. You're in a unique position to help us because you
24 probably visited as many parts of the mine or are as
25 familiar with the mine as almost anybody ---

1 A. Yes.

2 Q. --- I guess. Would you tell us about the time
3 period from about the first year when you started
4 working on communication up to the time of the
5 explosion? Did you notice any major changes in
6 anything that went on at the mine?

7 A. I assume you're referring to air changes, and then
8 there were ---- I'm trying to think. The whole time
9 that I had been doing it, I know they have made a few
10 air changes, because whenever --- the tracking
11 communications system needs to be maintained in the
12 primary and secondary escapeways.

13 Q. Sure.

14 A. So whenever they would change the intake, we would
15 have to know, because we would have to change our line
16 as well.

17 Q. Sure.

18 A. And I know the air change at the --- I'll be
19 specific, at the mouth of the longwall section, what
20 you would call it, maybe Five Break on ---

21 Q. Okay. Why don't you ---

22 A. --- Headgate One North.

23 Q. --- refer to that area as the Mother Drive?

24 A. Yeah, the Mother Drive area. Well, the Mother
25 Drive would be back here, sir, but ---

1 Q. Yeah, okay. So you were a little inby the ---?

2 A. --- the intake split is what I would always call
3 it, the intake split for the longwall and the miner
4 section.

5 Q. Uh-huh (yes).

6 A. It was right here at this point where this
7 crossover for Headgate 22 section was, is where the
8 intake split was, and then they moved it back there.
9 That way it would run up this way instead of --- that
10 way it would run up past the Glory Hole way as opposed
11 to coming up the longwall way.

12 Q. Okay.

13 A. Or the --- you'll have to excuse me.

14 Q. No, you're doing a great job. They made that
15 change to the intake split and just the general
16 ventilation, I would guess. Do you recall about when
17 they made that change?

18 A. I can't be very specific about when exactly it
19 was, sir. I am assuming --- I'm going to try to get
20 as close as I can.

21 Q. Sure. Just middle of February, end of February?

22 A. I'm thinking --- I was thinking somewhere in
23 February, maybe early March, maybe late February,
24 middle February.

25 Q. Okay. That's good enough for what we're doing.

1 So you were up in there changing the leaky feeder ---

2 A. Yes, sir.

3 Q. --- system? Did they also change, like, the

4 belts, the conveyor belts coming out of the

5 development sections? Do you recall?

6 A. No, I think --- yes, they did. The Seven North

7 belt just started working. I mean, they put in ---

8 put it in service and --- because the coal from this

9 section was coming across the --- the Headgate 22

10 section was coming across the crossover and dumping

11 --- landing on the longwall belt.

12 Q. Okay. So they relocated the belt in the

13 crossover?

14 A. Yes.

15 Q. They probably rerouted the ventilation to and from

16 those sections?

17 A. Yes, sir. And I believe both of that was because

18 the longwall panel had advanced or was getting ready

19 to advance past that crossover for ---

20 Q. Okay.

21 A. --- the Headgate 22 section.

22 Q. Okay. And that was about the end of February to

23 maybe the beginning of March when they did all of

24 that?

25 A. Yes, sir, maybe a little later when they did the

1 belt. I think they did the air change first.

2 Q. Okay. So you were up in there installing the
3 cable. How did that go?

4 A. It went, I think, fairly smoothly. What we would
5 do is we would get with Wayne Persinger and he would
6 tell us --- he would show us on a map what he was
7 planning on doing and how he would do it. And we
8 would --- for example, we would have all the leaky
9 feeder line run for where it was going to be run and
10 just not hook it up until they were getting ready to
11 make a change. That way it was just as soon as they
12 made the change, we'd just hook it up and it would be
13 functional.

14 Q. That sounds like a good way to do it.

15 A. And I know they --- the air change-wise, I know
16 they'd mark stoppings and mark areas where stoppings
17 would be built. That way when they go to make it,
18 they can do it as timely as possible.

19 Q. Sure. So Mr. Persinger was directing all these
20 changes?

21 A. Yes, sir. As far as I know, Mr. Persinger was
22 always ---

23 Q. Okay.

24 A. --- in charge of it.

25 Q. When you were up in there working on that, did you

1 notice any problems, particularly with the
2 ventilation?

3 A. Not specifically, sir. I notice --- I wouldn't
4 know exactly what kind of air --- how much air they
5 would have on the section. But when I would be in
6 their intakes up there on the intakes for the Headgate
7 22 section and the Tailgate 22 section, it would
8 always be warmer up there and it didn't seem like
9 there was as much air as the sections that were closer
10 to the fan. And I just assume that it's just because
11 of the distance to the fan. I assume they had enough
12 air to run. It just didn't seem like much to me.

13 Q. Okay. So because it was warmer, you think it was
14 just a lesser quantity of air coming up there?

15 A. Yes, sir.

16 Q. Okay. Seems reasonable. Anything else in that
17 general time period that you know of that changed at
18 this mine?

19 A. I know they --- I remember one time ---. Again, I
20 couldn't tell you at all when this was, because it was
21 just a brief thing. I know they were working on
22 something with air and the tailgate for the current
23 longwall panel section. I assume --- I had assumed
24 that maybe they had stoppings crush out or something
25 like that ---

1 Q. Sure.

2 A. --- because we brought --- me and the guy I work
3 with brought them up a bunch of plaster and ---. No,
4 I don't think we did bring plaster; foam packs and
5 curtain ---

6 Q. Okay, sure.

7 A. --- is what we brought up to them.

8 Q. Okay. You mentioned this guy you work with. Who
9 is that?

10 A. Derrick Kiblinger.

11 Q. Okay. We spoke with Derrick several month --- a
12 couple months ago, I think.

13 A. Yes, sir.

14 Q. You guys have your own motor?

15 A. No, sir. We would just use whatever mantrip or
16 Jeep was out at the time.

17 Q. Okay. So you would catch a mantrip or Jeep to go
18 to where you needed to go. Do you recall passing
19 through any equipment doors or track doors?

20 A. Yes, sir. We would go through pretty much all the
21 doors in the mine.

22 Q. Were there a lot of doors?

23 A. There were a lot of doors, sir, ---

24 Q. Okay.

25 A. --- in the mine.

1 Q. What about the condition of the doors? Do you
2 recall if they were bunged up or banged up?

3 A. Yes, sir. They were often --- had a --- not all
4 of them, but quite a few of them were dented and ---

5 Q. Sure.

6 A. --- smashed in a little bit.

7 Q. Were any of them hard to open or close?

8 A. Yes, a few of them were. There was a couple that
9 were very hard to open and close.

10 Q. Sure. Was that because of the condition of the
11 doors or air pressure on the doors or both?

12 A. Some --- it would be both, particularly the doors
13 at Ellis Switch. The inby door at Ellis Switch would
14 --- I guess the time it --- that it had been sitting
15 there, it would, you know, bend down a little bit and
16 it would catch the track. You would have to lift it
17 up to try to get it over the track.

18 Q. Okay.

19 A. And also some of the doors were just --- would
20 stick sometimes. And also those doors at Ellis Switch
21 also had a lot of air on them.

22 Q. Sure.

23 A. And the doors at LBB going out to the old LBB
24 sections were --- there was tremendous amount of air
25 on those.

1 Q. Okay.

2 A. Some of the weaker men would have to take a hose
3 or a rope or something to the front of their ride,
4 hook it to the door and back up just enough to be able
5 to crack it. That way you can ---

6 Q. Sure.

7 A. --- release that pressure and open the doors
8 manually.

9 Q. You ever come up on any of those doors and find
10 one or more of them open?

11 A. Every once in a while you would find a door open.
12 If it was both --- if it would be both doors open, you
13 would assume that someone had forgot to close them.
14 That wouldn't happen very often, but you would every
15 once in a while find one of the doors open.

16 Q. Okay.

17 A. You would find that more often, and I attributed
18 that to the doors not closing properly and it just
19 swinging open on its own. That I wouldn't attribute
20 to somebody forgetting to close, because they would've
21 forgot to close the other one as well if that was the
22 case.

23 Q. Sure.

24 OFF RECORD DISCUSSION

25 ATTORNEY WILSON:

1 The gentleman that walked in, Norman
2 Page, he's our leader, lead accident investigator.

3 A. I'm Patrick Lomas, sir.

4 MR. PAGE:

5 Good to meet you.

6 A. Good to meet you, sir.

7 ATTORNEY WILSON:

8 Okay.

9 BY MR. SHERER:

10 Q. Did any of the doors come back open when you shut
11 them, or when you started to get back in your trip,
12 would you have to go back and shut them again?

13 A. Yes, sir. Sometimes you would.

14 Q. Okay. What about the roof and ribs and floor of
15 this mine? Do you recall any particular problems with
16 those?

17 A. Sir, there were some sections, usually the older
18 sections of the mine that the roofs and ribs would be
19 particularly bad. The intake along --- I don't know
20 what you would call it. I guess along the main line,
21 the north --- not north feets. The intake there along
22 Headgate 14 and 15 ---

23 Q. Yeah.

24 A. --- in that, the intake there, sir, ---

25 Q. Okay. Yeah.

1 A. --- would be particularly bad top around 90 Break
2 up to maybe all the way up to 110 ---

3 Q. Okay.

4 A. --- or so, sir.

5 Q. Right through here?

6 A. Yes, sir.

7 Q. Okay.

8 A. And even further outby as well.

9 Q. Okay.

10 A. And it'd be just, you know, really old section of
11 the mine, a lot of air going through. Where's the
12 intake? I know the more air you have going up
13 through, the worse your top gets and ---.

14 Q. Does top tend to flake off, come off in little
15 flakes?

16 A. Yes, sir, it's usually just shale and thin. Not
17 very big pieces come down, but you would sometimes get
18 larger pieces of top come.

19 Q. You notice bolts with a little bit of roof over
20 --- under them and they would kind of arch out around
21 the bolts?

22 A. Yes, that area's particularly bad for that.

23 Q. Okay. And just so that the record's clear, you're
24 referring to the Parallel North Mains, which were
25 outby the old longwall sections; is that right?

1 A. I'm not sure. Was the intake in the Parallel
2 North Mains or was it in the North Mains?

3 Q. The North Mains themselves are shown on the map as
4 intakes except for one return.

5 A. I'm referring to these intakes here, sir.

6 Q. Okay. These?

7 A. Not these parallel ones.

8 Q. Okay. So you're in the North Mains ---?

9 A. Yes, sir.

10 ATTORNEY WILSON:

11 So below the mains just outby the old
12 longwall section?

13 A. Yes.

14 BY MR. SHERER:

15 Q. Okay. What about floor hoove, floor heave? Did
16 you notice any of that?

17 A. No, I wouldn't really notice very much, sir. I
18 pay more attention to the top as I walk around, sir,
19 than the bottom, but I would notice there are humps in
20 the bottom floor as well.

21 Q. Guess you hang most of the cable for the top?

22 A. Yes, sir.

23 Q. Okay. That makes sense. You guys probably got
24 off the main haulage route quite a bit.

25 A. Yes, sir.

1 Q. What was the condition of the rock dust when you
2 got back away from the belt entry or the haulage
3 entry?

4 A. I'm not sure, sir. I never really noticed. Like,
5 in the intake? We wouldn't go in the return often
6 unless you used the facilities, sir.

7 Q. Sure.

8 A. But the intake ---.

9 Q. Was it bright white or was it getting kind of
10 gray?

11 A. It wasn't bright white, sir, but I believe --- as
12 I recall, I believe it was reasonably well rock
13 dusted.

14 Q. Okay. How about float dust? Do you recall any
15 float dust around those entries?

16 A. On the intake, sir, and the belt entries,
17 particularly around belt heads, you would see float
18 dust around every once in a while. They would turn on
19 the trickle dusters there at the belt heads and that
20 would help with it, sir. But then you have rock dust
21 in the air.

22 Q. Sure. So occasionally you'd see some float dust
23 on the belt entries, particularly around the transfer
24 or the belt heads?

25 A. Yes, sir.

1 Q. How common was that? Did you see it once a week?

2 A. We wouldn't travel the belt entries that often,
3 sir. As I said earlier, we mainly traveled the
4 secondary and primary escapeways, the intake and the
5 track. But we would have to go over to belt entries,
6 particularly around belt heads and use phones and
7 things like that.

8 Q. Sure.

9 A. I guess I wouldn't say fairly common, but it's not
10 uncommon to see.

11 Q. Okay. That's reasonable. You guys have a methane
12 detector?

13 A. Yes, sir.

14 Q. Do you wear it at all times?

15 A. While I had been in that job, yes, I had one of my
16 own and I wore it all the time.

17 Q. Okay. Did you ever have an alert alarm?

18 A. No, sir, I never had an alarm.

19 Q. Okay.

20 A. I would get small amounts. I had before gotten
21 small amounts of methane, but never enough to set the
22 alarm off on the detector.

23 Q. Okay. Do you recall the level the alarm was set
24 at?

25 A. I'm trying to think. I think it's --- maybe it's

1 half a percent or one percent.

2 Q. Okay. But you just ---?

3 A. I'm not sure ---.

4 Q. It never went off so you don't know?

5 A. Right, sir. I mean we would do it every year at
6 retraining. But I'd never got more than a tenth of a
7 percent with my detector.

8 Q. Okay. Did you ever hear of anybody, just anybody
9 in the mine, even in the bath house, talking about
10 problems with methane?

11 A. This is an occasion that I hadn't remembered at
12 the time until my wife had brought it up. We had a
13 friend of ours come over to the house one evening who
14 also worked at the mine, Brent Racer. And he was
15 talking about --- I don't remember the specifics of
16 it, but he had mentioned they had methane up in the
17 face one time. He was on --- I think he was on the
18 headgate section for ---

19 Q. 22 Headgate?

20 A. --- Headgate 22.

21 Q. Uh-huh (yes).

22 A. I think at the time he was on that headgate
23 section.

24 Q. Sure. Do you recall ---?

25 A. But I hadn't even remembered that until my wife

1 had mentioned it to me after the accident had
2 happened.

3 Q. Sure. There's a lot of things we don't pay much
4 attention to until after an accident.

5 A. Yes, sir, absolutely.

6 Q. So we certainly understand that. Do you recall if
7 Mr. Racer had any opinion of why there was a
8 concentration of methane? Was it a sudden inflow of
9 methane, like from a feeder?

10 Q. I believe he was referring to maybe they found a
11 small pocket of it or something like that. I don't
12 think it had built up.

13 Q. Okay.

14 A. I don't remember. I don't recall exactly what it
15 was.

16 Q. Sure. Now, you know, there's two ways you can get
17 methane. One is a sudden influx of methane, inflow.
18 The other is you just don't have enough air.

19 A. Yes, sir.

20 Q. Did he mention that they were having problems with
21 air on that section?

22 A. I hadn't heard from him that, but I had heard
23 before from other miners about air problems up on the
24 headgate section and also on the tailgate sections.

25 Q. Okay.

1 A. Headgate 22 and Tailgate 22.

2 Q. Was that something that was --- how many times did
3 you hear that? Was it fairly common or rare?

4 A. If I had talked to them more often, sir, I may
5 have heard it more often. Me and Derrick Kiblinger I
6 work with, we would --- we had different hours than
7 everybody else.

8 Q. Sure.

9 A. In order to be able to get a ride to be able to go
10 underground, we would have to wait for the midnight
11 shift to come outside. There wasn't any sense for us
12 to come in at 6:30 with everyone else ---

13 Q. Sure.

14 A. --- and then wait around until 8:00.

15 Q. Uh-huh (yes).

16 A. So we would start at 8:00 and quit at 5:00, I'd
17 think, sir.

18 Q. Just run a little bit behind the production crews?

19 A. Yes, sir.

20 Q. Yeah. Makes sense. Makes for a long day, though.

21 A. Yes, sir.

22 Q. Okay. How about water, were you aware of any
23 problems with water in this mine?

24 A. Yes, sir. There's some definite waterholes in
25 that mine, sir. I'm trying to think of some off the

1 top of my head. I know there are ---. At the door,
2 the inby door at the Ellis Switch, there may be a big
3 waterhole, ---

4 Q. Yeah.

5 A. --- a break or two outby it, but I think it ---
6 most of it is over in the entry to the right of it.

7 Q. Yeah. We've heard of a lot of people getting
8 soaked up there lately.

9 A. Yes, sir. It's particularly bad now.

10 Q. Yeah. Well, the area that's of real concern to
11 us, as far as water is, the area on the back end of
12 the longwall.

13 A. Yes, sir.

14 Q. Have you heard anything about that?

15 A. One time I went up back behind that longwall.

16 Q. How far did you get up there? Did you go all the
17 way to the fan?

18 A. I couldn't tell you how far we went, sir. I went
19 as far as I had to, and then I come back. I believe
20 it was --- well, I was still on the evening shift.

21 Q. Did you go up the headgate or the tailgate?

22 A. I went up the headgate of it, sir.

23 Q. Okay.

24 A. It had to be this waterhole up around between the
25 70 and 75 Break. And it was --- like I said, while I

1 was still on evening shift, so it had to be before
2 November. It could've been October. And I believe
3 there was a pump that needed phased. I think they had
4 installed some pumps up there and they were phased
5 wrong.

6 Q. Okay.

7 A. And I had to go up there. And I think I went up
8 with Brent Racer, because he was on the headgate
9 section at that time.

10 Q. Okay.

11 A. Or his section had not started the Headgate 22
12 panel yet. And they were maintaining for the
13 longwall.

14 Q. So you say the one up around Break 70 or 75?

15 A. Yeah, I probably made it --- I'm assuming I made
16 it to probably Break 73 or so.

17 Q. Okay.

18 A. I think maybe that's where that pump was.

19 Q. Do you recall if those pumps had been there for a
20 long time, or were they newly installed?

21 A. If I was re-phasing it, sir, it had to be newly
22 installed.

23 Q. Okay. Do you recall if there was a sudden inflow
24 of water or did that water build up gradually?

25 A. I believe when they had finished up mining for

1 this longwall panel they had graded a bunch of bottom
2 to get the water to flow where they wanted it to.

3 Q. Sure.

4 A. And they had a vertical turbine pump inby there to
5 try to pump all that water out.

6 Q. Sure, uh-huh (yes).

7 A. I don't know if they had graded the wrong areas or
8 not graded enough, but I know they had a lot of
9 trouble with water.

10 Q. Okay.

11 A. So that was the issue there.

12 Q. Did you know any of the people that worked on the
13 longwall at that point in time or just talk to them?

14 A. No, sir, I don't know many of the longwall guys.

15 Q. Yeah. And the reason I'm asking is we have some
16 indications that this --- once this gob started caving
17 behind the longwall, it actually broke through to the
18 upper mine by that time period.

19 A. Okay.

20 Q. Did anybody talk about how --- had this water been
21 a problem for a while, do you know? Had they had
22 other pumps in there?

23 A. I know while they were grading, and that's before
24 that longwall panel started, there was a lot of water
25 up there.

1 Q. Okay. Okay. Appreciate it. How deep was the
2 water up in there? Do you recall?

3 A. It was over my boots, but not over my waist, sir.

4 Q. Okay.

5 A. So probably right around my knees. And that was,
6 like I said, almost a year ago, sir.

7 Q. Sure. You never forget those over the boot
8 instances.

9 A. Yes, sir, you don't.

10 Q. Do you know if it ever roofed out back in there?

11 A. No. When I was up there the water had not roofed
12 out. It may have inby where I was ---

13 Q. Okay.

14 A. --- not to where I had gotten.

15 Q. Okay. What about when inspectors came on the
16 property? Did you ever hear anybody calling in the
17 mine saying we got company or ---

18 A. Yes, sir.

19 Q. --- we got inspectors?

20 A. Yes, sir.

21 Q. How common was that?

22 A. About as common as the inspectors would come, sir.

23 Q. Okay. Was it the gates or the guard that would
24 call in or the dispatcher?

25 A. Sometimes the guard at the gate would call ---

1 Q. Uh-huh (yes).

2 A. --- and tell them. I don't know if our guards at
3 Performance did it. I know at other places I have
4 been at --- I know when I was at Horse Creek on
5 Marfork property, the guard at that gate would call
6 us, because if a guard --- if an inspector comes in
7 through that gate, he's either coming to Horse Creek
8 Eagle or Allen Powellton.

9 Q. Okay.

10 A. And it would be a 50/50 chance.

11 Q. Sure, uh-huh (yes). What about CB radios, truck
12 drivers and such? You ever get anybody like that
13 calling you?

14 A. No, I've never heard that, sir.

15 Q. Okay. What about the ventilation curtain? You
16 ever get up on the production sections?

17 A. We would go up on the sections every once in a
18 while. Where we work outby, it one of the sections
19 had a part --- had a piece of equipment that was down
20 for a part and we were able to get it for them, bring
21 it up, we would do that.

22 Q. Okay. You ever go up and notice a miner without
23 curtain up to it or ---?

24 A. A miner without curtain up to it? Yes, sir.

25 Q. How far back was that curtain?

1 A. Usually when the miner's in the cut, sir, there
2 wouldn't usually be curtain with that miner. I'm not
3 saying that's true for all the sections and all of the
4 miner men. But I wouldn't see it often in the cut
5 they were cutting, sir.

6 Q. Okay. Was there any?

7 A. It depends on the depth of the cut. If they were
8 in there deep --- I'm going to correct myself. If
9 they were in there deep, if they were getting their
10 second cut out of there, there would usually be
11 curtain up to where he started to cut at.

12 Q. Okay. So they'd advance the curtain?

13 A. Yes. And I know some --- I couldn't tell you any
14 specifics because I don't know off the top of my head,
15 but I know some miner men --- I would assume miner
16 men ---

17 Q. Sure.

18 A. --- would take the curtain down. That way --- or
19 at least take it back a little bit. That way it
20 wouldn't get caught in the ripper head and rip it all
21 down.

22 Q. Sure. Do you recall if these miners were using
23 the scrubbers or ---?

24 A. They used to. I think since they changed that
25 they couldn't use the scrubbers anymore, I don't think

1 they did anymore after that. I know a lot of them
2 wished they did ---

3 Q. Sure.

4 A. --- because it really does. I believe it helps
5 out a lot.

6 Q. Okay. Yeah. We just had a lot of problems with
7 respirable dust.

8 A. Yes, sir. I don't know a whole lot about that. I
9 mean I've worked on the mine. I know how the system
10 works and everything.

11 Q. Sure.

12 A. Like I said, I was an electrician. I didn't
13 always work on tracking and communications.

14 Q. There you go.

15 A. But you don't need to be real technical to know if
16 there's much dust in there with the scrubber off and
17 then when you turn it on it clears out the dust that
18 it's doing something.

19 Q. Yeah, although the scrubber does concentrate
20 quartz.

21 A. Okay.

22 Q. You guys ---.

23 A. See, I didn't know that, sir.

24 Q. Yeah, it doesn't remove the quartz very
25 effectively. And you guys were cutting a lot of top

1 up there, weren't you?

2 A. Yes, a lot of the sections were.

3 Q. Yeah, so that's something we got to work out. And
4 I'm sure there's a lot of people working on it right
5 now, but ---.

6 A. Yes, sir.

7 Q. We're looking into this accident. What about the
8 methane monitors? Did you ever hear of anybody
9 bridging out a methane monitor?

10 A. I've heard, sir, but I haven't, you know, been a
11 witness to any of it here at the mine. Like I said,
12 we would only go on the section, you know, sparingly.

13 Q. Sure.

14 A. I'm trying to think of specifics for you.

15 Q. Well, let me tell you some of the stuff that we
16 found out about methane monitors. This has been very
17 educational to me. I didn't know much about them.
18 They either flashed or shut the machine off ---

19 A. Yes.

20 Q. --- as far as I knew. Evidently they have
21 different fault modes.

22 A. Yes.

23 Q. Like F-4 means the sniffer will keep working.

24 A. Yes, check sensors.

25 Q. I think F-9 is just a general failure.

1 A. Yeah, I'm not sure, sir, but yeah.

2 Q. Now, as we understand it, there was some fault
3 conditions you could override with the remote controls
4 of the miners?

5 A. Yes. Yeah, the methane monitor override. There's
6 a series of switches you can hold. If I stop and
7 think about it for a second I could probably tell you
8 which switches they are, but ---.

9 Q. Okay. So the miner man can hold down just
10 probably an odd combination of switches?

11 A. Yeah.

12 Q. And do you know if that restores power to the
13 entire mine or ---?

14 A. No, you can only tram the miner with that.

15 Q. Okay.

16 A. You can't start the cutter head or the conveyor or
17 anything like that.

18 Q. Okay. So only the tram motors have power?

19 A. Yes, sir.

20 Q. Okay. Do you know if there's some other way to
21 override the system like that?

22 A. Yes, sir. It's an electrical system. You can
23 override in as many ways you can think of, sir.

24 Q. Okay. Does it have to be a physical override like
25 a jumper wire or can you do that through the

1 programming?

2 A. I don't know of a way that you --- I'm sure there
3 is, but I don't know of a way that you can program it
4 to be able to run the cutters or anything like that
5 with that overridden.

6 Q. Okay.

7 A. But like you said, you can put a physical jumper
8 in. You could put one in the module itself on the
9 back. And I just recently learned this from --- well,
10 I just recently learned this, that you can --- blue
11 glue, blue RTV. I'm trying to think what it is.
12 Silicone is pretty much what it is.

13 Q. Uh-huh (yes), sure.

14 A. We use it for sealing things. Apparently that
15 will mess with a sensor, and if you have a sensor
16 exposed to it ---. I heard that from somebody, not at
17 a --- one of our visitors from another place come to
18 our mine. I'm not sure exactly who it was. I would
19 be specific, but I don't want to ---

20 Q. Sure.

21 A. --- speculate on who it was.

22 Q. Sure.

23 A. And he said it messes with the sensor and, you
24 know, ruins the sensor. But it can also ruin it to
25 where it works all the time, which ---.

1 Q. That's new to me. I never heard of that.

2 A. Lectra Clean will do the same thing, I recently
3 heard. And it also messes with your spotters as well.

4 Q. Lectra Clean, what's that?

5 A. It's in a can like spray paint and it cleans
6 electrical components.

7 MR. FARLEY:

8 Sorry. What'd you call that again?

9 A. Lectra Clean, sir.

10 MR. FARLEY:

11 Lectra Clean?

12 A. Yes, sir. Just with an L. No E at the front.

13 MR. FARLEY:

14 Okay.

15 BY MR. SHERER:

16 Q. Is that like a solvent or something?

17 A. Yeah, we use it in our power boxes for cleaning
18 terminations and things like that, but it's great for
19 removing anything, paint, anything. It's the best bee
20 killer they make, sir.

21 Q. You can't beat a product that'll override a
22 sniffer and kill a bee at the same time. That's
23 amazing. Is this a --- what do they call it, a
24 chlorinated compound?

25 A. I'm not sure what the chemical composition of it

1 is, sir.

2 Q. Okay. That's interesting. I never knew that. I
3 appreciate it.

4 A. Yes, sir.

5 Q. Did you ever get injured while you were at this
6 mine?

7 A. No, sir.

8 Q. Okay.

9 A. Nothing, no, other than normal bumps and cuts.

10 Q. You ever know anybody that did that --- did any
11 light duty?

12 A. No, not at this mine, sir.

13 Q. Okay.

14 A. I've been injured at other Massey mines. I
15 smashed my hand one time in a scoop battery lid ---

16 Q. Okay.

17 A. --- and I did light duty for two days because I
18 didn't want to --- didn't want to miss a whole bunch
19 of work just for a bum hand.

20 Q. Sure. Did you feel like you were pressured into
21 doing the light duty or ---?

22 A. No, sir. I asked for it.

23 Q. Okay. Did you ever hear about sudden inflows of
24 methane from feeders or cracks in the floor?

25 A. Not before this accident, sir.

1 Q. Okay.

2 A. Since this happened, I heard that --- first I'd
3 heard that it happened one other time on the longwall.
4 I don't believe this panel. Well, no, definitely not
5 this panel but a different panel. I heard they had a
6 crack in the bottom, a sudden inflow of methane. They
7 shut everything down and evacuated everybody, and
8 where they went from there, I don't know.

9 Q. Yeah. We're aware of two incidents, one that
10 occurred in about 2003 and I think another sometime in
11 2004.

12 A. Yes. And then after I heard of a second time that
13 that same thing happened.

14 Q. Okay. So that seems about the right time periods.
15 Did you know anybody that was actually involved in
16 those inflows?

17 A. No, sir. I don't know anybody that was involved.
18 I heard it from people that were working at the mine
19 at the time, but I don't know if they were involved
20 with it at all.

21 Q. Okay. We'd heard people describing a sound like
22 the roar of a jet engine. Did you ever hear anything
23 like that?

24 A. No, sir.

25 Q. Okay. What about the general ventilation? We've

1 talked about ventilation changes a bit. Just in your
2 opinion, based on what you knew, what you saw and then
3 what people working on the section may have said, do
4 you think the ventilation was adequate at this mine?

5 A. I thought --- at the time I thought it was, but
6 ---.

7 Q. Did anybody talk about things like low air, no air
8 on the section?

9 A. I have heard that before, and I assumed it was ---
10 you know. It's usually around when they do a change.

11 Q. Sure.

12 A. And I'm never really involved with the air changes
13 itself. And I know they've ---. At one instance we
14 had an inspector come in and found --- I'm sure you're
15 aware of the event --- found I think air moving the
16 wrong direction in the entry. I didn't know the
17 specifics of it, but I know they --- I believe they
18 removed everybody inby that point, made their change.
19 It satisfied the inspector and I think they went. I
20 don't know the specifics of it, but that's what I
21 assumed had happened.

22 Q. Okay. So there may have been problems with
23 ventilation in certain parts of the mine?

24 A. Yes, sir, absolutely.

25 Q. Okay. You mentioned in that particular case there

1 was a ventilation change and they evacuated the people
2 inby to do that change. Do you know if there were
3 changes made in the ventilation system while people
4 were inby?

5 A. I'm sure there were.

6 Q. Do you know of any specifics?

7 A. I wish I did. Usually it's the people that it's
8 affecting that make the change.

9 Q. Oh, okay. So if I was a section boss and couldn't
10 get enough air, I may go out and adjust the regulator
11 or something?

12 A. Yeah.

13 Q. Okay.

14 A. I would assume the same.

15 Q. Sure. Were stoppings bad to crush out at this
16 mine? Do you know?

17 A. Around the time the longwall was running, I heard
18 that happening a lot, but I know that's --- it's
19 natural to lose some ---

20 Q. Sure.

21 A. --- when that happens. Outby, no, I hadn't heard.

22 Q. Okay. Well, let's move to the communications and
23 tracking. That's an area, as you correctly
24 summarized, surmised we --- I don't know a lot about.
25 Now, you're talking about the leaky feeder system.

1 That was a communications ---

2 A. Yes, sir.

3 Q. --- as I understand it. Was that also tied in
4 with the tracking system?

5 A. Yes, sir. What it is, we have a leaky feeder
6 line. It's pretty much just a big long radio antenna.
7 It goes through the mine, has a series of amps, and
8 wherever there's splits we have to, you know, put a
9 splitter box in, barriers to ---. You know, you have
10 to maintain 28 volts DC and --- you know. And the
11 radios all work off of that.

12 Q. Sure.

13 A. Now, the tracking system is simplified. It's
14 pretty much just boxes with two antennas on it. One
15 antenna picks up the tags that everybody wears. The
16 other antenna puts out those signals onto the leaky
17 feeder line, just like the radios.

18 Q. Okay.

19 A. And that's the way that works.

20 Q. Okay. Now, I'm sure you're aware that the systems
21 were pretty much destroyed in the explosion.

22 A. Yes, sir.

23 Q. One of the problems that we had after the
24 explosion with the entire rescue and recovery
25 operation was it seems like the entire Ellis Portal

1 was inoperable.

2 A. Yes.

3 Q. Could you give us any insight into why that
4 happened?

5 A. The big fault with that system, it's main
6 weakness, is you have anything wrong with the system,
7 everything inby that point doesn't work. Each amp ---
8 the amps are like --- they're like the most major
9 component of it.

10 Q. Okay.

11 A. You have one amp go bad, nothing inby that point
12 works.

13 Q. Uh-huh (yes).

14 A. And the amps have a battery backup that hangs near
15 them. Has a short, maybe four foot long umbilical
16 cord between them. It's a very easy cord to pull out.

17 Q. Okay.

18 A. Any small rock could fall out of the top. You
19 know, it'd be just the size of, you know, a hamburger
20 falling down and knock the cord out. And once that
21 one cord is out, nothing inby will work. When we do
22 this power the battery life on these amps are supposed
23 to work for a minimum of 48 hours. I think they work
24 another 24 hours past that, is what they're rated for.
25 I don't think many of them work that long.

1 Q. Okay.

2 A. I think they'll work maybe --- I know after the
3 explosion it seemed like they only worked a couple
4 hours.

5 Q. Okay. Where were you at at the time of the
6 explosion?

7 A. I was outside at the time.

8 Q. Okay. Did you participate in the rescue and
9 recovery?

10 A. Some of it, sir. The day it happened, we --- our
11 main focus for the first little while was to try to
12 get as much information off the tracking communication
13 computer as we could as to where everybody was, who
14 was ---. At that point pretty much all we could see
15 were the people that were outside. The outby-most tag
16 readers were still working.

17 Q. And where were you at when you were doing all
18 this? Were you down at the UBB Portal?

19 A. Yes. The computer is upstairs in the office at
20 UBB.

21 Q. Okay. Was there any similar system at the Ellis
22 Portal?

23 A. No, sir. There's none of it there.

24 Q. Oh, okay. So you were down at UBB and you were
25 checking on the tracking system, and you say that you

1 could see the people outside, but you couldn't see
2 anybody in the mine?

3 A. Right. We had the last --- we had the last known
4 location of the people before the system went down.

5 Q. Okay.

6 A. And many --- okay. Most of the people --- we got
7 them at the last tag reader they passed on their way
8 in --- was right at --- right around the Mother Drive.

9 Q. Okay.

10 A. We had recently got the system working to where it
11 was working right. We had a lot of issues with
12 frequencies. We didn't know it was the frequency, but
13 we finally found out that if we changed the frequency
14 to a range that the amps preferred better, then we
15 were able to carry the signal further and better. And
16 we were in the process of getting all the tag readers
17 to read on that frequency.

18 Q. Oh, okay.

19 A. And also installing more tag readers on that
20 frequency. And the last one that was working right at
21 the time was right around the Mother Drive.

22 Q. Okay.

23 A. And we got --- the men that were up on the
24 section, we have them going in the mine that morning,
25 going past that tag reader.

1 Q. Okay. But you didn't have any tracking systems or
2 operable tracking systems at the production sections?

3 A. No, no, not at the time.

4 Q. How well do you think that system works?

5 A. When we first started taking it, first started
6 installing it and trying to work with it, it was
7 awful, sir. We were the largest mine or one of the
8 largest mines they had ever tried installing the
9 system on. And found the more amps you have in the
10 --- the bigger the mine, there's more amps you have to
11 have. The more amps you have to have, the smaller the
12 range that you can use is. It took us a lot to figure
13 out how to be able to get it just right. And I think
14 we just finally did it there, maybe two weeks before
15 it happened, and then we were trying to finish that
16 up.

17 Q. Now, you say that the last read you had was in the
18 Mother Drive and you knew people were inby?

19 A. Yes, sir.

20 Q. After the explosion, was that system still
21 operable?

22 A. No.

23 Q. Okay. Do you know why it was not operable?

24 A. Immediately, I believe it was not operable due to
25 something probably yanking one of those cords out.

1 That might've been the first.

2 Q. So you think the explosion itself basically
3 destroyed the system?

4 A. Yes, it was probably about half still working
5 right after the explosion went off, and then maybe
6 tree hours later the rest of it went down. I assume
7 one of the batteries had died further outby.

8 Q. Okay. How far in was the system working
9 immediately after the explosion? Do you recall?

10 A. Approximately around 53 Break.

11 Q. Okay.

12 A. I think that was the last tag reader, I think,
13 that was working.

14 Q. Okay.

15 A. At 53 Break. But that's not to say the radios
16 weren't working inby that point.

17 Q. Yeah. Did anybody go inby immediately after the
18 explosion carrying a radio? Do you know?

19 A. I think Gary May was one of the first ones in to
20 try to see what had happened and what was going on.
21 And I know --- I think he took off from Ellis Portal,
22 or maybe he was already up there. But I know he was
23 around where they found the first mantrip around ---
24 what belt head was that? I think Six North. No, Five
25 North --- maybe Four North. Yeah, around Four North

1 head I think was the last time we talked to him on one
2 of the mine phones. And I know the radios weren't
3 working there.

4 Q. Oh, okay. Now, we understand that several people
5 went much further in, and then I guess they were out
6 of radio communication.

7 A. Yes, sir.

8 Q. Okay. Was that radio communication restored at
9 any point during the ---

10 A. No, sir.

11 Q. --- rescue and recovery?

12 A. No.

13 Q. What system did you guys have for the redundancy?
14 Did you run one of these cables up, say, the intake
15 and another one up the ---

16 A. Track entry.

17 Q. --- track entry?

18 A. Yes, sir.

19 Q. I guess the explosion took both of those down.

20 A. Yes, sir, because a lot of them ---. The power
21 supplies for them have two outputs on them. And what
22 we would usually do, you would usually need a power
23 supply for both of them at around the same area
24 because they're parallel circuits.

25 Q. Sure.

1 A. So we would usually use those two outputs on the
2 power supply, one for the primary and one for the
3 secondary.

4 Q. And so if anything took out the power supply, it
5 would take out both of them?

6 A. Yes, sir.

7 Q. That doesn't seem very redundant.

8 A. No, sir.

9 Q. I guess that's a redundant issue at this point in
10 time.

11 A. Well, even if we did have another power supply
12 there it would still be plugged into this, probably
13 the same 120 receptacle, the same power box.

14 Q. How can we as an industry make that system more
15 reliable in an explosion like this? Is there any way?

16 A. Those cords I told you about from the battery
17 backups to the amps need to be a cord that can't be
18 pulled out very easily. The system needs to be more
19 user friendly. Like, I know they're in the process of
20 making self-tuning amps. Right now we have to tune
21 the amps and when we receive them, we have no idea how
22 to do that. And there's now way to do it unless you
23 ---. We would stand there with a radio and see how it
24 sounds and add or take away decibels from it ---

25 Q. Sure.

1 A. --- to try to find a good area. And we finally
2 received a device --- Pyott-Boone made a device that
3 we would be able to tune them with. That works, but I
4 mean I know they're working on self-tuning amps. That
5 would make them much more effective.

6 Q. Sure.

7 A. In the form of reliability, if you have power go
8 out you're at the mercy of the batteries.

9 Q. Is there any way to protect these systems or
10 possibly armor them so they're more resistant to
11 explosions?

12 A. The line itself you can't, because it has to be a
13 radiating cable.

14 Q. Okay. What about dropping a borehole into the
15 back end of the mine? Would that be more advantageous
16 as far as the survivability of this system?

17 A. No, because the --- you need power supplies at
18 different intervals throughout the system. I think
19 it's roughly every ---.

20 Q. Could I run power down that same borehole?

21 A. You can, but a lot of devices in the system are
22 directional. Like, the amps are not directional, but
23 I think everything else is directional, so you would
24 be able to get it ---. If you did put power on the
25 end of the system, you would get maybe two or three

1 amps, maybe 30 breaks worth that you might be able to
2 get working. But you'd have to install the whole
3 system there at the end, the whole, you know,
4 computer. And you would have a whole --- we have a
5 cabinet we call the rack. It's probably about three
6 foot wide and stands maybe six foot, five foot tall
7 and it has all the ---

8 Q. Seems like a refrigerator.

9 A. --- all the components in there. You would need
10 all of them for the system to work.

11 Q. That's a lot of stuff. Okay. I don't know that
12 much about tracking communications, but just my way of
13 understanding it is that it seems like it just didn't
14 work in this system.

15 A. No, sir.

16 Q. I appreciate the information.

17 A. Yes, sir.

18 MR. SHERER:

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

20 EXAMINATION

21 BY MR. FARLEY:

22 Q. Okay. Patrick, bear with me. I'll be kind of
23 backing up on some things to try to clarify.

24 ATTORNEY WILSON:

25 Terry, let me just ask. We've been going

1 for about almost an hour and a half. Do you want to
2 take a break or are you okay to keep going?

3 A. I'd like to just use the bathroom if I could.

4 ATTORNEY WILSON:

5 Sure. Okay. We'll go off the record.

6 SHORT BREAK TAKEN

7 ATTORNEY WILSON:

8 Okay. We're back on the record. Terry?

9 BY MR. FARLEY:

10 Q. Patrick, if you don't mind me asking, what did you
11 do before you became a coal miner?

12 A. I was in the United States Marine Corps, sir. I
13 worked on F-18 Hornets.

14 Q. Okay. I guess that's where your technical
15 background comes in?

16 A. Some if it, sir, yes.

17 Q. Okay. You indicated earlier that you had been
18 interviewed by MSAH special investigators and by
19 Massey attorneys.

20 A. Yes.

21 Q. Was there any information that you provided to
22 either party that you think we haven't asked about
23 that might be beneficial?

24 A. No, sir. Most of what they asked me was they
25 would ask me ventilation questions like that, sir.

1 Q. Okay.

2 A. The Massey officials asked me --- or the Massey
3 lawyers asked me quite a bit about the Massey
4 management there, asked about how they treated us and
5 what the employees thought of us and things of that
6 nature.

7 Q. Okay. What was your response to the question as
8 to how the management treated you?

9 A. I've never been treated badly by the management.
10 That's what I told them. I know a lot of the other
11 employees hated them, in particular Chris Blanchard
12 and --- well, mainly Chris Blanchard. And I've never
13 had any negative confrontations with Chris or anything
14 like that. But I know a lot that do hate him and say
15 he's done awful things. I've heard stories.

16 While I was there, there was a younger miner and
17 relatively new guy that was sitting behind the bath
18 house, not the side with the mining side with the
19 bench or anything, but the parking lot side, was
20 sitting down smoking a cigarette. I think there was a
21 ventilation issue going on at the time and nobody was
22 allowed inside, and Chris walked up and kicked him in
23 the hand to knock the cigarette out of his hand.

24 And I don't remember exactly what all was said,
25 but that stuck out in my mind. I wasn't there for

1 that, but I heard it from a bunch of people, and I
2 think it is interactions like that that make people
3 not care for Mr. Blanchard.

4 Q. I can understand that.

5 A. Yes.

6 Q. Do you happen to know who that person was that he
7 allegedly kicked?

8 A. No, not of the top of my head. I can try to --- I
9 mean, I won't be able to find out today probably, but
10 I could ---. It was a fairly memorable story, so I
11 think a lot of people remember exactly who it was.

12 Q. Do you think he kicked him because he was smoking
13 a cigarette or because he was sitting down?

14 A. Probably a little of both, sir. I think he was
15 probably angry with him because he was sitting down,
16 taking a break when there was nothing he could be
17 doing, because like I said, nobody was going inside.
18 But the cigarette was his reason to ---.

19 Q. Okay. Was there a prohibition to ---?

20 A. Well, I don't think there's any reason to kick
21 somebody like that, but you know what I'm saying.

22 Q. I agree.

23 A. Yes.

24 Q. I agree. You indicated earlier that the
25 communication system installation was approximately 95

1 percent as of April 5th, and that the tracking system
2 was approximately 60 to 70 percent. Now, do those
3 figures represent compliance with the State law or the
4 Federal law or somewhere in between?

5 A. At the time we were attempting to comply with what
6 the State regulations have. I believe most of the
7 State regulations comply with the MSHA regulations.
8 We were trying to establish tracking every 2,000 feet
9 in the primary and secondary and also at every split
10 in the primary and secondary. And then after we had
11 finished with that, we were going to --- we were going
12 to try to get them at every belt head and every
13 rescuer cache and barricade chamber. We mainly had
14 them --- up until maybe Ellis Switch we had them, I
15 think, every 2,000 feet. And inby that point we had
16 them almost every 2,000 feet and also at --- we did
17 have them at every split in the mine.

18 Q. Okay. Now, earlier you described the ventilation
19 change that was made where the intake, which
20 originally came through the longwall headgate entries
21 and up the crossover to the 22 Headgate section ---.

22 A. Yes, sir.

23 Q. And as I understood you, that intake was rerouted
24 up Seven --- Seven North to the Number One entry and
25 ultimately to the 22 Headgate section; ---

1 A. Yes.

2 Q. --- is that correct?

3 A. Yes, sir.

4 Q. Now, prior to that ventilation change, would this
5 Number One entry from --- extending toward Seven ---
6 up Seven North toward the 22 Headgate section, would
7 that originally have been a return prior to the
8 change?

9 A. I think prior to the change it was a neutral.

10 Q. Okay.

11 A. I'm not sure, but I believe it was a neutral.

12 Q. Okay. Were you in that entry prior to the air
13 change or shortly after at any time?

14 A. Shortly before the air change, because we --- like
15 I said, we were getting everything ready for the air
16 change. We ran our line up that Seven North belt and
17 everywhere that the intake was going to be and then
18 when they made the change, that's when we then hooked
19 everything up after.

20 Q. Okay. Do you recall the condition of the rock
21 dusting in that entry when you were there?

22 A. I don't believe the rock dusting was very good
23 there. I don't think it had been rock dusted since
24 when they rock dusted it advancing that.

25 Q. Okay.

1 A. That's just what it seemed like to me.

2 Q. I understand. Now, can you tell me approximately
3 when you would've traveled through that entry when you
4 would have saw that condition?

5 A. Approximately a week before the change, so I would
6 say maybe early, mid February.

7 Q. Okay, all right. Now, if I understood correctly,
8 this Number One entry extending toward 22 Headgate in
9 the Seven North was a neutral air before, you think?

10 A. I believe it was a neutral.

11 Q. Okay. Uh-huh (yes).

12 A. I don't recall it ever being a return.

13 Q. Okay. Now, but before the --- before the change,
14 do you know if the return off the 22 Headgate section
15 would also have traveled down Seven North and across
16 in some manner?

17 A. No, sir. It had come up --- it went across the
18 crossover between the headgate and the longwall,
19 Headgate 22 and the longwall panel, ---

20 Q. Okay.

21 A. --- and it went out towards the Bandytown fan.

22 Q. Okay. Now, when the return was rerouted,
23 obviously when this ventilation change was made, do
24 you understand --- was the return rerouted to the
25 crossover in the outby direction of the headgate

1 entries and crossing the tailgate, or was it rerouted
2 this way first, meaning this way, down Seven North?

3 A. I don't ever recall it coming up down Seven North.
4 I thought it always --- like I said, we didn't go in
5 the return very often, but my understanding was that
6 it came across that crossover from Headgate 22 to the
7 longwall, and then went outby.

8 Q. Okay.

9 A. Yeah.

10 Q. Okay, all right.

11 A. I'm sorry, not outby; inby to the Bandytown fan.

12 Q. Okay. Were you familiar with a construction
13 project ongoing in the area of the Mother Drive outby
14 the 22 Headgate section?

15 A. Yes, sir. I remember them setting up a new Mother
16 Drive up there, and I also know when they put the belt
17 head in for the belt that goes across the crossover.
18 I remember them putting in that belt head and that
19 tailpiece and everything.

20 Q. Okay. Now, at the time of the explosion on April
21 5th, around that time, what was your understanding of
22 the overall status of that construction project?

23 A. We hadn't been up there in about a week or so that
24 I can remember, not for any period of time. We may
25 have gone in, like, a time or two, but just to do

1 something real quick. For about a week before the
2 explosion we were --- and the day of the explosion we
3 were working on a scoop outside.

4 Q. Okay.

5 A. So I hadn't --- but I think they were, as far as I
6 know, still just working on the new Mother Drive. I
7 don't know how far they were or anything like that.

8 Q. Okay. You don't know how close they were to
9 completion with ---

10 A. No, sir.

11 Q. --- what they had to do?

12 A. My partner Derrick Kiblinger, I believe it was his
13 dad, Michael Kiblinger, who was ---

14 Q. Okay.

15 A. --- the one working on it. I think he was running
16 the crew that was setting that up.

17 Q. Okay. You indicated that you had heard from other
18 miners that the ventilation of the 22 Headgate section
19 was not very good.

20 A. Right.

21 Q. Now, were these conversations with these other
22 miners concerning the 22 Headgate ventilation --- did
23 those occur before or after the ventilation change you
24 described?

25 A. I'd say most of them were before. I'd say there

1 were some after as well. I don't really recall, like,
2 you know, ---

3 Q. Okay.

4 A. --- exactly when.

5 Q. Okay. Now, after the ventilation change was made
6 that you described, did anyone remark to you that the
7 ventilation may have improved somewhat on 22 Headgate?

8 A. I thought I had heard people say that it was
9 helped after the change.

10 Q. Okay.

11 A. I don't know. I thought I heard people talking
12 that it had helped.

13 Q. Okay, all right. A question was asked about
14 advance notice of the arrival of inspectors.

15 A. Yes.

16 Q. Do you know if the UBB security guard at the gate
17 had direct communications to anyone underground?

18 A. No, they didn't have communication with anybody
19 underground.

20 Q. Okay.

21 A. And I don't know of them actually telling the mine
22 office that they would come up. They may have, ---

23 Q. Okay.

24 A. --- but I don't know for a fact if the guards had.

25 Q. Okay. All right. I want to ask you a question

1 about methane monitors on the continuous miners that
2 were utilized at UBB, and I think Erik told you that
3 he wasn't real swift in understanding these things.

4 A. Yes, sir.

5 Q. I'm less swift ---

6 A. Okay.

7 Q. --- than he is; okay? So if one of the miners
8 were to be mining the coal in whatever gap, 15, 20, 25
9 feet, and the methane monitor were to malfunction,
10 shutting the machine down, ---

11 A. Yes, sir.

12 Q. --- I mean malfunction, not gas off. Malfunction
13 shuts it down. Now, in order to move that machine to
14 a better location to work on it, now, if I understood
15 you correctly, there is a way to override the monitor
16 so you can tram it; is that correct?

17 A. Yes, sir. You hold the --- well, if you hold the
18 MMO. There's a switch labeled MMO on one side and ESO
19 on the other. You hold the switch to the MMO position
20 and the start switch, and you can --- it starts the
21 miner. And then you --- I believe you have to hold
22 the MMO switch in. And as soon as you let it go, it
23 shuts the machine off, but you hold it in, hit your
24 tram enable switch, and then you can use the toggles
25 to tram the miner out of the cut.

1 Q. Okay. So in effect, you wouldn't have to unbutton
2 the thing and get inside it and ---

3 A. No, sir. You wouldn't have to.

4 Q. --- connect wires?

5 A. No.

6 Q. You could move it?

7 A. Yes, sir.

8 MR. FARLEY:

9 Okay. All right. I think that's all I
10 have right now.

11 EXAMINATION

12 BY ATTORNEY WILSON:

13 Q. Just what Terry just asked you about that method
14 of tramming the miner, that would only allow you to
15 tram the miner; is that right?

16 A. Yes, yeah.

17 Q. So you couldn't actually mine coal?

18 A. No, you could not. You can't start the cutter
19 heads or conveyer.

20 ATTORNEY WILSON:

21 Pat?

22 EXAMINATION

23 BY MR. MCGINLEY:

24 Q. But theoretically it would be possible to wire it
25 so that you could activate the cutter as well?

1 A. I would say probably one of the technicians at Joy
2 could. I don't think there's any electricians working
3 in the mines that could, because you would have to get
4 into the multiplexer, which is a --- it's a big box.
5 I guess it's kind of like a big switchboard, like a
6 computer that has all these functions inside it, and
7 it makes and breaks connections depending on the
8 inputs it receives. I've never heard of anybody being
9 able to program one of those or even opening one up.

10 Q. So the idea of bridging methane monitors on the
11 equipment just wouldn't work; is that what you're
12 saying?

13 A. No. You can bridge out the methane monitor for it
14 to run, just like normal, but the methane monitor
15 would still display whatever is wrong with it. Just
16 the methane monitor itself would not stop the miner
17 from functioning in a normal manner. But there isn't
18 a way to program it where you can use that override to
19 run the miner.

20 Q. I see. Okay. Well, thank you for that.

21 ATTORNEY WILSON:

22 Go off the record for one second.

23 OFF RECORD DISCUSSION

24 ATTORNEY WILSON:

25 We can go back on.

1 A. You know, you can put, like --- like you said, you
2 can put a physical wire inside the monitor itself and
3 it would --- the monitor would run normal, yes.

4 BY MR. MCGINLEY:

5 Q. The display would still be there?

6 A. The display would still show you --- if it had a
7 fault, it would still show you the fault, and it would
8 still show you whatever reading it was picking up.

9 Q. Were you ever involved in replacing a defective
10 monitor?

11 A. Yes, sir. Not at this mine, I haven't.

12 Q. I don't think anyone's asked you, what mines have
13 you worked at?

14 A. I've worked at a lot of Marfork mines. I worked
15 at Ellis Eagle for a long time, probably a year and a
16 half, not a long time, but ---

17 Q. Right.

18 A. --- for probably about a year and a half. I
19 worked at Slip Ridge, Marsh Fork, Ellis Eagle. I
20 worked at River Fork for about a week, but that was
21 before I was an electrician. That's probably it, I
22 think.

23 Q. Now, you said that getting word that an inspector
24 was on his way underground was as common as the
25 inspector's appearance on ---

1 A. Yes, sir.

2 Q. --- the property. Is that true of all those ---
3 at all those mines?

4 A. Yes, sir.

5 RE-EXAMINATION

6 BY ATTORNEY WILSON:

7 Q. What about --- I think you said earlier you worked
8 at Newtown; is that right?

9 A. Yes, sir, for ---.

10 Q. What about at that mine?

11 A. I was only there for about a week and a half. I
12 didn't care for the mine. You can see the methane
13 bubbling out the ribs and out the bottom at that mine.
14 And it was just --- I don't know if I was just used to
15 Massey and the way they work, but I didn't like it
16 there.

17 Q. But as far as notice being called into the mine
18 about the presence of an inspector ---?

19 A. I was on the midnight shift at the time. You get
20 less inspectors on the midnight shift, and I --- as
21 far as I know, I never heard anybody call of any
22 inspectors coming in that week or two.

23 RE-EXAMINATION

24 BY MR. MCGINLEY:

25 Q. Speaking of methane, with the water that you

1 observed and worked in at UBB, did you notice methane
2 or something bubbling out of the water?

3 A. Yes, sir. I have seen that before at UBB.

4 Usually it would be up around if I went up to the
5 headgate or the tailgate section. When I was on
6 evening shift as an outby electrician, if you have an
7 electrician not show up to work that day, I would go
8 and cover for him. And I would see things like that
9 every once in a while. It wasn't often. And I would
10 always check my --- if I saw something like that, I
11 would look at my detector and I would be picking up
12 very, very small amounts.

13 Q. But you'd pick up a little bit, but not much?

14 A. Uh-huh (yes).

15 Q. Yes?

16 A. Sometimes --- yes, yes. And you would most of the
17 time not pick up anything at all.

18 Q. By the way, I wrote down after listening to your
19 answers for a little while. I was going to ask you if
20 you were (b) (7)(C) .

21 A. Yes, sir.

22 Q. I've got a couple (b) (7)(C) in my family.

23 A. Yes.

24 Q. Where were you (b) (7)(C) ?

25 A. I was in --- primarily in South Carolina for about

1 three years.

2 Q. In (b) (7)(C) ?

3 A. Yes, sir. Beaufort, South Carolina. I was in
4 (b) (7)(C) , sir.

5 Q. Do you have any relatives working for Massey?

6 A. Not currently, no.

7 Q. And have you in the past?

8 A. When I first started in the mines I had a

9 (b) (7)(C) , was working there

10 for about a week, and he was --- he had been there for
11 about five months, and I'd been there for about a
12 week. (b) (7)(C)

13 (b) (7)(C) , so he stopped
14 working there, sir.

15 Q. I see.

16 A. I like to emphasize the (b) (7)(C) on that

17 (b) (7)(C) , sir.

18 Q. I understand. Now, I missed this at the beginning
19 of your testimony. When you started working as an
20 electrician at UBB, what shift were you working?

21 A. I was on evening shift when I started there. And
22 that was about a year and a half ago.

23 Q. Okay.

24 A. And I worked evening shift for about a year, and
25 then I switched to dayshift, working on the leaky

1 feeder system about the beginning of this year. I
2 think January of this year.

3 Q. And was your partner, Derrick, was he already
4 working on that system?

5 A. Yes, sir. He had been on that system for ---

6 Q. Since October, November?

7 A. --- maybe about six months or so before I got
8 there, maybe longer. I'm not sure.

9 Q. And you were the only two people working on those
10 systems?

11 A. Yes, sir.

12 Q. And you were the only ones hanging cable?

13 A. Him and the apprentice electricians he had before
14 I come and work with him did most of the hanging of
15 the leaky feeder line.

16 Q. And you were given deadlines by management?

17 A. Mostly --- yes, some. Mostly the deadlines we had
18 were from Gerry Pauley. He's a State inspector.

19 Q. Well, what did management tell you? I mean that
20 you had to meet the deadlines?

21 A. Yes. Yeah. We had to --- Paul Thompson was our
22 immediate electrical supervisor, and he, you know ---.
23 He tried to stay as up on the system as we did,
24 because, like, as you know, it's a new system. And we
25 knew about it more than anybody else there at the

1 mine, and he, you know, would make sure we would stay
2 on track and knew what we had to be doing and
3 everything.

4 Q. Well, you weren't on track, though; right? I mean
5 you missed a number of deadlines.

6 A. Yes, sir.

7 Q. Is that correct?

8 A. Yes, sir. The deadlines we missed, though, were
9 due to inability to receive tag readers from Pyott-
10 Boone. I don't know of any deadlines we missed due to
11 having the parts and not installed them yet.

12 Q. Well, it was a huge job, wasn't it, to ---

13 A. Yes.

14 Q. --- put all of that --- set that up and adjust the
15 frequencies? That was a big problem; right?

16 A. Yes, sir. We spent a lot of --- a lot of hours
17 overtime trying to figure out how to get it right

18 Q. Could've used some help?

19 A. Possibly, sir. But at that stage of it, it was
20 mostly technical things needed worked out, and me and
21 Derrick were really the only ones that knew much about
22 it.

23 Q. Are you still working with Derrick or what are you
24 doing now?

25 A. Right now we are --- this past week we've been

1 attempting to reestablish some of the high voltage
2 circuits underground, cleaning out kVA boxes and
3 making terminations and things of that nature.

4 Q. At UBB?

5 A. Yes, sir, at UBB.

6 Q. When did you get your assistant foreman papers?

7 A. I believe it was sometime in the summer of last
8 year, so I haven't had them very long. Maybe a year
9 I've had them.

10 Q. Did you know about --- were you aware of the
11 fairly large number of MSHA violation notices the mine
12 got in 2009, going into 2010, including (d) orders?

13 A. You would hear about the big ones, sir. They had
14 a board that they would post them on, but you would
15 only see the one on top. I mean if the stack got
16 particularly thick, you may notice it. Most people
17 wouldn't go upstairs. Most of the average workers
18 don't go upstairs to the, you know, offices up there.

19 I was aware of numerous violations at the mine and
20 I attributed that to trouble with these air changes
21 and it being such a large mine. Larger mines are
22 tougher to maintain than the smaller, new mines.

23 Q. Did you talk to any of management about that,
24 express that opinion?

25 A. No, sir. I don't know really what I would say to

1 them, sir, other than ---.

2 Q. Well, it would be more like them talking to you.

3 A. Yes, sir. I don't know if I would say, hey, you
4 guys sure got a lot of violations this month. What
5 are you going to do about it? It's not really my
6 place, sir.

7 Q. I understand. But did that concern you, the fact
8 that there were these violations in terms of your own
9 safety or those people you were working with?

10 A. No, sir. I really --- I didn't think it was ---.
11 I would have never guessed it was --- a situation like
12 this was getting ready to occur. I had no --- I
13 hadn't known that that ---. I thought most of the
14 violations were minor ones. I mean, obviously the (d)
15 orders and stuff like that were not minor violations,
16 but I assumed they were things like the air was not
17 running exactly how we proposed it in a plan. Maybe
18 we were --- a stopping wasn't exactly where they
19 wanted it. I know --- I'm sure every bit of that is
20 critical, but I don't know. I guess I wouldn't really
21 --- I didn't really know.

22 Q. So you know the terms S-1 and P-2?

23 A. Yes, sir.

24 Q. How did those violations square with the notion of
25 S-1 in your view?

1 A. I guess all the violations are made for safety. I
2 mean, there's no laws about production.

3 Q. I guess the question is, how dose a mine ---? I
4 guess what you're saying is that your belief was these
5 were sort of technical violations?

6 A. Yes, sir, because it seems like every inspector
7 doesn't exactly see eye to eye with each other, and
8 there's some interpretations of the law that are a
9 little bit different from one inspector to the other,
10 particularly things like maps and stuff like that.

11 Q. Sure.

12 A. There's some inspectors that say they have to be
13 on a pallet. There's some that say they can't be on a
14 pallet. And then some say they have to be this size,
15 and others say they only have to be this size.

16 Q. But those don't trigger (d) orders?

17 A. No, sir. No, they don't.

18 Q. And you knew that there was air reversal for ---
19 was it two or three weeks, something like that?

20 A. I didn't know that, sir.

21 Q. That would be a concern?

22 A. That would be a concern of mine, if I had known.

23 Q. It would be inconsistent with safety first.

24 A. Yes, sir.

25 Q. What does S-1 and P-2 mean?

1 A. S-1 is safety first, production second.

2 Q. And what else does S-1 mean, other than S-1 ---
3 other than safety first?

4 A. Other than safety first?

5 Q. Have you read the S-1 manual?

6 A. No, I don't think I've ever read it.

7 Q. Have you ever heard of an S-1 manual?

8 A. No. Well, I may have --- no. No, I haven't.
9 Yeah.

10 Q. So is it fair to say that S-1 is a slogan or ---?

11 A. Yes, sir.

12 Q. You said you were outside at the time of the
13 explosion on April 5th?

14 A. Yes, sir.

15 Q. Did you hear or see anything? Were you in the
16 office?

17 A. We were in the motor barn, sir.

18 Q. Okay. You were with Derrick?

19 A. Derrick.

20 Q. Derrick.

21 A. Yes, sir. We were in the motor barn.

22 Q. You could look out the window?

23 A. We'd changed the center section on the scoop and
24 we were doing some other things to it as well, like I
25 was welding a door on it at the time. And we were

1 cutting and welding in there, and the exhaust fan up
2 in the roof, I mean, it's probably a 30-foot tall
3 roof, started spinning. And it was right around three
4 o'clock.

5 And I assumed that John Henline, the evening shift
6 chief, had turned it on for us. He does stuff like
7 that. And I'd mentioned to Derrick, I said, look, I
8 bet you it was John turned that exhaust fan on there
9 for us because we're cutting, welding here. I mean
10 it's a large, open air area.

11 Q. Right.

12 A. It's not really a big deal, but he's the kind to
13 do that extra bit even, you know, just because. And a
14 couple minutes after that some --- you know, somebody
15 had mentioned what was going on out there. Someone
16 said --- someone said that the fan had spun backwards
17 and things of that nature. All of that I'd just heard
18 from other people. I didn't see any of that.

19 Q. So then did you go upstairs and ---? Well, you
20 have the monitors ---

21 A. Well, there's one ---

22 Q. --- for the track system?

23 A. --- upstairs, and then there's also a computer
24 network with it downstairs in the lighthouse. And
25 that's the one I was looking at. I got there.

1 Derrick was already there. He was looking at it. The
2 first thing he had done was looked up his dad to see
3 if he had been outside at the time, and it went from
4 there.

5 Q. Was his dad outside?

6 A. Yes, his dad was outside at the time.

7 Q. Weren't there some batteries on the tracking
8 system that weren't operable?

9 A. Yes, that's what I believe. I think some of them
10 may have not worked. I think some may have worked for
11 a short time. I believe some of them, the plugs had
12 come out.

13 Q. The ones that weren't working, they'd have to be
14 replaced.

15 A. Yes, sir.

16 Q. And did you all ask or tell somebody, we got to
17 order some replacement batteries?

18 A. Well, I just assumed that there were some that
19 were bad because of how quickly the system went down.

20 Q. What about before the explosion? I mean, were you
21 aware that there were some batteries that just weren't
22 working?

23 A. I know every once in a while we'd have damage to
24 our line and the power would go out, and they would
25 --- most of them that were affected would --- the

1 batteries would stay running. Well, I mean all of
2 them would be.

3 Q. But it only took one to short circuit the system,
4 is that right, if it wasn't functioning?

5 A. Right. It wouldn't short --- it would just cut
6 everything off inby that point.

7 Q. Inby?

8 A. It wouldn't be amplifying a system anymore ---

9 Q. Right.

10 A. --- and it would never get to the next one. We
11 usually ---. If we did have damage to a line like
12 that, we wouldn't know when it would happen because we
13 would just see --- unless we just come upon it. But
14 normally the system would just go down at one certain
15 point, and then we would go to that point and go outby
16 to the next amp and see that the battery had died in
17 that one, so we know the line had been damaged. And
18 it stayed running until the battery died.

19 Q. So it really wasn't a very effective system?

20 A. No, sir, it was not.

21 Q. I mean, even if you had gotten it all 100 percent
22 completed, it was very problematic?

23 A. Yes, sir.

24 Q. And did management appreciate that?

25 A. No. I know they --- I believe they were mostly

1 concerned with how much it's taking us to get this
2 system to work right, us being me and Derrick and the
3 people at Pyott-Boone also because we're --- you know,
4 we're working with them to try to --- to try to get it
5 working perfectly.

6 Q. Okay.

7 A. Yeah.

8 Q. When you say how much, you mean how much time?

9 A. No, how much ---. We install the system, expect
10 it to work, and it doesn't. And then we need to make
11 a change to it, and we make that and it's still not
12 right, and then we change something else. How much
13 effort, time, I guess also energy spent into trying to
14 get it right.

15 Q. But did they know even if it was gotten right, it
16 still was very problematic?

17 A. I believe they were aware of the problems of it to
18 some extent.

19 Q. Did you talk to your supervisors to ---?

20 A. Yeah, Paul Thompson knew about how touchy the
21 system was and ---.

22 MR. MCGINLEY:

23 I don't have any further questions.

24 Thank you.

25 RE-EXAMINATION

1 BY MR. SHERER:

2 Q. I've got one question. Do you feel like the
3 miners could express concerns with safety related
4 issues at this mine without any fear of retribution or
5 threats or anything?

6 A. I would say most --- well, I wouldn't say most. I
7 would say probably half of them wouldn't have any
8 problems bringing up concerns with management. I'm
9 sure there are some that did have --- you know, were
10 afraid that ---. I never had any concerns with it
11 myself, but normally if there is a safety concern,
12 like, say, you were sent to repair something and you
13 get there and there's, for example, bad top there or
14 something, you're the one that has to fix it. If you
15 find the problem, you fix it. This is usually the
16 policy.

17 Q. So let's say I'm a belt person and I go in and the
18 belt's just gobbled out to the point where it's just
19 dangerous. I'd just have to stay there and shovel
20 until I get it fixed?

21 A. Yes, sir. Usually it's the fire bosses walk the
22 belt and find that stuff. They would shovel it. If
23 they can't get it all shoveled before they need to
24 finish their fire boss run, they would usually call
25 for somebody to come and finish shoveling up for them.

1 Q. Okay. What if I'm a miner operator and I've just
2 --- I've had problems getting enough air on the
3 section, enough air around the miner? Do you think I
4 could go up to Chris Blanchard and say look, I've been
5 having a heck of a time getting air up on the section.
6 Do you think he'd work with me on that?

7 A. Chris, probably not, sir. I don't know. Like, I
8 haven't had a lot of dealings with him, but ---

9 Q. Sure.

10 A. --- from what I've heard of him, that's not the
11 impression I get, sir.

12 Q. Sure. What about Everett Hager?

13 A. Everett? I would say Everett probably would work
14 to correct the problem. Yeah, I'd say Everett would
15 probably receive that.

16 Q. What about Gary May?

17 A. Gary May? He would probably receive it a little
18 less than Everett, a little more than Chris, sir.

19 MR. SHERER:

20 Okay. Thank you.

21 ATTORNEY WILSON:

22 Terry?

23 MR. FARLEY:

24 No.

25 ATTORNEY WILSON:

1 No? Nothing? All right. Then we'd like
2 to thank you on behalf of MSHA and the Office of
3 Miner's Health, Safety and Training for appearing and
4 answering questions today. Your cooperation is very
5 important to the investigation as we work to determine
6 the cause of the accident. I'll remind you that we
7 request that you not speak with anyone outside the
8 room about what you've talked about with us today.
9 After questioning other witnesses we may call you if
10 we have any follow-up questions. If you think of any
11 additional information that you would --- that you
12 believe would be helpful, please contact either MSHA
13 or the State at the information that was provided to
14 you.

15 Now, at this time --- I promised you
16 earlier that I'd give you an opportunity, if there was
17 any additional information that you have or if there's
18 any sort of a statement that you would like to make,
19 you may do that now.

20 A. I would just like to request a copy of the
21 transcript from this. Other than that, I think we've
22 --- I don't think I have very much more information.
23 Well, one thing we didn't cover. I don't know if you
24 guys would have any more --- any questions concerning
25 this.

1 After the explosion on April 5th, that following
2 Saturday, while the mine rescue and everybody was
3 there, and obviously State and Federal officials, we
4 got the okay for some of our company --- up until that
5 point, none of our company people were allowed into
6 the mine. They allowed us. I forget how many of us
7 were there, but a few of us went inside the mine that
8 following Saturday and worked on ventilation for the
9 mine rescue teams for them to be able to do their
10 ventilation quicker.

11 We framed up places they would put temporary
12 stoppings and we even put the curtain and rolled it up
13 and put it at the top and left foam packs there for
14 them. That way when they were ready for it, they
15 could just drop the curtain and foam pack it. And
16 that was right around the air change that was made
17 around the mouth of the longwall section. We did I
18 think seven of them here at the mouth of the longwall
19 section.

20 RE-EXAMINATION

21 BY ATTORNEY WILSON:

22 Q. And when you say that, you were talking about
23 right at the --- where the Six North belt intersects
24 with the One North ---

25 A. Right, sir.

1 Q. --- Headgate section?

2 A. In an attempt to block off the air, either --- I
3 would assume the air going inby towards the longwall.

4 Also, three of them were --- I don't know what you
5 would call this part of the mine here. This was
6 currently --- Two section mined this small section
7 behind the longwall panel out where it connects.

8 Q. And when you say behind, you mean immediately
9 outby the longwall panel?

10 A. Yes, sir, where the three entries connect up to
11 the main belt and track panel area.

12 Q. The Number Six North belt?

13 A. Yes, sir, three of them there and a few of them
14 here inby 78 Switch.

15 Q. And now you're pointing to the Tailgate One North?

16 A. To the tailgate split, the Tailgate One North
17 split.

18 RE-EXAMINATION

19 BY MR. SHERER:

20 Q. So you helped work on those crews?

21 A. Yes, sir.

22 Q. Yeah, we're familiar with the temporary
23 ventilation that they did as part of the rescue and
24 recovery. They tried to get fresh --- or they did get
25 fresh air up onto the 22 Headgate.

1 A. Yes, that's what I assumed they had been doing.

2 Q. Yes. So we're familiar with that, but we
3 appreciate your ---

4 A. Okay.

5 Q. --- information.

6 ATTORNEY WILSON:

7 Anything else?

8 MR. FARLEY:

9 No.

10 MR. MCGINLEY:

11 No.

12 ATTORNEY WILSON:

13 Okay. Then again, I want to thank you
14 for appearing here today, and then we will provide a
15 copy of the transcript after the entire interview
16 process has been completed.

17 A. Yes, sir.

18 ATTORNEY WILSON:

19 Okay. If there's nothing further then
20 we'll go off the record.

21 * * * * *

22 STATEMENT UNDER OATH CONCLUDED AT 3:22 P.M.

23 * * * * *

24

25

1 STATE OF WEST VIRGINIA)

2

3

4

CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

22

Alison Salyards

23

24

25