



**SARGENT'S  
COURT  
REPORTING**

**Quality Work. Quality People.**

**Transcript of the Testimony of Robert Hale**

**Date:** July 19, 2010

**Case:**

**Printed On:** July 26, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: [schedule@sargents.com](mailto:schedule@sargents.com)

Internet: [www.sargents.com](http://www.sargents.com)

STATEMENT UNDER OATH  
OF  
ROBERT HALE

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 and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, July 19, 2010, beginning at 8:03 a.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

POLLY ANNA HAMPTON, ESQUIRE  
U.S. Department of Labor  
Office of the Regional Solicitor  
1100 Wilson Boulevard  
22nd Floor West  
Arlington, VA 22209

NORMAN G. PAGE  
Miner Safety Health Administration  
100 Fae Ramsey Lane  
Pikeville, KY 41501

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

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

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

JOHN O'BRIEN  
Safety Inspector  
West Virginia Office of Miners' Health,  
Safety and Training  
Welch Regional Office  
891 Stewart Street  
Welch, WV 24801-2311

BETH SPENCE  
West Virginia Independent Investigation  
(b) (7)(C)  
(b) (7)(C)

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

## I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Hampton	7 - 12
5	STATEMENT	
6	By Mr. Farley	12 - 13
7	WITNESS: ROBERT HALE	
8	EXAMINATION	
9	By Mr. Page	13 - 21
10	EXAMINATION	
11	By Mr. Farley	22
12	EXAMINATION	
13	By Mr. McGinley	22 - 31
14	RE-EXAMINATION	
15	By Mr. Page	31 - 41
16	RE-EXAMINATION	
17	By Mr. Farley	41 - 54
18	RE-EXAMINATION	
19	By Mr. McGinley	54 - 68
20	RE-EXAMINATION	
21	By Mr. Page	69 - 84
22	RE-EXAMINATION	
23	By Mr. Farley	84 - 85
24	RE-EXAMINATION	
25	By Mr. McGinley	85 - 93

## I N D E X (cont.)

1		
2		
3	EXAMINATION	
4	By Attorney Hampton	93 - 94
5	RE-EXAMINATION	
6	By Mr. McGinley	94 - 95
7	RE-EXAMINATION	
8	By Attorney Hampton	96
9	RE-EXAMINATION	
10	By Mr. McGinley	97 - 98
11	RE-EXAMINATION	
12	By Mr. Farley	98 - 100
13	RE-EXAMINATION	
14	By Mr. Page	100 - 106
15	RE-EXAMINATION	
16	By Mr. McGinley	106 - 110
17	CLOSING STATEMENT	
18	By Attorney Hampton	110 - 111
19	CERTIFICATE	112
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 ATTORNEY HAMPTON:

4 Okay. My name is Polly Hampton. Today  
5 is July 19th, 2010. I am with the Office of the  
6 Solicitor, U.S. Department of Labor. With me is  
7 Norman Page, the lead accident investigator with the  
8 Mine Safety and Health Administration, MSHA, an agency  
9 of the United States Department of Labor. Also  
10 present are several people here from the State of West  
11 Virginia, and I ask that they now state their  
12 appearance for the record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

20 I'm Beth Spence with the Governor's  
21 independent team.

22 ATTORNEY HAMPTON:

23 There are also some other members of the  
24 investigations team, investigation teams present in  
25 the room today. Mr. Page will be conducting the



1 initial part of the questioning this morning.

2 All members of the Mine Safety Health

3 Accident Investigation Team and all members of the

4 State of West Virginia Accident Investigation Team

5 participating in the investigation of the Upper Big

6 Branch Mine explosion shall keep confidential all

7 information that is gathered from each witness who

8 voluntarily provides a statement until the witness

9 statements are officially released. MSHA and the

10 State of West Virginia shall keep this information

11 confidential so that other ongoing enforcement

12 activities are not prejudiced or jeopardized by a

13 premature release of information.

14 This confidentiality requirement shall

15 not preclude investigation team members from sharing

16 information with each other or with other law

17 enforcement officials. Your participation in this

18 interview constitutes your agreement to keep this

19 information confidential.

20 Government investigations and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine-South on

24 April 5th, 2010. The investigation is being conducted

25 by MSHA under Section 103(a) of the Federal Mine

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

4 MS. SPENCE:

5 Excuse me. We're changing out here,  
6 Pat's ---

7 ATTORNEY HAMPTON:

8 Okay.

9 MS. SPENCE:

10 --- going to be at this table.

11 OFF RECORD DISCUSSION

12 ATTORNEY HAMPTON:

13 Okay. While he gets set up, I'm going to  
14 continue on. You may have a personal attorney present  
15 during the taking of the statement or another personal  
16 representative if MSHA has permitted it and may  
17 consult with your attorney or this representative at  
18 any time.

19 Your statement is completely voluntary.

20 You may refuse to answer any question and you may  
21 terminate your interview at any time or request a  
22 break at any time. Since this is not an adversarial  
23 proceeding, formal Cross Examination will not be  
24 permitted. Just so that the record is clear, do you  
25 have a personal representative with you here today?

1 MR. HALE:

2 No.

3 ATTORNEY HAMPTON:

4 Your identity and the content of this

5 conversation will be made public at the conclusion of

6 the interview process and may be included in the

7 public report of the accident unless you request that

8 your identity remain confidential or your information

9 would otherwise jeopardize a potential criminal

10 investigation. If you request us to keep your

11 identity confidential, we will do so to the extent

12 permitted by law. That means that if a judge orders

13 us to reveal your name or if another law requires us

14 to reveal your name or if we need to reveal your name

15 for any other law enforcement purposes, we may do so.

16 Also, there may be a need to use the

17 information you provide to us, other information we

18 may ask you to provide in the future in other

19 investigations into and hearings about the explosion.

20 Do you understand?

21 MR. HALE:

22 Yes.

23 ATTORNEY HAMPTON:

24 Do you have any questions?

25 MR. HALE:

1 No.

2 ATTORNEY HAMPTON:

3 After the investigation is complete, MSHA

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

13 A court reporter will record your

14 interview, so please speak loudly and clearly. If you  
15 do not understand a question, please ask the person to  
16 rephrase it, and please answer each question as fully  
17 as you can, including giving us any information that  
18 you might have learned from someone else.

19 We'd like to thank you in advance for

20 your appearance here. We appreciate your assistance  
21 in this investigation. Your cooperation is critical  
22 in making the nation's mines safer.

23 After we have finished asking questions,

24 you will then have an opportunity to make a statement  
25 and provide us with any other information that you

1 believe to be important. If at any time after the  
2 interview you recall any additional information you  
3 believe might be useful, please contact Norman Page at  
4 the telephone number or the e-mail address provided to  
5 you.

6 Any statements given by miner witnesses  
7 to MSHA are considered to be an exercise of statutory  
8 rights and protected activity under Section 105(c) of  
9 the Mine Act. If you believe any discharge,  
10 discrimination or any adverse action is taken against  
11 you as a result of your cooperation with this  
12 investigation, you are encouraged to immediately  
13 contact MSHA and to file a complaint under Section  
14 105(c) of the Act. Terry?

15 MR. FARLEY:

16 Mr. Hale, on behalf of the Office of  
17 Miners' Health, Safety and Training I want to advise  
18 you that the West Virginia Mine Health and Safety  
19 Regulations also protect miners against potential  
20 discrimination for participating in these type of  
21 interviews. I want to provide you with some contact  
22 information for the West Virginia Board of Appeals  
23 which hears complaints about such discrimination.

24 Also, the information here includes my  
25 phone number along with a phone number for Mr. Bill

1 Tucker, who's our leading underground investigator.  
2 And you can certainly call us if you have any  
3 problems. Now, we would caution you that should you  
4 have a problem, you need to file a claim within 30  
5 days of when the event occurred. All right.

6 ATTORNEY HAMPTON:

7 Okay. Could you swear in the witness?

8 -----

9 ROBERT HALE, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
10 AS FOLLOWS:

11 -----

12 ATTORNEY HAMPTON:

13 Okay.

14 MR. PAGE:

15 Are we ready?

16 ATTORNEY HAMPTON:

17 Yep.

18 EXAMINATION

19 BY MR. PAGE:

20 Q. Okay. Would you care to state your full name and  
21 spell your last name?

22 A. Robert Hale, H-A-L-E.

23 Q. Could you give us your address and your phone  
24 number?

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

1 (b) (7)(C)

2 Q. Are you appearing here voluntarily?

3 A. Yes.

4 Q. Okay. Has anyone other than --- has anyone  
5 interviewed you about the explosion at Upper Big  
6 Branch?

7 A. Yes.

8 Q. And could you tell me who that's been?

9 A. I do not know their names, but it was Massey's  
10 company lawyers.

11 Q. Okay. Anyone else besides Massey?

12 A. No.

13 Q. No one else?

14 A. No.

15 Q. Okay. Could you tell me a little bit about that  
16 interview, what they asked?

17 A. They were just asking --- well, I don't remember  
18 all the questions they asked.

19 Q. Oh, no, I know. I realize that. Did they give  
20 you instructions or anything?

21 A. No, sir. No, no, they were just trying to get  
22 information about the mines and what we've --- what  
23 I'd done that night and what all I could remember, you  
24 know?

25 Q. Okay. Tell me --- tell me a little bit about what

1 you do, what your job is.

2 A. I work --- I work maintenance on the longwall.

3 Q. Okay.

4 A. I've got two, two other guys that work with me,  
5 specifically with me, two other electricians.

6 Q. Are you supervisor or ---?

7 A. I guess, yes, it's printed that way. Yes. That's  
8 how it is.

9 Q. Okay. Do you sign the books?

10 A. Well, as far as permissibility books?

11 Q. Yeah, electrical.

12 A. All three of us sign books.

13 Q. Okay.

14 A. You know.

15 Q. Okay.

16 A. All three sign permissibility books.

17 Q. So what shift do you work?

18 A. We work third shift.

19 Q. Third shift? Do you do any production on third  
20 shift?

21 A. No.

22 Q. None?

23 A. None.

24 Q. Okay. What do you usually --- what's your shift  
25 usually entail?



1 A. They usually have us a work list, you know, and we  
2 --- it normally consists of greasing and surfacing the  
3 shearer, bitting the shear, checking oils in the  
4 motors, the drive motors and --- or whatever. And  
5 unless something's broke, that's basically our --- you  
6 know, our shift, you know, but ---.

7 Q. You do pre-maintenance, then?

8 A. Yes, yes.

9 Q. How long have you been at UBB?

10 A. I've worked there two or three different times.  
11 This last time I went --- well, I was at Logan's Fork  
12 when I first come back to work for Massey. I come  
13 back to work for Massey in 2008, August of 2008, and  
14 worked at Logan's Fork until somewhere around about  
15 June of 2009.

16 And we went back to UBB, working outside,  
17 rebuilding longwall shields for probably a month and a  
18 half or so, well except Labor Day weekend. And then I  
19 was asked to go on third shift in September, and I  
20 worked on the third shift on the longwall from  
21 September until the explosion.

22 Q. So they used you on the longwall, basically?

23 A. Yes.

24 Q. Did you do anything besides that in between? Did  
25 you repair on a sections if someone's off or anything

1       like that or ---?

2       A. No. No, I never did work in the miner sections at  
3       UBB.

4       Q. Okay. So could you tell me little bit ---? Did  
5       you work the night of --- third shift of the night of  
6       the ---

7       A. Yes.

8       Q. --- explosion?

9       A. Yes.

10      Q. Could you tell me a little bit about the longwall  
11      that night?

12      A. Just it was really just a normal, normal shift,  
13      really. We got our list and got our parts together.  
14      Our job that night was we had to replace a cow blade  
15      on the shearer. The one that was on it, the arms was  
16      broke on it. And they were afraid that it was going  
17      to go down in the pan line, you know, down the face  
18      somewhere and cause them some down time, so we  
19      gathered a new cow blade and the bolts and things up  
20      outside and took it in. And that night we replaced  
21      the cow blade.

22      And when we got finished with the cow blade we ---  
23      they wanted us to put, add flights to the face chain  
24      because the face --- the tips on the face chain were  
25      getting worse, so they wanted us to start replacing

1 some of the flights. Or we wasn't replacing. We were  
2 just adding them in.

3 Q. And when you changed the tips on the flight, what  
4 do you have to do to change them?

5 A. It's not changing them. We was just adding them  
6 in to the chain. Flight bar's three foot long. It's  
7 got three bolts and another bar that goes underneath  
8 the chain. I don't know if you know anything about  
9 longwalls.

10 Q. Uh-huh (yes).

11 A. Okay. They wanted us --- every four flight bar  
12 they wanted us to --- they wanted us to add one  
13 between.

14 Q. Add one in?

15 A. Yeah, so it wouldn't ride up out of the sigma, out  
16 of the chain, the face conveyer.

17 Q. Right. So you didn't get anything under it and  
18 stuff. Did you have to use any cutting torches or  
19 anything that night?

20 A. Yes, sir, we did.

21 Q. On the cow or ---?

22 A. Yes, sir, on the cow.

23 Q. Okay. Explain. Explain the process of changing  
24 that out.

25 A. Well, the process of changing the cow is getting

1 it cleaned up to where you can work, of course. Then  
2 we --- well, before that we'd already gathered our  
3 parts up and took them to the work area where we was  
4 going to be working. Oxygen and acetylene. We got us  
5 a couple bags of rock dust and a fire extinguisher and  
6 put it there. Had my spotter, my methane detector, my  
7 three gas detector, had it there with us. And  
8 basically that's it. That's it, you know.

9 You just go to work, start cutting the old one  
10 off. And then once we get the old one off, drag it  
11 out into the break and shift the new one over and line  
12 it up, put three bolts in and tighten it up and ---.

13 Q. Where did you put the old one?

14 A. We had it on the head drive and Mr. Brown, Larry  
15 Brown, him and his guys come and took the old one away  
16 in a scoop. I don't know where it ended up.

17 Q. Larry Brown?

18 A. I don't know if they hauled it outside that night  
19 or stored it somewhere out of the way until they could  
20 haul it out. I'm not sure.

21 Q. Okay. What time --- about what time did you get  
22 done with it?

23 A. With the cow job?

24 Q. Uh-huh (yes).

25 A. I'm going --- I'm going to guess 3:30 or 4:00.

1 Q. A.M.?

2 A. Yes.

3 Q. Okay. The shearer was sitting on the head?

4 A. Yes, sir.

5 Q. Was it pushed over or just sitting out in the  
6 entry or how was it? How was the shearer located ---  
7 positioned?

8 A. When we changed the cow blade it was cut out all  
9 the way on the head, as far as --- as far as you could  
10 tram it.

11 Q. All the way back?

12 A. Right. It was the farthest --- cut out as far as  
13 you could get it.

14 Q. Okay. What about the ventilation? Did any of you  
15 guys or did you all make a pre-shift for the next  
16 shift or anything?

17 A. That would have been Mr. Brown.

18 Q. What's Mr. Brown's job up there?

19 A. He's the hoot owl boss on the third shift.

20 Q. Okay.

21 A. Yeah.

22 Q. So he made it for the dayshift?

23 A. Right.

24 Q. Okay. Could you tell how the ventilation was?

25 Was it normal or ---?

1 A. Seemed normal to me. I mean, the longwall, we had  
2 beau coups of air. You absolutely froze to death up  
3 there.

4 Q. So you was at the headgate. So the belt goes down  
5 that entry; right? Down the headgate entry, belt  
6 conveyer?

7 A. Yes, the belt, yeah, is in ---

8 Q. Goes right straight down with the stage loader?

9 A. --- line with the stage loader, yes.

10 Q. Yeah. So do you know which way the direction of  
11 the air was going that day, that night?

12 A. As far as the belt? Are you talking about ---?

13 Q. Yeah, the belt air, was it coming up on you or was  
14 it going out?

15 A. Honestly, I don't recall.

16 Q. Do you recall if any rock dust or anything from  
17 somebody rock dusting outby coming up on the section  
18 on you guys?

19 A. I don't remember if there was. No, I don't  
20 recall.

21 Q. At the headgate when you guys were doing that,  
22 there was a lot of ventilation?

23 A. A lot of ventilation, yes.

24 MR. PAGE:

25 Okay. Terry, have you got some

1 questions?

2 EXAMINATION

3 BY MR. FARLEY:

4 Q. Back up on a couple things real quick. If I'm  
5 clear, your job title, are you an hourly work or a  
6 salaried employee?

7 A. I am salaried, but I get paid overtime.

8 MR. FARLEY:

9 Okay. That's all I got right now.

10 MR. PAGE:

11 Pat, you got anything?

12 MR. MCGINLEY:

13 Yeah.

14 EXAMINATION

15 BY MR. MCGINLEY:

16 Q. You went underground at UBB, you said in  
17 September. That would be September of 2009?

18 A. Yes.

19 Q. How long have you been a miner?

20 A. I started working at a mines in 1996.

21 Q. What mine was that?

22 A. I worked for Chris Clown at his Speed Mine.

23 Q. How long were you there?

24 A. I worked for Chris Clown for approximately four  
25 years.

1 Q. What'd you do there?

2 A. I run a shuttle car.

3 Q. Then what'd you do?

4 A. I quit and went to work for Massey.

5 Q. In 2000?

6 A. 1999. It was September of '99.

7 Q. And where were you first assigned? Where were you  
8 first assigned?

9 A. With Massey?

10 Q. Yes.

11 A. I worked at their Cedar Grove Mines. I worked for  
12 --- it was Independence Coal.

13 Q. What'd you do there?

14 A. The first five or six months I run a shuttle car,  
15 and then they brought the longwall up there and I took  
16 a longwall job.

17 Q. And what did you do at the --- on the longwall?

18 A. The first thing, the first job I did on the  
19 longwall, I was a --- what they call a jack setter.

20 Q. How long did you do that?

21 A. Honestly I don't remember exactly.

22 Q. Just --- no, no, I'm not looking for exact.

23 A. I don't know, a year and a half, two years, maybe.  
24 I'm not sure.

25 Q. And then what did you do?



1 A. And then they wanted me to try a shield tech job,  
2 do maintenance on the longwall shields.

3 Q. Did you have any training for that?

4 A. Just what I was trained on the job.

5 Q. And how long did that last?

6 A. I done that job for approximately three, three and  
7 a half years.

8 Q. Then what did you do?

9 A. Well, I got into the electrical program, got ---  
10 and got my certification, but I still was doing shield  
11 tech work for a while even after I got my  
12 certification.

13 Q. Approximately when did you get your electric  
14 certification?

15 A. I think it was 2004.

16 Q. Were you reclassified as an electrician at that  
17 time by Massey?

18 A. I'm not sure if that's what they had me on the  
19 time sheet or not. Probably so, because the wage  
20 difference, yes. I'm just about positive, yes.

21 Q. So after you got your electrician papers, you  
22 continued to do some shield tech work. And then what  
23 followed after that?

24 A. Eventually I moved into electrician spot on the  
25 third shift.

1 Q. And what mine were you at at that time?

2 A. UBB.

3 Q. So the first time you came to UBB was what year?

4 A. It was probably 2000 for just maybe two months.

5 Q. Okay. And then where did you go 2000?

6 A. I think we pulled two panels on the longwall at a  
7 Marfork mines called Ellis Eagle. We was over there  
8 for, like, 9 or 10 months, something like that, 11  
9 months.

10 Q. Okay.

11 A. And then I came back to UBB after that.

12 Q. So that would have been around 2001?

13 A. I really don't ---.

14 Q. Somewhere thereabouts?

15 A. I really don't know.

16 Q. Early 2000s?

17 A. Yeah. I don't really ---.

18 Q. Okay. And so you came back to UBB and did you  
19 stay there from then on or did you go out to ---?

20 A. Yeah, I worked --- I worked at UBB until 2006,  
21 February of 2006.

22 Q. So somewhere from early 2001, 2002 to 2006 in  
23 February, you were at UBB?

24 A. Yes.

25 Q. And before you got your electrician certification

1 in 2004 you were doing shield tech work?

2 A. Yes.

3 Q. So almost all the time from the first time you  
4 worked at UBB until February of 2006 you were working  
5 on the longwall in one way or another?

6 A. Yes, at one mines or another.

7 Q. Okay. And the most of the time between 2000,  
8 2006, you were at UBB; is that correct?

9 A. Yes, all but probably nine or ten months of it.

10 Q. When you went to ---

11 A. The Ellis Eagle.

12 Q. --- Ellis Eagle?

13 A. Right.

14 Q. Okay. Do you have any other papers or  
15 certifications than the electrician?

16 A. Yes, sir.

17 Q. What? What are those?

18 A. I have mine foreman papers.

19 Q. And when did you get those?

20 A. I'm thinking it was 2004, too.

21 Q. So you think of yourself as management or ---?

22 A. No, I don't. I mean, they tell me what to do.

23 Q. Right. Who's your immediate boss up, at the time  
24 of the explosion? Who were you reporting to?

25 A. As far as the maintenance end, Daniel Laverty.

1 Q. Who else did you report to?

2 A. Jack Roles, I guess. I guess he would be  
3 immediate supervisor.

4 Q. So back in 2003 and 2004 you were working on the  
5 longwall; right?

6 A. Yes, I was.

7 Q. Do you remember a couple of times when there was a  
8 methane outburst in the floor of the longwall, caused  
9 the ---?

10 A. I remember one time coming in on the third shift  
11 that night that they were shut down, but I think it  
12 come to find out that it wasn't methane; it was some  
13 other type of gas. But it was and it burnt everyone  
14 that was up there's detectors up. I do remember that,  
15 but that's about all I do remember about it.

16 Q. Do you remember you were off for a couple of days?

17 A. No, I don't remember if I was off for a couple  
18 days or not, because when I got there that night, I  
19 had to go in and start to help them seal up some  
20 stoppings and stuff that had some small holes or  
21 whatever in them and checking all of the stoppings and  
22 make sure that the ventilation was tight.

23 Q. There wasn't any production ---

24 A. No.

25 Q. --- running?

1 A. No, no, no.

2 Q. The records show in February of 2004 the mine was  
3 down from Wednesday through Friday.

4 A. It probably was.

5 Q. The mine had filled up with gas. The reports say  
6 methane, but it might've been something else.

7 A. Yes. Yeah, yeah, I remember that. I don't  
8 remember what exact dates it was, but yes, I do  
9 remember that happening.

10 Q. And do you remember another time in July of 2003  
11 with something similar happening?

12 A. No, I do not remember that. I mean, I don't  
13 recall that. I remember one time, but not --- I don't  
14 remember twice. Not to say it didn't happen, but ---

15 Q. Right.

16 A. --- you know.

17 Q. So what kind of gas was it that was reported to  
18 you that they had that wasn't methane?

19 A. I'm trying to think of what they did call it. I  
20 really honestly couldn't say for sure. It was  
21 ethylene or something like that. I can't remember  
22 exactly what they said it was, you know? I don't  
23 really recall.

24 Q. Is that the most serious event you can recall in  
25 your time at UBB regarding some kind of gas shutting

1 down the mine?

2 A. Yes.

3 Q. Does that make any kind of impression on you or  
4 was --- even though it might've been the most serious  
5 incident regarding gas, it wasn't taken very  
6 seriously?

7 A. No, it was taken seriously, because, you know, the  
8 problem was addressed, you know. Everyone was pulled  
9 from the mines and only those that was working on  
10 correcting the problem was allowed in the mines.

11 Q. And then you went --- after that problem was  
12 addressed and corrected, you went back to work on the  
13 longwall on the third shift, where --- is that right?

14 A. Yes.

15 Q. There wasn't any production on the third shift?

16 A. No.

17 Q. So following that occasion when men were pulled  
18 out of the mine because of the --- some kind of gas  
19 inundation, what were you told about that event and  
20 what precautions were you given?

21 A. I really don't remember that much about it. I  
22 just remember that it happened. The only thing that I  
23 was told, that there was a crack somewhere along the  
24 longwall face that you could hear it coming out of,  
25 and that's basically all I know. I mean, I don't know

1 --- I don't remember anything else about it.

2 Q. Was there any training that management afforded  
3 you in connection with that incident? For example,  
4 you know, what would be an indication that there might  
5 be a similar event about to occur?

6 A. Not that I can remember, not that I can remember.

7 Q. Certainly not something that was followed up on in  
8 the years after that event in safety training?

9 A. Not that I can remember, no.

10 Q. You'd probably remember that if ---.

11 A. Yeah. I mean, not that I can remember.

12 Q. And certainly in your retraining it's never been  
13 mentioned since; is that right? Or you know what to  
14 do if there's an indication of a gas burst from the  
15 floor there at the longwall?

16 A. Well, I mean, I guess we all are dependent on the  
17 equipment to, you know, to do its job, but ---.

18 Q. So who told you that there was a loud noise  
19 associated with that floor burst?

20 A. I believe one of the guys that I'd worked with. I  
21 don't even remember the guy's name, but that's where I  
22 heard it from, that he was on the face that --- when  
23 it happened. Because it already happened and they  
24 done pulled everybody out of the mines when --- by the  
25 time I came to work that night.

1 Q. Right.

2 A. Right.

3 Q. Did he describe the sound?

4 A. It sounded like a train whistle, they said.

5 Q. So it would be helpful if there was ongoing  
6 training not only for you, for new people on the  
7 longwall are told if they hear a sound like a train  
8 whistle --- some people described it as a sound like a  
9 jet engine --- if they heard that to get out of there?

10 A. I'd say it would be helpful.

11 Q. But that didn't happen in your training?

12 A. Not that I can remember.

13 Q. You'd remember that ---

14 A. Yeah.

15 Q. --- because you had retraining every year; right?

16 A. Uh-huh (yes).

17 Q. So that didn't happen?

18 A. No.

19 MR. MCGINLEY:

20 Okay. That's all I have for right now.

21 RE-EXAMINATION

22 BY MR. PAGE:

23 Q. Okay. Now, we've interviewed a lot of people and  
24 stuff and, you know there's a lot --- equipment doors  
25 are all through that mines and ---.



1 A. Are you talking about the airlock doors?

2 Q. Yeah.

3 A. Oh, yeah.

4 Q. I mean, I've never seen that many going up one  
5 main line.

6 A. Yeah.

7 Q. Could you tell me how many occasions that you guys  
8 came in that you --- the doors, both sets of doors  
9 would be open?

10 A. I can't even remember any --- both sets of doors  
11 being open.

12 Q. None of them?

13 A. No.

14 Q. Always?

15 A. Always --- we always done one at a time.

16 Q. I know. I mean, they wasn't open prior to you  
17 coming in?

18 A. No, no, no.

19 Q. What kind of condition were the doors in?

20 A. I can only remember one having damage.

21 Q. Okay.

22 A. And it was on the bottom, bottom corner. The rest  
23 of them were in good shape.

24 Q. You could open them by yourself and close them, or  
25 where they automatic or what?

1 A. No, most of them you had to open by hand.

2 Q. Okay. One person would open them easy? They work  
3 good?

4 A. Yes.

5 Q. Okay.

6 A. A couple of them here had a lot of air on them.

7 There was ---

8 Q. A lot of pressure?

9 A. --- a lot of pressure, yes.

10 Q. Okay. Did Massey offer you an attorney to come  
11 here with you today?

12 A. No.

13 Q. They didn't? Okay. Did you ever come in and have  
14 to work on the methane monitor?

15 A. No, sir.

16 Q. Never did?

17 A. No, sir.

18 Q. It was always ---?

19 A. As far as I can remember, they hadn't had any  
20 methane detector problems.

21 Q. How many methane monitors were on that longwall?

22 A. There was one on the shearer and there's one on  
23 the tail.

24 Q. What about mid face?

25 A. No. There used to be, but it's not there no more.

1 I guess they done away with it out of the plan or  
2 whatever. I don't know. When I worked on the  
3 longwall before, you know, it was at mid face, but  
4 when I come back to work for UBB, or Massey this time,  
5 it wasn't at mid face anymore.

6 Q. Do you know how much air is supposed to be on the  
7 longwall face?

8 A. How much air is supposed to be on the longwall  
9 face?

10 Q. Uh-huh (yes).

11 A. I'm thinking the 45,000 supposed to be in the last  
12 open break.

13 Q. Have you had any issues with --- any problems with  
14 the floor or methane issues while you've been up there  
15 working?

16 A. No, not ---

17 Q. No.

18 Q. --- that I can remember since the time he was  
19 speaking of.

20 Q. Well, I'm talking on this face.

21 A. Oh, no, no.

22 Q. No cracks, nothing?

23 A. No, not that I've seen.

24 Q. What about water issues?

25 A. We had water issues a few months back.

1 Q. Where was it at?

2 A. Where wasn't it at?

3 Q. Okay. Where do you think --- where did it  
4 originate? Was it down in the face, all down in the  
5 face? Was it in the headgate entries or ---?

6 A. No, it was coming out of the face. I guess it was  
7 coming out of the top. It didn't seem like that there  
8 was that much water coming out of the top, which there  
9 wasn't where the shields and the pan line and stuff  
10 was. But I guess where --- back in the gob line where  
11 the top had fell, it may have been coming in more. It  
12 had to be coming in more.

13 Q. Yeah.

14 A. Yeah, I mean, because we had some water for a  
15 little while.

16 Q. The last time that you worked, did you go down the  
17 face?

18 A. No, sir, I didn't.

19 Q. Okay. When was the last time that you went down  
20 the face?

21 A. I can't remember the last time I was down in the  
22 face.

23 Q. They keep the shearer up to the head for you, huh?

24 A. Most of the time we've got major stuff to do to  
25 it, so yes.

1 Q. Okay. Well, you're pretty lucky then.

2 A. Yeah. I can't remember the last time we had to  
3 work on it down the face.

4 Q. In your opinion, why would you leave the shearer  
5 at the tail?

6 A. Are you speaking why it's there now?

7 Q. Yeah.

8 A. I can only think of two things.

9 Q. Okay.

10 A. The boys, they've hit something and seen something  
11 and they took off running or they had quit for some  
12 reasons, quit loading for some reason and was walking  
13 off the face. I don't know.

14 Q. I mean, it's not normal to leave the shearer on  
15 the tail. They have to go back to the head.

16 Q. Well, now, I don't want to say it was getting  
17 close to their quitting time, but it was getting  
18 fairly close to their quitting time.

19 Q. But most of the time you still take it to the head  
20 to cut it out, because you got to go up there anyway.

21 A. Yeah. Well, it just depends on what kind of day  
22 you've had.

23 Q. Well, I worked on a longwall, so --- I mean, we  
24 didn't leave it on the tail unless there was a reason.

25 A. Yeah.

1 Q. We always tried to get it, and I was just ---- I  
2 was wanting your opinion.

3 A. My opinion is, is for some reason they quit  
4 loading or for --- they've hit something in the tail  
5 entry and they seen it and they took off. I don't  
6 know.

7 Q. How many people are normally on the face?

8 A. On the face?

9 Q. Uh-huh (yes), on a production shift.

10 A. You've got two shearer operators, a jack setter, a  
11 boss, and usually an electrician hang around, you  
12 know.

13 Q. He's usually up at the head; right?

14 A. Well, they had two. One was at the head, and  
15 usually the one hangs around down ---.

16 Q. So you're saying about five people is usually  
17 in ---.

18 A. Yeah.

19 Q. Roughly.

20 A. And my understanding of that there's --- I think  
21 they were training a new jack setter.

22 Q. Oh, okay.

23 A. They were trying to get him some training.

24 Q. I didn't realize that. Okay. Did you hear of,  
25 like, when you talked with the evening shift or you

1 talked with the dayshift --- I mean you communicated  
2 with both; right, ---

3 A. Yeah.

4 Q. --- crews, because ---?

5 A. I don't remember talking to the evening shift that  
6 night.

7 Q. I mean but you did on --- normally?

8 A. Yeah, normally you see both crews.

9 Q. Yeah.

10 A. Right, yeah.

11 Q. Did either one of those crews say anything about  
12 the change in the ventilation where it increased,  
13 decreased?

14 A. No, sir.

15 Q. Any methane issues or anything like that?

16 A. No, sir.

17 Q. What about Brown?

18 A. No, sir.

19 Q. Larry Brown, I guess that was his name.

20 A. Yeah. No, Larry never, never mentioned anything  
21 to me about any methane problems or any ventilation  
22 problem.

23 Q. What did Larry do? And how many men? How many  
24 men did Larry Brown have while he was up there?

25 A. I think Larry's got him and two other guys, I

1 believe.

2 Q. What was their duties? What did Larry and those  
3 guys do?

4 A. They took care of outby stuff, you know. And  
5 they'll haul our parts up to the last open break and  
6 they'll take all our old ones out, like they did that  
7 night. They get ready for power moves and things like  
8 that, gather old belt structure up, and they do stuff  
9 like that, you know, just ---.

10 Q. They never did run any coal?

11 A. No, no, they don't run coal.

12 Q. Did Larry and his crew ever go set pumps or  
13 anything like that on the headgate or tailgate? Are  
14 you aware of it?

15 A. I've seen them set, drag pumps up to the face when  
16 --- that time that we was having water troubles. But  
17 that's the only time that I can recall them bringing  
18 pumps up.

19 Q. At the headgate --- that's where you worked ---  
20 did you see any change in the roof conditions? Had  
21 they started getting worse or anything like that?

22 A. No, sir, I didn't notice it if it was.

23 Q. You didn't see any fault type areas or anything  
24 like that?

25 A. No.



1 Q. When you came back to work at UBB back in, what,  
2 September?

3 A. Yes. Well, I was there in June, but I was  
4 outside.

5 Q. Okay, in June.

6 A. Yeah.

7 Q. What kind of --- what kind of ---?

8 A. Working underground Labor Day weekend.

9 Q. What kind of training did you receive when you  
10 came back in June?

11 A. Well, we had a mine tour before we went back  
12 underground, which I knew where I --- just about where  
13 I was going, but ---. That and just whatever  
14 equipment that we was going to be using. We got ---  
15 you know, we got task trained on that ---

16 Q. Did you get a ---

17 A. --- and SCSR.

18 Q. --- new miner's training or anything like that?

19 A. Yes. Yes, that's what it's called. What is it, a  
20 5,023 form?

21 Q. Well, it's a form that you fill out on ---

22 A. Yeah.

23 Q. --- tasks ---

24 A. Yeah.

25 Q. --- things like that. But I was wondering what

1 kind of training. Annual refresher, you get that,  
2 too.

3 A. Yeah. I don't remember what all we had redone,  
4 but I know we had some.

5 Q. They go over the maps and stuff like that?

6 A. Yeah.

7 A. Plan?

8 A. Yes.

9 MR. PAGE:

10 Okay. Terry?

11 MR. FARLEY:

12 Yes.

13 RE-EXAMINATION

14 BY MR. FARLEY:

15 Q. Mr. Hale, ---

16 A. Yes.

17 Q. --- on your shift on April 5th ---

18 A. Yes, sir.

19 Q. --- at UBB, now when you were using the tanks and  
20 torches to replace the cow, you were on the Headgate  
21 side; right?

22 A. Right.

23 Q. The smoke from the cutting and torches, which way  
24 did it go?

25 A. Down the face.

1 Q. All of it?

2 A. Yeah.

3 Q. Okay. Did it move very rapidly?

4 A. Yes.

5 Q. Okay. Now, you said you didn't travel down the  
6 longwall face.

7 A. No, I hadn't. I hadn't, I know, in several days.

8 Q. Okay. Does that so mean you didn't tram the ---  
9 didn't run the shear down the face that night for any  
10 testing or troubleshooting purposes?

11 A. At the end of --- well, we had two other guys  
12 that's down the face working, our shield techs that  
13 was working on the shields. But when they got done  
14 with their work, they come down to one of the  
15 electricians that was working with me. While me and  
16 the other electrician was gathering our stuff up and  
17 finishing up the flights my electrician and the two  
18 shield techs trammed the shear down about --- until  
19 about 20 Shield and set it up to set bits.

20 Q. Okay.

21 A. So it was trammed, I'm going to say anywhere from  
22 the cutout on the head until 30 Shield, ---

23 Q. Okay.

24 A. --- getting it set up to service and set bits.

25 Q. Okay. Now, that's after you changed the cow?

1 A. That's after the cow had been changed; right.

2 Q. Okay. Now, where was the shield at the end of the  
3 shift?

4 A. The what?

5 Q. Excuse me, shearer. Where was the shearer at the  
6 end of the shift?

7 A. I'm going to --- this would just be a ballpark,  
8 somewhere around 15 to 25 Shield.

9 Q. Okay. After they finished servicing and bitting?

10 A. Well, wherever they stopped it when they went to  
11 bit it, that's where it stayed.

12 Q. Okay.

13 A. But you have to understand, they have to take it  
14 down there ---

15 Q. Sure.

16 A. --- to pull shields in so they can --- you know,  
17 into the face so they can service it and bit it.

18 Q. Okay. Now, when you're doing the --- using the  
19 tanks and torches earlier, did anybody wet down the  
20 area before or during or after the cutting?

21 A. Well, it was pretty wet. It wasn't really coal.  
22 It was really rocky. My butt was wet from sitting in  
23 it all night, sir.

24 Q. Okay. So it wasn't necessary to wet down ---

25 A. No.

1 Q. --- the area there. It was very wet. I think you  
2 said, you indicated --- did you carry a detector?

3 A. Yes, sir, I did.

4 Q. Okay. Were you the person that took the gas test  
5 when the cutting ---?

6 A. I had it within hand's reach of me all night that  
7 we was cutting and ---

8 Q. Right.

9 A. --- working that job.

10 Q. Good. You never did pick up any methane?

11 A. No, sir.

12 Q. Now, the other electricians who were working with  
13 you on April 5th, do you remember, what were their  
14 names?

15 A. Chad Neil and Mike Medley.

16 Q. Chad Neil and Mike Medley?

17 A. Yes, sir.

18 Q. Okay. Who were those two shield techs that you  
19 were talking about?

20 A. I guess he's the shield tech boss. His name's  
21 Steve Grayson.

22 Q. Grayson?

23 A. Uh-huh (yes). And he was a contractor --- he was  
24 a trainee. Blake Acord I believe is his name.

25 Q. Okay. Grayson, Blake Acord, Chad Neil, and I'm

1       sorry, what was the other electrician?

2       A. Mike Medley.

3       Q. Mike Medley, thank you. Okay. Now, you mentioned  
4       that Brown was your boss.

5       A. Right.

6       Q. Who were the two guys that were helping him? Do  
7       you recall their names?

8       A. Jeff Stanley was one of them.

9       Q. Uh-huh (yes).

10      A. And Jerry Martin.

11      Q. Jerry Martin. Okay. Now, when Brown did his  
12      pre-shift examination, did you observe him actually  
13      making the exam?

14      A. No, sir, I didn't observe him, because I was there  
15      doing my job at the head.

16      Q. Okay.

17      A. You know, I ---.

18      Q. All right. Do you know when he would have made  
19      his exam on April 5th?

20      A. No, as far time goes, no, I don't keep up with  
21      that sort of thing.

22      Q. Okay. Do you know when he routinely would have  
23      done it?

24      A. No, sir, I don't.

25      Q. Okay.

1 A. I don't, really don't.

2 Q. All right. Now, at the end of your shift on April  
3 5th, was the longwall shearer fully operational?

4 A. Yes, sir.

5 Q. Was it ready to run?

6 A. Yes, sir.

7 Q. Okay. No reason why they couldn't start producing  
8 coal immediately?

9 A. No, sir. They should've been ready to go.

10 Q. Okay. Did you hear anything about the longwall  
11 being down for any reason later that day?

12 A. Yes, sir, I did.

13 Q. Okay. Would you tell me about that?

14 A. I heard that they had a ranging arm pin back out  
15 on them and they had to shut down and put the pin  
16 back.

17 Q. Okay. Now, how do you know this? Who told you  
18 this?

19 A. Jack Roles was the one that told me this.

20 Q. Okay. When did you have this conversation with  
21 Mr. Roles?

22 A. Don't remember. I went up to get a payday or  
23 something and seen him there or something. I don't  
24 remember.

25 Q. Sometime after the explosion?

1 A. Yes, it was after the explosion.

2 Q. A few days, a week, two?

3 A. It could've been days; it could've been two weeks.

4 I don't remember really.

5 Q. Okay. Did you and Mr. Roles discuss anything else  
6 relating to the explosion on April 5th?

7 A. No, we just, you know, more or less just talked,  
8 you know, what would've done it, you know, what  
9 could've caused it, you know.

10 Q. Okay. Before we get to that, what time did Mr.  
11 Roles tell you that the longwall went down on April  
12 5th?

13 A. I don't think he did tell me what time. He just  
14 told me they were down for about three hours.

15 Q. Down for three hours.

16 A. Yeah. As far as the times, I don't know.

17 Q. Okay. So he didn't tell you when they ---

18 A. No.

19 Q. --- went down or when they started back up? Did  
20 he personally go to the longwall on April 5th when  
21 they were down? Did he say so?

22 A. I don't recall if he told me or not. I don't know  
23 if he did or not.

24 Q. Okay. Now, the rest of your conversation with Mr.  
25 Roles, did he offer any thoughts on what might've



1       caused the explosion, any opinions, ideas?

2       A. No, not really. We're all bumfuzzled about it.

3       We were just trying to come up with, you know, what  
4       could've done this, you know.

5       Q. Okay. Did the two of you come up with any ideas  
6       or theories?

7       A. No, not really, because we're kind of waiting on  
8       information, you know, ourselves.

9       Q. Okay. I know we've determined that the longwall  
10       was fully operational and ready to run at the end of  
11       your shift on April 5th. Now, do you know what time  
12       the dayshift might've actually started producing?

13       A. No, I don't know what time. They should've  
14       started probably before 7:00, at least.

15       Q. Okay. Are you gone before they get there?

16       A. We meet those guys at the end of the track, at the  
17       end of the mule train at the mantrip.

18       Q. Okay.

19       A. When they get off the mantrip, we get on the  
20       mantrip to go out.

21       Q. Okay. Did you meet them in the same place on  
22       April 5th?

23       A. Yes.

24       Q. Okay. Do you recall what time you met them there?

25       A. I'm going to say approximately 6:40.

1 Q. Okay.

2 A. 6:35, 6:40, somewhere about in that neighborhood.

3 Q. Okay. So how long would it ordinarily take them  
4 to get going once they arrived?

5 A. It's hard to tell about those guys. I mean, they  
6 may've stopped at the toolboxes and got them a cake or  
7 whatever and then ate it before they went up there. I  
8 don't know. I never --- don't really hang around to  
9 see.

10 Q. Probably not likely that they would've lingered at  
11 the toolbox too long?

12 A. No. No, they wouldn't have stayed too long.

13 Q. Okay. All right. Now, I know Norman asked about  
14 ventilation earlier. Now, I think you indicated that  
15 you had plenty of air as you were working on April  
16 5th.

17 A. Yes.

18 Q. In the month, this month or two preceding the  
19 accident ---

20 A. Uh-huh (yes).

21 Q. --- did the air velocity on the longwall face  
22 change? Did it increase? Did it decrease? At any  
23 time was there any noticeable change during that  
24 period of time?

25 A. Not that I could, you know, just detect, just, you

1 know, standing, you know, in the face or in the last  
2 open break or anything like that, no.

3 Q. Okay. Now, the pre-shift examination books for  
4 the month of March reflect that in early March, first  
5 week or so of March that they would've had something  
6 on the order of 115,000 cfm of air in their face  
7 reading.

8 Now, toward the end of the month, the entries in  
9 the book show that it was in the vicinity of 55,000 to  
10 60,000 range. Again, do you recall any change, any  
11 time when the velocity didn't seem as great as it did  
12 the day before?

13 A. Honestly, no, I couldn't.

14 Q. Okay.

15 A. I may not have been working, you know, some of  
16 those days, but ---.

17 Q. Okay.

18 A. No. I mean, I always --- it was so cold up there  
19 and had so much air, I always wore a hoodie and put my  
20 hard hat over the hoodie, you know.

21 Q. Okay. Were you off any days during the month of  
22 March?

23 A. I'm sure. Yeah, I'm sure I was. What ones, I  
24 don't recall.

25 Q. Did you take any vacation or any ---

1 A. No.

2 Q. --- extended leave?

3 A. No. The third shift, we had two crews and we  
4 worked a 5:00 and 3:00 schedule.

5 Q. Okay. Now, prior to the midnight shift in the  
6 morning of April 5th, what was your last shift worked  
7 before then?

8 A. That was Easter weekend.

9 Q. I believe it was.

10 A. Yeah, it was Easter weekend. We were off Saturday  
11 night.

12 Q. Okay.

13 A. So we worked Friday night, Saturday morning, but  
14 we was off Saturday night into Sunday morning and came  
15 back Sunday night into Monday.

16 Q. Okay. Now, what time did you arrive on Sunday  
17 night, April 4th?

18 A. We usually get there around 10:00 or 10:30.

19 Q. Okay. When you arrived, did you encounter any  
20 people that you didn't ordinarily see?

21 A. No.

22 Q. Management people or otherwise.

23 A. No. See, we --- where I was portalling at ---.

24 Q. Which was?

25 A. The UBB side.

1 Q. Okay.

2 A. You know, they moved everyone else over to the  
3 Ellis side. They kept maintenance over there because  
4 our warehouse and parts and things was over on the UBB  
5 side, was the reason we was over on that side.

6 Q. Okay.

7 A. So I didn't --- as far as Mr. Brown, I didn't see  
8 him until we got underground. He portals on the other  
9 side.

10 Q. Okay.

11 A. You know, so it was just --- it was just the  
12 maintenance people on the UBB side that I can  
13 remember.

14 Q. Okay. Do you know --- we understand that there  
15 was a regulator of sorts built into the side panel on  
16 one of the track doors in the longwall headgate  
17 entries outby the face. Do you recall seeing that?

18 A. Yeah, there was --- there was two sets of doors  
19 put up --- well, actually, there was four sets of  
20 doors when you started up on the longwall panel.  
21 There's was two sets and then there was two more sets,  
22 and yes, they had --- they had holes in the side of  
23 them.

24 Q. Yeah. When I say a regulator, I mean, ---

25 A. Yeah.

1 Q. --- just to say that there was --- in the side  
2 panel ---

3 A. Yeah.

4 Q. --- there had been some number of blocks left out?

5 A. Yes. I recall that, yes.

6 Q. Okay. Do you recall the first time you saw that?

7 A. No, sir, I don't. They hadn't been there too  
8 long. I'm not --- I don't recall.

9 Q. Okay. Okay. All right. During the time you  
10 worked at UBB, did you ever participate in any major  
11 equipment moves, meaning in other words, did you take  
12 continuous mining machine, shuttle car, roof bolter or  
13 something, load it on to a flatcar and transport it  
14 into the mine by towing it with a locomotive? You  
15 ever participate in any equipment moves?

16 A. No, sir.

17 Q. Did you ever witness any?

18 A. No, sir, I hadn't.

19 Q. Okay. All right. I think you indicated you had  
20 mine foreman and fire boss certification. Have you  
21 ever attended a mine foreman and fire boss continuing  
22 education class?

23 A. I'm not sure if I have yet or not. Maybe one.

24 Q. Okay. When you say one, would that have been this  
25 year, last year or ---?

1 A. I'm thinking it's coming due this year. I don't  
2 know when, but --- you know, I don't remember the  
3 dates, no.

4 Q. Okay.

5 MR. PAGE:

6 Pat? We're trying to wear you out.

7 A. You are. Can I get one of those waters?

8 MR. PAGE:

9 We can take a five-minute break if you'd  
10 like.

11 A. My throat's getting dry.

12 ATTORNEY HAMPTON:

13 Okay. Let's take a quick break.

14 SHORT BREAK TAKEN

15 RE-EXAMINATION

16 BY MR. MCGINLEY:

17 Q. Mr. Hale, how many times when you've come to work  
18 on the hoot owl shift did you find the shearer sitting  
19 on the tail of the longwall? I mean, is that  
20 frequent? You know, once a month, never?

21 A. No. No, I mean, every so often, yeah, it ends up  
22 on the tail, but if it's at all possible, if we've got  
23 big jobs to do, we ask them to try to get it back to  
24 the head.

25 Q. So when you say every so often, can you --- is

1       that something that happens once a year? I'm not  
2       trying to pin you down with precision. I'm just  
3       trying to get some sense ---

4       A. It could ---.

5       Q. --- of how unusual that is, because of the  
6       situation that we found there after the explosion.

7       A. It could --- it could end up on the tail two or  
8       three times a month, you know.

9       Q. Okay. And would it also go a year without it ever  
10      happening?

11      A. No. You won't go that long without it being on  
12      the tail.

13      Q. Okay. Now, you met Mr. Roles. You can't remember  
14      exactly when it was after the explosion. He told you  
15      that the longwall had been done for three hours on the  
16      shift after yours on April 5th; right?

17      A. Yeah, they was approximately three hours that day,  
18      if I remember correctly.

19      Q. And where did you talk to him?

20      A. I think we had went up to the UBB office and I  
21      can't remember if we was getting our check or what,  
22      and he was up there.

23      Q. So that must have been fairly soon after the  
24      explosion, if you're getting your check, wasn't it?

25      A. Yeah, it wasn't too awful long.



1 Q. When would you get your check? How often would  
2 you get it?

3 A. Every two weeks.

4 Q. Okay. So in the middle of the month, like the  
5 15th?

6 A. Yeah, from somewhere --- it could have been the  
7 next week or it could have been the next week after  
8 that. I do not remember.

9 Q. Okay. That gives us a pretty good idea. It  
10 wasn't too long after the explosion. And how long did  
11 you talk to him?

12 A. Well, we didn't talk to him very long because we  
13 were --- we were stopping by from --- we had just got  
14 off work, I think, and stopped by there, and we was  
15 going to get our check and then go on home. We didn't  
16 talk to him, I don't know, five, ten minutes maybe at  
17 the most.

18 Q. After April 5th, did you go back to UBB at all to  
19 work?

20 A. No.

21 Q. In that five or ten-minute discussion, you said  
22 you were trying to come up with what caused the ---  
23 what caused the explosion.

24 A. Yeah.

25 Q. So obviously you had some ideas.

1 A. Well, the only thing you can come up with is gas.  
2 You know, we had --- more or less you think that  
3 you've had some kind of big all at once inundation  
4 like we did back --- what'd you say it was, 2003,  
5 2004?

6 Q. Right.

7 A. That's --- you know, that's our best guess, you  
8 know, something like that's happened.

9 Q. Right, right. Did you also talk about how if the  
10 mine wasn't properly rock dusted that would increase  
11 the force of the explosion?

12 A. No, we never discussed anything like that.

13 Q. Did you ever think about that?

14 A. I can't say that I did, no.

15 Q. Do you know anything about the effect of  
16 inadequate rock dusting when there's an explosion?

17 A. Oh, yeah.

18 Q. What is that effect?

19 A. If your coal dust --- if you've got coal dust,  
20 it's way, way worse than the gas itself.

21 Q. So you think that might have been a contributor to  
22 at least the extent of the explosion, if methane was  
23 what set it off?

24 A. I don't know because they --- they rock dusted  
25 pretty good at those mines from what I could tell, you

1 know, on the track or whatever.

2 Q. Well, but there were problems other than the track  
3 where there wasn't much dust and there were some black  
4 areas in the returns; isn't that right?

5 A. Well, I don't --- I never traveled those, so I  
6 don't know. Like I was telling her outside, I  
7 traveled from outside on the track up to the longwall,  
8 and that's where I went. I didn't --- I didn't go to  
9 miner sections or anything like that. Now, as far as  
10 coal dust on the longwall in the gob area, I'm sure  
11 there was dust back there because there's really no  
12 way to do anything about it that I know of.

13 Q. And when you were talking to Mr. Roles, the issue  
14 of ventilation must have come up. You got adequate  
15 ventilation, less likely you're going to have an  
16 explosion; right?

17 A. No, I don't think we talked about anything like  
18 that. We was just --- we was just talking about  
19 whatever happened came all of a sudden and all at  
20 once. You know, it just --- I mean, it had to have.

21 Q. Well, you've certainly heard discussions after the  
22 explosion about places in the mine where there wasn't  
23 adequate ventilation. At least that's the rumor.

24 A. That's the rumor.

25 Q. And what do you know about that? Did you ---?

1 A. I don't anything about that.

2 Q. Did you have meetings with foremen regularly? I  
3 mean, were you acting as a foreman?

4 A. I'm sorry? I don't ---.

5 Q. Were you acting as a foreman at all?

6 A. I was acting as a maintenance foreman.

7 Q. Okay. So did you have regular meetings with your  
8 supervisors, other maintenance foremen?

9 A. Basically, I just --- my supervisor wanted me to  
10 call out every morning and tell him what we had got  
11 done, things like that. That was a routine six  
12 o'clock --- or quarter 'til 6:00 really morning ritual  
13 that --- you know, that he wanted us to do, call out  
14 and report to him what we got done, what we didn't get  
15 done, things like that. But yes, I mean, I reported  
16 to him every day.

17 Q. And do you know whether maintenance foremen on the  
18 production shifts would also have to call out?

19 A. I don't know if they did or not, to be honest with  
20 you, because they --- they filled a report out. They  
21 had a paper that they filled out stating what they got  
22 done. I'm sure if they were knowing that they needed  
23 something that we needed to bring in, they may have  
24 called out, you know, and let somebody know to have us  
25 bring what parts or whatever in that night, but as far

1 as them reporting to them from there on the section  
2 outside, I don't know if they did every day or not.  
3 Maybe. I don't know.

4 Q. On the --- that Sunday night shift, April 5th, you  
5 had a list of things to do ---

6 A. Yes, sir.

7 Q. --- that you took in from outside?

8 A. The parts?

9 Q. Right. And what you had to do that night.

10 A. Yeah, they wrote --- they wrote what they wanted  
11 us --- our jobs to do. They wrote on a legal pad like  
12 that right there.

13 Q. Okay. And they gave it to you when you were  
14 outside before you went in?

15 A. They weren't there. It was pinned on the bulletin  
16 board for us when we come in on the hoot owl.

17 Q. Who would have written that typically? Who does  
18 that?

19 A. Danny Laverty or Dilbert Bailey is typically the  
20 ones or maybe sometimes Bobby Goss.

21 Q. And had the longwall been --- was the longwall  
22 down or had it been running up until the end of the  
23 evening shift? Do you know?

24 A. It ---.

25 Q. Because you had some serious maintenance work to

1 do there.

2 A. No, they --- they ran up until their quitting  
3 time.

4 Q. Okay. Do you know whether it had been done the  
5 day before for any reason?

6 A. I don't recall if they was.

7 Q. That would be written down somewhere?

8 A. There should be --- there should be production  
9 reports for every day.

10 Q. Did you have meetings with --- other than the  
11 maintenance management people, the foremen, other  
12 foreman, you know, like a more general meeting of ---?

13 A. We have a safety meeting usually every Monday.

14 Q. Okay. And how long has that been going on?

15 A. As far as I can ever remember working for Massey.

16 Q. Okay. So according to what I read on Massey's  
17 website, one of the directors of Massey said that in  
18 2009 going on to 2010 you had a lot of violations  
19 issued by MSHA. You had over 40 (d) orders. So did  
20 you talk about that at these safety meetings?

21 A. Not that I can remember, no.

22 Q. Really?

23 A. Uh-uh (no).

24 Q. Did you know that there was this --- a fairly  
25 large number of (d) orders had been issued?

1 A. I knew there had been some, but not that many.

2 Q. Surprised at that?

3 A. Yeah, I guess. I mean, I --- honestly, I didn't  
4 think that there was cause for, you know --- to be  
5 aware of that mine's --- to be that bad. I mean, we  
6 had --- we had inspectors at the mines almost every  
7 day, you know. I mean, ---.

8 Q. Well, the first line of responsibility is the  
9 management in terms of safety, isn't it?

10 A. Well, sure.

11 Q. So you're aware that, for example, on one occasion  
12 a violation --- a (d) order was issued for reversed  
13 air that had been reversed for a couple weeks?

14 A. No, I didn't know that. I never knew that the air  
15 was reversed. I knew at one time we had a little more  
16 air on the tail than we did the head, and it's not  
17 supposed to do that, but I was under the impression  
18 that it was corrected pretty quickly.

19 Q. When did that occur?

20 A. I couldn't tell you that.

21 Q. I just want --- it's important now.

22 A. I don't know.

23 Q. Well, let me help you --- help your memory.

24 Okay? It wasn't in 2000, was it?

25 A. No.

1 Q. Was it in 2002?

2 A. No. I think you know that it was in the past few  
3 months.

4 Q. No, I don't know.

5 A. Okay.

6 Q. That's why we're here.

7 A. Okay. Well, this is ---.

8 Q. You know, these are serious questions. I'm just  
9 trying to find information from you, sir.

10 A. I understand.

11 Q. So you know, you can help us.

12 A. I know, and I want to.

13 Q. Okay. So instead of you don't remember, it was  
14 sometime in the last few months?

15 A. Well, I thought you was wanting like specific ---.

16 Q. No, I said ---

17 A. Okay.

18 Q. --- I'm not trying to tie you down. We're just  
19 trying to get information. We've got a puzzle here.  
20 We've got little parts and pieces.

21 A. I understand.

22 Q. And we have widows and children that want to find  
23 some answers.

24 A. I understand that, and I lost a bunch of good  
25 friends that day.



1 Q. I understand that. So I appreciate you working  
2 with us. So when there wasn't enough air --- describe  
3 what happened with regard to lack of air this one time  
4 at the longwall.

5 A. I don't even know if I worked that day or not.

6 Q. But you knew about it, so tell us what you know  
7 about it.

8 A. I don't know anything about it. I'm not on that  
9 end of it.

10 Q. I understand, but we're asking people not only to  
11 tell us what they saw, but what they heard. This  
12 isn't a court of law. We're just trying to get  
13 information.

14 A. I understand.

15 Q. Okay. So ---.

16 A. But that's all I know about it, that they said  
17 that we had a little more air on the tail than we did  
18 the head. That's all I know.

19 Q. Okay. And this was sometime in 2010?

20 A. Yes.

21 Q. It was not on your shift?

22 A. I don't remember. I don't know if it was or not.

23 Q. Okay.

24 A. It could have not been.

25 Q. It would have been written down in the pre-shift

1 reports?

2 A. I suppose.

3 Q. And what changes were made in order to correct  
4 that air problem?

5 A. You would have to ask Jack Roles or one of those  
6 persons. I don't know.

7 Q. Who would know? Jack Roles. Who else?

8 A. I don't know. Maybe Larry Brown.

9 Q. Who told you about it?

10 A. Who told me about the little bit more air? I  
11 don't recall the name of who told me either.

12 Q. It didn't come up in a safety meeting, this issue  
13 of ---?

14 A. It could have. I don't know.

15 Q. Is it important?

16 A. That there's more air on the tail?

17 Q. Right.

18 A. Yes, you're not supposed to have more air on the  
19 tail than you are the head.

20 Q. So it should have come up in a safety meeting;  
21 right? Well, I'm just asking. I don't know what you  
22 do in your safety meetings. We're trying to figure  
23 this out.

24 A. Usually the safety meetings are written out by the  
25 company. They usually send one out once a week, and

1 that's what we go over.

2 Q. So when you say the safety meetings are written  
3 out, do you mean the safety issues are written out?

4 A. Whatever --- they send out a piece of paper right  
5 here. Whatever is on it, that's what we talk about.

6 Q. That's what I'm trying to understand.

7 A. Right.

8 Q. So there's a list of safety issues that is written  
9 out and given to you and the other folks. You go to a  
10 meeting and you discuss those safety issues?

11 A. Right.

12 Q. Okay. I'm not trying to trick you. I'm just  
13 trying to get information, sir. Okay?

14 A. Okay.

15 Q. How many times, to your knowledge, has the  
16 longwall had to shut down because there was too much  
17 water?

18 A. I don't know. For about a month and a half there,  
19 we had quite a bit of water problems. I don't know,  
20 three or four where we had to actually shut down and  
21 set pumps, you know. And that's --- that's probably  
22 nowhere near to be exact. I mean, it could be less,  
23 it could be more. I don't know.

24 Q. I understand that. You know, time's passed.

25 Memory's get cloudy.

1 A. Yeah.

2 Q. I'm just asking you to give us your best  
3 recollection. Now, those water problems that caused a  
4 shut down of the longwall, that happened just in one  
5 period, whether it's three weeks or six weeks, or did  
6 it happen a couple of times over, you know, say since  
7 last fall?

8 A. Probably a couple times. I'm not real sure.

9 Q. Do you remember the most recent time? Again, I'm  
10 not trying to pin you down to days or hours or even  
11 weeks.

12 A. No. Actually, I was trying to think of when we  
13 was having that water problems before, and I don't  
14 even remember the month. It could have been the last  
15 part of 2009. I don't remember.

16 Q. Okay. How did you find out about the accident?

17 A. One of the electricians that works with me called  
18 me. I had just got out of bed about five after 4:00  
19 and he called me and said you heard anything about the  
20 mine. I said, no, why. He started telling me, he  
21 said, well --- first he told me there was a fall. He  
22 said there's at least 10 dead and 20 trapped. I said,  
23 do what? He said, yeah. I said, how do you know  
24 this? He said, I know. He said, I know. He said, my  
25 brother called me. He said, it's true. Then I found

1 out a little while later that it was --- it wasn't a  
2 fall, it was an explosion.

3 Q. Somebody else call you later?

4 A. Honestly, I don't remember that. He may have  
5 called me back. I don't remember. There was a lot of  
6 phone calls going on from five o'clock on.

7 Q. All right. Did that --- the fact that there was  
8 an explosion surprise you?

9 A. I was very surprised. I never thought it would  
10 happen.

11 Q. Did you think immediately of --- when you had a  
12 chance to --- had a chance to sink in, did you think  
13 about those floor bursts at the longwall that happened  
14 some years back?

15 A. No, sir, that never entered my mind really at the  
16 time. That didn't enter my mind. I think the first  
17 thing that I thought about --- I was talking to the  
18 other chief, and me and him decided to ride down to  
19 see if we could do anything. We rode down about six  
20 o'clock, down through the mines.

21 MR. MCGINLEY:

22 I think Mr. Page probably has some  
23 questions about that, so why don't just --- I'll stop  
24 for now.

25 MR. PAGE:

1 Okay.

2 RE-EXAMINATION

3 BY MR. PAGE:

4 Q. If Mr. Brown was off for whatever reason, who  
5 would make the pre-shift on the longwall?

6 A. Mr. Grayson, Steve Grayson. He usually would take  
7 care of that.

8 Q. Who's Mr. Grayson?

9 A. He's the boss shield tech.

10 Q. Okay. What does he do? I mean, what is job?

11 A. He is an electrician, but they put him over  
12 maintenance on the shields. They give him a couple  
13 guys to do maintenance on the shields.

14 Q. So that's all he's responsible for is the shields?

15 A. Yeah. But he has mine foreman papers, so he  
16 normally would take care of that. I would try every  
17 way in the world to avoid doing it.

18 Q. Okay. Have you ever seen --- I think Terry asked  
19 you some of this --- on third shift, higher  
20 management, Persinger, Blanchard or Whitehead, anyone  
21 in that category out on the third shift making  
22 ventilation changes or anything like that?

23 A. I --- Persinger was there on third shift, but they  
24 --- we stayed outside. I know of at least two  
25 different occasions I stayed outside all night long

1 because of --- I think they got a violation and they  
2 were having to do some kind of changes. As far as  
3 what they had to do, I don't know.

4 Q. No one went underground?

5 A. Just the people who was making the changes.

6 Q. So no one went to the section to do their  
7 maintenance or anything like that?

8 A. No, we didn't. I know of two, maybe three times  
9 that I stayed outside all night long and they told us  
10 to leave.

11 Q. Within the last --- what time frame?

12 A. It was the last few months of, I guess ---.

13 Q. Since the first of the year?

14 A. Yeah, the first of the year. I don't know  
15 what ---.

16 Q. Okay. So three months. That's been within about  
17 three months?

18 A. Exactly I don't know, but yeah.

19 Q. Okay. When you said that it was not unusual to  
20 find the shearer on the tail, I mean, you know, it  
21 was ---?

22 A. Yeah, sometimes it ended up on the tail. When  
23 evening shift --- whenever their quitting time comes,  
24 wherever the shearer was at, unless they wanted to  
25 work over and the boss wanted them to get it back to

1 the head or we needed it back to the head, they would  
2 leave it wherever it was ran.

3 Q. So they --- it didn't matter to them?

4 A. No. I mean, as far as --- unless they wanted to  
5 get to production, you know, the coal or the boss made  
6 them or whatever, he wanted the coal or whatever,  
7 they'd leave it.

8 Q. Have they ever left it on the tail when it's been  
9 broke down?

10 A. When it's been broke down?

11 Q. Yeah. Did they --- did you ever come in and work  
12 on it on the tail?

13 A. We have before, but I don't know if we have on ---  
14 since we've been back to UBB this time.

15 Q. Okay. Okay. If I was having a problem with my  
16 methane monitor and I wanted to get to the head, what  
17 would I have to do?

18 A. I couldn't tell you. I honestly don't know.

19 Q. What would you do? Would you make a phone call  
20 and ask someone?

21 A. I'd have to --- we'd probably have to find parts  
22 and fix it, but ---.

23 Q. Maybe I just want to get to the head and not cut  
24 or I want to get it, you know ---.

25 A. I don't --- we'd have to --- we'd have to find



1 parts and fix it.

2 Q. Okay. You can't --- if it's on the tail and the  
3 methane monitor goes down, you can't get it to the  
4 head?

5 A. I can't.

6 Q. Has anyone ever --- what if someone from outside  
7 told you to try to get it and they told you how?  
8 Would you bridge it out?

9 A. No.

10 Q. Do you know of anyone bridging any monitors out?

11 A. No. I don't know anybody up there bridging any  
12 monitors out.

13 Q. You've never been told about any policies from the  
14 company that you have 24 hours that you can bridge a  
15 monitor out ---

16 A. I've heard that ---.

17 Q. --- and be legal?

18 A. I've heard that from several mining companies.  
19 It's not only Massey.

20 Q. But we're not ---.

21 A. Yes. Yeah. Yes, I have heard that.

22 Q. The other companies, there's not 29 people dead.

23 A. That's true.

24 Q. I'm asking questions about Massey. And you have  
25 heard that before. Has management told people that?

1 A. That was what --- yeah, that we were told that we  
2 --- that that was allowed.

3 Q. I know Pat was talking about safety meetings, and  
4 I think you were talking about a list that they gave  
5 you that you talked to your people about safety  
6 meetings; right?

7 A. You're talking about the paper ---

8 Q. Yeah.

9 A. --- the topic ---

10 Q. Yeah.

11 A. --- the safety topic of the week, yeah.

12 Q. Now, when you had a --- they had a meeting with  
13 the maintenance foremen, we're not talking safety ---  
14 some of it may be safety, don't get wrong.

15 A. Yeah.

16 Q. But some of it is the way you do business with  
17 maintenance. Did anyone say that you could bridge it  
18 out for 24 hours in those meetings? Do you recall  
19 that?

20 A. No, not --- no. I mean, I don't even know what  
21 meetings you're speaking of.

22 Q. Well, I just assume that most companies, they  
23 bring their maintenance people together and they sit  
24 down and talk to them about different violations,  
25 different issues that has taken place over a period of

1 time, and they have the same --- they have a similar  
2 list like your safety topics with your people except  
3 theirs would be production, maintenance work and  
4 probably safety, too.

5 A. Yeah. Yeah, well ---.

6 Q. Did your boss ever have you guys together and have  
7 staff meetings more or less?

8 A. Whenever we get violations, you know, we're told  
9 about them, you know. You know, we're told to, you  
10 know, correct them, get them corrected by a certain  
11 time. He's coming back to abate them or whatever.

12 Q. Yeah. What about the methane monitor, any --- do  
13 you recall who told you that you had 24 hours?

14 A. No, I mean, I was just speaking. I heard this  
15 from other companies I've worked at. As far as  
16 anybody from Massey, I don't know if they ever have,  
17 but I have heard it on numerous occasions, that you do  
18 have 24 hours, but it's not true.

19 Q. You heard it from other companies?

20 A. Yeah, I've heard it from other people working for  
21 other companies.

22 Q. Which companies?

23 A. Oh, I've worked for Chris Cline, and I've worked  
24 for Alpha Resources.

25 Q. So they all said the same thing?

1 A. Huh?

2 Q. They all said the same thing?

3 A. I think they're under the impression that you can.

4 Q. Yeah. Well, I mean, it sounds like it.

5 A. I don't --- you know, I don't know if they know  
6 any better or not, but I think they're under the  
7 impression that you do.

8 Q. What did Jack Roles say --- I know --- I think  
9 Terry asked you this, and I was --- I was probably  
10 focused on something else. What did Jack Roles ---  
11 what did he think that caused this, the explosion?

12 A. I think he thinks what we think, that the ---  
13 something all at once came inundation of methane or  
14 something came and got ignited somewhere along. I  
15 think that's what everybody thinks, you know, until we  
16 hear something ---.

17 Q. You said you portalled at the UBB portal.

18 A. Yes, sir.

19 Q. From where you go in 'til you get to the Ellis  
20 Switch, what do you think that track entry --- what do  
21 you think those conditions are? How did they look to  
22 you?

23 A. The conditions of them?

24 Q. The conditions of that track entry.

25 A. Some of it's pretty rough looking.

1 Q. So do you think something should have been done  
2 about it, or do you think something should be done  
3 about it or ---?

4 A. I don't know.

5 Q. I mean, you've got foreman's papers.

6 A. Yeah.

7 Q. Is what I'm asking you, you know ---.

8 A. Yeah. I'd say some of the props need reset.

9 Q. Was there any roof bolts hanging down, rock scaled  
10 out around them or anything like that?

11 A. Possibly.

12 Q. Okay. Have you ever traveled the escapeway?

13 A. Yes, sir.

14 Q. What about the SCSRs? What kind of training have  
15 you had on those?

16 A. Well, we --- not long before this explosion, the  
17 mine rescue team come up there. We had them  
18 demonstrate --- we had a fire at the mother drive and  
19 we had to demonstrate on putting the SCSR on and then  
20 transferring another one on. We went over --- we  
21 donned the rescuers quite often. I think everybody  
22 was quite comfortable with donning those.

23 Q. Okay. Would you say that --- would you say that  
24 Massey is production minded or safety minded? Which  
25 one would be first and which one would be second?

1 A. I always thought Massey was pretty big on safety.

2 Q. What do you think now?

3 A. I mean, I think we don't know.

4 Q. I mean, you've got a mines with 29 people dead.

5 A. Yeah, and I could have been one of them.

6 Q. Very easily.

7 A. Very easily.

8 Q. We've got a mines that doesn't look too good.

9 A. There's not a day that goes by that I don't think  
10 about it.

11 Q. We've had reports that people have been in making  
12 ventilation changes with people underground.

13 A. I wouldn't know anything about that if they were.  
14 Like I told you before, I know of two, possibly three  
15 times that I stayed outside on night while something  
16 was going on and them making changes, but it was  
17 because there was a violation wrote on them. That's  
18 the only --- the only times that I know of.

19 Q. What do you think about top management at that  
20 mines? Do you think they're --- from the time you  
21 worked there before 'til this time, what's the  
22 difference in the mines?

23 A. The difference in the mines?

24 Q. Uh-huh (yes). The conditions, how's it look,  
25 how's it maintained versus when you were there before.

1 A. Well, it's a known fact that most of the people  
2 that worked there didn't like the upper management  
3 there. I didn't know the guy personally and never had  
4 to deal with him, but most of the people did not like  
5 the upper management there, but ---. It was a pretty  
6 place to work before, the first time that I worked  
7 there than it was this time.

8 Q. Was it better as far as safety wise, the  
9 maintenance of the mine?

10 A. I don't know about that. I believe it was just  
11 those guys kept everybody's morale down.

12 Q. Well, I guess the reason I'm asking that is, you  
13 know, you had like 12 sets of man doors --- or  
14 equipment doors, ---

15 A. Yeah, that's ---.

16 Q. --- your overcasts coming up through the old north  
17 mains or whatever that's called up through Ellis, up  
18 towards Bandy versus having overcasts in. So it makes  
19 me wonder about mine management, ---

20 A. Yeah.

21 Q. --- how component they are, if they have a problem  
22 with ventilation, what else did they have problems  
23 with.

24 A. I really can't answer that. I mean, I don't --- I  
25 don't ---.

1 Q. That's why I'm asking you because I know you have  
2 something to compare it with, ---

3 A. I mean, there ---.

4 Q. --- the way the mines was maintained at one time  
5 versus when you come back.

6 A. Yeah.

7 Q. Now, was it much better then? I'm not talking  
8 about personalities. I'm not talking about whether  
9 someone liked someone or not.

10 A. Yeah.

11 Q. That shouldn't have a dog in it.

12 A. Yeah.

13 Q. It shouldn't. I'm asking you what the mines  
14 looked like, you getting parts, getting things fixed.

15 A. It was better before. It was better before.

16 Q. Do you have a hard time now getting supplies to  
17 get things fixed or ---?

18 A. At times we did, yes.

19 Q. Now?

20 A. No, I'm not working there now.

21 Q. I mean, up until the explosion.

22 A. There was times we had trouble getting parts. As  
23 far as what reasons was behind it, I don't know.

24 Q. When you didn't get the parts, what took place?

25 A. Well, when I needed the parts or whatever I



1 needed, I went to my supervisor, Danny Laverty. He'd  
2 write out requisitions, give it to the purchaser. And  
3 where it went from there, I don't know.

4 Q. Okay. I understand what you're saying, and the  
5 way I asked the question left it open. But if you  
6 needed a part --- say you got a scoop up there you  
7 needed a part on it --- for it, ---

8 A. Right.

9 Q. --- but the scoop was still running. You didn't  
10 have the parts and they wouldn't get them and you'd  
11 have reported it for a day or two. Now, that scoop  
12 needs to go get some stuff.

13 A. Well, I mean, it won't --- if it was that bad, I  
14 would put a tag on it and ---.

15 Q. But it may be in between. I mean, it may not be  
16 that bad, but it needs fixed. And if you didn't get  
17 the parts, would it continue to run until they got  
18 them?

19 A. I'd put a tag on it, if it --- that's all I can  
20 do. I mean, I don't know.

21 Q. Well, if I'm a scoop operator and I tell you to  
22 come over and check it out. You come over and check  
23 it out and say you need a part on it.

24 A. Yeah.

25 Q. I'm going to go order it.

1 A. Yeah.

2 Q. The scoop still runs. Now, you go order the part.

3 You tell the foreman or Larry Brown it's going to be

4 three days. You say I don't know when I'll get it.

5 And you're telling me you walk back over and put a tag

6 on the scoop or you left it alone, but you told Larry

7 Brown?

8 A. If it was that bad, I put a tag on it.

9 Q. But I said it was still running. How many tags

10 have you --- how many pieces of equipment have you

11 tagged out?

12 A. How many pieces have I ---?

13 Q. That's because you didn't have parts.

14 A. Because I didn't have parts, I don't know.

15 Usually there ---.

16 Q. Most of the time the repairmen tell the foreman or

17 maintenance foreman tells someone and they leave it up

18 to that other guy to ---. Now, if they don't have

19 brakes or something like that, they might tag it out,

20 but I've seen a lot of times when there's been defects

21 on pieces of equipment that they left it alone ---

22 A. Is there ---?

23 Q. --- if you can't get the parts.

24 A. Is there anything you're speaking of, I mean, as

25 far as ---?

1 Q. I'm just asking that you said --- and I'm not  
2 trying to --- I'm not trying to do the same --- you  
3 know, like Pat. I'm not trying to pin you down. I'm  
4 just saying it was --- the mines was run better before  
5 than it has been lately.

6 A. Yeah.

7 Q. So if I needed to run that scoop and get stuff and  
8 it was still running, most likely they go ahead and  
9 run it.

10 A. Well, they'd have to ---.

11 Q. And I'm not talking about you.

12 A. Right.

13 Q. I'm talking about a miner.

14 A. Yeah.

15 Q. If I'm the scoop operator and the foreman's there  
16 and I'm the foreman, I got to get something. Now, you  
17 don't get the parts in, ---

18 A. Yeah.

19 Q. --- but the scoop's still running, most of the  
20 time they'll go get it.

21 A. A lot of times they will.

22 Q. Sure, they will.

23 A. Sure, they will.

24 Q. That's what I'm saying. And if they --- and if  
25 the mines is not run like it used to be and you can't

1 get the stuff, then now you're putting people working  
2 in different conditions, unsafe conditions because you  
3 won't get the supplies for them. And if you can't  
4 manage to get the ventilation up there, now you're  
5 telling me that you can't get the supplies and stuff.  
6 So a lot of things fall back to management, everything  
7 does.

8 A. Yeah.

9 Q. But in this situation, you know, there's a lot of  
10 things that goes into this puzzle. A lot of times  
11 attitude was --- was you ever forced to say get that  
12 thing going, get it running? I want it running before  
13 the dayshift gets there.

14 A. Why you know you hear stuff like that all the  
15 time.

16 Q. Sure.

17 A. Yeah. I mean, they aggravate you to death. You  
18 spend more time going back and forth to the phone  
19 talking to them giving reports.

20 Q. How many times did they ever ask you was anybody  
21 hurt?

22 A. Was anybody hurt?

23 Q. Yeah. When you come outside.

24 A. Oh, I don't guess I've ever been asked that.

25 Q. That's what I'm saying.

1 A. But I will say this, their production report says  
2 was anybody injured.

3 Q. That's the production report. You know, that's a  
4 big difference ---

5 A. Yeah.

6 Q. --- then when I'm asking you versus making a check  
7 or ---.

8 A. Yeah. I don't guess I've ever been asked that.

9 Q. But I bet you they asked how much you got done,  
10 didn't they?

11 A. They --- if something's done, they hound you.

12 MR. PAGE:

13 Terry?

14 MR. FARLEY:

15 A couple things real quick.

16 RE-EXAMINATION

17 BY MR. FARLEY:

18 Q. On April 5th, were there any pumps along the  
19 longwall face or in the tail entries that you were  
20 aware of?

21 A. Not that I'm aware of.

22 Q. None of any kind?

23 A. I mean, as far as the tail entry, I don't know,  
24 but I don't recall any being on the face, ---

25 Q. Okay.

1 A. --- which I didn't go down the face that night, so  
2 I don't ---.

3 Q. Well, let's just say in the week ---

4 A. Not that I recall.

5 Q. --- in the week preceding the explosion.

6 A. Not that I recall.

7 Q. Okay. Now, what about any other electrical  
8 equipment not normally associated with the longwall?  
9 Was anything along the longwall face or the tail  
10 entries that you were aware of in the week preceding  
11 the explosion?

12 A. Not that I know of, no.

13 MR. FARLEY:

14 All right.

15 RE-EXAMINATION

16 BY MR. MCGINLEY:

17 Q. If you tagged out a piece of equipment, would you  
18 report that? Would that be on your report?

19 A. Yes.

20 Q. So the answer to Mr. Page's questions about you  
21 tagging out equipment because it needed parts, that'd  
22 be easy to find because you would have written it down  
23 if we look back through those records; right?

24 A. Yes. It would probably be in the permissibility  
25 books if it was tagged out.

1 Q. Was there a highlift operating up around where you  
2 were?

3 A. A what?

4 Q. Highlift.

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

6 MR. PAGE:

7 Forklift.

8 BY MR. MCGINLEY:

9 Q. Forklift. I'm sorry.

10 A. Underground forklift?

11 MR. PAGE:

12 Battery.

13 A. Yeah, I think there was a forklift on the  
14 longwall. Yeah.

15 BY MR. MCGINLEY:

16 Q. Was it permissible?

17 A. As far as being in the last open break, no, it's  
18 not a permissible piece of equipment.

19 Q. Was it ever ran?

20 A. Not that I know of.

21 Q. Have you ever saw it there?

22 A. I didn't.

23 Q. Did you ever report any safety problems since  
24 you've been back at UBB or the most recent time you  
25 came back?

1 A. No, I don't think I have.

2 Q. The 24-hour rule that you were discussing with Mr.  
3 Page, you said you heard that rule numerous times when  
4 you worked for Chris Cline and at Alpha Mining; right?

5 A. I've heard it several times.

6 Q. You said numerous times.

7 A. Yeah.

8 Q. Would that be accurate, numerous?

9 A. Yeah.

10 Q. And you said Massey wasn't the only one, so that I  
11 think lead us to believe that that was the --- sort of  
12 the general understanding of Massey. Is that true,  
13 that was a general understanding, you had 24 hours to  
14 replace a methane monitor if it malfunctioned?

15 A. That's something that I've --- that never came up,  
16 you know, while I've been back at UBB, so I don't ---  
17 I don't --- I can't really say if it was said or not.  
18 It could have been. I don't know. I mean, when  
19 you're under the impression that that is legal, I  
20 mean, you don't think --- you don't think anything  
21 about it.

22 Q. Well, the methane monitor malfunctions, not --- it  
23 hasn't gassed out, it just malfunctions. You know,  
24 the machine's off. Are you allowed to move it? Can  
25 you move it?



1 A. Not 'til it clears up or you change the part out  
2 or whatever fixes the problem.

3 Q. What's the rule at Massey with regard to  
4 malfunctioning methane monitors that you've learned  
5 there?

6 A. Well, like I said, I've never even had to work on  
7 it.

8 Q. Well, I understand, but there might come a time  
9 when you do, so ---

10 A. Right.

11 Q. --- I assume you're trained for that.

12 A. Well, I'd --- no. Actually, I'm not. That's the  
13 reason I didn't want to take this job that they give  
14 me because I didn't think I was trained enough for  
15 this job, and they said, no, you'll do fine, you'll  
16 learn as you go, you know. So there was still a lot  
17 of stuff that I didn't know about this job that I was  
18 --- you know what I'm saying?

19 Q. Sure.

20 MR. PAGE:

21 Sure.

22 A. I mean, ---.

23 BY MR. MCGINLEY:

24 Q. So you ---.

25 A. Just because you're certified don't mean you know

1 everything.

2 Q. Sure. I mean, you're always learning on the job.

3 A. Right. That's why I meant --- when he asked me  
4 about the methane monitor, I can't. I don't know how.

5 Q. Well, I think I was really asking you what's  
6 supposed to happen when a methane monitor  
7 malfunctions. And so are you saying that you don't  
8 --- you really weren't trained about that, or you're  
9 saying you weren't trained about how to replace a  
10 methane monitor or service it?

11 A. I haven't --- I haven't got to that point because  
12 we hadn't had any problems with that yet, you know. I  
13 mean, if it's not broke, you don't --- you don't go  
14 working on it.

15 Q. Well, I think commonly, you know, in training  
16 you'd want to be trained for something that might have  
17 happened that you haven't already experienced. Is  
18 that fair?

19 A. Yes, but that --- I had somebody there with me  
20 that --- you know, that could show me, you know, if we  
21 ever run into those problems. That's the only reason  
22 I kept that position was because I had this other guy  
23 with me. He was a more experienced guy and he was a  
24 better electrician than me.

25 Q. Who was that?

1 A. Chad Neil.

2 Q. So you would have felt really uncomfortable if  
3 Chad hadn't been working with you?

4 A. I absolutely would. I would have to call somebody  
5 at home.

6 Q. What do you mean by that?

7 A. I'd have to call my --- Danny Lavery or somebody,  
8 you know, if I run into a problem like that because  
9 I've never addressed it.

10 Q. Okay. At what point did you learn that the 24  
11 hour rule that was spoken of at Alpha and Chris  
12 Cline's operation wasn't accurate?

13 A. After this explosion.

14 Q. So up until the explosion, you thought there was a  
15 24 hour rule?

16 A. I really never even thought about it really  
17 to ---.

18 Q. Well, I mean, you knew that from the other mines.

19 A. I'd heard it in the past, but you know, I never  
20 --- never even give it any thought.

21 Q. So if there'd been a methane monitor malfunction  
22 on the longwall, you would have assumed that there's a  
23 24 hour rule because that's the way it operated at the  
24 other mines; is that fair?

25 A. Well, Chad --- I'm sure Chad would have known the

1 difference in it, so hopefully he would have been  
2 there with me.

3 Q. Well, you don't know that Chad knew the  
4 difference; right?

5 A. Well, I'll put it to you this way, if Chad wasn't  
6 there and I called my supervisor and he informed me  
7 that that was the way it was, you know, ---.

8 Q. You would have followed whatever he said?

9 A. I would have followed whatever he told me because,  
10 you know, ---.

11 Q. Well, I understand. But your impression all the  
12 time you worked at UBB was there was a 24 hour rule  
13 because of your past experience; is that a fair  
14 statement?

15 A. Fair.

16 Q. So you were aware there were some major changes in  
17 ventilation?

18 A. I'm aware that they had got cited for some  
19 ventilation problems and they were addressing them.

20 Q. Do you know whether there were any major changes  
21 or any changes in the ventilation plan that affected  
22 where you were working in the last six months before  
23 the explosion?

24 A. I couldn't feel if there was, but according to  
25 what he said the book said, yes, it did affect it. It

1 appears that it cut the air in half.

2 Q. And did anybody ever --- any of your supervisors  
3 ever explain what the ventilation changes were?

4 A. No.

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

6 A. Yes.

7 Q. What do they mean?

8 A. Safety first, production second.

9 Q. M3, what's that?

10 A. Measurements for third.

11 Q. S1 means safety first; is that right?

12 A. Uh-huh (yes).

13 Q. You have to say yes or no.

14 A. Yes.

15 Q. What else does it mean, S1?

16 A. I don't know. Safety first, you know, that's all.

17 Q. Did you have a safety --- an S1 manual? Were you  
18 ever given an S1 manual?

19 A. I don't know if I was or not. I don't think I  
20 was. I think that's that big thick manual. I don't  
21 think I've ever been given one of those.

22 Q. Do you know where an S1 manual is kept?

23 A. I saw one the other day at the Logan's Fork. It's  
24 where they keep the fire boss books and stuff at,  
25 right there at one of the tables.

1 Q. Does it say S1 manual on the ---

2 A. Uh-huh (yes).

3 Q. --- outside?

4 A. Uh-huh (yes). Yes.

5 Q. So before you saw it there at Logan's Fort, had  
6 you ever seen that book before?

7 A. No.

8 Q. Is there a P2 book?

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

10 MR. MCGINLEY:

11 That's all I have right now.

12 ATTORNEY HAMPTON:

13 I just have a quick follow-up.

14 EXAMINATION

15 BY ATTORNEY HAMPTON:

16 Q. You just alluded to a conversation that you had  
17 when you were initially offered your position saying  
18 that you weren't necessarily comfortable working on  
19 your own because you felt like you had a lot to learn.

20 A. Yes.

21 Q. Who did you have that conversation with?

22 A. Jack Roles.

23 Q. So he was the one who was offering you the  
24 position?

25 A. Yes.

1 Q. And he's the one who told you that you would learn  
2 on the job?

3 A. Yes, he said --- he said, you'll be all right,  
4 you'll do fine. He says --- at that time, we had  
5 another guy that he didn't get to work with us very  
6 long and he hurt his back and he's been out ever  
7 since, but he said, Big Eugene will be there to help  
8 you and you'll do fine. You'll learn as you go. He  
9 says, you'll pick it up, you know.

10 Q. And Big Eugene is Mr. Neil?

11 A. No, this is another Eugene. He got hurt just  
12 shortly after we started the longwall up in September  
13 there sometime. I don't know exactly what day it was,  
14 but he --- he's got a --- his back's pretty bad, so I  
15 don't --- he hasn't been back to work since.

16 Q. Was the conversation that you had with Mr. Roles  
17 last September when you ---?

18 A. Yes.

19 Q. This was when you moved inside from outside work?

20 A. Yes.

21 ATTORNEY HAMPTON:

22 Okay. That's all I have.

23 MR. MCGINLEY:

24 Can I just follow up on that question?

25 RE-EXAMINATION

1 BY MR. MCGINLEY:

2 Q. Big Eugene was hurt. He's been off ever since he  
3 was hurt in September?

4 A. I'm not sure exactly what day. I don't know if  
5 it's September or the first part of October. I don't  
6 remember. He's been off a pretty good while now.

7 Q. He was hurt on the job?

8 A. Actually, yeah, he got hurt way before that and he  
9 --- he's the type of guy that he doesn't like to give  
10 up.

11 Q. Right.

12 A. And his back's finally --- he's gone to where he  
13 can't do anything else. You know, he's had to go out.

14 Q. Sounds like a disc problem.

15 A. Huh?

16 Q. Sounds like one of those lower disc problems.

17 A. I'm not sure what his problem is, but he --- he's  
18 down.

19 Q. And he wouldn't be down --- he would work if he  
20 possibly could?

21 A. Oh, yeah. Yeah, he don't even want to think of  
22 the thoughts of disability. That's just the type of  
23 guy he is.

24 Q. Sure. What's his last name?

25 A. Williams.



1 RE-EXAMINATION

2 BY ATTORNEY HAMPTON:

3 Q. Were you brought inside to replace him when he was  
4 injured?

5 A. No. Eugene didn't want the position. They tried  
6 giving the position to Eugene and he didn't want it.  
7 I didn't want it, but they talked me into trying it.

8 Q. Why didn't you want it?

9 A. Like I said before, I didn't think I had enough  
10 experience to do it.

11 Q. And you made it clear to ---?

12 A. Yeah. I'm not qualified to do that job, you know.  
13 I'm happy with what I was doing. They didn't have  
14 anybody else to do it at the time, so he said just try  
15 it, so ---. And he said, you know, if you decide you  
16 don't like it, you know, don't quit. We'll work it  
17 out.

18 Q. Did they offer you any additional training?

19 A. On the job.

20 MR. PAGE:

21 Big Eugene ---.

22 A. Huh?

23 MR. PAGE:

24 They said Big Eugene to train.

25 A. Yeah, Eugene, he got certified after I did, but he

1 was a smart fellow. He would have done a better job  
2 at it than I did. But he's like me, he doesn't have  
3 much self confidence.

4 RE-EXAMINATION

5 BY MR. MCGINLEY:

6 Q. Well, Chad Neil, you were his supervisor then?

7 A. Yes.

8 Q. But he knew ---?

9 A. He was a more experienced electrician than me.  
10 He's been doing it longer than I have.

11 Q. Was he there when you first started up there ---

12 A. No.

13 Q. --- on the longwall?

14 A. No, he --- I'm not sure why --- oh, I do know why.  
15 One of the --- Massey's prep plants burnt down and  
16 they shut the mines he was at down because they didn't  
17 have anyplace to put their coal, so they transferred  
18 him up to there is why he come up.

19 Q. So he came in after you?

20 A. Yes.

21 Q. About how long after you?

22 A. I'm wanting to say maybe --- maybe October  
23 sometime. I'm not sure.

24 Q. So you must have been happy to have him there ---

25 A. Oh, yeah.

1 Q. --- if Big Eugene was gone?

2 A. Oh, yeah. I mean, I --- I liked old Chad. He's a  
3 pretty handy guy to have around.

4 Q. So you really didn't have a go-to guy on your crew  
5 after Big Eugene was gone and before Chad Neil came;  
6 is that right?

7 A. Well, there wasn't much time lapse in between  
8 those two. He came I believe just about as soon as  
9 Eugene went out.

10 Q. That was a big relief for you?

11 A. Oh, yeah.

12 MR. MCGINLEY:

13 Okay.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. We've asked a lot of questions here about methane  
17 monitors.

18 A. Right.

19 Q. When you reported to work on Sunday evening, April  
20 4th, ---

21 A. Uh-huh (yes).

22 Q. --- okay, that would have been, I don't know what,  
23 10:00, 10:30 p.m.?

24 A. Yeah, something like that.

25 Q. Was there anything on your work list regarding any

1 methane monitor along the longwall face?

2 A. No.

3 Q. Okay. Now, I think you indicated earlier that  
4 there was a monitor --- a methane monitor on the  
5 shearer ---

6 A. Uh-huh (yes).

7 Q. --- and at the tail; ---

8 A. Right.

9 Q. --- correct?

10 A. Right.

11 Q. Now, who would routinely check those two monitors?

12 A. Whoever was working at the time that it was due  
13 for those to be checked, because we had two third  
14 shift crews. If it fell on our crew, me and Chad  
15 would do it, or if it fell --- you know, you're  
16 talking calibrating it or whatever; right?

17 Q. Calibration or checking the functional --- just to  
18 see if it's functional.

19 A. Right. Yeah.

20 Q. Functioning as designed.

21 A. Right. Okay. Whoever's crew was working at the  
22 time that the day --- that it come around to be  
23 checking it.

24 Q. All right. Now, prior to the time you left there  
25 on April --- the morning of April 5th, do you recall

1 when the two monitors that you referred to on the  
2 shearer and on the tail on the longwall at UBB at the  
3 time when were they last checked?

4 A. Okay. Shannon Dickens done the last checks on  
5 those, ---

6 Q. Uh-huh (yes).

7 A. --- and he done them with a Federal inspector.

8 Q. Okay.

9 A. It was logged in the permissibility book that it  
10 was checked with a Federal inspector, and it was about  
11 a week and a half before this explosion, if I remember  
12 correctly. A week and a half to two weeks.

13 Q. Okay. Do you know the name of the Federal  
14 inspector by chance?

15 A. I'm wanting to say it was Larry Hedrick, but I'm  
16 not a hundred percent sure.

17 Q. Okay. So when you left the mine on April the 5th,  
18 did you have any reason to believe that the two  
19 methane monitors that you referred on the shearer and  
20 on the longwall tail --- did you have any reason to  
21 believe that they were not fully operational?

22 A. No. No, I thought they were fully functionable.

23 MR. MCGINLEY:

24 Okay.

25 RE-EXAMINATION

1 BY MR. PAGE:

2 Q. Have you ever checked them?

3 A. Have I ever checked them as far as ---?

4 Q. Calibration.

5 A. Calibrating them? One does the --- stays at the  
6 readout and the other one takes the gas, you know.

7 Q. Okay.

8 A. I guess I've done one or the other, yes.

9 Q. Okay. If it was out of calibration, how do you  
10 adjust it?

11 A. How do you adjust it?

12 Q. Uh-huh (yes).

13 A. You have --- first, you have to --- whoever's  
14 doing the gas, put zero on it; right? All right. If  
15 it's --- it comes up zero, all right, you're fine.  
16 Take it zero air off, put the gas on it. If it goes  
17 up to --- supposed to go up to 2.5, all right. If it  
18 don't, after a certain amount of time, you span it up  
19 to where it's like --- if it just goes to say 2.4,  
20 2.3, you span it up to 2.5, take the gas off, let it  
21 clear back up, test it again.

22 Q. So if I wanted to span that down --- if I wanted  
23 to run it down ---?

24 A. If it's like 2.6 or whatever?

25 Q. Yeah. Say instead of --- say I wanted to run it

1 up and I've got the gas at 2.5.

2 A. Uh-huh (yes).

3 Q. And it's supposed to show at 2.5.

4 A. Uh-huh (yes).

5 Q. Could I run that up to 2.8 or something like that?

6 And then when I was running, would that have the  
7 methane monitor off --- instead of having one percent,  
8 would I have more than one percent?

9 A. I don't know. I never tried it. I mean, I don't  
10 know.

11 Q. But I mean, if I ran that span up when I was ---?

12 A. Well, it wouldn't be calibrated.

13 Q. I know. I know it wouldn't be.

14 A. Right.

15 Q. But if instead of showing one percent, what would  
16 it show? Would it change the readout?

17 A. I guess it could. I don't ---.

18 Q. I mean, I could run it either way where I could  
19 get it to show one percent. I mean, if I want to run  
20 it down, I could have eight tenths and let it show one  
21 percent, if I wanted to; right? If I wanted to be on  
22 the safe side.

23 A. I don't know. That's something that I --- I'm  
24 not ---.

25 Q. Okay. I'm just asking ---.

1 A. I'm going to tell you I don't have enough  
2 experience to tell you that.

3 Q. Yeah.

4 A. All right?

5 Q. Yeah.

6 A. I've never even thought about that.

7 Q. I've been there.

8 A. Have you?

9 Q. Let me ask this, and I just got two more questions  
10 and then we'll let you get in bed. Have you ever red  
11 tagged --- went over and checked something and tagged  
12 it out ---

13 A. Yeah, I've tagged a piece of equipment and put it  
14 out.

15 Q. --- because you felt like it was unsafe?

16 A. Right.

17 Q. Anyone say anything to you about it?

18 A. No, they --- sometimes they don't like it. You  
19 know, they want you --- well, you get the parts to fix  
20 it. You know, sometimes bosses don't like it.

21 Q. What about your boss or higher up?

22 A. No. My boss wouldn't say anything. My boss would  
23 tell me to.

24 Q. Okay. Yeah. But what about the superintendent or  
25 Persinger?



1 A. I --- well, I don't know Persinger well enough to  
2 say anything one way or another about him.

3 Q. But there's that pressure there sometimes?

4 A. Well, I mean, I --- that I don't know. As much as  
5 a little bit I've been around him, he seems like an  
6 awful good guy.

7 Q. Well, I said him just because I know him more.

8 A. Right.

9 Q. But would, you know, Whitehead or Blanchard  
10 or ---?

11 A. I don't know.

12 Q. Yeah. Okay. It's just a hypothetical.

13 A. Yeah.

14 Q. If you was running that mines, what would you do  
15 different?

16 A. What would I do different?

17 Q. Yeah.

18 A. I'd get rid of all them damn doors, the first  
19 thing. Nobody likes opening 14 sets of doors going  
20 from outside to the longwall.

21 Q. Yeah, I know. That's why they don't stay closed  
22 all the time. But that's all you'd do different?

23 A. Well, I mean, I don't know. I mean, that's  
24 something you have to sit and think about.

25 Q. I mean, we don't know where the explosion

1 occurred. We don't know whether it was on the  
2 longwall or where.

3 A. Right. I mean, ---.

4 Q. You know, a lot of people assume it's on the  
5 longwall.

6 A. Yeah.

7 Q. We have no idea. Did anyone ever --- did you ever  
8 hear anyone talk about 22 Headgate section, about the  
9 ventilation, about methane or anything like that?

10 A. No, not the methane. I thought that that's what  
11 they were doing all this ventilation change for, was  
12 to try to get the miner sections more air because they  
13 were having air problems. You know, that was my  
14 understanding.

15 Q. And I know you was on a different side ---

16 A. Right.

17 Q. --- than those people, so you didn't get the  
18 opportunity to communicate, but I was just wondering  
19 if anyone said anything like Larry Brown because he  
20 was on that side or you heard any of those guys  
21 talking about it.

22 A. Larry was on what side?

23 Q. I thought he portalled on the other side.

24 A. Oh, yeah, he does. Yeah. But you was talking  
25 about hearing anything ---?

1 Q. Yeah.

2 A. No, he never said anything.

3 Q. You never heard him say anything?

4 A. No, no.

5 Q. Okay.

6 MR. PAGE:

7 That's all I've got.

8 MR. MCGINLEY:

9 A couple more questions.

10 RE-EXAMINATIN

11 BY MR. MCGINLEY:

12 Q. Those airlock doors, some of them --- how many of  
13 them were automatic?

14 A. The first two you come to from the UBB side is the  
15 only two that was automatic.

16 Q. With regard to any of the doors, would they scrape  
17 against the rail when you're trying to close them?

18 A. Yeah. Yeah, some of them would.

19 Q. Did you have to lift them up, or how'd you get  
20 them closed?

21 A. Yeah, you had to pick up on them.

22 Q. And some ---.

23 A. I can remember one like that anyway.

24 Q. Some of them might swing open after you closed  
25 them, you'd have to go back and close them again?

1 A. Yeah. That happens a time or two, too.

2 Q. I think you identified a time a week and a half  
3 before the explosion when the methane monitors on the  
4 longwall were calibrated. Shannon Dickens logged them  
5 in to the permissibility book.

6 A. That's correct.

7 Q. And you remembered the name of the mine inspector  
8 --- you thought you remembered his name, which  
9 was ---?

10 A. I think his name was Larry Hedrick, but I'm not a  
11 hundred percent sure.

12 Q. How do you remember that? Why is it that you  
13 remember that detail?

14 A. Larry Hedrick?

15 Q. Well, all of that detail.

16 A. Me and Shannon was pretty good buddies, and we  
17 talk about --- he told me that they had just --- well,  
18 actually, he told me a couple days before I --- when I  
19 came back because I was off when they had done that  
20 --- I was off on my days off, and he told me that they  
21 had already --- they had already done the calibration  
22 on the methane monitors, that we didn't have to worry  
23 about it.

24 Q. Okay. That's what I was wondering.

25 A. Yeah.

1 Q. Did you talk to Shannon after the explosion?

2 A. I talked to Shannon every two or three days.

3 Q. Did you talk to him about the methane monitors  
4 after the explosion?

5 A. No, just ---.

6 Q. I don't mean just calibration, but the problems  
7 with it or, you know, there's news about it ---.

8 A. Well, I did ask him if they had ever had any  
9 methane problems, you know, on their days that they  
10 worked that we was gone, you know.

11 Q. What did he say?

12 A. He said no, not that he could recall that they had  
13 any methane problems. It's really --- it's unusual  
14 that you go that long without having any methane  
15 problems, detector problems, monitor problems.

16 Q. How long did you go without any --- you mean over  
17 that whole course of the time ---?

18 A. That panel, I don't remember having any methane  
19 problems --- monitor problems on that whole panel.  
20 Now, as far as production, they may have had troubles  
21 and I didn't hear about them or know about them, you  
22 know, and they fixed them on the shift.

23 Q. Would that have been wrote down in the same book  
24 where Shannon Dickens wrote down the ---?

25 A. No, they would have probably had that written down

1 on the production report if they'd have trouble with  
2 it on on-shift production.

3 Q. Right. In answer to, I think, Mr. Page's question  
4 just a few moments ago, you said your understanding  
5 was the reason they were making all these air changes,  
6 I assume recently, was that the miner sections were  
7 having air problems. Do you remember saying that?

8 A. Yes.

9 Q. How did you know the miner sections were having  
10 air problems? Did that come up in your safety  
11 meetings?

12 A. I honestly don't remember. I just --- somebody  
13 said that. That's why I don't know who or when.

14 Q. So that wasn't discussed by any of your superiors  
15 or any safety meetings that there were air problems on  
16 the miner sections in the last six months or so?

17 A. Not any --- I don't guess it was mentioned in any  
18 safety meetings. It was probably mentioned by several  
19 different people, and I just --- you know, I don't  
20 remember who or ---.

21 Q. Supervisors?

22 A. I don't know. I don't remember.

23 Q. It seems more important now after the explosion  
24 than maybe it did at the time.

25 A. Yeah, I guess, you know.

1 MR. MCGINLEY:

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

3 ATTORNEY HAMPTON:

4 All right. On behalf of MSHA and the

5 Office of Miners' Health, Safety and Training, I want

6 to thank you for appearing and answering questions

7 today. Your cooperation is very important as we work

8 to determine the cause of the accident. We do request

9 that you not discuss your testimony with any other

10 person other than an attorney. After questioning

11 other witnesses, we may call you if we have any

12 follow-up questions. If at any time you have any

13 additional information regarding the accident that you

14 would like to provide to us, please contact us at the

15 contact information that was given to you in that

16 letter for Norman Page.

17 If you wish, now you may go back over any

18 answer that you've given us or you may make any

19 statement that you'd like, if you have any additional

20 information that you would like to talk about that

21 hasn't come up so far. Is there anything else you'd

22 like to say?

23 A. No, I don't guess.

24 ATTORNEY HAMPTON:

25 Okay. Again, we'd like to thank you for

1 your cooperation.

2 \* \* \* \* \*

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

4 \* \* \* \* \*

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1 STATE OF WEST VIRGINIA )

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

CERTIFICATE

I, Alison Salyards, a Notary Public in and for the State of West Virginia, do hereby certify:

That the witness whose testimony appears in the foregoing deposition, was duly sworn by me on said date and that the transcribed deposition of said witness is a true record of the testimony given by said witness;

That the proceeding is herein recorded fully and accurately;

That I am neither attorney nor counsel for, nor related to any of the parties to the action in which these depositions were taken, and further that I am not a relative of any attorney or counsel employed by the parties hereto, or financially interested in this action.



*Alison Salyards*