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Transcript of the Testimony of Michael Webb

Date: August 25, 2011

Case:

Printed On: September 1, 2011

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EXAMINATION UNDER OATH
OF
MICHAEL WEBB

taken pursuant to Notice by Richard J. Lipuma,
a Court Reporter and Notary Public in and for
the State of West Virginia, at the National
Mine Safety and Health Academy, 1301 Airport
Road, Beaver, West Virginia, on Thursday,
August 25, 2011, beginning at 10:00 a.m.

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

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OBJECTION PAGE

ATTORNEY

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ATTORNEY FERGUSON:

Today is Thursday, August 25th, 2011. My name is Dana Ferguson. I'm an attorney with the U.S. Department of Labor, Office of the Solicitor. And we are here for a follow-up interview of Michael Webb, a miner at the Upper Big Branch Mine. And Mr. Webb is present voluntarily with Counsel. If Counsel for Mr. Webb would identify himself, please.

ATTORNEY MCCUSKEY:

Yes. My name is John McCuskey, Shuman, McCuskey & Slicer, Charleston, West Virginia.

ATTORNEY FERGUSON:

And also present are two members of the accident investigation team with the Federal Mine Safety and Health Administration. If they can identify themselves for the record, please.

MR. MAGGARD:

I'm Jasey Maggard with MSHA.

MR. CRIPPS:

Dean Cripps with MSHA.

ATTORNEY FERGUSON:

Also present is a member of the State of West Virginia's Office of Miners' Health, Safety and

1 Training. If you can identify yourself for the
2 record, please.

3 MR. TUCKER:

4 Bill Tucker, the Office of Miners'
5 Health, Safety and Training.

6 ATTORNEY FERGUSON:

7 And also present is an attorney
8 representing the company, formerly Massey, now Alpha.
9 Can you identify yourself for the record, please?

10 ATTORNEY HARD:

11 Yes. For Performance Coal, I'm David J.
12 Hardy of Guthrie & Thomas Law Firm in Charleston.

13 ATTORNEY FERGUSON:

14 And Mr. Webb, I know you have been
15 interviewed two prior times in this investigation. Do
16 you have --- this will be the same process as it was
17 before, so I won't go into any --- bore you with the
18 details again. Do you have any specific questions
19 before we get started today?

20 MR. WEBB:

21 No, ma'am.

22 ATTORNEY FERGUSON:

23 I would encourage you to answer out loud,
24 to always answer with words and not nods of the head
25 so that the court reporter can take down an accurate

1 representation of what is happening today. If you
2 have any questions or don't understand a question,
3 please say so. If you want to take a break at any
4 time, you're certainly welcome to do so. Just let us
5 know. And with that, if you will state your full name
6 and address for the record.

7 MR. WEBB:

8 My name is ---.

9 ATTORNEY FERGUSON:

10 Oh, yes, I'm sorry.

11 -----
12 MICHAEL WEBB, HAVING FIRST BEEN DULY SWORN, TESTIFIED
13 AS FOLLOWS:

14 -----

15 ATTORNEY FERGUSON:

16 If you could state your full name and
17 address for the record, please.

18 A. Okay. My name is Michael Paul Webb. My address
19 is (b) (7)(C) . ZIP
20 Code is (b)(7)(C).

21 ATTORNEY FERGUSON:

22 And at this time, I'll turn the
23 questioning over to Mr. Maggard.

24 MR. MAGGARD:

25 Swear in ---.

1 ATTORNEY FERGUSON:

2 He just did.

3 MR. MAGGARD:

4 Oh, he did. I'm sorry.

5 OFF RECORD DISCUSSION

6 EXAMINATION

7 BY MR. MAGGARD:

8 Q. Mike, thanks for coming in today. We have a few
9 clarifying questions we want to ask you and some
10 follow ups. First off, we got a map right here that
11 shows the MMU 050, the longwall panel at UBB. And we
12 have a --- this is Exhibit One. And we have another
13 exhibit that is the pre-shift and on-shift daily
14 reports for the longwall section, and it's Exhibit
15 Two.

16 (Webb Exhibits One and Two marked for
17 identification.)

18 BY MR. MAGGARD:

19 Q. I would --- first off, I'd like to ask you a
20 question about a normal pre-shift on the longwall, how
21 that is conducted and the normal time that you do one,
22 let's say, like for dayshift or evening shift, what
23 time you conduct it and what areas you have to travel
24 during that pre-shift exam and tell us a little bit
25 about the quantities and air quality measurements,

1 where you take them, what you recall and tell us a
2 little bit about what you have to record in the pre-
3 shift, on-shift record.

4 A. Okay. On your pre-shift, if you're on the
5 dayshift, the pre-shift normally started normally
6 around 1:30. It may be a little bit earlier. Might
7 be a couple minutes later than that. But you could
8 start --- you would go to the mule train, and you
9 would start from the mule train. You would take some
10 readings there at the mule train, around the charger.
11 There was a charger for the mantrip, and I believe
12 maybe a break inby the mule train, we have a shield
13 hauler charger set up. Okay. You would check for
14 methane in those areas. You wouldn't do any type of
15 air reading, just a quality check.

16 Okay. You'd check your track entry coming on down
17 inby to the section, and you're looking at the ribs.
18 You're looking at the roof, you know, anything that
19 could be --- could be a violation.

20 I think along the track entry we had another scoop
21 charger, I think another shield haul charger right in
22 that area. I don't remember exactly, you know, where
23 at. But we also had our fresh air chamber. We would
24 check that. We were looking at it mainly for any ---
25 any type of damage to it. When a utility man moves

1 it, you want to make sure that there's no damage to
2 it, you know, on the outside of the frame ---
3 framework, I guess.

4 We have an emergency sled as well that we keep
5 there at the last open break, and on that emergency
6 sled, we have self rescuers. We have equipment in
7 there for any type of --- I think we had some mining
8 curtain, things like that in case we would need to use
9 for a barricade maybe. Had first aid boxes and we
10 would check that.

11 Okay. Our air checks, we would have an air
12 reading on our last open break, and that would be ---
13 now, this here was our Number One entry, which is our
14 belt entry.

15 ATTORNEY FERGUSON:

16 And by this here, can you identify that
17 more clearly for the record so that when I read it, I
18 know what that means, this here?

19 BY MR. MAGGARD:

20 Q. You can mark where you take your air read.

21 ATTORNEY MCCUSKEY:

22 I think he said it's the belt entry.

23 A. Okay. We'll use this here as the last open break.

24 Okay. You would take your air reading on this last
25 open break. That would be between the One and Two

1 Entry. Okay. Your Number Two entry was our track
2 entry, and then our Number Three entry was our intake
3 area. Okay. That would be coming down to our last
4 open break and we would check curtains, which would be
5 in --- shoot it over to the last open break. Okay.
6 We would take that air reading there. You would
7 measure the area.

8 Do you want me to write ---

9 BY MR. MAGGARD:

10 Q. Yeah.

11 A. --- air reading?

12 ATTORNEY FERGUSON:

13 Draw a line.

14 MR. CRIPPS:

15 Just draw a line there and mark air

16 reading or something, Mike.

17 A. The last open break.

18 ATTORNEY MCCUSKEY:

19 Jasey, if I may, or gentlemen and ladies,

20 would you identify when this map was --- I mean, are

21 we talking two years ago or right before the

22 explosion? What's the ---?

23 MR. MAGGARD:

24 This is the map that we received from

25 Performance on 4/16. This is showing the approximate

1 location of the longwall face. Now, for ---.

2 ATTORNEY FERGUSON:

3 On four and five.

4 MR. MAGGARD:

5 On four and five.

6 ATTORNEY MCCUSKEY:

7 Four and five, okay.

8 MR. MAGGARD:

9 Now, for his purposes, we can --- you

10 know, we have a yellow highlighted line that says

11 approximate location, but for his purposes today, this

12 last open break, we can go with this 331.10 line and

13 where the check curtains are at, because ---

14 ATTORNEY MCCUSKEY:

15 Okay.

16 MR. MAGGARD:

17 --- we just want a general idea of how

18 he ---.

19 ATTORNEY MCCUSKEY:

20 So basically this is the map as the mine

21 was as of the end of March roughly.

22 ATTORNEY FERGUSON:

23 Correct.

24 ATTORNEY MCCUSKEY:

25 You got that, Mike?

1 A. Yes.

2 ATTORNEY MCCUSKEY:

3 And secondly, the questions you're asking

4 him, what did you --- what was your procedure ---

5 MR. MAGGARD:

6 Correct.

7 ATTORNEY MCCUSKEY:

8 --- I'm going to assume unless you tell

9 me otherwise that you're asking him to describe his

10 procedures with the inspection --- pre-shift

11 inspection on or about that time.

12 MR. MAGGARD:

13 That's correct.

14 ATTORNEY MCCUSKEY:

15 Because I think things did change ---

16 MR. MAGGARD:

17 Right.

18 ATTORNEY MCCUSKEY:

19 --- over time.

20 MR. MAGGARD:

21 And at that time, that would be pretty

22 standard pre-shift.

23 A. Your pre-shift, it doesn't necessarily --- you

24 wouldn't necessarily start it at the mule train. Say,

25 for instance, if I'm on the face and I may start it

1 here at the face and then just work my way back to the
2 mule train checking the charger, things like that.
3 And just depending on --- like, you know, on dayshift
4 when we arrive on the section, yeah, I would start
5 there at the mule train, but now throughout the day
6 when I'm going to pre-shift for the next crew and if
7 I'm up here at the face, you know, I might start by
8 taking my air readings, going across the face. And
9 then I'll come back out and I'll make my way up to the
10 mule train.

11 Back to my air reading there at the last open
12 break, as I was saying, you know, we'd measure the
13 area. We'd get our CSM reading. Okay. Then we'd
14 come on the face. We'd take a velocity reading at the
15 Number Nine shield. I think our minimum --- I can't
16 really remember on minimum. It may have been 400. It
17 may have been a little bit more. I can't really
18 remember.

19 Anyways, our next air reading would be 160 shield,
20 and again, that was just a velocity reading. The
21 velocity readings, I don't --- well ---. I believe
22 the tail was 250 and the head was 400, may have been
23 450.

24 BY MR. MAGGARD:

25 Q. And when you're saying that to ---

1 A. On the velocity.

2 Q. --- talking about the minimum requirements?

3 A. Oh, yes, the minimums. Okay. We had two other
4 readings that we would take. They were called an MPA
5 and an MPB.

6 ATTORNEY MCCUSKEY:

7 Would you repeat those?

8 A. MPA.

9 ATTORNEY MCCUSKEY:

10 N?

11 A. M.

12 MR. MAGGARD:

13 M.

14 ATTORNEY MCCUSKEY:

15 M.

16 ATTORNEY MCCUSKEY:

17 PA.

18 A. And MPB.

19 BY MR. MAGGARD:

20 Q. Okay. Would you do MPA after the last open break
21 or would you make your way across the face first and
22 then ---?

23 A. I would normally do that as I was over here on the
24 head and then the same way with the MPB. You know, as
25 I made my way across the face, you know, I'd get 160

1 and then I would just continue on to the tail. The
2 MPB reading, most of the time, I never even got that.
3 The top would just be too bad and so I never would
4 even just attempt to even go out there --- out there
5 in it.

6 These readings, the MPA and MPB, I don't even know
7 what the MP stands for. I think it's a measuring
8 point. I'm not real sure. This was actually our
9 first panel that I can recall that you had to do those
10 readings. I don't know why we had to. I don't know
11 if it was something that MSHA wanted us to do or
12 wanted something in the plans. As far as their
13 reading itself, I don't even know if there was even a
14 minimum that you had to have.

15 Q. Okay. Could you kind of explain how you take an
16 MPA reading, where do you do it, what --- how do you
17 come up with the MPA quantity?

18 A. The MPA, I was always told to go behind the
19 curtain about 100 feet, 200 feet. That's the way I
20 was told to take that reading. And basically, I was
21 told that you're measuring the air that's maybe
22 leading to the curtain. You're just kind of getting
23 an idea of what --- what kind of air you have coming
24 back through the gob. So as to say if this here was
25 our last open break --- do you want me to mark this on

1 here?

2 Q. Yeah, mark where you would take MPA readings.

3 A. Okay.

4 Q. A general area from where those curtains are
5 located on the map.

6 A. I would come back to about right in here.

7 Q. How many breaks?

8 A. It's about a break --- a break or two. And I was
9 told the way --- what you do is you take a reading and
10 then you add them together ---

11 Q. Okay.

12 A. --- to get what's in the book.

13 Q. Now, as far as those two entries, was there ever
14 much of a difference between the two?

15 A. No.

16 Q. What's it like? Was it --- let's say you have
17 12,000. Was one of them like six, the other one
18 closer to six or what ---?

19 A. I would generally have a little bit more coming
20 down in this entry, the Number Three entry. That was
21 our intake coming down in that entry. So I would give
22 a little bit more coming through the curtain compared
23 to the one over in the Number Two entry.

24 Q. Okay. Now, as far as the belt air direction, I
25 know you worked April 3rd, which was Saturday

1 dayshift. Which way do you recall the belt air? Was
2 it going inby or outby?

3 A. I believe it was inby. It was coming inby, I
4 believe. Now, I never measured the air coming off the
5 belt. I was never told to measure that air. I know
6 I've seen a couple guys measure the air just to get an
7 idea of what was coming off of it. But, you know, the
8 last open break that was where I always took my air
9 reading. That's where I was always told to take it.
10 Nobody ever told me to take it on the belt and add it
11 to, you know, what was coming down from the intake. I
12 was never told to do anything like that.

13 Q. So normally on a daily basis you wouldn't check,
14 or would you check, the belt air direction versus what
15 the --- when you took your intake reading on the last
16 open break?

17 A. I would just get an idea just to where it's going,
18 you know, by doing that. You could watch the dust
19 coming from the stage loader and you can generally
20 tell, you know, which direction the air is going.

21 Q. Had you ever witnessed a change in directions? I
22 think you started as a section boss on March the 6th,
23 I'm guessing. If that's correct, but do you ever
24 recall it ever changing directions?

25 A. No, I don't recall.

1 Q. I'm going to switch gears a little bit. MPB,
2 could you tell us about what you did with --- how do
3 you evaluate the MPB during a pre-shift?

4 A. Okay. Your MPB, again, I was told to go inby from
5 where the face is. We'd do it in these entries, you
6 know, inby from the face. Of course, then, you know,
7 you get your reading and then you add them together to
8 come up with your MPB.

9 MR. CRIPPS:

10 Why don't you preserve those, Mike?

11 A. That's Five, Six and Seven.

12 ATTORNEY FERGUSON:

13 And let the record reflect Mr. Webb's

14 talking about the tailgate side of the longwall.

15 A. All right. Let's see. Four, Five and Six. And
16 then you would come behind of where the face is, you
17 know, go inby to get an idea of what kind of air you
18 had back behind you. But like I said, most of the
19 times I never even went out there and I know a lot of
20 the guys themselves they didn't --- they didn't go out
21 there. I believe we had one of our outby bosses, he
22 would come up every now and then. And I know he would
23 always have an anemometer with him. I've heard him on
24 times taking an MPB reading, but I don't believe he
25 ever recorded it because he wasn't bossing and I don't

1 know if he ever recorded it anywhere.

2 BY MR. MAGGARD:

3 Q. Okay. Do you know was the Number Three entry a
4 part of the MPB as well, or was it just Four, Five and
5 Six?

6 A. I always was told Four, Five and Six.

7 Q. But during a pre-shift exam, you say movement to
8 the gob or since you didn't really go out there, how
9 do you know that it's going toward the gob?

10 A. A lot of times if I want to try to see which way
11 the air is going, I'll just clap my hands, kind of get
12 the --- watch the dust and I'll even throw a rock on a
13 rib or something to stir up the dust and you kind of
14 get a look on what way, you know, the air is running.

15 Q. When you say the outby man would come with the
16 anemometer and periodically check that, who would that
17 normally be?

18 A. Most of the time I believe it was Harold Lilly.
19 I've always heard him, you know, to come up on the
20 tail and check the stopping lines. As I stated
21 before, we would have to knock the stopping out as we
22 advanced. And where we didn't get out in there, it
23 was easier for somebody to come up those entries and
24 step over and knock a hole in the stopping. So I know
25 a lot of times he done that.

1 Q. As far as knocking that stopping out, have you
2 ever had an occasion that the air quantity on the face
3 it changed and you figured out that you needed to
4 knock a stopping out?

5 A. No, because I never --- I never had to knock one
6 out. You know, what little time that I bossed I never
7 had to knock one out. Let's see. I think there was
8 one evening we were getting close to the break and I
9 told Kevin Medley that, you know, we're getting close
10 to the next break and he --- I just left it up to him
11 on whether he needed to --- needed to knock it out or
12 not. At this time, we're moving pretty slow, so I
13 kind of left it up to his discretion. But as far as
14 did I feel like we was losing any air or anything, no,
15 I don't believe so. I still had pretty good air.

16 Q. Now, I think on the previous interviews we
17 discussed a little bit about methane, the quality
18 measurements that you've had, and I think you said
19 that maybe the highest concentration you'd ever seen
20 was like .3 percent.

21 A. Yes.

22 Q. Just for clarification, where was the location
23 that you'd seen the .3 percent methane?

24 A. That would have been on the shearer itself and on
25 the methane monitor. On my spotter, I don't recall

1 ever picking up that much. Now, on a shearer, you
2 know, it's --- you can see the numbers from a pretty
3 good distance, and that would be on the tail. And
4 when that was, I don't --- I don't know.

5 Q. Okay. Was you getting any kind of readings, you
6 know, around April 3rd on the tail and just cutting
7 out? Was it displaying any kind of ---?

8 A. I remember seeing a .1.

9 ATTORNEY MCCUSKEY:

10 Is that .1 percent or .1?

11 A. One tenth of a percent.

12 ATTORNEY MCCUSKEY:

13 Make sure you always say that because
14 it's a lot different.

15 BY MR. MAGGARD:

16 Q. Okay. So sometimes on the pre-shift you may start
17 at the mule train. Did you tram the travelway, the
18 trackage outby the mule train? Was that part of your
19 pre-shift as well?

20 A. No, outby the mule train, that wasn't --- that
21 wasn't our --- that was --- I don't know who the fire
22 bosses were, but the fire bosses were in charge of the
23 belt and anything outby the mule train. Now, of
24 course, you know, as we come up the track entry, you
25 know, from the main line coming up that track entry,

1 of course, if I see something, you know, I'm going to
2 --- I'm going to note it or, you know, tell somebody.

3 Q. Where would you normally call your pre-shift out
4 at?

5 A. Most cases I would call out at the headgate. If
6 not the headgate, then I would go to the mule train
7 where it's a little bit more quieter that way I can
8 --- I can talk and I can hear outside a lot easier.

9 Q. Okay. Let's talk about an on-shift exam. What
10 time you normally done it and what kind of things were
11 you looking for during the on-shift exam. Kind of
12 take us through an on-shift exam, please.

13 A. Okay. The on-shift, about every third, fifth hour
14 I would go --- I would go around. Again, I'm pretty
15 much checking everything that I've checked on the pre-
16 shift. You know, I'll go and check the chargers.
17 I'll check the mule train. I'll take my, you know,
18 quality checks, and again, I'll take air readings.
19 Those air readings, we don't --- we don't note those
20 in a book. They're just readings for myself really,
21 you know, when I'm checking. That way if I notice a
22 difference, you know, I know we got a problem or
23 something at that time, then I can do whatever I have
24 to do, you know, notify outside. And again, you know,
25 I'm checking the track entry, the intake, just looking

1 for anything out of the ordinary.
2 I'll walk the face. I'll take my readings, you
3 know, the last open break, Number Nine, Number 160.
4 I'll check the shields. You're kind of checking the
5 shields about all day, you know, making sure that the
6 shields --- there ain't nothing majorly wrong with
7 those. And what I mean by that is, you know, is it
8 going to slow you down production wise. You know, if
9 you see a shield that's broke loose from the pan line,
10 you know, you got to --- you got to get it fixed. You
11 know, that's not really --- I don't think it's nothing
12 that could be wrote violation wise. You know, it's
13 something that needs fixed.

14 I'll check with the outby guy. As, you know, an
15 outby man, he's pretty much on his own throughout the
16 day. I'll check with him on occasion and see if he
17 needs help, you know, see how he's doing. If I see
18 anything that's wrong, normally I'll go to him and let
19 him know about it.

20 Q. Okay. So if I'm correct, basically what I
21 understand, you make the same normal route that you do
22 during the pre-shift?

23 A. Yes.

24 Q. Okay. And do you do that every two hours or every
25 four hours or how often do you do that?

1 A. I usually --- I was usually doing them about every
2 two hours.

3 Q. Okay. So you're moving around quite a bit?

4 A. Yes.

5 Q. Okay. And about how long did it normally take you
6 to make the whole route and do all your checks
7 and ---?

8 A. Forty (40) minutes maybe on an average, I'd say.
9 It might take a little bit longer. It just depends.
10 You know, if I see somebody along the way, I'll
11 normally stop, talk to them a few minutes, whatever.

12 Q. Okay. And when you call out your pre-shift, how
13 long does that normally take you to discuss with the
14 next oncoming shift, tell them all the things you've
15 seen that day and relay information to them?

16 A. It don't take long, just a few minutes. I think
17 the main problem is just trying to get ahold of them,
18 you know, because you got other people hollering out.
19 It just takes a few minutes just to call out and make
20 sure he's got, you know, my report. And then if
21 there's anything that I need to tell him that's
22 specific, you know, of course, that's going to take a
23 minute or so longer.

24 Q. Okay. Have you heard of anybody else on the
25 longwall detecting any methane more than .3 percent or

1 detecting any kind of methane readings that you know
2 of prior to April 5th?

3 A. No, nobody's ever said anything to me. I've never
4 heard nobody talk about it.

5 Q. Okay. What did the utility man normally do on a
6 regular day?

7 A. At the start of the shift, you know, if he would
8 come in, he would normally go to check the oil where
9 we kept, you know, all of our oil. He would check and
10 make sure we had plenty of cans. Then he would
11 normally go to the head drive, check to see if we had
12 bits, you know, if we had enough bits for the day.
13 From there, he would go walk by the curtains. I'm
14 checking the curtains myself, making sure that the
15 curtains are tight. But he's also keeping a check on
16 them to make sure that they're stayed tight.

17 At that point, usually, he'll go and get a scoop.

18 And he'll go and do what --- whatever the other guy
19 had left for him, you know, if he's got to assess some
20 cribs or if he's got to set timbers. The utility man,
21 he'll have to set timbers in our belt entry. He'll
22 have to keep those up and he'll have to set timbers
23 over in our intake. And the utility men, they pretty
24 much just kind of keep check with each other, you
25 know, just picking up where the other left off.

1 Q. The utility man sometimes does he have to go
2 outside and get supplies or do they ---

3 A. No.

4 Q. --- grab what's on the outby part, or do they ---
5 let's say the mother drive or ---?

6 A. No, unless we were broke down for any reason. I
7 don't --- I don't think on this panel we had --- well,
8 yeah, I guess we did, too. We had an area outby the
9 section which you guys may know. We called it the
10 Wal-Mart. You know, it's where we kept all of our
11 spare equipment, I guess. There were occasions he may
12 have to run out there and pick up a part or something.

13 Q. Okay. Let's talk about when you --- like on
14 dayshift, I know we talked about the last maybe couple
15 --- maybe both interviews, we talked about, you know,
16 you come up on dayshift and, you know, the machine
17 normally was prepared to run sometimes --- maybe you
18 can explain this to me. Bits may have been already
19 set by the owl shift. And is there sometimes they
20 weren't set?

21 A. There were times that they weren't set. Now, what
22 the hoot owl might refer to as a good bit, a shearer
23 operator or a section boss, they might see that bit
24 and consider that to be a bad bit, you know. And
25 there were times that maybe the shearer might be

1 located on the tail and there might not be no bits
2 down there. And the hoot owl --- sometimes they might
3 pack some bits down there, but most cases, no, they're
4 not going to pack, you know, a boat load of bits all
5 the way across the face to set bits.

6 Q. How long was the --- I know you talked about
7 things kind of got harder about cutting, you know,
8 with the sandstone and everything and, you know, you
9 were done to maybe, if I recall, three or four passes
10 a day. Am I speaking right?

11 A. Yes, yes.

12 Q. How long would a pass normally take then if you
13 was getting three or four a day?

14 A. I'm wanting to say maybe two hours.

15 Q. Was that --- was it --- that would be including
16 the shovel, I guess?

17 A. Yes.

18 Q. Okay. Let's say the shearers on the headgate.
19 You got there on dayshift. It's already been bit up.
20 What do you normally do as far as, you know, get pac-
21 man, getting ready to run the shearer down to the tail
22 for the first pass that day?

23 A. We check the water --- water on the shearer. Then
24 I go across the face. I check the air. We normally
25 --- we'd take bits and we'd throw it up on the

1 shearer, you know, if the shearer's on the head. That
2 way we have --- we'll have a good supply of bits down
3 there on the tail once the shearer makes it to the
4 tail. We can just take them off and throw them on the
5 pontoons.

6 Q. As far as checking the water, what do you do?

7 A. Yeah, the electrician, he has a gauge. He has a
8 hose that he'll hook up to the shearer. It's got a
9 gauge on it. It shows the amount of pressure that the
10 shearer is putting out. I believe our minimum was 90
11 PSI.

12 Q. Okay. Do you know if he always had gotten that
13 checked every day as far as the pressure readings?

14 A. No, I couldn't tell you if he did or not. I
15 wasn't always there to watch. Normally if I wasn't
16 there, I was checking on something else.

17 Q. Okay. Now, as far as --- I think maybe you
18 mentioned that sometimes you might have a missing
19 spray or be missing sprays. Have you ever seen any
20 more than that, not just when you were section boss,
21 but when you were actually around the shearer?

22 A. No. When we got in this sandstone, I think maybe
23 three, but in most cases you'd have one or two
24 missing. The sandstone --- I don't know if the
25 sandstone would just be causing it to jar loose. You

1 know, I don't know, but I know every time we had to
2 set bits on the tail a lot of times we were missing
3 one or two sprays, maybe three at the most all I can
4 remember ever seeing.

5 Q. And had it gotten any better or worse since they
6 installed new drums on the machine?

7 A. I think it had started to get better before the
8 explosion happened. I can remember when we first got
9 into the sandstone that the bits --- they were really,
10 you know, wearing out pretty quick. And at this
11 point, we were getting to where you could cut out on a
12 tail and you may get to shuffle and cut out one time
13 and then you'd have to set bits. Whereas, before you
14 cut out that one time, you had to set bits before you
15 could even shuffle. So I think it did actually start
16 to get better.

17 Q. Okay. As far --- when you find some sprays out,
18 do you have to record that in an on-shift record
19 or ---?

20 A. No, I was never --- never told to. I think on our
21 production report I may have put something in there on
22 that if I ever thought that the sprays may have been
23 --- become stopped up. You know, I would note that.
24 And that way the hoot owl crew, they could --- they
25 could check them out. They could clean and replace

1 them and do whatever they have to do.

2 Q. As far as stopping up, was that becoming an issue
3 on this panel or could you elaborate a little bit on
4 the sprays stopping up?

5 A. No, I don't think we had much of a problem. I
6 know back in the past we did have a storm pretty bad
7 and we got all of our water, you know, from the river,
8 and for a couple days we had to continuously change
9 filters, you know, on the mule train. And, you know,
10 so we did have a lot of dirty water that, you know,
11 would run through the shields, run through the
12 shearer, and we let them know, you know, changing that
13 many filters, you're bound to have bad sprays, so we
14 let them know at the hoot owl to check it out.

15 Q. As far as, you know, you got to do these on-shifts
16 and your pre-shift and you're having to go to the mule
17 train and stuff, who was your shearer operators?

18 A. My shearer operators was Roger Scarbro (phonetic)
19 and Terrance Atkins (phonetic).

20 Q. Okay. Which one of those guys would have had a
21 methane detector?

22 A. It would have been Terrance.

23 Q. Okay. Did he normally wear his everyday or do you
24 know?

25 A. To my knowledge, he did. You know, he knew it was

1 something, you know, he was supposed to have done.
2 When I took that crew, he didn't have a methane
3 spotter, I don't believe. And what I had done I had
4 took the chief electrician, his spotter, and gave it
5 to him, you know, because the chief electrician he
6 don't necessarily need one unless he's doing any type
7 of cutting or anything like that. And at that point,
8 either I'm around him or somebody.

9 Q. So March the 6th when you started on this crew,
10 Terrance didn't have one and you --- is that pretty
11 close to the time or ---?

12 A. Pretty close. I think when I started, you know, I
13 just took it that he had one. You know, he was
14 supposed to have one. It may have been a day or two
15 later that I may have found out, you know, he didn't
16 have one and I got him one at that point.

17 Q. And I have noticed that Luke used to have
18 Terrance's detector. And so let me ask you this.
19 Would that be something you would check daily to see
20 that Terrance would have one, have his turned on?

21 A. No. No.

22 Q. Okay. I'm going to take a little break.

23 Appreciate that.

24 ATTORNEY FERGUSON:

25 And just for the record, can we clarify

1 Luke means Luke Ford (phonetic)?

2 MR. MAGGARD:

3 Luke Ford.

4 A. Yes.

5 MR. TUCKER:

6 I'll just hold off.

7 OFF RECORD DISCUSSION

8 EXAMINATION

9 BY MR. CRIPPS:

10 Q. Who was the other shearer operator?

11 A. Terrance Atkins or Roger Scarbro.

12 Q. Yeah, Roger Scarbro and Terrance Atkins. That's
13 right.

14 OFF RECORD DISCUSSION

15 BY MR. CRIPPS:

16 Q. Mike, real quick before we get away from the
17 spotter that Terrance carried, where did he charge the
18 spotter? Do you know?

19 A. No, I don't know if he had a charger himself. I
20 don't believe he ever left it outside, you know, with
21 all the --- I guess, the community spotters I guess
22 you would say. I believe he took it home.

23 Q. Okay. I want to show you --- I got a question and
24 we'll go back just a minute. This is a transcript
25 from your second interview that you did and I've got

1 --- I just want to clarify something in my mind.
2 Starting about, oh, towards the bottom of page 62
3 here, you was asked the question, what did the air do
4 outby at the point in the tailgate entry, and the way
5 the transcript reads it looks like you was probably
6 doing a lot of pointing to the map. It says this
7 right here, this right here. And then the tailgate
8 entry ---.

9 ATTORNEY MCCUSKEY:

10 That's a question just to make sure.

11 MR. CRIPPS:

12 Yeah, a question.

13 BY MR. CRIPPS:

14 Q. It says it's pretty much like --- almost like
15 neutral. You didn't have a whole lot of air coming
16 here. Your air was all over here coming inby towards
17 the fan. Could you --- yeah. Can you clear that up,
18 what you was talking about there and what your
19 understanding of the question was and what you meant
20 by your response there?

21 A. I think what I was asking was talking about the
22 air as it comes off the face. The air that was coming
23 up the Number Seven entry, there wasn't a whole lot of
24 air, you know, coming up that entry and I was kind of
25 talking about it was almost like a neutral, you know.

1 When it come out the last open break, that's where the
2 air from the face would shoot over and go inby back
3 behind us at that point. Did that kind of clear it up
4 some?

5 Q. Yes. You're actually --- what you're talking
6 about is the air just in Number Seven entry outby the
7 face.

8 A. Yes.

9 Q. And does that air normally travel inby?

10 A. Yes. It came --- it came toward us.

11 Q. It came inby towards the face?

12 A. Yeah.

13 Q. Okay. And what did it do when it got to the
14 crosscut outby the face?

15 A. The air would just be pulled, you know, through
16 the stopping that we knocked. It would just come out
17 in these entries and then shoot on inby.

18 Q. Okay. By these entries, you're talking about
19 Number Six?

20 A. Number Five, Six, yes.

21 Q. Okay. So in that crosscut just outby the face,
22 would the air that's coming up Number Seven entry ---
23 would it mix with the air that was coming off the
24 face?

25 A. Yes.

1 Q. Okay. But in your previous interview when you
2 talked about there was not a lot of movement, it was
3 almost like neutral, you was referring to Number Seven
4 entry ---

5 A. Yes.

6 Q. --- outby the face?

7 A. Yes.

8 Q. Okay. Thanks, Mike.

9 ATTORNEY MCCUSKEY:

10 That was page 62 you were looking at.

11 MR. CRIPPS:

12 Page 62 to 63 of his second interview.

13 ATTORNEY MCCUSKEY:

14 Right.

15 MR. CRIPPS:

16 Which was done on Friday, February the
17 11th.

18 BY MR. CRIPPS:

19 Q. Mike, do you --- when was the last time you was
20 actually out in the tailgate entry, were you traveling
21 to the face into the tailgate entry prior to the
22 explosion?

23 A. It may have been that Friday. I can't really be
24 sure. But I know my last six day run may have been
25 that Friday.

1 Q. Okay. But did you actually go into that tailgate
2 entry every shift?

3 A. No, no.

4 Q. Okay. What would be the reasons that you would
5 not go in the tailgate entry?

6 A. The top would be bad coming from the face out into
7 that entry. And like I said, if the top was bad, most
8 cases nobody even got out there to even attempt to get
9 the MPBs or spad readings. You know, if we'd see a
10 spad, you know, from say standing underneath 176
11 shield behind the tail drive, if we can see a spad, we
12 just kind of eyeball on having a spad reading. We
13 wouldn't even get out there and even measure, you
14 know, to get an exact reading. But, you know, that
15 would be reason, you know, nobody would get out in
16 there, just the top would be too bad.

17 Q. Okay. You mentioned you said spad reading.
18 Explain that to me.

19 A. Okay. Our spad readings, they were hung I think
20 it was every 25 feet. And that's just showing where
21 we're at on like footage wise, how much footage you're
22 taking out on a shift.

23 Q. So your spad reading, would that actually indicate
24 the footage or the location of the face?

25 A. Yeah. Yeah, the location of the face.

1 Q. Okay. The times that you did actually travel off
2 the face into the tailgate entry, explain to me how
3 you actually traveled, what route you actually took to
4 get out into that tailgate entry.

5 A. We would come out from the tail drive, and if you
6 had a good enough area from 176 behind the shield, if
7 it was high enough --- you know, if it wasn't high
8 enough, then, you know, I never even went out there.
9 And, of course, you know, being that the top was good,
10 yeah, I'd get out there. But if it's not good, no, I
11 wouldn't get out there.

12 Q. So you went over ---?

13 A. From the tail drive, like going over top of the
14 tail drive.

15 Q. Okay. By the tail drive, are you indicating the
16 area where the bolter and the gear case is?

17 A. Yes, where the --- we call it the gob shields, gob
18 shields on top of the tail drive. That's what I've
19 always known it by.

20 Q. Okay. There's a framework built around the
21 tailgate drive. It has aluminum covers on the top of
22 it.

23 A. Yes.

24 Q. Is that the area that you're referring to?

25 A. Yes.

1 Q. So would you crawl on top of those covers to get
2 out into that tailgate entry?

3 A. Yes, either that, or I would go between there at
4 176. We had a gob shield that could extend up to keep
5 the gob from spilling over. But now if there wasn't
6 no gob or anything out there that you had to worry
7 about spilling over, you could lower that gob shield
8 and you would have good enough space to where anybody
9 could have crawled out there given the height --- you
10 know, if you had the height.

11 Q. Okay. Did you ever go over that gob shield out in
12 that tailgate entry?

13 A. I think twice.

14 Q. Okay. But to do that, you actually lowered the
15 gob shield down?

16 A. No. Most cases it was already lowered down. Like
17 I said, the only time we would have that up is if
18 there was a lot of gob over there and you had a lot of
19 rocks coming. I think actually, though, toward the
20 end of this that gob shield --- there was a hose
21 busted, so it didn't even work. It was kind of stuck
22 in one spot. And so at that point, we'd just go ---
23 we'd use the tail drive and just crawl up on top the
24 tail drive.

25 Q. Okay. My observations as I've been on the face

1 since the explosion --- and I know you've been across
2 the face several times also --- I've seen that the gob
3 shield is up nearly against the roof. And from my
4 observation, that would prevent you from traveling to
5 the tailgate from that area.

6 A. Yes.

7 Q. Did you ever actually get out into the conveyor
8 and go into the tailgate entry across the conveyor?

9 A. No, I didn't.

10 Q. Okay. Did you ever see anybody do that?

11 A. If the chain wasn't running, you know, yeah.
12 Yeah, I've seen people do that.

13 Q. Okay. Who would do that normally?

14 A. I've seen like supervisors and I've seen
15 inspectors with them, like if they're going --- going
16 to go walk the tail, you know, they'll have everything
17 shut off, you know, go out the tail that way. We've
18 been down before where we've had to get out in the
19 conveyor to work on the conveyor.

20 Q. Okay.

21 ATTORNEY MCCUSKEY:

22 It was asked of you, but I want to
23 clarify. You said you believed you were behind the
24 gob, climbed over the shield twice.

25 A. Yes.

1 ATTORNEY MCCUSKEY:

2 And was that when you were foreman or
3 before you were foreman?

4 A. It's when I was foreman.

5 ATTORNEY MCCUSKEY:

6 Okay.

7 BY MR. CRIPPS:

8 Q. Do you have any idea how long that gob shield has
9 been broken to where it can't be lowered from its
10 present position?

11 A. No, I couldn't --- I couldn't tell you.

12 Q. Okay. Have you ever used or been on the face,
13 seen anybody use any curtain down at the tailgate into
14 the longwall face to direct air?

15 A. No. No. And we've been low on air before. I
16 don't think we had any problems on this panel, but on
17 previous panels, we've had issues with the air and
18 we've had to hang curtain all the way from the Number
19 One shield down to 160. As far as anything past 160,
20 no, we've never --- I've never seen anybody hang any
21 curtain.

22 Q. Okay. So you've never seen curtain from say the
23 area of 173 to 176 being hung?

24 A. No.

25 Q. Any curtain hung across or in front of the methane

1 sensor at the tailgate?

2 A. No. No, I've never seen that.

3 Q. Okay. Have you seen --- ever seen anything at all
4 put over that sensor to deflect air to keep methane
5 from that sensor?

6 A. No, no.

7 Q. I'm not sure. I think Jasey may have asked you
8 this. But your last several shifts when the shearer
9 was cutting out at the tailgate, had you ever noticed
10 or had either of your shearer operators reported
11 detecting any methane at all as the shearer was
12 cutting out at the tail?

13 A. No. No. And they never said anything to me,
14 which I know Roger, the head end operator, he was an
15 older guy. You know, he's got a lot of experience,
16 and I'm sure if he would have seen something, you
17 know, he would have let me know.

18 Q. Okay. On this particular panel, in your
19 experience of running the shearer and also as bossing
20 --- then as bossing, did you ever see any ignitions or
21 fireballs when the shearer was cutting?

22 A. No, not that I recall.

23 Q. Okay. We've had some people report that they seen
24 some --- what was called fireballs coming off the
25 shearer.

1 A. I don't know if I have or not. I know I've seen
2 sparks, you know, a lot of sparks come off of it, but
3 I can't remember if I've ever seen any fireballs off
4 of it or not.

5 Q. Okay. In one of your previous interviews, I
6 think it was the second interview, and I talked to you
7 about the roof support, the tailgate entry,
8 specifically the fact that there's one row of posts
9 set in there. In that interview, as I recall, you
10 said that you had been told that one row was
11 sufficient for this particular panel. Do you recall
12 who told you that or who you talked to about that
13 requirement?

14 A. I think that was Timmy Davis that I had asked
15 about that. And the answer that I kind of got was
16 that this was our first panel in this area and we were
17 going to be going further inby. That entry was no
18 longer going to be ever used, you know, once we pulled
19 it out from here. I think --- I've been told in the
20 past that on a panel --- say on the next panel we
21 would have two rows of cribs or two rows of props, and
22 that was to keep --- to keep a walkway in case
23 somebody, you know, needed to go back through there.
24 But this one, he had told me that where this one was
25 the first panel, this entry was no longer ever going

1 to be used. That was the answer that I got. I know
2 because when I saw that they was only going to run one
3 row, you know, to me it kind of looked, you know, I
4 guess out of ordinary. You know, I was always used to
5 two rows.

6 Q. When you've been operating the shearer and you did
7 boss, you told us that they had a problem with the
8 water sprays stopping up. Have you ever seen or known
9 of anybody taking the sprays out of the drums and
10 actually running the sprays out to try to flush the
11 drums out?

12 A. We'd been cleaning them before like say when we do
13 maintenance on them. If we notice that we have some
14 sprays that might be stopped up, you know, we'll clean
15 it. And with the sprays being out of it, we'll have
16 the headgate operator turn the water on just to flush
17 out if --- you know, anything that's in it. And then
18 at which at that point, we'll put the spray back in.

19 Q. Did you ever actually cut coal and operate with
20 the spray intentionally left out to try to clean the
21 drum?

22 A. No. No, I've never done that.

23 Q. Looking through all the documents that we have, I
24 notice that all the foremen filled out a production
25 report for their shift every day. Are you familiar

1 with those production reports?

2 A. Yes.

3 Q. There's a lot of information I noticed on that
4 production report, delays, tonnage, footage. When did
5 you actually fill out that report?

6 A. I would fill it out when I got outside, you know,
7 after the shift was over. I may start on it if I have
8 a chance there as we're leaving, you know, if I'm
9 waiting on somebody to --- maybe an electrician or
10 something to come up. And if I'm just standing there
11 at the mantrip just waiting, you know, I might start
12 filing out just little things. But as far as putting
13 like my coal footage and down time and stuff like
14 that, that was normally done outside.

15 Q. Okay. How did you keep track of all the
16 information to record on that form?

17 A. I had a little notepad and I would write down my
18 footage, down time, things like that. And that was
19 also what I'd use for like my on-shifts. You know,
20 I'd write down my air readings, my velocities. Any
21 kind of discrepancies, I'd write it down and I'd call
22 it out.

23 Q. When you completed the production report at the
24 end of your shift, who did you turn it in to?

25 A. I had to fax it --- fax a copy of it, and I think

1 that went to the --- I don't know if it was an office
2 at Elk Run or if it was at the main office there at
3 Performance. I don't know who really --- where it
4 went to, but I had to fax a copy of that, and then I
5 laid the original copy on Jack Roles --- on his desk
6 and that was it.

7 Q. Okay.

8 A. From that point, I think he had them all put in a
9 folder maybe. You know, I think he kept them all ---
10 all together.

11 Q. Okay. Do you know anybody else at the mine that
12 would review those production reports?

13 A. No. No, you know, just, you know, the
14 longwallers. You might have guys from --- on your
15 crew, they might come in and want to look at their
16 footage, you know, to see what they got, to see if
17 there's any condition they may --- you know, they need
18 to be watching about. But other than that, the
19 superintendent and the mine foreman, I don't recall
20 ever seeing them ever look at it.

21 Q. Did you look at the production report from the
22 previous shift?

23 A. Yes.

24 MR. CRIPPS:

25 Let me stop for a minute and let Bill

1 jump in.

2 EXAMINATION

3 BY MR. TUCKER:

4 Q. Just a couple, Mike. I need to ask you about pop
5 off, if you'd ever recall experiencing one yourself
6 and seeing something yourself and you said you
7 couldn't remember it. Have you ever heard anybody on
8 your crew talk about having a pop off or describe a
9 fireball to you?

10 A. I've heard people talk about it before in the
11 past, and they would say it'd be like just a big
12 flash. That's all I really remember them ever saying
13 about it.

14 Q. Okay. But when you was a shearer operator
15 yourself, you don't recall seeing any firsthand?

16 A. No, no. Not that I recall.

17 Q. Okay. If you can remember, when you heard those
18 conversations about it, was that on the current
19 longwall? Would that have been the time frame?

20 A. It'd been throughout the whole time I've been on
21 the longwall that I've heard guys talking about them
22 in the past. As far as this panel, I can't recall
23 anybody ever telling me that they saw a pop off.

24 Q. Okay. What about the shield sprays on this
25 current longwall set up, how does it work?

1 A. The sprays were located on the tip of the shield.

2 You did say shield; right?

3 Q. Yes, sir.

4 A. Okay. Yeah. The sprays were on the tip. Those
5 were activated when you would press the tip button on
6 the CIU. I don't know how many of them didn't work or
7 how many of them did work. I know the majority of
8 them, you know, did work. But like I said those were
9 --- the sprays themselves, they would initiate as the
10 shield operator would be pressing the buttons on the
11 CIU box. Some of them were automatic and we also had
12 some shields that had some sprays that the
13 electricians put through. There's holes located on
14 the shield on the canopy. And they would run a hose
15 through those holes, and those would spray a constant
16 spray. I think they had those every ten shields
17 maybe.

18 Q. Who would turn those on? Was there a procedure on
19 how often you had to turn them on or ---?

20 A. We'd usually --- normally we'd leave them running.
21 They normally stayed running. The only time we did
22 turn them off is if you were down and you happened to
23 be standing right there, you know, underneath one of
24 them. You'd just turn it off. But usually by that
25 point if you're down, the headgate operator, he's got

1 everything turned off.

2 Q. So if you was on the tail going toward the head,
3 as the shearer operator, the shield sprays on the
4 headgate side would be on as your ---?

5 A. Yes. Yeah, it was kind of inconvenient for a
6 shearer operator because they're constantly, you know,
7 getting wet, but yeah, we leave them on. And I've
8 heard people saying that they turn them off and then
9 they turn them back on. You know, whether that's true
10 or not, I don't know. But I've always kept them on.

11 Q. That's why I was wondering when you --- not
12 knowing how to work them, when you say if you had them
13 manual --- and you left them on at the time.

14 A. Now, that was --- like I said, that was the
15 shields that had the hose running through them,
16 through the holes. Those had a valve on them. You
17 can turn it off or you can turn it on. Like I said,
18 those always stayed on, though, unless somebody would
19 go through there and turn them off, and then at that
20 point, if the shearer operator or the boss --- anybody
21 going down the line, if you see that hose not putting
22 water out, then you know that, you know, something
23 ain't right, somebody's turned it off and just reach
24 up and turn it on.

25 Q. Okay. Just to make sure I understand then, some

1 of the shield sprays you say would work automatic.
2 When you moved the shield up, it would activate that
3 spray and it'd spray?

4 A. Now, let me kind of rephrase that. What I mean by
5 that, again, that's from where the --- the shield
6 operator is using the CIU box. There's different ways
7 you can use that box. You can push each button
8 separate to get the shield to do what it needs to do.
9 Or you can hit one button on that CIU box and the
10 shield does --- does everything automatically. You
11 know, it will drop from the top. It will pull in and
12 it will sit all on its own compared to hitting the
13 lower button, hitting the advance button and hitting
14 the set button. And when it comes in on its own
15 automatically, it's going to spray on its own compared
16 to if you're doing an individual button, you have to
17 hit that tip up spray to get it to spray. Whereas,
18 automatically, it's spraying on its own already.

19 Q. So on this particular setup, did that automatic
20 function work on moving the --- lowering the shield,
21 moving it up?

22 A. Most of the shields it did. You would have a few
23 of them that might have a fault in it and you would
24 have to punch each button individually. But the
25 majority of them, they worked pretty good, which I

1 thought --- I mean, I've done --- I was a shield
2 operator also on this panel, so I mean, I --- from
3 what I can remember, you know, the majority of them
4 did work.

5 Q. Did you batch them up more than one or how'd that
6 work on this particular panel?

7 A. You could. You might have a couple of them not to
8 come in. I was pretty much their most experienced
9 shield operator, I guess. Most of the shield
10 operators we had I taught them how to run the shields.
11 Now, when I did run the shields, I would play with
12 batching them in just to see if --- you know, if I
13 could get them all to work. And, you know, a lot of
14 times I had pretty good --- a pretty good time with
15 them. Every now and then I might have one or two not
16 to come in, but now I never relied on it. For one
17 thing it was slow, so it was just something I never
18 advised, you know, the other guys to do because for
19 one thing they didn't have the experience with running
20 it and, you know, I just told them not to fool with it
21 and that would be too much of a headache.

22 Q. So as a rule of thumb then what you're saying if
23 --- well, let me ask you. As a rule of thumb on this
24 particular panel, did they pull each shield up
25 individually or did they batch?

1 A. One at a time.

2 Q. Okay.

3 A. I don't think, to my knowledge, that batching the
4 shields in --- that was used several years ago when
5 this system was new. When I got with this company,
6 you know, six years ago, at that point, no, you
7 couldn't --- you couldn't rely on batching them in.
8 That's what I was taught. And as I became more
9 experienced with it, I just played around with them
10 myself and learned what to do and what not to do.

11 Q. Okay. Had you heard of --- and I know you've been
12 asked, but --- about methane issues yourself on your
13 crew, what you saw, if any of your guys reported any
14 spikes in methane to you leading up to the explosion,
15 but had you heard anybody else talk about on that
16 longwall just say a week or two prior to the explosion
17 have any issues with methane?

18 A. No. I never --- never heard anybody talk about
19 it.

20 Q. Okay. One other thing. We was talking about the
21 belt air would go in which direction. And just to
22 clear in my mind a little bit, when we talk about that
23 is outby the last open break --- because inby the last
24 open break, if you're in the belt entry, you know it's
25 going to be coming inby, but let's say you were outby

1 the last open break. Can you recall specifically in
2 your mind which direction that belt air was going if
3 you was standing outby the last open break?

4 A. I believe it was coming inby.

5 Q. Okay.

6 MR. TUCKER:

7 That's all for right now. If you all
8 want to jump in there.

9 RE-EXAMINATION

10 BY MR. MAGGARD:

11 Q. When you turned those production reports in, if
12 Jack Roles was on vacation, who would you turn them
13 into if he wasn't there?

14 A. Normally Harold Lilly was --- he would be put in
15 charge at that point. I think he was one of our
16 assistant coordinators. He would be pretty much the
17 one in charge of --- but like I said, I never handed
18 it to him. Usually by that point, they're already
19 gone, you know, they're not there and they don't even
20 look at it until they come in the next day. So most
21 cases I'm just going to go and throw it on their desk
22 and they just look at it when they get in.

23 Q. I think you said --- who was --- could you give me
24 kind of a description of the chain of command from the
25 president down to your level, what you remember, who

1 was in charge of what parts?

2 A. Okay. You had Chris Blanchard as --- he was the
3 president, and our vice president right before the
4 explosion --- I always took it that it was Wayne
5 Persinger, that he was vice president, and I seen
6 papers kind of list him as mine manager, so I don't
7 really know. But I always took him as the vice
8 president. From him, it would go to Jack Roles, which
9 was the longwall coordinator. And the longwall
10 coordinator and the mine superintendent, we kind of
11 saw them two as the same. I know the superintendent
12 was --- last name was Hager. I can't remember his
13 first name. But, you know, of course, I think he's
14 the superintendent. He's superintendent of the mine,
15 but he's in charge of the mine. But as far as the
16 longwall crews, we never really reported to him or
17 went to him for anything. We always kept it with the
18 longwall. There were occasions that a mine foreman or
19 Hager, you know, he might --- he might say something
20 to somebody, you know, something he's done. But like
21 I said, Jack Roles was our longwall coordinator and
22 from him, it would go to the assistant coordinator, or
23 if not him, it would go to Bobby Goff (phonetic),
24 which was --- I'm not really sure what his title was.
25 He was pretty much in charge of all the maintenance on

1 --- I believe it was all the Massey --- I think that's
2 what I had heard. But from there, it would go to a
3 section boss and then just on down.

4 Q. What was Terry Moore's function?

5 A. He was a mine foreman. Now, I don't know --- they
6 had several mine foremen there at the mines. And they
7 had what they called block foremen. I don't really
8 know what the difference was between them. I think
9 one foreman was in charge of one area of the mines and
10 the other foreman in charge of the other area. I
11 think that's how they broke it down. Terry Moore ---
12 the only time I really ever saw him was outside. I
13 never really, really talked to him other than to say,
14 you know, hey, how's it going.

15 Q. So you've never seen him on the longwall panel?

16 A. No, I never saw him on the longwall panel. I
17 don't think I ever saw him underground.

18 Q. Now, when you fill out a pre-shift report and you
19 put in the book, does Terry Moore countersign those
20 pre-shift ---?

21 A. He has. I don't really know who's responsible for
22 having to countersign. I know the mine foreman's got
23 to look at it as well as I always took it that the
24 superintendent had to look at it as well. But I
25 notice Terry Moore, he was usually there, so I always

1 kind of took it that he was in charge of this area of
2 the mine, which is why he was always countersigning.

3 Q. Did he ever ask any questions about a pre-shift or
4 discuss anything with you about a pre-shift exam?

5 A. No, no.

6 Q. Did you ever have to ask him for any kind of help
7 getting supplies or anything done, anything corrected
8 on the longwall panel?

9 A. No. No, I never --- never talked to him.

10 Q. Have you --- before April 5th, had you ever had to
11 travel with inspectors at the mine?

12 A. No.

13 Q. When you was --- let's say when you was a shearer
14 operator, do you recall inspectors coming up to your
15 section?

16 A. There was just a couple times that I can remember
17 inspectors coming up.

18 Q. I keep saying shearer operator, but I guess on
19 this panel, you actually was the shield operator.

20 A. I was both.

21 Q. Okay.

22 A. I was both. At the first start of the panel, I
23 was a shield operator, and then as time went on, I
24 started running the shearer then. But I can't really
25 remember but just a couple times that an inspector

1 came up there.

2 Q. Okay. And when he came up there --- and you may
3 have answered this already in prior interviews --- did
4 you know he was coming to the section?

5 A. No. I think --- I think we were told once to shut
6 down, that there was an inspector there and he was,
7 you know, coming across the face. Other than that, I
8 think that's about the only time that we were really
9 --- that I was ever notified that, you know, we had an
10 inspector there.

11 Q. Okay. And was that on this panel here at UBB?

12 A. Yeah.

13 Q. Okay. So when you shut down, what kind of work
14 did you have to do during the shutdown?

15 A. We'd normally just sit there, let the, you know,
16 inspector and whoever brought him in to let them come
17 across the face. And I think they usually checked the
18 air down on the tail. If they didn't go off the tail,
19 then they'd just come back, and after they got outby,
20 we'd just start back up.

21 Q. Okay. So on that visit that you knew the
22 inspector was coming, he never got to see the shearer
23 run that day?

24 A. I don't know if he did or not.

25 Q. Okay. I know in prior --- at one of the prior

1 interviews that we talked about plans, mine plans and
2 that you actually got a copy of those and read those
3 before you started being a section boss. Did anybody
4 ever go over those plans with you at the mines?

5 A. No.

6 Q. Did anybody ever demonstrate or go over how to
7 check water sprays or do an on-shift dust parameter
8 check on a shearing machine?

9 A. No.

10 Q. We talked about Terrance --- you made sure he had
11 a methane detector when he was running the shearer.
12 Was there a shortage of detectors at the mines in your
13 opinion, or why did you have to get one from Luke to
14 give to Terrance?

15 A. I think there was a shortage. I don't know to be
16 certain on that. I don't know how long it went, but I
17 --- after that, you know, I found out that, you know,
18 he needed one, I believe there was one day that me and
19 Terrance as well went and told Jack that, you know, he
20 needed a --- he needed his own spotter. And I don't
21 even know if he ever received his own spotter or not.
22 I really don't know. But like I said, when I found
23 out that he needed one, that's when we got one off of
24 Luke. And you were asking before about if he took the
25 spotter home or what. I think Luke gave him the

1 charger. He may not have, but he may have gave him
2 the charger to take it home and charge it. Leaving
3 your spotter there at the mine was something you
4 didn't do, because if you left it there, it wouldn't
5 be there the next day.

6 Q. Okay. Now, when you was shield operator, what
7 crew was you working with? Was it the same crew
8 you're on now or ---?

9 A. No. It was Kevin Medley's crew, and I think that
10 was B crew. I may be wrong. It may have been the C
11 crew.

12 Q. Was you also the shearer operator on Kevin's crew
13 or different crew?

14 A. Both. Both of them on his crew.

15 Q. Okay. Had you ever worked on a longwall panel
16 with the victim's crew, Lane's crew, some of his
17 colleagues?

18 A. Yes.

19 Q. And where was that at?

20 A. It was here. When I first started here at this
21 mine, I was the shield operator for the two shearer
22 operators that was on that crew. So, you know, I've
23 been with him, you know, quite a bit. Rick Lane, he
24 was new. This was his first panel here. There may
25 have been just a couple days that I worked, I guess,

1 alongside with him. Grover Skeens, you know, I worked
2 quite a bit with him. Let's see. The other guys ---
3 a lot of those guys --- well, about half of them were
4 fairly new, you know, just been there a year or two
5 maybe.

6 Q. Do you remember or recall what panel that was you
7 was working with that crew on?

8 A. Okay. Gary and Joel were two other shearer
9 operators. It was Headgate 11 that I started with
10 them. I worked with them on that panel, and on
11 Headgate 15 and Headgate 16, and that was the last one
12 we pulled from UBB. Then we went to below the Logan
13 Fork Mines.

14 Q. Is Headgate 15 --- is that on --- it's probably
15 not on the map.

16 A. Yeah, it's not on here.

17 Q. Okay. Would that have been around 2006?

18 A. 2005, 2006.

19 Q. Okay. And when you was on that crew, do you
20 remember who would normally have a methane detector on
21 that crew?

22 A. It would have been Gary, and he was the tail end
23 operator. At that point, I was pretty much new myself
24 and I don't think I even knew if he even needed a
25 detector, you know, to be sure.

1 Q. Do you think he had one every day, or is that
2 something you just --- are you sure that he had one?

3 A. I'm not really sure. I couldn't really answer
4 that. Gary seemed like a good person. I would assume
5 that he had one, I mean, just for the type of person
6 he is. Whether he did or not, I couldn't --- I
7 couldn't really answer.

8 Q. Okay. Did the Tailgate 22 crew ever use your
9 track entry to drive a mantrip up on that side?

10 A. Yes, they did when we were further outby from
11 where --- I don't remember what break that was, where
12 the track entry --- where it has the track switch that
13 goes on over toward Tailgate 22. But yes, they did
14 use that track entry before we got down there. After
15 we had passed that, I don't know if they came up that
16 side anymore or not. I think they had went on over
17 toward Headgate 22 and came over from that side.

18 Q. Okay. Did they ever keep any supplies on Headgate
19 21 on your panel prior to April 5th that you can
20 recall?

21 A. Not that I recall. The only thing I ever remember
22 seeing was longwall stuff.

23 Q. When you talked about sometimes the electrician
24 would use his pressure gauge on the shearer, what do
25 you recall that he checked the pressure in, what

1 pressure?

2 A. It was on the head side of the shearer. They'd
3 usually put it in spray block, soaking up the spray
4 block and turn the pumps on and turn the water on.

5 Q. Would it always be the same location when they
6 checked it? Would they normally check the same spot?

7 A. When I saw them do it, it was always the same
8 spot, you know, that front spray block.

9 Q. Who was the shearer operators on Kevin Medley's
10 crew?

11 A. It was Cody, Cody Davis and I think Chad Brown.

12 Q. Do you recall if Chad Brown had a detector on his
13 crew?

14 A. As far as I know, he did, because I gave him one.
15 When I was on that crew, I had a detector. Now, I
16 don't know whose detector it was. It was just one of
17 them that was given to me. Of course, I didn't need
18 one, but I always --- I kept one anyways. When Chad
19 came on on that crew, I think I gave it to him, and I
20 think there was another guy, Scott Sickles, I think it
21 --- I think maybe he had even given him one. You
22 know, I'm pretty sure that --- yeah, I gave him my
23 detector that I had to him. I think it was a detector
24 and charger that I gave to him.

25 Q. Okay. So was it a Solaris?

1 A. Yeah.

2 Q. Okay. The utility man on your crew, did he have
3 one, a detector?

4 A. No.

5 MR. MAGGARD:

6 I'll take a short break. I may think of
7 something else. I don't know.

8 SHORT BREAK TAKEN

9 ATTORNEY FERGUSON:

10 Okay. So you got a couple more.

11 MR. MAGGARD:

12 Yeah.

13 BY MR. MAGGARD:

14 Q. Let's talk about evacuating the longwall. Say you
15 have to evacuate from the tail. How would you
16 evacuate from the tail at the longwall?

17 A. We're always told, you know, if you had to
18 evacuate the tail, you would go out and get into like
19 your neutral entries, anything that was --- I can't
20 think of the word, anything that wouldn't have had
21 return air coming in it. You know, say if return air
22 was coming off the --- one of the outby sections. So
23 if that's in your Number One or Number Two, you
24 wouldn't want to travel in those. You'd want to
25 travel in a fresh air entry on outby until you came up

1 to a --- you know, your intake, which we never --- we
2 never had to travel, you know, this entry as far as
3 like training, anything like that. When we done our
4 intake training, we'd always do that over on the head
5 side. I don't know why we never done it on the tail
6 side. I mean, I always thought it was something we
7 should have done.

8 Q. Can you remember what kind of drill and what was
9 the cause of the emergency of the drill that you
10 participated in?

11 A. We done some firefighting drills. We would kind
12 of simulate that the mule train was on fire. I think
13 there may have been a time that the tail piece on the
14 stage loader caused a belt fire. We use drills like
15 that. And normally when we would do that, every man
16 on the crew would be assigned a specific role as to
17 what to do. Some guys, they would be assigned with
18 rounding up rock dust, fire extinguishers. You might
19 have one guy assigned to ventilation. We would
20 usually get the water lines, the water hose. We'd
21 stretch it out and then that'd be it.

22 Then I think --- I never bossed --- I never had to
23 do any drills like that when I bossed. I remember
24 when we did them drills, the boss, he would have ---
25 usually had a paper, and it would have a scenario

1 wrote out. He'd read it to us and we'd kind of go
2 over the drill. After we would perform a drill, he
3 would then talk about as to what goes on after --- you
4 know, whether the fire had got too out of hand and you
5 had to escape or, you know, the fire got contained,
6 you know, what to do, you know, from there.

7 Q. I know we mentioned fires. Was that the only
8 scenario you recall that you had to do?

9 A. I think we done a couple maybe on water
10 innervation, where we had to evacuate the section.
11 And that may have been back when we walked the primary
12 escape way out. I think we used that as a scenario.

13 Q. Have you ever had to do any other examinations
14 other than the longwall section, if you know, you have
15 to work an extra day or ---?

16 A. There were occasions that I had to fire boss the
17 belt, the longwall belt. That wasn't my
18 responsibility. That was, you know, mine fire boss.
19 I don't know --- I don't know if they had somebody
20 assigned in that area or if it was just whatever fire
21 boss was in the area, you know, who was free. But now
22 there were times that we had to fire boss the belt.
23 And the reason that I got was they were running short
24 on fire bosses, and that was what I was always told.
25 It wasn't just me. It was, you know, the other crews

1 as well. I even --- there were times before I even
2 started to boss that we had to fire boss the belt.
3 And my boss, Kevin Medley, he would ask me if I'd care
4 to do it, and that way it kept him on section and gave
5 me another hour or two on time.

6 Q. So I guess did you ever have to fire boss the
7 longwall belt while you was the section boss as well?

8 A. Yes. Normally, when that happened, Luke Ford, he
9 would be the one running the section at that point.

10 Q. Okay. And did that --- is that kind of --- I
11 would assume that's kind of typical of all the work
12 that you're required to do on the section?

13 A. Yes. It put more on a boss, which a lot of times
14 like when Kevin Medley would ask me to do it, it kept
15 him from having to be taken off the section. And at
16 that point, when I done that on his crew, I think I
17 was the only one certified other than the chief
18 electrician, and he also done it himself a couple
19 times. When it came to Luke Ford, you know, he was a
20 foreman, longwall boss, so I knew that, you know, the
21 section would be in good hands if I had to do it
22 myself.

23 Q. Would you have to do any cleanup while you were
24 doing the fire boss run, or was that something you
25 recorded?

1 A. If I saw something minor, something that I could
2 hurry up and do, yeah, I might do it. But if it was
3 something big, no, I wouldn't. And I don't recall
4 ever having any kind of major discrepancy on it.

5 Q. Has the longwall been --- you know, it's a big
6 belt. Was it pretty hard to keep maintained as far as
7 cleanup and stuff?

8 A. No, no. For the most part, I don't believe so.
9 The discrepancies that I would always usually
10 encounter would be like the spot dusting. Might be a
11 couple areas to be cleaned, which at that point I
12 could just --- you know, might have a rock in the
13 walkway and I'd just pick it up and toss it on the
14 belt or toss it out of the way.

15 Q. Was there a lot of areas on that belt that needed
16 to be hand dust?

17 A. Some places, yes. And for what I refer to as spot
18 dusting, a lot of times when I first started to have
19 to walk the belt, I would note it, you know, down and
20 I'd usually write it down in my notebook as well. And
21 then that way if I had to do it the next day, a lot of
22 times after that I was carrying a bag of dust, and if
23 I saw an area that needed to hand dust, I would just
24 do it myself. But if it was too much of an area,
25 yeah, I'd write it down and that way the hoot owl crew

1 or, you know, somebody outby could get to it.

2 Q. I know we talked about dust parameters on the
3 shearer. When during the shift was --- did anybody
4 tell you when it's required to be done, when the dust
5 parameters are needed to be done on the shift?

6 A. At the start of the shift is what I've always been
7 told. Prior --- like on-shift, you know, I was never
8 told that I had to catch sprays. And we normally
9 never did unless we felt we had a problem with it,
10 then we'd check it.

11 MR. MAGGARD:

12 Okay. You guys have anything else?

13 MR. TUCKER:

14 I have one thing if I could briefly.

15 RE-EXAMINATION

16 BY MR. TUCKER:

17 Q. Just explain the A, B, C crews rotation?

18 A. We worked a six and three schedule, and you would
19 work six days. Say if I'm on the A crew and I'm
20 working my six days, the B crew will work on evening
21 shift. Okay. And I would work six days and then I'd
22 get three days off. And then the C crew would come in
23 and they would work six days, and after their third
24 day, that other crew, the B crew on evening shift,
25 they would take their three days off and I would come

1 back on evening shift and work six days. Maybe that
2 kind of helped you --- it's just, you know, you
3 rotated from dayshift to evening shift. You'd work
4 six dayshifts and then three days off and then six
5 days evening shift and we just kept rotating.

6 Q. And that was for a seven day schedule?

7 A. Yes.

8 Q. Was that just for the longwall, or do you know?

9 A. I believe that the miner section on the Headgate
10 22 --- I think they were working the same kind of
11 shift that we were working.

12 Q. Okay. Thank you.

13 RE-EXAMINATION

14 BY MR. MAGGARD:

15 Q. I got one more question. There was some intake
16 doors on the track entry, and if I remember right, you
17 felt that they was put in for ventilation purposes.
18 Did anybody give you any kind of indication on what
19 --- you know, that there's something that changed, any
20 instruction on why those doors were put in?

21 A. We were told that the miner section needed more
22 air and that was why them doors were put in. That's
23 the only thing I can tell you on that.

24 Q. Okay. But when you came in --- I think you said
25 that they put them in when your shift wasn't working,

1 but when you come in that next --- when was the first
2 knowledge of those doors being put in? Was it when
3 you traveled up through there and saw them or ---?

4 A. Yes, yes. Yeah, I don't recall anybody ever
5 saying, you know, okay, you got some doors up here you
6 got to go through, you know, set of doors.

7 Q. There's a set of doors on a --- that separates the
8 return that's shown on this map close to where your
9 MPA mark is right here, a double set of doors. Do you
10 recall those doors still being in place or was there
11 any kind of changes made with those doors prior to
12 April 5th?

13 A. No, the doors, they were still there.

14 Q. Okay. So if anybody would have took the doors out
15 or put a stopping in, you wouldn't have had any
16 knowledge of it?

17 A. No.

18 Q. Ever heard about it?

19 A. Yeah, I never heard about it, you know, because I
20 would travel over there, you know, like when I'm doing
21 my pre-shift, you know, taking my intake out. And
22 those doors, they were always there. I think at one
23 point we had some chains on the door there at one
24 point because the miner said because they never used
25 them, and so it was kind of put in place for stopping.

1 If I remember one door may have been taken down and a
2 stopping built in its place.

3 Q. When you say one door, you mean they left up a set
4 and took out --- I mean, say they were in pairs, they
5 took out one part of the pair and then put a stopping
6 up?

7 A. Yes. I think. I mean, I may be wrong on that. I
8 think I remember seeing a stopping put up, you know,
9 in place of a door.

10 Q. Was that recent to the April 5th ---?

11 A. Yeah, yeah.

12 ATTORNEY MCCUSKEY:

13 Jasey, I want to make sure we're clear.

14 I think you had asked him about the doors on April
15 5th, and remember, he was only --- and I may be wrong,
16 but he wouldn't have known --- his last shift was
17 April 3rd.

18 A. Yeah, it would have been prior to ---.

19 MR. MAGGARD:

20 Yeah, I'd agree with you. You want to
21 just say prior to April 5th is what he means.

22 ATTORNEY MCCUSKEY:

23 Right. So I want to make sure it's clear
24 what's the last day he actually was down there.

25 MR. MAGGARD:

1 That would be April the 3rd. Well, Mike,

2 I really appreciate you coming in today. I know this
3 has been your third interview, and we appreciate you
4 coming in voluntarily today.

5 A. Okay.

6 ATTORNEY FERGUSON:

7 Thank you very much. Off the record.

8 OFF RECORD DISCUSSION

9 ATTORNEY MCCUSKEY:

10 On behalf of Mike Webb, I want to request
11 two things, one, a copy of the transcript be sent to
12 me for his review, and secondly, I'd like the
13 opportunity as soon as the transcript is ready to be
14 notified when it's ready for review and for you to
15 arrange a place for him to be able to review it.

16 Okay.

17 * * * * *

18 EXAMINATION CONCLUDED AT 12:21 P.M.

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1 STATE OF WEST VIRGINIA)

4 CERTIFICATE

5 I, Richard J. Lipuma, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in
8 the foregoing deposition, was duly sworn by me on said
9 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;

12 That the proceeding is herein recorded fully
13 and accurately;

14 That I am neither attorney nor counsel for,
15 nor related to any of the parties to the action in
16 which these depositions were taken, and further that I
17 am not a relative of any attorney or counsel employed
18 by the parties hereto, or financially interested in
19 this action.



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23 *Richard J. Lipuma* CCR