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Transcript of the Testimony of Adam Farthing

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STATEMENT UNDER OATH

OF

ADAM FARTHING

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, August 30, 2010, beginning at 9:30 a.m.

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24 (b) (7)(C)

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

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* Exhibit not attached

P R O C E E D I N G S

ATTORNEY BAXTER:

My name is Derek Baxter. Today is August 30th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is John Godsey, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

ATTORNEY KOERBER:

I'm Barry Koerber, an Assistant Attorney General assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. SPENCE:

I'm Beth Spence with the Governor's independent investigation.

ATTORNEY BAXTER:

There may also be members of the investigation team present in the room today. Mr. Godsey, Mr. Farley and Ms. Spence will be conducting

1 the questioning today. Would you please swear in the
2 witness?

3 -----

4 ADAM FARTHING, HAVING FIRST BEEN DULY SWORN, TESTIFIED
5 AS FOLLOWS:

6 -----

7 ATTORNEY KOERBER:

8 Sir, would you please state your full
9 name for the record and spell your last name?

10 A. It's Adam Lee Farthing. It's F-A-R-T-H-I-N-G.

11 ATTORNEY KOERBER:

12 And your address and telephone number?

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

14 (b) (7)(C)

15 ATTORNEY KOERBER:

16 And are you expecting an attorney or
17 personal representative to appear with you here today?

18 A. No.

19 ATTORNEY KOERBER:

20 Are you appearing here today because you
21 received a subpoena?

22 A. Yes.

23 ATTORNEY KOERBER:

24 This is a copy of that subpoena, which I
25 will have marked as Exhibit One.

1 (A. Farthing Exhibit One marked for
2 identification.)

3 ATTORNEY KOERBER:

4 And then this is a copy of the return
5 receipt card signed by Heather Farthing on 8/17, which
6 I'm going to have as Exhibit Two. Okay?

7 A. Okay.

8 (A. Farthing Exhibit Two marked for
9 identification.)

10 ATTORNEY KOERBER:

11 Derek, would you take care of those for
12 me, sir? Mr. Farthing, the statute that gives the
13 Director the authority to issue subpoenas compelling
14 people to come to interviews such as this also
15 requires the Director to offer to every witness
16 subpoenaed a \$40-a-day witness fee. And this
17 interview will only be --- I mean, it won't even last
18 a whole day, but you will only be here one day, so
19 you'll be entitled to \$40. And you'd be entitled to
20 roundtrip mileage from your house to here and back at
21 15 cents a mile. And you'd be entitled to be
22 reimbursed for any tolls that you may pass along the
23 way.

24 Now, in order to receive that money, I
25 have two forms that need to be filled out, one of

1 which is an IRS Form W-9, which is requesting your
2 Social Security number because the \$40 witness fee is
3 considered income and would be reported to the IRS and
4 you would get a 1099 miscellaneous at some later time
5 during the year. If you would like to fill out those
6 forms and receive that money, we will do that at the
7 end of the interview. If you are a person who chooses
8 not to give out your Social Security number, that's
9 fine as well. But you need to tell me now on the
10 record whether you would like to fill out the forms
11 and get the money or whether you would like to
12 decline.

13 A. Just decline.

14 ATTORNEY KOERBER:

15 Okay. Thank you. Derek?

16 ATTORNEY BAXTER:

17 All members of the Mine Safety and Health
18 Accident Investigation Team and all members of the
19 State of West Virginia Accident Investigation Team
20 participating in the investigation of the Upper Big
21 Branch Mine explosion shall keep confidential all
22 information that's gathered from each witness who
23 provides a statement until the witness statements are
24 officially released. MSHA and the State of West
25 Virginia shall keep this information confidential so

1 that other ongoing enforcement activities are not
2 prejudiced or jeopardized by a premature release of
3 information. This confidentiality requirement shall
4 not preclude investigation team members from sharing
5 information with each other or with other law
6 enforcement officials. The team members'
7 participation in this interview constitutes their
8 agreement to keep this information confidential.

9 Government investigators and specialists

10 have been assigned to investigate the conditions,
11 events and circumstances surrounding the fatalities
12 that occurred at the Upper Big Branch Mine-South on
13 April 5th, 2010. The investigation is being conducted
14 by MSHA under Section 103(a) of the Federal Mine
15 Safety and Health Act and the West Virginia Office of
16 Miners' Health, Safety and Training. We appreciate
17 your assistance in this investigation.

18 You may have your personal attorney

19 present during the taking of this statement or another
20 personal representative, if MSHA has permitted it, and
21 may consult with your attorney or the representative
22 at any time. You may refuse to answer any question.
23 You may request a break at any time. Your identity
24 and the content of this conversation will be made
25 public at the conclusion of the interview process and

1 may be included in the public report of the accident,
2 unless you request that your identity remain
3 confidential or your information would otherwise
4 jeopardize a potential criminal investigation. If you
5 request us to keep your identity confidential, we will
6 do so to the extent permitted by law. That means that
7 if a judge orders us to reveal your name or if another
8 law requires us to reveal your name or if we need to
9 reveal your name for other law enforcement purposes,
10 we may do so. Also, there may be a need to use the
11 information you provide to us or other information we
12 may ask you to provide in the future in other
13 investigations into and hearings about the explosion.
14 Do you understand?

15 A. Yes.

16 ATTORNEY BAXTER:

17 Do you have any questions?

18 A. No.

19 ATTORNEY BAXTER:

20 After the investigation is complete, MSHA
21 will issue a public report detailing the nature and
22 causes of the fatalities in the hope that greater
23 awareness about the causes of accidents can reduce
24 their occurrence in the future. Information obtained
25 through witness interviews is frequently included in

1 these reports. Since we will be interviewing other
2 individuals, we request that you not discuss your
3 testimony with any person aside from your personal
4 representative or counsel.

5 A court reporter will record your
6 interview. Please speak loudly and clearly. If you
7 do not understand a question asked, please ask us to
8 rephrase it. Please answer each question as fully as
9 you can, including any information you've learned from
10 someone else. I'd like to thank you in advance for
11 your appearance here. We appreciate your assistance in
12 this investigation. Your cooperation is critical in
13 making the nation's mines safer.

14 After we have finished asking questions,
15 you'll have an opportunity to make a statement and
16 provide us with any other information that you believe
17 to be important. If at any time after the interview
18 you recall any additional information that you believe
19 might be useful, please contact Norman Page of MSHA at
20 the telephone number or e-mail address provided to
21 you. Any statements given by miner witnesses to MSHA
22 are considered to be an exercise of statutory rights
23 and protected activity under Section 105(c) of the
24 Mine Act. If you believe any discharge,
25 discrimination or other adverse action is taken

1 against you as a result of your cooperation with this
2 investigation, you are encouraged to immediately
3 contact MSHA and file a complaint under Section 105(c)
4 of the Act.

5 MR. FARLEY:

6 Adam, on behalf of the Office of Miners'
7 Health, Safety and Training, I want to inform you that
8 the West Virginia State Mining Regulations, and
9 particularly West Virginia Code, Chapter 22A, Article
10 One, Section 22, also provides protection against
11 discrimination for miners who participate in these
12 type interviews. I'm going to pass along some contact
13 information to you for the West Virginia Board of
14 Appeals. The Board has the responsibility to hear
15 complaints from miners should they have any problems
16 with discrimination. And should you have any
17 problems, I would urge you to contact the Board. Now,
18 I would caution you that should you need to file a
19 complaint, you need to do it within 30 days of
20 whenever the problem occurs.

21 A. Okay.

22 MR. FARLEY:

23 Thank you.

24 EXAMINATION

25 BY MR. GODSEY:

1 Q. Adam, can I call you Adam?

2 A. Yes.

3 Q. Adam, you'll see before us here we got a map and
4 it's got three of the sections that were active on
5 April 5th. And when you --- one of us asks you a
6 question and you'll refer to an area, like you know,
7 say 22 Headgate. Don't just say here or here. Just
8 tell --- you know, describe the place that we're
9 talking about.

10 A. Okay.

11 Q. Has anyone from the company or persons
12 representing the company talked to you about the
13 explosion since April 5th?

14 A. No.

15 Q. How many years of --- mining experience, how much
16 do you have?

17 A. Two-and-a-half years.

18 Q. Who did you start with? Did you start with Upper
19 Big Branch right off?

20 A. I started with Marfork.

21 Q. Did you ever work with David Stanley or whatever?

22 A. Yes, about two months.

23 Q. And after --- where did you say you worked at
24 Marfork or Marsh ---?

25 A. Marfork. It was Marfork Coal Company. I worked

1 for Eagle Mines.

2 Q. Do you want to just start and give us the whole
3 description of your history? Start with where you
4 started and we'll talk about ---.

5 A. I started at Marfork Coal Company. The name of
6 the Mine was Coon Eagle. I was there until January of
7 2009. And I was transferred to Performance Coal
8 Company. I worked there from January 2009 until I'm
9 thinking it was August, and I got transferred back to
10 Marfork Coal Company and worked for Slip Ridge. And
11 then I was transferred back to Performance, which I
12 was there until April 5th.

13 Q. Are you presently --- where are you working now?

14 A. I work for Elk Run.

15 Q. And when did you start at Elk Run or close to
16 that?

17 A. It was towards the end of April.

18 Q. What was your job title?

19 A. I'm a roof bolter operator.

20 Q. On April 5th, the day of the accident or
21 explosion, what was your job title?

22 A. I was a roof bolter operator.

23 Q. And what shift did you work on?

24 A. I was evening shift.

25 Q. And that was from what to what? What time?

1 A. It changed so much. I believe we was at 3:00 to
2 12:00 at that time.

3 Q. Can you remember who your supervisor was?

4 A. My section boss?

5 Q. Uh-huh (yes).

6 A. Pat Hilbert.

7 Q. How long had you worked for him?

8 A. Maybe a little over a month.

9 Q. Okay. You say you were a roof bolter on the
10 section. Did you start roof bolting right off when
11 they assigned you up to 22 Headgate?

12 A. Yes.

13 Q. What was the roof conditions like on 22 --- what
14 did you say, 22 Headgate?

15 A. Yeah, I worked on Headgate 22.

16 Q. Can you describe the roof conditions and stuff?

17 A. It was --- we had flaky top. But as far as, you
18 know, the distance between your test holes and roof
19 bolts, everything was solid.

20 Q. Did you ever have any stack rock or anything like
21 that?

22 A. Well, we hit stack rock, but it was still, you
23 know, beneath the level of your roof support.

24 Q. And what length of support did you all use?

25 A. We used 6-foot torque tension bolts, 8, 10 and 12

1 cable bolts.

2 Q. Do you remember what the torque range was on
3 your ---?

4 A. I believe 250 to 350.

5 Q. And how did you all check them?

6 A. With a torque wrench.

7 Q. How often?

8 A. First or second bolt on every --- on your first
9 row and occasionally I would check mine throughout the
10 cut, you know, your outside bolt.

11 Q. Outby the section anywhere, did you ever see any
12 bolt head pop off the plate?

13 A. On Headgate 22?

14 Q. Uh-huh (yes).

15 A. No, sir.

16 Q. Okay. What about the rib conditions up there, did
17 you all have any problems with that?

18 A. Yeah. The ribs rolled out pretty bad.

19 Q. Would it roll out on the corners or in the entry
20 or ---?

21 A. On the corners it was real bad. We bolted our
22 ribs --- we had DDR bolt machines. We installed
23 four-foot glue bolts in the ribs.

24 Q. Was that an inside out or an outside bolting
25 machine? Was it a walk-through or ---?

1 A. No, it wasn't a walk-through. You put your
2 outside and then swing to the inside.

3 Q. It would have been nice to have a walk-through I
4 guess, wouldn't it?

5 A. Yeah.

6 Q. What was the mining --- what was an average mining
7 height up there?

8 A. Six to 12 feet.

9 Q. And you say that you run a --- what side of the
10 drill did you operate?

11 A. The off side.

12 Q. Who was your partner on the operator side?

13 A. At the time, Derrick Williams.

14 Q. Did you all work together for a long time?

15 A. Yeah. We bolted together for about seven, eight
16 months.

17 Q. How many roof drills did you all have on Headgate
18 22?

19 A. Two.

20 Q. And how many continuous miners?

21 A. Two.

22 Q. And how many shuttle cars did you have?

23 A. Three.

24 Q. Did you all ever run ---?

25 A. No. I'm sorry. We had two.

1 Q. How often would you all run the two continuous
2 miners at the same time?

3 A. Never.

4 Q. How was the Number One entry mined and how was the
5 crosscuts turned?

6 A. When we first started Headgate 22, we drove Two
7 up, turned Two to Three, and then we turned Two left
8 to One. We advanced probably ten breaks doing that,
9 and then we started driving One up and turning One
10 right and putting it to Two.

11 Q. How did you all ventilate when you all turned the
12 crosscuts or mined it? How did you all ventilate that
13 entry?

14 A. We would ventilate One.

15 Q. Uh-huh (yes).

16 A. I know Pat--- they solid everything off, and he
17 got the air.

18 Q. I know, but which way did --- how did he hang the
19 curtain up in the Number One entry to get that?

20 A. It run from your last open break. He would solid
21 off the break and run it up the right-hand side of the
22 rib.

23 Q. Okay. In other words, it went from left to right?
24 The ventilation went up the Number One entry and then
25 down One and up through?

1 A. Yes. Your intake would come up overtop your power
2 center and then it split and went over to One, went
3 straight up One and returned out Three.

4 Q. How close to the section did they keep the feeder,
5 I mean, in the Number One entry and Number Two entry?
6 Where did they ---?

7 A. The feeder was in Number One entry.

8 Q. How far outby the face would they go?

9 A. I guess we would advance about --- we'd get three
10 open lines I'd say and we've move belt.

11 Q. Once they took a cut out of the face and prior to
12 you all going in there, what would --- you all was
13 doing what procedure before you started bolting?

14 A. We'd set the T Bar or take a gas reading.

15 Q. Well, when would you take the gas reading?

16 A. For the bolt machine?

17 Q. Yeah, before taking it into an entry, after it had
18 been cut?

19 A. We use our probe.

20 Q. Would you take the machine in and then take the
21 gas check?

22 A. We'd set the T bar at the last row of roof
23 support.

24 Q. And then you'd take your gas check?

25 A. Yes.

1 Q. Who would usually do that?

2 A. Derrick.

3 Q. Who would?

4 A. Derrick, the operator of the bolt machine.

5 Q. Okay. Did you all have a methane monitor mounted
6 on the FTRs?

7 A. No.

8 Q. Did you all ever --- how often did you detect any
9 methane up there?

10 A. About every 20 minutes on the ---.

11 Q. No. Did you ever detect any methane, any amount?

12 A. On Headgate 22, I think two or three-tenths is all
13 I ever seen on ---.

14 Q. How did they maintain the curtain while you all
15 were bolting?

16 A. I'd advance it up as we went, as we'd bolt.

17 Q. How close to the bolting machine ---?

18 A. Every other row.

19 Q. No. How close to the bolting machine would you
20 have the inby end of the curtain to your machine?

21 A. Second to the last row of roof support.

22 Q. Did you all have a minimum amount you had to
23 maintain at the end of the line curtain while you all
24 were bolting?

25 A. 4,500.

1 Q. How did you watch them mine coal or cut coal with
2 a continuous miner?

3 A. How would I watch them?

4 Q. How often would you watch them?

5 A. Occasionally I'd get to see the miner run, but
6 other than that I was using the bolter.

7 Q. Did you ever see --- did they use a scrubber
8 or ---?

9 A. Yes, they run their scrubbers.

10 Q. They used it all the time?

11 A. Yes.

12 Q. How close --- did you ever see them mine without
13 curtain or without adequate curtain?

14 A. I never seen --- you know, if you pulled up to a
15 face, to a cut, they would roll the curtain up to the
16 back of the scrubber, and as the miner advanced they
17 would drop it.

18 Q. Describe the ventilation on the section. Did you
19 have a multiple amount of air?

20 A. No.

21 Q. What did you have?

22 A. It was always the bare minimum that you would
23 have.

24 Q. What was that?

25 A. Honestly, I don't know what you had to have in the

1 last open break, but as far as I know, it was always
2 at the limit of what you could have.

3 Q. How close to the section did they maintain the
4 stoppings? How many open crosscuts were they in?

5 A. I don't believe they went over three open lines
6 without having a stopping in it.

7 Q. Go back to ventilation again. Did you all ever
8 have problems getting air where you were mining or
9 where you were drilling?

10 A. Yes.

11 Q. How often?

12 A. Pretty often. About every cut. You'd have to
13 completely shut down and re-ventilate everything to
14 get your air where you needed it to, you know. A lot
15 of times after you mined the cut and you pulled the
16 bolter in there to bolt it, you wouldn't be able to
17 mine anymore until you got something bolted because
18 you couldn't get enough air for a bolter to be bolting
19 and a miner in another cut cutting.

20 Q. Did that ever concern you?

21 A. Yeah, I had concerns about it, but we would always
22 get our air one way or the other.

23 Q. Did you talk to anybody if you had a problem or
24 discuss it amongst yourselves?

25 A. Just amongst the workers.

1 Q. Were you ever concerned about maybe having an
2 ignition or something?

3 A. No.

4 Q. Did the miner operator, did he ever discuss low
5 air with you all?

6 A. They talked about it. but just like he said, he
7 wouldn't run --- neither one of the miner men would
8 run if they didn't have air.

9 Q. What about the methane monitor, did they check
10 them very often?

11 A. Yeah. I seen them calibrate them. I don't know
12 how often they done it, but I've seen them do it.

13 Q. Have you ever heard them talking to anybody about
14 disarming a methane monitor?

15 A. No.

16 Q. Did you all use --- I know I'm firing these
17 questions at you pretty rapidly, but did you all use
18 belt air in the face?

19 A. Use what?

20 Q. Belt air. Air in the belt. Did you all use it to
21 ventilate the working sections?

22 A. No.

23 Q. How did they configure that? How did they
24 ventilate the beltline?

25 A. They had --- at the feeder they had a solid

1 curtain across the beltline.

2 Q. How did they put air into the belt entry?

3 A. Are you talking ---?

4 Q. You know you have air coming up --- see, you all
5 had --- the belt was in what, One?

6 A. The belt was in Number One.

7 Q. The intake was Two, Three was return?

8 A. Right.

9 Q. Okay. Then your air was --- you say it was ---
10 was it going down the belt, toward the outside, your
11 belt air?

12 A. Well, I --- I don't know. I mean, I ---.

13 Q. That's okay. did you all have people on the
14 section? Did they have radios?

15 A. Yes.

16 Q. Who had ---?

17 A. Everybody on the section.

18 Q. And you would hear everything they was talking
19 about?

20 A. Yeah.

21 Q. Did you hear them much talking about ventilation
22 on the radio?

23 A. No.

24 Q. When you all did lose your ventilation, what would
25 you all do. How would you --- would people go look

1 for it or find it?

2 A. Yeah. We'd shut the whole section down. And if
3 it couldn't be found on the section, people --- we
4 would go outby and check stoppings and seal stoppings
5 off and ---.

6 Q. Did you ever --- while you were on the section,
7 did you ever see --- feel any increase, like one day
8 you'll have more air, the next day you'll have less,
9 more?

10 A. yes.

11 Q. How often would that happen?

12 A. I had noticed it at least twice a week.

13 Q. Was anybody making any ventilation changes while
14 you were over on the section?

15 A. Not that I know of.

16 Q. How all were assigned methane monitors or spotters
17 on the section?

18 A. The three-way gases or ---?

19 Q. Yeah, three of them, like Solaris or whatever.

20 A. The scoop man and the boss.

21 Q. Okay. How would you all's mining progress? The
22 miner cut and what was the sequence after that? How
23 was the face before it was cleaned? How did they do
24 it? What was the sequence of your mining on the
25 section?

1 A. As far as cutting, bolting and cleaning?

2 Q. Yeah.

3 A. A lot of times it was cut, bolt, cut, bolt, cut,
4 bolt.

5 Q. In your opinion, how adequate was the rock dust on
6 the section, on the outby?

7 A. Outby?

8 Q. On the section and outby applications?

9 A. the section, you know, after it would get bolted,
10 sometimes it would get dusted.

11 Q. Okay.

12 A. As far as when it was supposed to have been done.

13 Q. What did it look like outby the section, say on
14 the track, belt, return?

15 A. Not the greatest, not that I --- to me, not the
16 greatest, but they had --- I don't know what you'd ---
17 they had a duster outby that dusted your belt line,
18 but I don't believe it worked all that great.

19 Q. How often would they do that?

20 A. When we come up through heading to the section,
21 the boss would stop and turn it on just about every
22 day.

23 Q. Were those like trickle dusters or ---?

24 A. Yeah, a trickle duster is what it was.

25 Q. How would they dust the track and the return?

1 A. I have no idea. I know we would run the ruby
2 duster on the scoop.

3 Q. What's a ruby duster.

4 A. Well, that's what we called it. I don't really
5 know what the correct ---.

6 Q. Like the one that hooks up to the power take-off
7 or ---?

8 A. Hooks up to your scoop, powers off your scoop.

9 Q. Okay.

10 A. And we ---.

11 Q. Just a bucket? Is that what you're saying, like a
12 bucket to ---?

13 A. Yeah. You hook it on your bucket and it runs off
14 your PTOs.

15 Q. Okay.

16 A. And it's got an auger in it and it turns and
17 throws your dust. And they would dust the section and
18 the returns with that. And I guess they had an outby
19 crew that would dust your track line and they had the
20 trickle dusters set up for the beltline.

21 Q. Did you ever notice a lot of float dust and stuff
22 on the track?

23 A. No.

24 Q. How about in the returns, would you ever make your
25 returns?

1 A. Honestly, I really wasn't down the return that
2 much, just as we was driving, but not to my knowledge.
3 I never seen any.

4 Q. What about accumulations of coal on the section?
5 Did you see a lot of loose coal on the mine floor?

6 A. At times, before stuff would get cleaned, yes.

7 Q. Was it sporadic cleaning or how often would it get
8 cleaned?

9 A. You'd clean. We'd clean every day. But as far as
10 it being done when it was supposed to, that was very
11 rare.

12 Q. Back to ventilation again on the section. Did you
13 all ever make any --- talk to anybody --- your
14 supervisor about the low air on the section or ---?

15 A. Me, personally, no, but the other guys said that
16 they had talked to them and they said that they were
17 going to fix it.

18 Q. Do you know if the supervisor talked to anyone?

19 A. Not to my knowledge.

20 Q. Did they ever fix it?

21 A. No.

22 Q. Do you know if any other sections, like the 22
23 Tailgate or anybody, complained about ventilation?

24 A. No.

25 Q. Where did you all portal from?

1 A. We portalled from the Ellis side.

2 Q. What supervisor did you talk to --- or they talked
3 to about the ventilation?

4 A. Pat Hilbert.

5 Q. But you don't know whether he talked to anybody?

6 A. No. That was --- as far as if he actually talked
7 to them or not, I don't know. I mean, that's who it
8 was referred to. And a couple of the other workers
9 said that they would talk to them. And as far as if
10 they ever did or not, I don't know.

11 Q. Did you all --- or do you know of any floor
12 heaving or anything they ever had on the section?

13 A. No.

14 Q. What about did you have any water up there?

15 A. Yes.

16 Q. Did you ever see any water bubbling --- I mean,
17 floor bubbling up with water?

18 A. On Headgate 22, no.

19 Q. Excuse me?

20 A. On Headgate 22, no. Now, I was on this panel ---.

21 Q. This panel, you're talking about ---?

22 A. That we drove for the longwall.

23 Q. Headgate Number One North?

24 A. Yes, Headgate Number One North.

25 Q. Okay.

1 A. When we got up here, we hit a lot of water and it
2 bubbled up there.

3 Q. Do you know where the water came from?

4 A. I suppose --- they told us it come from the
5 bottom.

6 Q. Did you ever get any methane ---

7 A. Yes.

8 Q. --- or anything like that? How much did you get
9 up there?

10 A. I seen four percent.

11 Q. What did they do?

12 A. We shut down.

13 Q. Is that all you did?

14 A. Shut down and re-ventilated.

15 Q. Did all the people stay on the section, all
16 the ---?

17 A. Yes.

18 Q. Okay. How long did it take to ---?

19 A. That carried on for a couple of weeks that I can
20 remember.

21 Q. Did you ever have any --- after that, did you ever
22 feel any --- at the end of the shift were you ever
23 tired or anything?

24 A. Yeah. Yes.

25 Q. What did you feel like?

1 A. Just exhausted, really.

2 Q. Did it last for a long time or ---?

3 A. Throughout the duration of that panel.

4 Q. I mean, how did you feel? How did it make you
5 feel?

6 A. Well, as far as nauseous or anything like that?

7 Q. Uh-huh (yes).

8 A. No, I never felt nauseous. I was just more
9 exhausted than I was any other day.

10 Q. And how old were you then?

11 A. Huh?

12 Q. How old were you then?

13 A. How old?

14 Q. When you worked up there?

15 A. Twenty-two (22), 23.

16 Q. Do you think that was normal for a 22-year-old
17 man?

18 A. Really just exhausted for, you know, trying to ---
19 running around, trying to get everything done. It was
20 a non-stop story, you know, about shutting down and
21 having to re-ventilate and sit and wait and trying to
22 get the gas down to continue to mine.

23 Q. How long did it take you all to get the gas down?

24 A. They went --- it went hours before everything even
25 ran to get it down, you know, low enough to start back

1 up.

2 Q. Could you hear it coming out?

3 A. You could hear it bubbling in the water.

4 Q. Would it be sporadic bubbles here and there or
5 would it just be one?

6 A. It would be everywhere.

7 Q. Did you all --- would it last all shift or ---?

8 A. Yeah. And would you all leave and other sections
9 come up there, people come up there after that?

10 A. Yeah.

11 Q. What was the ventilation? Did you have much
12 ventilation?

13 A. No. It was the same. It was the same. We didn't
14 have much air.

15 Q. Okay. Let me ask you this. Did that concern you?

16 A. Yeah.

17 Q. Was you ever scared --- was you ever not scared?

18 A. I was never really scared, but you know, it
19 concerned me of it hitting four percent gas.

20 Q. Well, you're not very far from explosive range
21 with your four percent.

22 A. No.

23 Q. Did you ever --- did they ever hit the explosive
24 range, do you know?

25 A. No, not that I know of. I've heard and been told

1 that other crews hit more than that. But as far as me
2 seeing it, I never seen it.

3 Q. Do you know of anybody who told you ---?

4 A. A couple of the guys that I heard from was a few
5 of the 29 that lost their lives, because they were ---
6 when we drove that panel, they were also the dayshift
7 crew on that panel, and they had said they had hit
8 more than that.

9 Q. Did you drive --- did you work on that section all
10 the way until they got to the end?

11 A. When I first come to Performance, I think they
12 were at 50 Break, 52 Break, and I was on that panel
13 until the end from there.

14 Q. Did you all have problems --- when you hit that
15 four percent, did you all have problems all the way to
16 the Bandytown fan ---

17 A. Yes.

18 Q. --- with methane?

19 A. When we hit that four percent, it was close to the
20 Bandytown fan when we hit that.

21 Q. Do you know if they ever had an ignition up there
22 or anything?

23 A. I don't.

24 Q. What about say did the water follow you all the
25 way?

1 A. Yes.

2 Q. Did you all ever use any explosives up there?

3 A. No.

4 Q. Did anyone else complain about being exhausted in
5 the afternoon?

6 A. Not to my knowledge. Everybody was pretty wore
7 out. You know, we had a lot of water in there,
8 walking back and forth through the water and --- it
9 was miserable.

10 Q. Did you have to wear any waders or anything while
11 you were up there?

12 A. Not really, not while you was on the section
13 working.

14 Q. What about outby?

15 A. No, not outby. No.

16 Q. What was the escapeway like? Did you walk it?

17 A. Yeah, we walked the escapeway. It was in bad
18 shape. A lot of loose rock laying on the bottom, ribs
19 rolled out, a lot of stuff you had to walk around to
20 get through it.

21 Q. Was there much water in there?

22 A. There was one spot that had water. It wasn't real
23 high, but ---.

24 Q. Do you remember where that was?

25 A. We come down --- I'm wanting to think it was right

1 here somewhere maybe. It was in the intake. It was
2 right after 78 Break, when the cross --- you had to
3 cross the track.

4 Q. Are you talking about down on the --- towards ---
5 what do you call that, Five North?

6 A. Yeah. When you come back across the track at 78
7 Break and went back over into the intake, there was a
8 little bit of water over there, but it wasn't nothing
9 major.

10 Q. Back to that four percent methane. Did it just
11 come on suddenly? I mean, you started getting it
12 suddenly or did it gradually increase?

13 A. As far as I can remember, it was --- we really
14 never hit anything real big like that. But when we
15 come in that one day, you know, we stopped at the
16 track line where we met dayshift, and they told us
17 they were hitting some big gas. And from what I can
18 remember it was just a big, one-time thing.

19 Q. Who was the supervisor then?

20 A. The section boss?

21 Q. Uh-huh (yes).

22 A. Ronnie Wickline was my section boss.

23 Q. He was there that day?

24 A. Yeah.

25 Q. And he didn't --- he just kept everybody on the

1 section? The whole shift, the whole crew stayed
2 there?

3 A. Yeah.

4 Q. Okay. Let's go back --- another thing, too, while
5 you were talking about it, you all had a lot of doors,
6 track doors and stuff in the mine.

7 A. Yes.

8 Q. Did that ever give you any concern?

9 A. We always wondered why there was that many doors
10 there, but I never really had a major concern about
11 it.

12 Q. Did you ever come up on it and all of the airlock
13 doors in one place were open?

14 A. Yeah.

15 Q. How often? Where would that be? Where was that
16 at?

17 A. When you come down across 78 Break, which is,
18 yeah, right here, you come down about --- when you're
19 coming down the main line, there was four or five sets
20 of doors here somewhere. Yep, they were ---.

21 Q. That's on --- what's that, Six North?

22 A. Yeah.

23 Q. Okay.

24 A. They were --- occasionally they'd be open, like
25 one or two sets of them.

1 Q. What would that do to the air?

2 A. You could --- the boss and them said, you know,
3 they could tell when the doors were open because you
4 would completely lose your air.

5 Q. But who --- did that ever concern you, then
6 leaving those doors open?

7 A. I never really had any major concerns about it.
8 If they said they --- you'd hear the boss talking, you
9 know, that we was losing air, they would send somebody
10 up. The first thing that they would do was send
11 somebody to check those doors. But that was when we
12 was driving the Headgate One North panel.

13 Q. How about the motor crew, would they ever leave
14 them both open?

15 A. From my knowledge, what I think, if they were ever
16 left open, that's who would leave them open.

17 Q. Another thing, too, at the end of the shift, when
18 you all were going out, did you all leave them all
19 open until the last crew went through to get out?

20 A. If we come through and we had a mantrip behind us,
21 we would both go through a set of doors, and then the
22 mantrip behind us would close them. All four doors
23 would never be open at the same time.

24 Q. Have you ever --- did you watch your supervisor
25 --- what was his name, Pat Hilbert, did you ever watch

1 him pre-shift or on-shift, make his examination?

2 A. Occasionally, but other than that, I never really
3 seen him do it, just as far as coming around, dating
4 up and stuff.

5 Q. Did he ever discuss with you about the low air on
6 the section or you all as a group what to ---?

7 A. No.

8 Q. Did he ever talk to you all about any of the
9 methane or anything up there?

10 A. Well, when we was on Headgate 22, like I say, we
11 never really hit anything. Two or three-tenths is all
12 I ever seen.

13 Q. How often have you seen them cut and weld up
14 there?

15 A. Very few times as far as being on production. As
16 far as if they done stuff like that on hoot owl or
17 stuff, I never seen them.

18 Q. What was your --- back to that. What was your
19 major concern on the section that you really thought
20 you had a problem?

21 A. The air.

22 Q. Did you all ever lose air completely?

23 A. Not completely. I mean, you always had somewhat
24 --- some kind of air, but it was never enough.

25 Q. Did you ever --- anybody ever talk about people

1 making ventilation changes without being prior
2 approved or ---?

3 A. I heard talk --- people talk about stuff like
4 that, but I've never seen that.

5 Q. What all would they say?

6 A. Just about knocking stoppings down, rebuilding
7 stoppings, you know, doing an air change, but I know
8 there was one time that I knew of, and that was when
9 we was on Headgate One North, when this panel ---
10 Tailgate One North, when they punched into us, they
11 done an air change there. But we was pulled off the
12 face when they done the air change, and then --- Rick
13 Hutchens was the foreman. He went up and pre-shifted
14 everything before we went back to work. And then I
15 was told that it was done without a permit and they
16 had to redo it all.

17 Q. So let me understand that. So when the Tailgate
18 One North mined into Headgate One North, everybody
19 stayed underground when that cut-through went through?

20 A. No. When they mined this, the --- when they put
21 that through, I don't think anybody on Headgate One
22 North was working.

23 Q. Was anybody underground other than that crew?

24 A. I don't think.

25 Q. Oh, I misunderstood you. I'm sorry. Okay. Back

1 to 22 Headgate. I may have already asked you.

2 Forgive me if I have, but what was the deepest cut
3 that they did up there? You all have a deep cut plan?

4 A. Yes.

5 Q. How long?

6 A. Thirty-five (35) foot.

7 Q. And how did they make the gas checks for that?

8 A. Miners had the probes that went on the miner.

9 Q. I know, but did they have --- what was the length
10 of the probe?

11 A. On the miner?

12 Q. Uh-huh (yes).

13 A. The probe we had on the bolt machine was --- they
14 wouldn't reach all the way to the face, but they were
15 within a couple feet of the face.

16 Q. How did they take the gas check with the miner? I
17 mean, after their 20-minute gas check, how would they
18 do it? Because it usually takes more than 20 minutes
19 to take a deep cut.

20 A. As far as I know, all I ever seen them do was put
21 the magnet on the miner and put the miner back up in
22 there.

23 Q. Okay.

24 A. But a lot of times when we was on Headgate 22 I
25 never really seen a lot of 35-foot cuts because, you

1 know, we had a lot of draw rock on the top. About 20
2 foot is all you could get because, you know, it would
3 fall in a lot.

4 Q. Did you travel --- how often would you all travel
5 your primary escapeway?

6 A. I think I done it twice while I was Headgate 22.
7 I mean, I don't --- I can't really remember the length
8 of time that was in between them.

9 Q. Did the whole crew go in?

10 A. Yeah.

11 Q. Did your foreman travel with you?

12 A. Yeah. I think maybe the electrician or something
13 took the ride out. I can't remember exactly how it
14 went.

15 Q. You said that you all traveled in at the Ellis
16 Portal?

17 A. Yeah, we portalled from Ellis.

18 Q. What was that like, tracking the rock dust and all
19 of that from the Ellis Portal to the section?

20 A. From what I can remember, it was pretty good. I
21 mean, the track line and stuff was in pretty good
22 shape. They had an outby crew. I know I seen them a
23 lot of times when we was leaving, they had a big
24 duster on their flatcar and stuff dusting. But from
25 what I can remember, it all looked pretty good down

1 through there.

2 Q. Did you all ever --- have you all ever been
3 removed from the mine because of some kind of
4 ventilation problem or any methane problem?

5 A. Not that I can remember. We was held up a few
6 times over stoppings and stuff like that, but I can't
7 never remember being pulled out.

8 Q. Have you ever reported for work and, well, they
9 didn't send you in, they sent you home or they had a
10 delay because of a problem they had underground?

11 A. Yeah.

12 Q. When was that?

13 A. I can't remember the exact date.

14 Q. Was it this year, 2010?

15 A. It probably --- I think it was 2009, towards the
16 end of the year. I know around November we was shut
17 down for a long time over water and stuff.

18 Q. Where was that?

19 A. That was up in behind the longwall. It would have
20 been on the Headgate One North panel.

21 Q. What kind of problems did they have on the
22 longwall?

23 A. Just had a lot of roofed-out problems, and I guess
24 they had returns and stuff shut down.

25 Q. About how long were they down?

1 A. I'd say probably close to a month. I know we went
2 back and set pumps and ---.

3 Q. Did you help them set pumps?

4 A. I went back there a few times.

5 Q. How much water did you get in?

6 A. There was a lot of water. It was --- there was
7 places that I seen that was completely roofed out.

8 Q. How much water did you get on you? Did you ---?

9 A. Oh, I never went above my waist.

10 Q. Did you have waders on or anything?

11 A. Yes.

12 Q. You never got wet?

13 A. I got wet, but I had waders on, if that makes any
14 sense.

15 Q. Did you ever get any water come over your waders?

16 A. Yeah.

17 Q. Did it ever try to uprise you or ---

18 A. No, not really.

19 Q. --- hurl you?

20 A. No.

21 Q. Who was --- do you remember who was the section
22 foreman or who was your supervisor then?

23 A. When we had this ---?

24 Q. Had the water problems.

25 A. Rick Hutchens.

1 Q. What kind of pumps did you all use?

2 A. I think they called them air pumps.

3 Q. Did you ever work on the longwall?

4 A. No, I never --- I never worked on the wall.

5 Q. Have you ever visited the longwall?

6 A. Yeah, I've been up there a few times.

7 Q. What did it look like up there according to rock
8 dust and stuff?

9 A. I never really went on the face. I mean, as far
10 as I ever went was --- I guess they called the stage
11 loader the crusher or something. As far as I really
12 ever went, I never really went out on the face. I
13 never went out there.

14 Q. Did you ever see people fire bossing during the
15 shift, you know, like where you ever seen them ---?

16 A. Occasionally or something I'd be down toward the
17 power center or something and I'd see the fire boss
18 come up. But other than that, I really never seen
19 them. I was always in the face.

20 Q. You may not know this, but I'm going to ask you.
21 Do you know how they ever checked high spots in there
22 for methane?

23 A. I don't know.

24 Q. Would you ever --- how often would you know when
25 an inspector was coming to the section?

1 A. Every time there was one there.

2 Q. How would you know?

3 A. They would call in and tell us.

4 Q. Who would call?

5 A. Outside man.

6 Q. And that would be the ---?

7 A. They had so many at Performance, I really don't
8 know any of their names.

9 Q. Would that be mainly the dispatcher or ---?

10 A. The dispatcher, yeah.

11 Q. Do you recall any specific time this happened,
12 when they called in and told you about the inspectors
13 coming?

14 A. Not really. It was any time that even one would
15 be on the property they would call and let the section
16 boss know.

17 Q. What was their protocol for that when an
18 inspector --- when he pulled in on the property, how
19 would --- would the mine office know before they got
20 up there?

21 A. I really don't know.

22 Q. Any time when an inspector come on your section,
23 did ventilation ever change? Did it ever increase
24 any?

25 A. I've heard people say that they thought it did,

1 but I really don't know if it did or not.

2 Q. When a dispatcher would call up to the section and
3 say, we've got an inspector on the property, State or
4 Federal, what would the foreman do?

5 A. A lot of times just we'd shut down and make sure
6 everything was completely right.

7 Q. And that consisted of doing?

8 A. Checking all the curtains, making sure the
9 curtains were still pulled down, you know. A lot of
10 times a scoop man or something would go through a
11 curtain and tear it down, wouldn't hang it back or
12 something in that nature.

13 Q. What about cleaning and rock dusting?

14 A. Yeah. They would get caught up on their cleaning
15 and dusting.

16 Q. About how long would it take for you to travel ---
17 did the inspectors usually come from Ellis Portal?

18 A. I really don't know.

19 Q. How long --- after you all heard that they were on
20 the property, how long would it be before they usually
21 got there to your section?

22 A. I really don't know because I worked straight
23 evening shift. And I'll be honest with you, I don't
24 think I ever seen an inspector on evening shift.

25 Maybe one time there maybe on Headgate 22.

1 Q. Did you ever talk to an inspector?

2 A. No.

3 Q. Is there anything that I haven't asked you that
4 you would like to tell us that's something I may have
5 missed or something you want to tell?

6 A. I believe I've said about all I can say.

7 Q. Let me ask you, did anybody ever tell you that
8 they were scared or had a concern about going
9 underground?

10 A. No.

11 Q. Is there anyone else that we can talk to that may
12 have some more information?

13 A. Not that I know of. No.

14 EXAMINATION

15 BY MR. FARLEY:

16 Q. Adam, I've got a few things I want to clarify, so
17 just be patient with me if you don't mind. Pat
18 Hilbert was your foreman prior to April 5th; right?

19 A. Yes.

20 Q. Okay. Now, did you have confidence in him?

21 A. A little bit. Just like I said, he didn't --- he
22 just had got his bossing papers. I only worked for
23 him a little over a month, so everybody was bearing
24 with him. He was --- you know, everybody was trying
25 to work with him because he just got his papers.

1 Q. Sure. Do you think he made a honest effort to
2 comply with health and safety regulations to ventilate
3 the section and ---?

4 A. I believe Pat done --- you know, done what he
5 needed to do to make things right.

6 Q. Okay. Now, would it be correct that Mr. Gilbert
7 replaced Mr. Hutchens?

8 A. Yes.

9 Q. Okay. Was Mr. Hutchens your previous foreman?

10 A. Yes.

11 Q. Okay. Did you have confidence in Mr. Hutchens?

12 A. Yes, I did.

13 Q. Okay. Now, prior to the explosion on April 5th,
14 what was actually your last shift that you worked?

15 A. I'm wanting to say the 30th of March.

16 Q. Would it have been about maybe ---

17 A. I took a ---.

18 Q. --- the Wednesday before; is that about right?

19 A. Yeah, I think that's when it was, because I took a
20 couple days off. My wife had her birthday and I took
21 a personal day and stuff off and ---

22 Q. Okay.

23 A. --- then I had my three days off, because April
24 5th was my first day back to work, and I had had five
25 days off prior to that.

1 Q. Okay. So I guess probably the Tuesday before, the
2 week before would've probably been your last day,
3 because March you got 31 days; right?

4 A. Yeah; okay.

5 Q. So Wednesday the 31st. Okay. On your last shift,
6 do you remember anything that was different about it
7 as compared to any other day?

8 A. Not that I can remember. I don't think anything
9 was any different.

10 Q. Okay. Ever notice any unusual smells?

11 A. No.

12 Q. Like a kerosene, petroleum kind of thing?

13 A. No.

14 Q. Ever have any burning sensation in your eyes that
15 you couldn't explain?

16 A. No.

17 Q. Okay. Now, you told us about the ventilation
18 problems on 22 Headgate. Now, we've heard a lot about
19 that. I understand that there was a high voltage sign
20 at the section power center. Do you remember that?

21 It sort of hung from the roof.

22 A. A high voltage sign?

23 Q. Yes, a sign.

24 A. Yes.

25 Q. Okay. Now, did you ever notice that sign swinging

1 and flapping around and ---

2 A. Yeah.

3 Q. --- at other times just hanging still?

4 A. Well, it was like pretty much the question where
5 he asked me a little bit ago if I ever thought one day
6 we had more air than the next.

7 Q. Yeah.

8 A. A lot of us guys, we noticed that sign. You know,
9 we'd come in some days and it'd be swaying and beating
10 off the mine top. And we'd come in the next day and
11 it wouldn't be moving.

12 Q. Okay. Was that a pretty good --- usually a pretty
13 good indicator how your ventilation was going to be?

14 A. Yes, that's how ---. You know, we walk by the
15 sign, the sign's not moving and we say, hey, we don't
16 have no air.

17 Q. Okay. Now, March 30th's your last shift. How was
18 it that day as far as the sign was ---?

19 A. As far as I can remember, I think we had --- it
20 was moving pretty good that day, from what I can
21 remember. I don't think we had a lot of problems out
22 of our air that day ---

23 Q. Okay.

24 A. --- as far as having to go completely outby,
25 trying to find air.

1 Q. Okay. Now, we understand that there was --- had
2 been some construction going on here down here where
3 the 22 Headgate pumps. They were putting in a new
4 mother drive in preparation for the next longwall?

5 A. Yes.

6 Q. Was that work still ongoing as of the last shift
7 you worked?

8 A. I believe it was.

9 Q. Okay. Did anybody ever tell you or suggest that
10 this work down here might've had a negative impact on
11 the ventilation for 22 Headgate?

12 A. I never heard anything said about that.

13 Q. Okay. All right. How often did you spend any
14 time around the continuous miner on the 22 Headgate?

15 A. I might've been around it about 10, 15 minutes a
16 shift or something ---

17 Q. Okay.

18 A. --- or I could walk over and watch them load a
19 little bit.

20 Q. All right. Do you recall any --- at any time when
21 you were on 22 Headgate where they might've had a
22 problem with the machine's methane monitor?

23 A. No.

24 Q. Okay. Did you ever hear anything about the
25 methane monitor on the miner being bridged out or

1 defeated or overridden in any way?

2 A. No.

3 Q. Did you ever hear anything about anybody putting a
4 plastic bag over the sniffer?

5 A. No.

6 Q. Okay. I know you didn't work on the longwall, but
7 in reading the pre-shift exam books for the longwall,
8 the longwall intake air reading in the exam books
9 around the 1st of March was about 115,000 cubic feet
10 per minute. Now, by the end of the month it had
11 worked its way down to where it was 55,000 or 60,000
12 at the most, which I think they were still in
13 compliance with the plan requirements, but that's a
14 considerable reduction. That's about half of it.
15 Now, during the month of March did the ventilation on
16 the 22 Headgate section improve any at any time?

17 A. Yeah, it did improve, from what I heard. I mean
18 it's just all hearsay on that.

19 Q. Uh-huh (yes).

20 A. But they started this panel. I don't know what
21 you want to call it.

22 Q. 22 Tailgate? Yeah.

23 A. The 22 Tailgate.

24 Q. Uh-huh (yes).

25 A. And that's what we was told. It's where they took

1 air from the longwall to get their air, and then they
2 said that increased our air, which, you know, from
3 what I can remember, it did increase. It wasn't a
4 whole lot, ---

5 Q. Okay.

6 A. --- but it did increase. And I know the guys that
7 was on Headgate, or Tailgate 22 said that, you know,
8 they had no problems with their air.

9 Q. Okay. Now, even though it might've increased
10 somewhat on 22 Headgate, were there still days where
11 it just wasn't there?

12 A. Yeah.

13 Q. Okay. Did you ever get any explanation or anybody
14 ever come up with any understanding of why?

15 A. No.

16 Q. Okay. Kind of a fancy word here. Did you ever
17 notice the ventilations on Headgate 22 fluctuate? Now,
18 what I mean is it kind of just changed ---

19 A. No.

20 Q. --- from moment to moment?

21 A. Are you talking about, like, the movement of the
22 curtain?

23 Q. Yeah, just ---.

24 A. Yeah. I mean it did blow out, and then
25 occasionally you could see where it'd try to start

1 sucking back into the rib. I've noticed it.

2 Q. Little ---

3 A. Yeah.

4 Q. --- just kind of coming and going in a month or
5 two?

6 A. Yeah. And that actually was a question that was
7 asked, and a lot of times that was what our answer we
8 got, was people was coming through the doors.

9 Q. Okay. That, I guess, may be one possibility. Did
10 you ever hear anything about people being stationed at
11 doors, what I mean, track ventilation doors, while
12 inspectors were underground?

13 A. I haven't heard anything like that.

14 Q. Okay. Let me make sure I'm clear on this. I
15 think you said at least twice that you never
16 encountered more than .2 to .3 percent methane on
17 Headgate 22?

18 A. No.

19 Q. Okay. Do you know if anyone else ever encountered
20 that?

21 A. I haven't heard anybody say that they had gotten
22 any higher than that.

23 MR. FARLEY:

24 Okay.

25 EXAMINATION

1 BY MS. SPENCE:

2 Q. I just have one clarifying question. You said
3 that you worked with Performance from January to
4 August '09, then transferred to Marfork?

5 A. Right.

6 Q. And then when did you come to UBB?

7 A. I come back --- I think it was in October.

8 Might've been the 1st of November when I come back to
9 Performance.

10 MS. SPENCE:

11 That's all I have. Thank you.

12 RE-EXAMINATION

13 BY MR. GODSEY:

14 Q. Okay. When the scoop would go in after you all
15 bolted, how would --- what would they do with the
16 ventilation curtain?

17 A. Rolled it up.

18 Q. From where to where?

19 A. From the start of the cut --- you know, from the
20 mouth of the cut all the way up to the face, whatever,
21 wherever there was curtain at the ---.

22 Q. How would they check for methane or what would
23 they --- did they have a plan to do that?

24 A. I don't know.

25 Q. Did you ever --- did anybody monitor methane while

1 they were doing that?

2 A. Scoop man had the Solaris. As far as I know it
3 never went off, you know, as far as reading gas while
4 he was in there cleaning, but as far as somebody going
5 over there and checking for gas, I don't think that
6 was done, that I know of.

7 Q. How often would you bolt with a miner putting dust
8 over you all?

9 A. A lot.

10 Q. A lot meaning ---?

11 A. More than what you're supposed to while you're
12 mining. I think it's one time a shift is what you're
13 allowed to be in the return. I'd say probably three
14 or four times.

15 Q. Did they ever run respirable dust on you with a
16 dust pump and all that stuff?

17 A. No, I never run it at Performance.

18 Q. They never put a dust pump on you?

19 A. No.

20 Q. Did you ever seen them running it on anyone, a
21 miner man or ---?

22 A. No.

23 Q. Okay. Let's go back to some previous questions I
24 asked you, a few. Did you ever see inspectors
25 outside, outby Headgate 22?

1 A. No. No, I don't recall seeing any.

2 Q. And back to another question. When you said when
3 you were driving Headgate Number One North that you
4 all ran into four percent, do you remember exactly
5 where that was at?

6 A. It was close to the Bandytown fan. I don't
7 remember what break we was at, but it was close to the
8 Bandytown. Where we stopped, where we butted the
9 section off, it wasn't, I guess five, six breaks from
10 there.

11 Q. Okay. Were you there that day when they hit it?

12 A. Yeah.

13 Q. Okay. You know personally that day? Who
14 told ---?

15 A. Yeah.

16 Q. Who told you --- how did you become aware of it?

17 A. Of the gas?

18 Q. Uh-huh (yes).

19 A. Well, like I said, the dayshift mantrip, when we
20 stopped at the track line they told us, hey, be
21 careful, you know. We've got gas up there.

22 Q. Who told you that? Do you remember?

23 A. If I ain't mistaken, I think it was Boone Payne,
24 because I followed him on the right bolt machine.

25 Q. Was he one of the 29?

1 A. Yes, yes.

2 RE-EXAMINATION

3 BY MR. FARLEY:

4 Q. When did Boone tell you he'd encountered some gas?

5 A. That day, that morning, that they had hit gas.

6 Q. Which morning, again, was this? I'm sorry.

7 A. I don't know what day it was, but the morning that
8 we --- that they had worked, we were coming in on
9 evening shift, and that day he said they had hit some
10 big gas.

11 MR. FARLEY:

12 Okay.

13 RE-EXAMINATION

14 BY MR. GODSEY:

15 Q. On the way to Bandytown?

16 A. Yes.

17 Q. Did he ever say that maybe you might have had an
18 explosive mixture up there?

19 A. No.

20 MS. SPENCE:

21 About when was that?

22 A. I honestly can't remember. It was in 2009.

23 MS. SPENCE:

24 Late 2009?

25 A. Yeah.

1 MS. SPENCE:

2 Do you think it was maybe November,
3 December?

4 A. I really can't remember. I think it was --- I
5 think it was more around mid-2009. I can't really
6 remember exactly when it was that we was on there.

7 BY MR. GODSEY:

8 Q. Who on the dayshift told you about the methane
9 being up there, explosive?

10 A. Who told me?

11 Q. Yeah.

12 A. It was the men --- you know, we never got off the
13 mantrip. You know, we stopped and you'd just hear
14 people talking off the dayshift mantrip that there was
15 gas.

16 Q. Did they say how much gas?

17 A. No. He just said there was high gas up there.

18 Q. And that was who told you that?

19 A. Boone Payne.

20 Q. Did anyone else make any --- anybody else say
21 anything to you about it?

22 A. I guess --- nobody said anything to me.

23 Q. Did you overhear anything?

24 A. No.

25 Q. Did any supervisor say anything?

1 A. Bosses got off the mantrips and talked to us ---
2 got off the mantrip. What was said between them I
3 don't know.

4 Q. Did your supervisor or foreman tell you what they
5 talked about or what the conditions were up there?

6 A. No.

7 Q. They let you go up there ---

8 A. Yes.

9 Q. --- knowing that methane was up there and didn't
10 tell you anything about it?

11 A. Yes.

12 Q. Okay.

13 ATTORNEY BAXTER:

14 Were there any other incidents when the
15 dayshift told you about gas on the section?

16 A. No.

17 BY MR. GODSEY:

18 Q. Okay. Where were you at the time of the accident?

19 A. About five or six breaks underground.

20 Q. And if you would, could you just tell us from
21 there what happened?

22 A. We was on the mantrip, getting ready to leave, and
23 we was parked right beside the mantrip chargers. And
24 I noticed that the power went off and was sitting
25 there, and then I felt a big breeze start blowing, and

1 then it just increasingly got stronger. And I got out
2 of the mantrip and it was just like kind of hard to
3 describe, but like you was in a sandstorm or something
4 because it just --- it just kept getting stronger and
5 stronger. I mean, it would knock you over it was
6 pushing so strong. And you'd hear people start
7 hollering and stuff to get out. And I just --- we
8 made our way out, back outside.

9 Q. Did you see other people coming out or ---?

10 A. The mantrip that was in front of us had the
11 evening shift longwall crew on it. They were kind
12 of --- they come out with us. And then when we got
13 outside, there was a dayshift crew. They were putting
14 in a new section on the --- I don't even know what
15 that belt is.

16 Q. Would that have been what you call the portal
17 section, just inby Ellis Portal?

18 A. Yeah, just inby Ellis Switch is where they were
19 at. And we had been outside for about ten minutes and
20 they come outside. They were up close to Ellis Switch
21 when it happened.

22 Q. Did they mention anything about the mantrip being
23 moved by the ---?

24 A. Yeah. They said they were trying to --- because
25 they portalled on the main UBB side and they were

1 trying to go that way. And I heard them say that it
2 pushed their mantrip backwards.

3 Q. Did they say how far?

4 A. No.

5 Q. Who was that that you talked to on that?

6 A. Josh Williams is the one to tell me the mantrip
7 --- it had pushed their mantrip.

8 Q. Did you see anyone after it happened? Did anybody
9 explain anything to you or did they talk to you?

10 A. I was there for --- I was there for a while after
11 it was all --- after it happened. But as far as
12 anyone explaining what happened, nobody really talked.
13 I guess I was there for about --- about 45 minutes
14 after it happened I heard somebody say an explosion.
15 But as far as it coming from anybody in the office, it
16 was never said nothing to me.

17 Q. How long did you say you stayed before you left
18 after the event occurred?

19 A. I guess I left at about six o'clock. I was there
20 for a couple hours.

21 Q. Did you see anyone go underground after that?

22 A. Yeah.

23 Q. Who all did you see go underground?

24 A. Wayne Persinger went underground. I seen Jason
25 Whitehead, Chris Blanchard. I think Pat Hilbert went

1 back underground. That might have been it. That's
2 all I seen.

3 Q. Did you see them come out?

4 A. I seen Wayne Persinger come out. Pat came out.

5 But when they came out is when they brought the first
6 mantrip out. But as far as seeing Jason Whitehead and
7 them come out, I Never seen them come back out.

8 Q. Did you see what they had when they --- took with
9 them when they went underground?

10 A. I don't think they had anything, just their belts
11 and stuff.

12 Q. Were you there when the mine rescue team ---?

13 A. Yes.

14 Q. Did you help in any way, in other words --- or
15 just being an observer?

16 A. I helped get the men off the mantrip as soon as
17 they came out.

18 MR. GODSEY:

19 Terry, anything?

20 MR. FARLEY:

21 No.

22 BY MR. GODSEY:

23 Q. Was there anything that you would like to --- just
24 think there, maybe you want to tell us that --- like I
25 said, we weren't there. We don't know. I may not

1 know the right questions to ask you. And if you've
2 got something that can help us, you know, to help
3 prevent something like this from happening again, we'd
4 appreciate it.

5 A. My biggest --- main concern was --- like I said,
6 was the air and stuff is all I really knew about and
7 the four percent that we hit on Headgate One North.
8 Other than that, anything else --- any stuff that I've
9 heard ain't nothing I've really ever seen for myself.

10 Q. Did you all miss much work in March any time for
11 ventilation, a few days around March 9th or something
12 like that, March 10th, through there?

13 A. I can't remember.

14 MR. GODSEY:

15 That's all.

16 ATTORNEY BAXTER:

17 On behalf of MSHA and the Office of
18 Miners' Health, Safety and Training, I want to thank
19 you for appearing and answering questions today. Your
20 cooperation is very important to the investigation as
21 we work to determine the cause of the accident. We
22 request that you not discuss your testimony with any
23 person aside from your personal representative. After
24 questioning other witnesses, we may call you if we
25 have any follow-up questions. If at any time you have

1 additional information regarding the accident that you
2 would like to provide to us, please contact us at the
3 contact information that was previously provided to
4 you. If you wish, you may now go back over any answer
5 you've given during this interview. You may also make
6 any statement you would like to make at this time?

7 A. (Indicates no).

8 ATTORNEY BAXTER:

9 Again, I want to thank you for your
10 cooperation in this matter.

11 * * * * *

12 STATEMENT UNDER OATH CONCLUDED AT 10:37 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, a Notary Public in and for the State of West Virginia, do hereby certify: That the witness whose testimony appears in the foregoing deposition, was duly sworn by me on said date and that the transcribed deposition of said witness is a true record of the testimony given by said witness; That the proceeding is herein recorded fully and accurately; That I am neither attorney nor counsel for, nor related to any of the parties to the action in which these depositions were taken, and further that I am not a relative of any attorney or counsel employed by the parties hereto, or financially interested in this action.



Alison Salyards