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Transcript of the Testimony of Timothy Blake

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STATEMENT UNDER OATH

OF

TIMOTHY BLAKE

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, September 30, 2010, beginning at 8:40 a.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

9

Two

Return Receipt

10

* EXHIBITS RETAINED BY MSHA *

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is
September 30th, 2010. I'm with the Office of the
Solicitor, U.S. Department of Labor. With me is Erik
Sherer, 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.

MR. O'BRIEN:

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

ATTORNEY KOERBER:

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

ATTORNEY MCATEER:

And I'm Davitt McAteer, and I'm with the
Governor's --- the Governor asked me to do an

1 independent investigation as well.

2 ATTORNEY KOERBER:

3 Would you swear in the witness, please?

4 -----

5 TIMOTHY BLAKE, HAVING FIRST BEEN DULY SWORN, TESTIFIED

6 AS FOLLOWS:

7 -----

8 ATTORNEY KOERBER:

9 Sir, would you please state your full

10 name for the record and spell your last name?

11 A. My name is Timothy E. Blake, B-L-A-K-E.

12 ATTORNEY KOERBER:

13 And would you please state your address

14 and your telephone number?

15 A. Address is (b) (7)(C)

16 (b) (7)(C)

17 ATTORNEY KOERBER:

18 And do you have an attorney present with

19 you here today?

20 A. Yes.

21 ATTORNEY KOERBER:

22 And would your attorney please state his

23 name for the record, his firm --- and his firm name?

24 ATTORNEY JONES:

25 I'm Benny Jones. I'm an attorney in

1 Beckley, sole practitioner. I represent Mr. Timothy
2 Blake and have for some time period since this
3 explosion of April 5th, 2010.

4 ATTORNEY KOERBER:

5 Mr. Blake, are you appearing here today
6 as the result of receiving a subpoena?

7 A. Yes.

8 ATTORNEY KOERBER:

9 And this is a copy of that subpoena.

10 Would you agree with that?

11 A. Yes, sir.

12 ATTORNEY KOERBER:

13 I would like that to be Exhibit One or
14 whatever.

15 (T. Blake Exhibit One marked for
16 identification.)

17 ATTORNEY KOERBER:

18 I note on the subpoena that it compels
19 your experience here for August 31st, and today is
20 September 30th. I would represent for the record that
21 I had conversations with your attorney prior to that
22 subpoena date, and we agreed to continue that
23 subpoena, and then we rescheduled it for today, at
24 8:30. Is that your understanding as well, Mr. Blake?

25 A. Yes.

1 ATTORNEY KOERBER:

2 And Mr. Blake, this is a copy of the
3 return receipt card signed by you. Would you agree
4 with that?

5 A. Yes.

6 ATTORNEY KOERBER:

7 I'd like that to be Exhibit Two, if I
8 could.

9 (T. Blake Exhibit Two marked for
10 identification.)

11 ATTORNEY KOERBER:

12 Mr. Blake, the statute that authorizes
13 the Director to subpoena witnesses to hearings such as
14 this requires the Director to offer to each witness
15 subpoenaed a \$40-a-day witness fee, plus roundtrip
16 mileage, if you drove in your personal vehicle, at the
17 rate of 15 cents a mile, plus reimbursement for any
18 tolls that you may have incurred on the way here and
19 back. It is my understanding that you came with your
20 attorney, so you did not incur any personal travel
21 expenses; is that correct?

22 A. Yes, sir.

23 ATTORNEY KOERBER:

24 In order to receive the \$40-per-day
25 witness fee, I will need you to sign --- or fill out

1 and sign two forms, one of which is an IRS Form W-9,
2 which is the request for your Social Security number.
3 It is my understanding that the \$40 is considered
4 taxable income and that the Social Security will be
5 used to issue you a 1099 at the end of the year that
6 you will have to report on your taxes when you do your
7 taxes next year. In order to receive the money, I
8 need the forms filled out. If you are reluctant to
9 give our your Social Security number or you do not
10 want to fool with the taxable consequences, you can
11 decline the money or we can fill out the forms at the
12 end of the interview, but what I need you to do at
13 this point in time is to state your decision as to
14 whether you want to fill out the forms or decline the
15 money on the record now.

16 A. I'll fill out the forms.

17 ATTORNEY JONES:

18 I'll fill out the forms.

19 ATTORNEY KOERBER:

20 Okay. Thank you, sir.

21 ATTORNEY JONES:

22 Do you want to give me those, Barry, and
23 we'll get those taken care of. He traveled from his
24 home to my office, but I brought him from there to
25 here, so ---.

1 OFF RECORD DISCUSSION

2 ATTORNEY BABINGTON:

3 There are several members of the
4 investigation team also present in the room today.
5 Erik Sherer will be conducting the initial
6 questioning.

7 All members of the Mine Safety and Health
8 Accident Investigation Team and all members of the
9 State of West Virginia Accident Investigation Team
10 participating in the investigation of the Upper Big
11 Branch Mine explosion shall keep confidential all
12 information that is gathered from each witness and
13 provide the statement until the witness statements are
14 officially released. MSHA and the State of West
15 Virginia shall keep this information confidential so
16 that other ongoing enforcement activities are not
17 prejudiced or jeopardized by a premature release of
18 information. This confidentiality requirement shall
19 not preclude investigation team members from sharing
20 information with each other or with other law
21 enforcement officials. Team members' participation in
22 this interview constitutes their agreement to keep
23 this information confidential.

24 Government investigators and specialists
25 have been assigned to investigate the conditions,

1 events and circumstances surrounding the fatalities
2 that occurred at the Upper Big Branch Mine-South on
3 April 5th, 2010. The investigation is being conducted
4 by MSHA under Section 103(a) of the Federal Mine
5 Safety and Health Act and the West Virginia Office of
6 Miners' Health Safety and Training. We appreciate
7 your assistance in this investigation.

8 You may have your personal attorney

9 present during the taking of this statement or another
10 personal representative, if MSHA has permitted it, and
11 you may consult with your attorney or representative
12 at any time. Mr. Jones, we had you acknowledge
13 yourself on the record earlier. I just have some
14 brief questions about the nature of the
15 representation. First is, are you legally
16 representing Mr. Blake in this matter?

17 ATTORNEY JONES:

18 I represent Mr. Blake only, yes, and his
19 family.

20 ATTORNEY BABINGTON:

21 Do you understand that you may not
22 communicate with Massey Energy, its affiliates or its
23 officers or directors or attorneys concerning the
24 substance of this representation?

25 ATTORNEY JONES:

1 I'm not quite sure what that means,
2 but ---.

3 ATTORNEY BABINGTON:

4 I guess communicating information
5 gathered from your attorney/client relationship with
6 Mr. Blake, communicating that information to any
7 affiliates of Massey?

8 ATTORNEY JONES:

9 Yeah, I understand that. Uh-huh (yes).

10 ATTORNEY BABINGTON:

11 Okay. And are you being paid for by a
12 third party to provide representation for Mr. Blake?

13 ATTORNEY JONES:

14 No. I solely represent Mr. Blake under a
15 contract with Mr. Blake only.

16 ATTORNEY BABINGTON:

17 Thank you, Mr. Jones. Your identity and
18 the content of this conversation will be made public
19 at the conclusion of the interview process and may be
20 included in a public report of the accident, unless
21 you request that your identity remain confidential or
22 your information would otherwise jeopardize a
23 potential criminal investigation. If you request us
24 to keep your identity confidential, we will do so to
25 the extent permitted by law. That means that if a

1 judge orders us to reveal your name or if another law
2 requires us to reveal your name or if we need to
3 reveal your name for other law enforcement purposes,
4 we may do so. Also, there may be a need to use the
5 information you provide to us or other information we
6 may ask you to provide in the future in other
7 investigations into and hearings about the explosion.
8 Do you understand?

9 A. Yes.

10 ATTORNEY BABINGTON:

11 Do you have any questions?

12 A. No, not at this time.

13 ATTORNEY BABINGTON:

14 After the investigation is complete, MSHA
15 will issue a public report detailing the nature and
16 causes of the fatalities in the hope that greater
17 awareness of the causes of accidents can reduce their
18 occurrence in the future. Information obtained
19 through witness interviews is frequently included in
20 these reports.

21 Since we will be interviewing other
22 individuals, we request that you not discuss your
23 testimony with any person, aside from a personal
24 representative or Counsel. A court reporter will
25 record your interview. Please speak loudly and

1 clearly. If you do not understand a question asked,
2 please ask the interview to rephrase it. Please
3 answer each question as fully as you can, including
4 any information you've learned from someone else. I'd
5 like to thank you in advance for your appearance here.
6 We appreciate your assistance in this investigation.
7 Your cooperation is critical in making the nation's
8 mines safer.

9 After we have finished asking questions,
10 you'll have an opportunity to make a statement and
11 provide us with any other information that you believe
12 to be important. If at any time after the interview
13 you recall any additional information that you believe
14 might be useful, please contact any of us or have your
15 representative contact us or Norman Page at the
16 contact information that was provided to you in the
17 letter that I gave you.

18 Finally, any statements given by miner
19 witnesses to MSHA are considered to be an exercise of
20 statutory rights and protected activity under Section
21 105(c) of the Mine Act. If you believe any discharge,
22 discrimination or other adverse action is taken
23 against you as a result of your cooperation with this
24 investigation, you're encouraged to immediately
25 contact MSHA and file a complaint under Section 105(c)

1 of the Act. Terry?

2 MR. FARLEY:

3 Mr. Blake, on behalf of the Office of
4 Miners' Health, Safety and Training, I'd like to
5 inform you that the West Virginia Mine Safety
6 Regulations, specifically Chapter 22A, Article 1,
7 Section 22 of the West Virginia Code, provide
8 protection to miners against potential discrimination
9 for participating in these type of interviews. I'd
10 like to pass along to you some contact information
11 from the West Virginia Board of Appeals. The Board is
12 charged with hearing complaints from miners concerned
13 with discrimination. And should you experience any
14 problems as a result of participating in these
15 interviews, you should contact the Board immediately
16 and file a complaint. Now, I would caution you that,
17 should you experience a problem, you must file a claim
18 within 30 days of whenever the event occurs. Thank
19 you.

20 ATTORNEY JONES:

21 For the record, Mr. Blake has not
22 returned to work. He's still off, under doctor's
23 care, based on the physical and psychological injuries
24 sustained.

25 EXAMINATION

1 BY MR. SHERER:

2 Q. Again, Mr. Blake, I want to thank you for coming
3 down here this morning. Roughly, how many years have
4 you been a coal miner?

5 A. Thirty-eight (38).

6 Q. Thirty-eight (38) years. When did you start with
7 the Massey organization?

8 A. June 20th of '94.

9 Q. Okay. Was that at Upper Big Branch?

10 A. No. That was for Marfork Coal Company.

11 Q. Okay. Thank you. When did you first start
12 working at Upper Big Branch?

13 A. I've been there a little bit over a year.

14 Q. Okay. And what was your job description at Upper
15 Big Branch?

16 A. I was a roof bolt operator.

17 Q. Any particular section that you worked on?

18 A. We worked on the tailgate section.

19 Q. Okay. The 22 Tailgate?

20 A. Twenty-two (22), yes.

21 Q. Thank you. How many roof bolters were on that
22 section?

23 A. There was three of us.

24 Q. Which bolter machine did you operate?

25 A. Both of them. I walked from one machine to the

1 other machine.

2 Q. Okay. Before you started bolting on 22 Headgate,
3 which I understand just started development I think in
4 February, where did you work in the mine?

5 A. I don't know the name of the section. I'm sorry.

6 Q. That's okay. Was it either the headgate or the
7 tailgate of the current longwall panel?

8 A. No. No. We was driving a section right inside
9 the drift mouth.

10 Q. Okay. Would that have been the Three section?

11 A. I think it was the Number Four section.

12 Q. Number Four section, okay. Thank you. Now, going
13 back to Tailgate 22, could you just describe in your
14 own words some of the conditions on that section?

15 A. Water.

16 Q. A lot of water?

17 A. We had water.

18 Q. Okay.

19 A. We had two pumps going all the time. The mine ---
20 the roof conditions was good. You know, the bottom,
21 you know, was busted up because of the water. And
22 other than that, you know, it was just three entries
23 is all we was driving.

24 Q. How were the ribs?

25 A. The ribs were pretty good.

1 Q. Did you guys have to bolt the ribs?

2 A. No.

3 Q. Okay. Were you doing any supplemental roof
4 support, cable bolts or anything like that?

5 A. We was cable bolting the intersections.

6 Q. Okay. Were you hanging any mesh?

7 A. No.

8 Q. And we understand that that tailgate was actually
9 a supplement to the existing headgate.

10 A. Yes.

11 Q. Did anybody tell you guys why you were driving
12 that?

13 A. The other one flooded out.

14 Q. Okay. Did you talk to any engineers or anybody
15 like that about that particular section prior to
16 starting driving it?

17 A. No.

18 Q. Do you know if your section boss might have gotten
19 some plans or anything like that from the engineers in
20 the mine?

21 A. I would say he probably got some plans.

22 Q. Okay. Did he ever go over the roof control plan
23 with you guys?

24 A. Every morning.

25 Q. What about the ventilation on that section, how

1 was that?

2 A. The ventilation was good.

3 Q. Was there any fluctuations of the ventilation that
4 you recall?

5 A. Yes.

6 Q. Can you describe that, please?

7 A. Sometimes we'd have real good air, sometimes we
8 would have good air but not --- you could tell that
9 the air went down.

10 Q. Was it ever hot when you were running your bolter?

11 A. No, it wasn't that bad.

12 Q. About where did you guys keep the curtains behind
13 the bolter?

14 A. Right at the edge of the bolter.

15 Q. Did you have a methane detector?

16 A. Yes.

17 Q. What's the highest methane reading that you recall
18 on that particular section?

19 A. As much as we've ever got was maybe two-tenths.

20 Q. Did you ever get on the section and have to do
21 something to get the air quantity up to where you guys
22 could run coal?

23 A. Yes.

24 Q. Could you describe that, please?

25 A. We had to move fly pads up.

1 Q. Did you ever have to go outby to work on the air?

2 A. We went outby and, you know, worked on the
3 overcasts.

4 Q. Just leaks or something?

5 A. Yeah, just leaks.

6 Q. Okay. Thank you. What about the rock dust on
7 that section, how was that?

8 A. It was about fair, I guess.

9 Q. Who primarily did the rock dusting on that
10 section?

11 A. The scoop man.

12 Q. Do you think he had enough time to do that?

13 A. Yes.

14 Q. Okay. Did he have any mechanical rock dusting
15 equipment or did he do it all by hand?

16 A. All by hand.

17 Q. Who dusted the belt when you got outby the
18 section?

19 A. Third shift men did that.

20 Q. Do you recall the last time you walked down that
21 belt?

22 A. Yes, sir.

23 Q. What was it looking like then?

24 A. It just --- where the feeder was sitting, just a
25 lot of water, you know, and the belt --- at the belt

1 head and stuff, you know, was pretty clean and rock
2 dusted.

3 Q. And about when did you last walk down that belt?

4 A. That evening.

5 Q. Okay.

6 A. Well, no. No. Let me take that back. that
7 morning I walked the belt up there. That evening I
8 walked down the intake.

9 Q. And what condition was the intake like?

10 A. The intake was, you know, pretty bad.

11 Q. Okay. And by pretty bad, lack of rock dust?

12 A. Lack of rock dust.

13 Q. Okay. When was the last time that someone came up
14 on that section and did any bulk dusting that you're
15 aware of?

16 A. As far as I know, nobody's ---

17 Q. Okay.

18 A. --- nobody did.

19 Q. Now, we understand there was a rail-mounted
20 dusting unit at this mine. Did you ever see it up
21 around that section?

22 A. No, sir.

23 Q. Okay. Thank you. Now, there were some --- excuse
24 me, sir. Let me move some of your papers here. This
25 is the tailgate section that we've been talking about

1 on the map here. We understand there was some supply
2 doors down actually in the headgate of the longwall.

3 A. Yes.

4 Q. Do you recall those doors?

5 ATTORNEY BABINGTON:

6 I'll give him a magnifying glass, if that
7 will help.

8 A. Yeah. The doors ---.

9 BY MR. SHERER:

10 Q. There's two here.

11 A. Yeah. There was two here and then we had ---
12 where our track come up, we had two more here.

13 Q. Okay.

14 A. Here and here.

15 Q. Can I get you to take a marker and just indicate
16 on this map where those two doors and this --- this
17 was the track entry, wasn't it? Didn't it go over
18 this big roof fall here?

19 A. Yeah.

20 Q. Okay. So this is the track entry. It looks
21 like ---.

22 A. Yeah, we had --- you know, we had doors here and
23 here. I walked down the intake, come through these
24 doors, you know, to get to the track entry.

25 Q. Okay. Where would the mantrip normally park?

1 A. The mantrip parked right here on the other side of
2 these doors.

3 ATTORNEY JONES:

4 Don't mark it. Just point to it so there
5 won't be so many marks on it.

6 A. Okay.

7 BY MR. SHERER:

8 Q. Let's get you to just draw a little line out here
9 and say mantrip.

10 A. Okay. Right there was the mantrip.

11 Q. And just write mantrip, please.

12 ATTORNEY BABINGTON:

13 The witness is using a pink highlighter.

14 BY MR. SHERER:

15 Q. Thank you, Mr. Blake. And were these doors in
16 good condition the last time you went through them?

17 A. Yes. The last time I went through them they was.

18 Q. Did you ever get up on the section or have any
19 occasion coming outby these doors to notice that one
20 or more of them were open?

21 A. No.

22 Q. Okay.

23 A. Because you couldn't open them because of the
24 pressure against them. When we opened them to go
25 through them to get on the mantrip, we had to really

1 push real hard to get them open. And that's with both
2 doors shut.

3 Q. Oh, jeez. That is a lot of pressure. How about
4 these doors down in the Number One entry?

5 A. Yeah. There was, you know, two here, you know,
6 one on each end of this entry.

7 ATTORNEY BABINGTON:

8 Do you mind circling those doors, please?

9 WITNESS COMPLIES

10 ATTORNEY BABINGTON:

11 Thank you.

12 BY MR. SHERER:

13 Q. When was the last time you had a chance to come
14 down near these doors?

15 A. Oh, I would say it was a week or more.

16 Q. Okay. And when you went down there, they were in
17 good condition?

18 A. Well, no. No, they wasn't.

19 Q. Can you explain?

20 A. I can't honestly say they was in good condition.

21 Q. Okay. Were they --- had they been beat up or
22 maimed up or something?

23 A. Well, these right here, you had to force them
24 closed, you know, hold them closed, to hold the
25 pressure against them. And these right here, the

1 scoop run into these.

2 Q. Oh, okay.

3 A. And we had to repair them.

4 Q. Roughly, when did you guys repair those doors?

5 A. I would say a month.

6 Q. Okay. Had you ever seen either of these doors
7 open?

8 A. Oh, yeah.

9 Q. Did you ever see both of them open?

10 A. We used to come --- when the longwall was here, we
11 used to have to drive our mantrip up. You know,
12 that's when the longwall was up in here.

13 Q. Sure.

14 A. We'd come up on our mantrip here and got off and
15 walked, and we had to walk through these doors to get
16 up on this section, because they hadn't put no track
17 up through here yet. That was the closest route for
18 us to go ---

19 Q. Sure.

20 A. --- when we first started up there. And we had to
21 go through these doors.

22 ATTORNEY JONES:

23 He asked you if you ever saw them open,
24 remaining open when you got there?

25 A. Oh, yeah, at least one. At least one door.

1 BY MR. SHERER:

2 Q. Did you ever see both of them open?

3 A. No.

4 Q. Okay. Thank you. And I believe you indicated
5 there was a lot of pressure on those particular doors?

6 A. There wasn't a whole lot of pressure on them
7 doors.

8 Q. Okay. Thank you. And you mentioned there was a
9 fair amount of water on the section and there was some
10 floor hooving I think you indicated because of that
11 water.

12 A. Right.

13 Q. When that floor would heave up, was it right in
14 the face where you guys were working or was it a few
15 breaks outby?

16 A. It's in the face.

17 Q. Did you ever hear any big thumps or get thrown
18 around by that floor heaving?

19 A. No.

20 Q. Now, we understand there was several battery
21 chargers like for scoops and forklifts and such on
22 that section. Were those in good shape?

23 A. Yes.

24 Q. Did you ever go by and smell hot batteries or
25 anything like that?

1 A. Not to my recollection, no.

2 Q. Thank you. What about when you were underground,
3 did anybody ever call in and say there were inspectors
4 on the property?

5 A. Yes, sir.

6 Q. Was that common?

7 A. Yes, sir.

8 Q. Did you ever hear about anybody tampering with a
9 methane monitor, bridging it out or covering up the
10 sensor or something?

11 A. No. The only time we did that is when the machine
12 would go down in the face, you know, and it would ---
13 it was the methane monitor is the reason why it was
14 down. They'd bridge it, get it out, fix it.

15 Q. Okay. Do you recall the last time you know of
16 anybody doing that?

17 A. No.

18 Q. Okay. Do you think that the ventilation in this
19 mine was adequate?

20 A. No.

21 Q. Can you explain that, please?

22 A. Well, some days we would have good air and some
23 days we wouldn't.

24 Q. Did you ever know why it changed?

25 A. No.

1 Q. Did you ever see anybody working on the
2 ventilation controls, knocking out stoppings or
3 building stoppings while you were on the section?

4 A. No.

5 MR. SHERER:

6 Okay. That's all the questions I've got
7 on the 22 Tailgate for right now. I'll let Mr. Farley
8 ask a few.

9 EXAMINATION

10 BY MR. FARLEY:

11 Q. The doors that you identified here in the longwall
12 headgate entries, when is the last time you actually
13 saw those doors prior to April 5th?

14 A. Like I said, it had been a month since I've been
15 down through there, because the last time I went
16 through them is when we was portalling --- we had to
17 come through them to get to our mantrip.

18 Q. All right. Is it possible somebody could have
19 removed the doors and put a stopping in there after
20 you last saw them?

21 A. They could have.

22 Q. Okay. Erik has asked about the condition of the
23 rock dusting on the 22 Tailgate section. If I
24 understood you correctly, you know, at no time had the
25 22 Tailgate section been machine dusted?

1 A. As far as I know, no.

2 Q. Was there any type of machine duster available on
3 the 22 Tailgate section, if you ever saw them?

4 A. I had never saw it, but they had one for the
5 section. But where it was I couldn't tell you.

6 Q. All right.

7 EXAMINATION

8 BY ATTORNEY MCATEER:

9 Q. The machine-mounted rock duster that you saw they
10 had for the section, had you ever seen it in the mine
11 generally or outside?

12 A. They had one on the other section, the one we just
13 come off of.

14 Q. Okay.

15 A. And I don't know if they had moved it up to where
16 we was yet ---

17 Q. Right.

18 A. --- or not.

19 Q. What did it look like?

20 A. It was the one that mounted on the front of the
21 bucket.

22 Q. What color was it?

23 A. Orange.

24 Q. Who operated that?

25 A. The scoop man.

1 Q. What was his name?

2 A. Benny Willingham.

3 Q. And how frequently would he operate that?

4 A. At least once a week.

5 Q. Okay. Did you ever see the machine operated by
6 anyone else on the evening shift?

7 A. No.

8 Q. Now, back to the doors for a minute. You said
9 they were in somewhat disrepair. The scoop man had
10 operated --- had ran into them?

11 A. At one time they put curtain across it to seal it.
12 So you know, they was in pretty bad shape.

13 Q. And you said they were difficult to close?

14 A. Yes.

15 Q. What would you have to do?

16 A. You just had to push it closed and put a rock
17 against it.

18 Q. Had you ever done that yourself or ---?

19 A. Yes.

20 Q. Okay.

21 A. Most of the time you just push it, hold it just
22 for a few minutes --- a few seconds, rather, and then
23 it would stay, ---

24 Q. Okay.

25 A. --- stay closed.

1 Q. You said on one occasion when you got there the
2 door was open?

3 A. Yeah, one of them was.

4 Q. Do you recall when that was?

5 A. No, sir.

6 Q. But you said there was a good bit of pressure on
7 the other doors?

8 A. Oh, yeah, the other doors, they stayed closed all
9 the time.

10 Q. Right. And in fact, they were hard to get open?

11 A. Right.

12 Q. What would you have to do to get them open?

13 A. You just had to put your shoulder into it and push
14 it.

15 Q. Push it.

16 ATTORNEY BABINGTON:

17 And those other doors were located in the
18 crossover?

19 A. They was in our intake.

20 BY ATTORNEY MCATEER;

21 Q. And the doors, that's where you put your ---?

22 A. That's where the mantrip ---.

23 Q. The mantrip went.

24 A. The mantrip was on the other side.

25 Q. Right. So you'd go through those every day?

1 A. Right.

2 Q. Okay. All right. And did you ever have any
3 conversations about the ventilation system with
4 anybody?

5 A. No.

6 Q. Okay.

7 ATTORNEY MCATEER:

8 That's all the questions I have just now.

9 Thank you, sir.

10 EXAMINATION

11 BY ATTORNEY BABINGTON:

12 Q. Just two quick follow-ups. I believe you
13 mentioned that on the night before the explosion you
14 walked the intake and it was not --- and it was not
15 very well rock dusted?

16 A. Right.

17 Q. Do you mind marking with this blue highlighter the
18 area of the intake that you walked where the rock dust
19 was not very good?

20 A. This is the intake right; right? You know, from
21 right here, where the back of the --- all the way down
22 to the overcasts.

23 Q. So that second entry on Tailgate 22?

24 A. Right. No, no. This --- I'm sorry. I marked the
25 wrong one. That's the beltline.

1 Q. Let's go ahead and use a different highlighter for
2 that one then. So the mark with the blue highlighter
3 was not the correct marking; is that ---?

4 A. Right.

5 Q. Okay. Let's have you use this orange highlighter.

6 A. Okay. All this right here plum down to the
7 overcasts. All of this wasn't very --- wasn't very
8 rock dusted at all.

9 MR. SHERER:

10 So that would be the Number Three entry,
11 which is also the intake?

12 A. That's the intake, yes.

13 MR. SHERER:

14 Thank you.

15 BY ATTORNEY BABINGTON:

16 Q. And where you stopped drawing the marker, I think
17 that's in the Three entry on the crossover?

18 A. That's the overcasts.

19 Q. Okay. Were there any other areas that night
20 before where the rock dusting was not very good?

21 A. Our scoop man kept the face area, you know, where
22 we was loading, he kept it pretty rock --- you know,
23 he rock dusted it every day. He did a good job up
24 there. But all of this here, you know, was with
25 water. There was water from here all the way back

1 down to --- almost to the belthead. This entry here
2 was dry, except back here. You know, back in here, it
3 was water all up through here.

4 Q. Okay. To clarify that, you talked about the
5 third, second and then first entries in the tailgate?

6 A. Right.

7 Q. And with the first entry you were saying the water
8 was not up at the face, but it was further --- back
9 towards the mouth of the section?

10 A. It was plum back here to where almost this --- you
11 know, these sets of doors was. There was water all
12 the way down to this entry, halfway down this entry.

13 Q. Halfway down the second entry?

14 A. Right. And there was water in this entry here
15 near the face.

16 Q. That's in the third entry?

17 A. Right.

18 MR. SHERER:

19 Thank you.

20 ATTORNEY MCATEER:

21 I'm sorry. Just a clarifying question.

22 RE-EXAMINATION

23 BY ATTORNEY MCATEER:

24 Q. You said this was the night before April 5th?

25 A. No. This is April 5th.

1 Q. This was on the day of?

2 A. The day of.

3 Q. Okay. Thank you.

4 RE-EXAMINATION

5 BY MR. SHERER:

6 Q. What was your last shift you worked before April
7 5th?

8 A. That was a three-day weekend, so it would have
9 been a Thursday.

10 Q. Okay. Now, you spoke about some water in all
11 three of the entries on this tailgate section. About
12 how deep was that water in the deepest areas that you
13 had any occasion to get out in?

14 A. It wasn't overtop of your boots.

15 Q. Okay. Thank you. Now, when you guys left the
16 section coming out in the afternoon, do you recall if
17 there were any pieces of equipment that were left on
18 charge?

19 A. The scoop was on charge.

20 Q. Okay. And was the power left on on the section?

21 A. No.

22 Q. Okay. Do you recall anything unusual that
23 happened that day, anything that was the least bit out
24 of the ordinary?

25 A. No.

1 Q. Okay. Just an average day?

2 A. An average day, yeah.

3 Q. How was the coal running that day?

4 A. I don't know. I think we got five cut --- no, I
5 think we got four cuts that day.

6 Q. Was that about average?

7 A. That was pretty good for all the water and stuff
8 we had to put up with.

9 Q. Thank you. What was the cutting like on this
10 section? Were you guys cutting any top or bottom?

11 A. Both.

12 Q. Was the top or bottom hard to cut? Did you have
13 any sandstone?

14 A. No.

15 Q. Okay.

16 A. It was hard but it wasn't that hard.

17 Q. Okay. Had you noticed any methane bubbling up
18 through the puddles or anything like that?

19 A. No.

20 Q. Okay. In the, roughly, three, maybe four weeks
21 prior to the explosion had you noticed any major
22 changes in the quantity of air coming on the section?
23 Had it gotten better, gotten worse?

24 A. No. It mostly stayed the same.

25 Q. Okay. Did you have any occasion to travel through

1 this connector or cut-through that some people call
2 it?

3 A. Oh, yeah.

4 Q. What were the conditions like in here,
5 particularly the rock dust or float coal dust?

6 A. I'm trying to think. It wasn't rock dusted real
7 good.

8 Q. Have any occasion to walk the belt coming up
9 through this connector?

10 A. Yeah.

11 Q. What was it like?

12 A. It was dusty.

13 Q. It was dusty with coal dust?

14 A. Right.

15 Q. Do you recall if it seemed like there were any ---
16 was a problem with float dust on that belt?

17 A. No.

18 Q. Just needed dusting?

19 A. Just needed dusting.

20 A. Was the belt fairly clean or were there any
21 accumulations of coal on it?

22 A. I can't tell you.

23 Q. Okay. Sure.

24 A. I can't remember.

25 Q. Okay. Thank you. About what time did you guys

1 leave the section that afternoon?

2 A. We quit at 2:30. By the time we get everything
3 right, you know, the time we make sure all the
4 ventilation is up, fly pads and stuff like that, and
5 we got down there, it was about 20 'til, and we
6 started on our way outside.

7 Q. Was anything unusual coming off the section? Do
8 you recall any problem at all?

9 A. No.

10 Q. Did you hear anybody talking as you went past the
11 mine phones?

12 A. No.

13 Q. Okay. Now, we understand you guys got out to
14 somewhere around the 60 Break on the North Mains?

15 A. Right.

16 Q. Would you mind telling us in your own words what
17 you recall happening there?

18 A. Well, everything just went black. It was like
19 sitting in the middle of a hurricane, things flying,
20 hitting you and stuff like that.

21 Q. Did it take a while to build up, or did that just
22 hit you all at once?

23 A. Just hit us all at once.

24 Q. Was it hot?

25 A. Yes.

1 Q. Do you recall if there were any gas detectors
2 going off?

3 A. The boss' methane detector, it went off.

4 Q. What did you guys do at that point in time?

5 A. Well, we was hollering --- some of them was
6 hollering stop the trip and other ones --- some was
7 hollering --- my buddy beside of me said, let's don
8 our rescuers. And that's what I done. I held my
9 breath, put my rescuer on. And then it was just ---
10 nothing but just pure silence and stuff still flying
11 by.

12 Q. When was the last time you had received any SCSR
13 training?

14 A. I received some at our annual retraining.

15 Q. About how long before the explosion did that
16 occur?

17 A. It was about a month.

18 Q. Did you do the donning of the SCSRs in smoke or in
19 the dark?

20 A. They gave us glasses that we had was black. You
21 know, we put them on where you couldn't see, and they
22 gave us two of them. We had to don one, put it on,
23 then we had to change.

24 Q. Did you do any of the breathing through the little
25 cartridge with SCSRs?

1 A. Yes.

2 Q. What did you think about that training? Did you
3 think that was helpful?

4 A. Yes, sir.

5 Q. Now, you're on the mantrip and I understand that
6 you're successful getting your SCSR on. How long did
7 you sit there before you could see what was going on
8 again, just roughly?

9 A. All of this happened within one to three minutes.

10 Q. And when you could tell --- when you could see ---
11 now, did you put the goggles on?

12 A. No, I couldn't find the goggles. Everything was
13 happening so quick, I didn't get them on.

14 Q. When you could see what was going on, could you
15 describe that, please?

16 A. Well, once I --- once I got my head, you know, and
17 knew what was going on, I could hear gurgling. It was
18 my buddy beside of me, the 23-year-old boy. He was
19 gurgling. He couldn't get his rescuer on. I wiped my
20 light off so I could see, took my glasses off. I had
21 my safety glasses on. I threw them off, wiped my
22 light off and I couldn't see no further than my hand,
23 you know, still yet. There was still stuff, you know,
24 coming by. And I reached over and shook my buddy,
25 tried to get him awake. No --- nothing. So I grabbed

1 him and took him out of the mantrip, laid him down,
2 got his rescuer off of him, put it on him, tried to
3 keep him --- you know, trying to do something. And
4 then I went to the next man, who was James Woods. He
5 was laying out of the trip. He's the other survivor.
6 I done his rescuer the same way, donned his rescuer.
7 Then I went to the next man. I couldn't find his
8 rescuer because he carried it on a belt. He just laid
9 it up on the mantrip, and it blew away when all this
10 happened. I couldn't find his. I went to the next
11 man, who was Benny Willingham. He was in the trip. I
12 worked with him a few minutes, put his rescuer on him,
13 tried to give him some chance, you know. Then I went
14 to the next man, which was Robert Clark. Done the
15 same thing for him, put his rescuer on him, worked
16 with him a minute or two. Went to Bill and he was
17 laying face down. I had to grab him and jerk him up
18 and pull him over, put his rescuer on him. All of
19 these guys, you know, I was feeling for pulse. They
20 all had pulse, you know, so they was still alive. And
21 I went to the next man, which is Carl Acord. He was
22 half in the trip, half out of the trip. I had to
23 manhandle him, get him down, lay him flat down. I put
24 his rescuer on him. I went to the next man, which was
25 the boss, and he was laying face down. I had to roll

1 him over, put his rescuer on him. And by that time,
2 you know, it was --- I was fighting to breathe myself
3 because of my rescuer.

4 Q. Sure.

5 A. And things just cleared up a little bit by then,
6 you know. I could see a little bit more. And I
7 looked at my watch. It was about three minutes to
8 4:00. So I knew my time --- my methane detector --- I
9 mean, self-rescuer was almost ready to ---. So I went
10 around to each man again, felt for a pulse. Everybody
11 had a pulse but one man. I couldn't find no pulse on
12 him. That's the man I couldn't find a rescuer. And I
13 had to leave them. That was the hardest thing I ever
14 done.

15 Q. I'm sure it was.

16 A. And I left them, started walking outside. And I
17 don't know how many breaks I walked. I walked I'd say
18 at least ten to 20 breaks, saw a mantrip coming, so I
19 just sat down on a timber. I heard somebody holler,
20 there's a man walking, and so I sat there and waited
21 on them. When they got down there, I took my rescuer
22 of. Of course, it was so hot you couldn't touch it.
23 And they said --- asked me what happened. I told them
24 the story. They took off running back down to where I
25 was. And in a little bit another mantrip pulled in

1 behind this one, so they took me up; there and put me
2 in the front mantrip, gave me another rescuer. And
3 then in a little bit they come and got the other
4 mantrip, dropped it down, left me there with another
5 boss. And in a little bit they come up through there
6 hollering, get outside, get outside now. They had
7 loaded up all my buddies in them two trips. We was
8 taking them outside.

9 Q. Do you recall any of the people that were on those
10 two mantrips?

11 A. Yes, sir.

12 Q. Who was that, please?

13 A. Well, ---.

14 Q. That's okay. Did anyone manage to open up their
15 SCSR on your mantrip? Did you have to open
16 everybody's up for them?

17 A. I opened everybody's.

18 Q. So you were the only person that actually started
19 the donning process?

20 A. Yes.

21 Q. Were there any additional SCSRs on that mantrip?

22 A. Yes, sir.

23 Q. There was a cache of them?

24 A. Yes, sir.

25 Q. Okay.

1 A. But I didn't --- you know, I didn't think about
2 that.

3 Q. Sure. Sure. I think you did a heck of a job, Mr.
4 Blake. I don't know if anybody else could have done
5 anything like what you did. So when you first got ---
6 became aware there was some problem, you held your
7 breath and then you donned your SCSR?

8 A. Yes, sir.

9 Q. Were you successfully --- were you successful in
10 donning your SCSR while you were holding your breath?

11 A. What's that?

12 Q. Could you hold your breath until the point in time
13 where you got your SCSR on?

14 A. Yes.

15 Q. Okay. Good. Good. So as soon as you became
16 aware of the problem, you never took another breath of
17 that atmosphere?

18 A. No.

19 Q. Thank you.

20 MR. SHERER:

21 Thank you. That's all the questions I've
22 got for you, sir.

23 MR. FARLEY:

24 I've got a couple, three, to clarify some
25 things.

1 RE-EXAMINATION

2 BY MR. FARLEY:

3 Q. As you started before the event occurred, as you
4 were coming out of the mantrip, where were you
5 sitting? Where were you sitting in the mantrip?

6 A. I was sitting on the front end.

7 Q. Front end, facing out?

8 A. Facing outside.

9 Q. Were you on the right side, left side, facing out
10 or ---?

11 A. Right side.

12 Q. Do you remember who else was in the front with
13 you?

14 A. Jason Acord was sitting beside of me. Carl Acord
15 was in behind me, and Steve Harrah. Then on the back
16 end of it, James Woods is operating it. And on the
17 back end there was Benny Willingham, Scott. And on
18 the other side was Bill and Robert Clark.

19 Q. Okay.

20 ATTORNEY JONES:

21 You said Jason Acord. Is that Jason
22 Atkins?

23 A. Atkins.

24 BY MR. FARLEY:

25 Q. Now, earlier in the day I think Erik had asked

1 about any possible mine phone conversations. Did you
2 overhear any mine phone conversations at any time
3 during that day?

4 A. No, sir.

5 Q. Did you talk to anybody who relayed anything that
6 they had overheard on the mine phone to you?

7 A. No, sir.

8 Q. Did anybody at any time say anything about the
9 longwall section being down that day?

10 A. No, sir.

11 Q. So as you were leaving, I guess you had no idea
12 that there had been a problem on the longwall section
13 that day?

14 A. No, no idea whatsoever.

15 Q. As you were traveling out of the mine before the
16 explosion occurred, did you notice any burning
17 sensation in your eyes?

18 A. No, sir.

19 Q. Any unusual smell?

20 A. No, sir.

21 ATTORNEY MCATEER:

22 Mr. Blake, would you care to take a
23 break? Are you okay to go on?

24 A. I'd like to take a break.

25 SHORT BREAK TAKEN

1 RE-EXAMINATION

2 BY ATTORNEY MCATEER:

3 Q. Mr. Blake, I just have a few questions. You said
4 you recall quitting at around 2:30?

5 A. Yes, sir.

6 Q. And had you looked at your watch to establish that
7 time or is that the standard time you quit?

8 A. That's the standard time.

9 Q. And then you got on the mantrip at 2:40?

10 A. Yes.

11 Q. Okay. Can you guesstimate how much time elapsed
12 between that and the time when the event occurred?

13 A. Well, they said they heard the man holler for the
14 outside at 78 Break. That was James Woods. He
15 hollered for the road at 78 Break, and they said it
16 was two minutes 'til 3:00 then.

17 Q. I'm sorry. Just for clarification, you said that
18 Mr. Woods said he heard the guy ---?

19 A. No. Mr. Woods hollered for the road.

20 Q. Oh, hollered for the road?

21 A. Yes.

22 Q. Right.

23 A. He had the handheld radio.

24 Q. I gotcha.

25 A. And he hollered for the, you know, road outside.

1 Q. Right.

2 A. And the men outside said they heard him holler at
3 two minutes 'til 3:00.

4 Q. Did you recall hearing Mr. Woods make this ---?

5 A. No.

6 Q. So that would have put it at 2:58?

7 A. Right.

8 Q. Okay. Now, when the event occurred, did you
9 hear --- did you feel a large force? Did you feel air
10 first or do you recall?

11 A. It was just all at once it was just there.

12 Q. Okay.

13 A. You know, there was no --- there was no little
14 stuff, ---

15 Q. Right.

16 A. --- no nothing. I mean, all at once it was just
17 there.

18 Q. Right. Okay. And when you say it was just there,
19 do you mean that there were dust as well as materials,
20 debris?

21 A. Yes.

22 Q. And did it have a shape or form that you remember?

23 A. No. I couldn't see nothing because everything
24 went black.

25 Q. It was behind you?

1 A. Everything come this away on me.

2 Q. Along the side?

3 A. Right.

4 Q. Right.

5 A. I got burns on my face where the stuff was hitting
6 me, ---

7 Q. Right.

8 A. --- where the heat, you know, we could feel the
9 heat.

10 Q. So you would have been in the mantrip and the
11 force would have come from the side. Is that --- can
12 you point to the map where your mantrip was?

13 MR. SHERER:

14 It may not be on this map.

15 ATTORNEY MCATEER:

16 That's what I'm afraid of.

17 A. Seventy-eight (78) Break is here.

18 BY ATTORNEY MCATEER:

19 Q. All right.

20 A. Seventy-eight (78) Break is here. And they said
21 that they found the mantrip at 66 Break, wherever
22 that's at.

23 ATTORNEY JONES:

24 You traveled 12 breaks in the mantrip, do

25 you think, 78 to 66, before the explosion?

1 A. He has to holler for the road here at 78 Break,
2 and that was 3:02 --- well, two minutes 'til 3:00
3 rather.

4 BY ATTORNEY MCATEER:

5 Q. 2:58. And you go --- here's 65, so here's 66.

6 A. And they said that's where the mantrip was.

7 Q. And you're right --- could you draw for me where
8 you believe it was in green? This is 65 here?

9 ATTORNEY JONES:

10 This is 65 or 66?

11 BY ATTORNEY MCATEER:

12 Q. Right here.

13 A. Sixty-six (66) would be right here.

14 ATTORNEY JONES:

15 And which one are you on, the brown or
16 the yellow? Which one was the mantrip coming out of?

17 Does the brown designate the mantrip?

18 MR. SHERER:

19 No. The ---

20 A. The red.

21 MR. SHERER:

22 --- red is the beltline and the yellow is
23 the rail, the track.

24 ATTORNEY JONES:

25 So you're down here. Do you think you're

1 at 66 when ---?

2 BY ATTORNEY MCATEER:

3 Q. That's 67. Sixty-six (66) is right here.

4 A. Okay. I was at 66. Mark that.

5 Q. And you feel like that the force was coming from
6 your right?

7 A. This way.

8 Q. I'm sorry.

9 A. Because I was facing towards the outside.

10 Q. Okay.

11 A. And everything come from my right, so we was
12 headed outside this way ---

13 Q. Right.

14 A. --- and all the force came down this way.

15 ATTORNEY JONES:

16 Now, you're saying the force comes from
17 behind you?

18 A. No. We was sitting side by side. That's the way
19 our mantrips are.

20 BY ATTORNEY MCATEER:

21 Q. Okay.

22 ATTORNEY JONES:

23 His body was turned to the right, which
24 would have been ---.

25 MR. FARLEY:

1 Facing the rib.

2 ATTORNEY JONES:

3 Yes, the force come from the behind you,
4 the right.

5 A. Yes.

6 MR. FARLEY:

7 You're facing the right rib?

8 A. Right.

9 MR. FARLEY:

10 You're traveling that way and you're
11 facing the right rib?

12 A. That's correct.

13 BY ATTORNEY MCATEER:

14 Q. So that would have meant that the force was coming
15 along the track ---

16 A. Right.

17 Q. --- behind you and came at you at that ---?

18 A. Yeah. It come this way.

19 Q. Okay.

20 ATTORNEY BABINGTON:

21 So the force was heading outby?

22 A. Outby.

23 BY ATTORNEY MCATEER:

24 Q. Right. The holding of your breath, can you tell
25 me how that --- what triggered that in your mind to do

1 that?

2 A. It just --- I just done it. I don't know what
3 provoked me to do it or anything. I just done it.

4 Q. How quickly did you get your SCSR on?

5 A. It didn't take me maybe 20 seconds, 30 seconds at
6 the most ---

7 Q. Okay.

8 A. --- to get my --- get it --- it was right here.

9 Q. Right.

10 A. Just pulled it out of my pouch, popped the lid,
11 grabbed the nozzle, pulled the plug out, stuck it in
12 my mouth, you know, reached down and activated it.

13 Q. Right.

14 Q. Did it kick in quickly, right away, or do you
15 remember ---?

16 A. Yeah. Yeah, it worked.

17 Q. Okay. It done exactly what they said it would do.

18 Q. Now, can you recall how long that force continued,
19 the duration of it?

20 A. I'd say anywhere from one to three minutes.

21 Q. Okay.

22 A. You know, it wasn't just a little poof and that
23 was it. I mean, it just keep coming and coming and
24 coming.

25 Q. Right. Was it a wind kind of thing?

1 A. Yes.

2 Q. And if you were comparing it to a strong wind, you
3 said it was a more hurricane type?

4 A. Right.

5 Q. Were there any secondary tertiary forces? Did you
6 notice it was all about the same?

7 A. All about the same.

8 Q. How large was the debris that was pushed in front
9 of it?

10 A. I don't know. Like I said, everything just went
11 black.

12 Q. Right. Okay. Do you recall who --- after you got
13 off the mantrip and made your way outby where you were
14 met?

15 A. I don't know where I was met at.

16 Q. Okay. And do you recall who met you?

17 A. Yeah. The president.

18 Q. That would be ---

19 A. Blanchard.

20 Q. --- Chris Blanchard?

21 A. Yeah. Chris Blanchard was there.

22 ATTORNEY JONES:

23 This is the first mantrip?

24 A. That was the first mantrip. Chris Blanchard and
25 there was --- there was about six people on the

1 mantrip. I can't tell you who all there was.

2 BY ATTORNEY MCATEER:

3 Q. Okay.

4 A. All I know, one of them was Chris Blanchard.

5 Q. And then the second mantrip?

6 A. The second mantrip come down. I don't know who
7 was driving it. You know, by then I was ---.

8 Q. Sure.

9 A. By then I was tore all to pieces. I couldn't
10 talk. I couldn't do nothing, just sit and cry.

11 Q. Thank you, Mr. Blake.

12 ATTORNEY JONES:

13 You indicated that hurricane --- it felt

14 like a hurricane. Did you have to brace yourself or
15 was you able to stay in the mantrip or did you ever
16 grab on and brace?

17 A. Well, the way the mantrip is, you know, I was
18 braced up against the side of it. The wind was coming
19 this way. The side of the mantrip was here, you know.
20 And they got a piece of steel about yay high, and I
21 braced up against that.

22 ATTORNEY BABINGTON:

23 So the piece of steel in the mantrip was

24 on your left side and the force was coming from your
25 right side?

1 A. Right.

2 ATTORNEY MCATEER:

3 Did your light go out at any time?

4 A. No, my light never did went out. It was just
5 covered up with so much dirt, I couldn't see.

6 ATTORNEY MCATEER:

7 Right.

8 ATTORNEY JONES:

9 You indicated a swirling. Did you
10 remember it swirling around you or just kind of keep
11 coming from one way and keep coming from that one
12 side, being your right?

13 A. It come down. And when I was trying to get
14 everybody --- you know, work on the one guy, it was
15 coming back up. So what went down come back on me
16 again.

17 ATTORNEY JONES:

18 But not as bad?

19 A. Not as bad, no.

20 ATTORNEY BABINGTON:

21 How much time passed between the initial
22 force and then the reverse force?

23 A. I don't know.

24 MR. SHERER:

25 Do you recall any booming-type sounds?

1 A. No.

2 ATTORNEY MCATEER:

3 Do you recall any color?

4 A. Any what?

5 ATTORNEY MCATEER:

6 The color of the material, what color was

7 it?

8 A. When I finally wiped my --- it was --- well, it

9 looked like float dust, ---

10 ATTORNEY MCATEER:

11 Okay.

12 A. --- is what it looked like.

13 ATTORNEY MCATEER:

14 But in general, was it black or did it

15 have a brown tone to it?

16 A. It had a brown tone to it.

17 ATTORNEY MCATEER:

18 And the force coming back, how long did

19 that last? You can't recall?

20 A. I can't recall.

21 ATTORNEY MCATEER:

22 But it was not ---

23 A. No, it wasn't.

24 ATTORNEY MCATEER:

25 --- anywhere near the kind of ---?

1 A. No.

2 ATTORNEY MCATEER:

3 All right.

4 A. No. I just had my rescuer on them, and I was
5 trying to help my buddies ---

6 ATTORNEY MCATEER:

7 Right. Sure.

8 A. --- then.

9 ATTORNEY MCATEER:

10 Thank you, Mr. Blake. That's all the
11 questions I have at the moment.

12 EXAMINATION

13 BY ATTORNEY JONES:

14 Q. Somebody touched on inspectors. You were alerted
15 on the section that inspectors were on the property.
16 How would you know that?

17 A. They'd call in on the mantrip --- on the mine
18 phone and tell us, you know, where the inspectors was
19 and where they was going.

20 Q. What would happen after that? Would your section
21 boss then give instructions to do certain things if
22 they were coming up in your section?

23 A. Right.

24 Q. Would they pull you off the roof bolter to start
25 doing certain things?

1 A. Yeah, we'd shut down and make sure everything was
2 right.

3 Q. And that was bolt --- hanging curtain and rock
4 dusting, all of that?

5 A. Hanging curtain, rock dusting, whatever we had to
6 do.

7 Q. How many times do you recall that you would have
8 had to come off your roof bolter and start doing that
9 based on the fact that inspectors were coming on your
10 section?

11 A. Every time they come.

12 Q. Ten? More than ten or ---

13 A. Yeah.

14 Q. --- a lot more than that or ---?

15 A. A lot more than that.

16 Q. Everybody would get pulled off of their equipment
17 on the whole section?

18 A. Right.

19 Q. Seven to eight men start --- a big flurry of
20 activity?

21 A. Right.

22 ATTORNEY BABINGTON:

23 Who would call out? Who would call out

24 saying that the inspectors were coming down?

25 ATTORNEY MCATEER:

1 Call in?

2 ATTORNEY BABINGTON:

3 That's right, yeah.

4 A. I don't know.

5 ATTORNEY MCATEER:

6 Did they use some terminology? Did they

7 say we have a guest or ---?

8 A. I don't know. all I know is the boss would say

9 we've got company coming making sure everything's

10 right.

11 MR. FARLEY:

12 Just for the record, the self-contained

13 self-rescuer would have been a CSC model; is that

14 correct?

15 A. CSCR.

16 MR. FARLEY:

17 Okay.

18 A. Yeah.

19 ATTORNEY MCATEER:

20 For the record, do we know whether that

21 CS is in the possession of --- SCSR is in the

22 possession of --- it's not in your possession?

23 A. No.

24 ATTORNEY MCATEER:

25 Okay.

1 A. No. When I got done with it, I throwed it on top
2 of the mantrip.

3 ATTORNEY MCATEER:

4 Okay.

5 BY ATTORNEY JONES:

6 Q. At the point the mantrip rescued you, you left it
7 in that immediate area, ---

8 A. Right.

9 Q. --- your self-rescuer? Okay.

10 A. I throwed it on top the trip. That's ---.

11 Q. Now, did you --- were you handed another one at
12 that time? When the first mantrip got to you, were
13 you handed another self-rescuer? Did you ever done a
14 second one?

15 A. No.

16 Q. Okay.

17 A. No, because the air was something like 18 percent,
18 you know.

19 Q. At the point the first mantrip ---

20 A. Right.

21 Q. --- came in your contact, the air quality was
22 good, that you didn't need a self-rescuer?

23 A. Right.

24 ATTORNEY MCATEER:

25 How would you know it's 18 percent?

1 A. Because the boss that was staying with me, his
2 methane detector.

3 ATTORNEY MCATEER:

4 Oh, okay. Who was that? Everett Hager?

5 A. No.

6 MR. SHERER:

7 Patrick Hilbert?

8 A. Yeah, Pat --- Pat was the one that stayed with me.

9 BY MR. JONES:

10 Q. Do you remember Mr. Whitehead on either mantrip
11 one or mantrip two?

12 A. Yeah, mantrip one.

13 Q. With Mr. Blanchard?

14 A. Right.

15 ATTORNEY MCATEER:

16 Do you remember whether Hager was with
17 them?

18 A. I didn't see him, but he had to be there. He was
19 there.

20 ATTORNEY BABINGTON:

21 On April 5th, during your shift, do you
22 remember anyone calling in saying that there was
23 company?

24 A. No.

25 ATTORNEY BABINGTON:

1 Do you recall the last time before April
2 5th that company came to you?

3 A. No. I don't remember nothing.

4 ATTORNEY BABINGTON:

5 But you do recall that every time company
6 did show up, you were given advance notice of it?

7 A. Right.

8 BY ATTORNEY JONES:

9 Q. You recall that Massey would --- the company would
10 send personnel into the mines at times to check for
11 rock dusting and various safety standards; correct?

12 A. Right.

13 Q. And I think you indicated that you always had
14 prior knowledge that they were coming before they got
15 there?

16 A. Right.

17 Q. So even though they were Massey safety people and
18 coming doing an inspection on the section, you all
19 knew before they got there they were coming?

20 A. Yes, sir.

21 ATTORNEY MCATEER:

22 Were these the rescue teams that did the
23 audits or ---?

24 A. Yeah, the rescue ---.

25 ATTORNEY MCATEER:

1 So they would come periodically to do
2 what is called safety audits?

3 A. Yeah.

4 BY ATTORNEY JONES:

5 Q. Would you all pull off of your equipment and start
6 rock dusting and hanging curtains the same way if the
7 company was coming, meaning inspectors?

8 A. Yeah, we would do the same thing.

9 RE-EXAMINATION

10 BY MR. SHERER:

11 Q. You indicated you had a methane spotter. Did you
12 take that home with you to charge up?

13 A. No.

14 Q. You charged it there at the mine?

15 A. We had a charger on the power center.

16 Q. Okay. Did you ever have to bolt without a methane
17 --- working methane detector?

18 A. No.

19 Q. How did you calibrate that unit?

20 A. The boss always took care of that.

21 Q. Okay. Thank you.

22 ATTORNEY MCATEER:

23 No further questions at this time.

24 ATTORNEY BABINGTON:

25 We're going to take just one last quick

1 break before the rest of the questions and then we'll
2 come back.

3 SHORT BREAK TAKEN

4 ATTORNEY BABINGTON:

5 Let's go back on the record. Erik?

6 BY MR. SHERER:

7 Q. Mr. Blake, I've got a couple follow-up questions.
8 When you guys were mining up on that tailgate section,
9 did they keep the curtain rolled up behind the miner?

10 A. Sometimes.

11 Q. About how far outby would that curtain be rolled
12 up?

13 A. Probably to the end of the boom.

14 Q. Did you ever see it rolled up any further than
15 that?

16 A. No.

17 Q. Now, we understand there was some --- it looked
18 like there may have been some curtains hung across the
19 return. Did you ever see that?

20 A. Across the return?

21 Q. Uh-huh (yes).

22 A. No.

23 Q. Near the mouth of the section?

24 A. No.

25 Q. Okay. Thank you.

1 MR. SHERER:

2 Do you have any more questions?

3 MR. FARLEY:

4 Just one.

5 RE-EXAMINATION

6 BY MR. FARLEY:

7 Q. You indicated that whenever State or Federal
8 inspectors were coming or whenever company auditors
9 were coming that you would receive advance notice and
10 that you would shut down and make things right, so to
11 speak. How much work did that usually involve? What
12 did you ---?

13 A. Hanging fly pads, you know.

14 Q. Would that be all the way across the section
15 or ---?

16 A. Just where the buggy boys tore it down.

17 Q. About how much time would you routinely spend on
18 that kind of work under those circumstances, if
19 there's an average?

20 A. Averaging anywhere from 15 to 30 minutes.

21 Q. And would that involve the whole crew?

22 A. Yes.

23 Q. Thank you.

24 RE-EXAMINATION

25 BY ATTORNEY MCATEER:

1 Q. Mr. Blake, the day of the explosion, when you left
2 the section, do you remember whether the doors were
3 closed or --- after you went through them?

4 A. Oh, yeah. We always stopped, opened the doors, go
5 through them, shut them.

6 Q. Right. Would that be your task or do you
7 remember?

8 A. Yeah.

9 Q. Okay.

10 A. Well, one, you know. whoever got there first.

11 Q. Right. Do you remember whether you did that on
12 that day or ---?

13 A. Yes, I opened and shut them.

14 Q. Okay. Mr. Blake, did you know Nate Jeter, ---

15 A. No.

16 Q. --- African-American fellow? Okay. did you ever
17 see him with the rock dust crew up there?

18 A. No.

19 Q. Okay. Have you received any contact from Massey
20 since the time of the accident?

21 A. They called and asked how I was.

22 Q. Okay.

23 A. That's --- you know, that's about the extent of
24 it.

25 Q. Do you remember who called or ---?

1 A. Chris Blanchard.

2 Q. Anybody else call you?

3 A. Gary May.

4 Q. Okay.

5 A. We used to work together.

6 Q. Right.

7 A. And he just called to see how I was.

8 Q. Okay. Any talk of going back --- did they ask you
9 to go back to work or ---?

10 A. No, they haven't asked me to go back or nothing
11 yet.

12 Q. Are you familiar with the injury reporting system
13 at the Massey operation?

14 A. Somewhat.

15 Q. Can you tell me how they report accident or
16 whether they report accident?

17 A. How they what?

18 Q. How they report accidents or whether they report
19 accidents.

20 A. Yeah, they report the accidents.

21 Q. Do they engage in a practice sometimes called red
22 shirting, where an injury occurs and they have the
23 person come back to work?

24 A. I haven't --- I haven't known of nothing like
25 that.

1 Q. Okay. Okay.

2 ATTORNEY MCATEER:

3 That's all the questions I have right
4 now.

5 RE-EXAMINATION

6 BY ATTORNEY JONES:

7 Q. You were asked about coming back to work. Do you
8 recall any time since this happened that you were
9 asked --- you were told that we'll find you something
10 to do if you're ready to come ---?

11 A. Oh, yeah.

12 Q. Who told you that? Tell them about that.

13 A. I'm sorry. Yeah, Chris Blanchard, when he called,
14 I told him I was trying to stay busy. He said he
15 would find me something to do at the mines if I wanted
16 to come down ---

17 ATTORNEY MCATEER:

18 Sure.

19 A. --- and stay busy, you know, working at the mines
20 on the outside. And I told him, no, no, I wasn't
21 coming nowhere near no coal mines.

22 ATTORNEY MCATEER:

23 Okay.

24 BY ATTORNEY JONES:

25 Q. He asked you a little bit about red shirting. I'm

1 not sure you've heard that time. I hadn't heard it.
2 But I think he was asking do you know of cases where
3 people get injured and Massey encourages to come back
4 to work, not doing their regular job but just coming
5 back to work?

6 A. Oh, is that what you mean?

7 ATTORNEY MCATEER:

8 Yeah.

9 A. Yeah.

10 ATTORNEY MCATEER:

11 Sorry. I'm from Fairmont, and we call it
12 red shirting up there.

13 A. Yes.

14 ATTORNEY BABINGTON:

15 I think they call that --- we've been
16 calling it light duty.

17 A. Light duty, ---

18 ATTORNEY MCATEER:

19 Right.

20 A. --- yes.

21 ATTORNEY MCATEER:

22 Do you know of any instances where that
23 happened?

24 A. Yes.

25 ATTORNEY MCATEER:

1 Can you describe any of those or ---?

2 A. Well, like I sawed my fingers up in a table

3 saw ---

4 ATTORNEY MCATEER:

5 Right.

6 A. --- and they told me, wrap it up, come on back to

7 work. Of course, I had stitches all in my fingers.

8 They said, come on back, we'll let you run a buggy.

9 So I did.

10 ATTORNEY MCATEER:

11 All right. Okay. I have a scar here. I

12 didn't miss any work either --- six stitches, but I

13 went right back to work. Okay.

14 A. I had nine stitches in one finger.

15 ATTORNEY MCATEER:

16 It just goes to show, you know. That's

17 all the questions I have right now.

18 RE-EXAMINATION

19 BY ATTORNEY BABINGTON:

20 Q. I just have one quick follow-up, kind of going off

21 what Terry said. You know, he was asking about what

22 kind of work you do --- you all did once an inspector

23 showed up. And Erik also talked about that in some

24 cases there was rolling of curtain of. Would you ---

25 was one of the things you would do when an inspector

1 showed up was to unroll that curtain?

2 A. Right.

3 Q. All right.

4 ATTORNEY BABINGTON:

5 We had marked up three documents. The
6 first one was a copy of the subpoena. That will be T.
7 Blake One. The second is a copy of the return
8 receipt. That will be T. Blake Two. And then we
9 marked up one of the Bandytown fan maps, and that will
10 be marked T. Blake Three.

11 On behalf of MSHA and the Office of
12 Miners' Health, Safety and Training, I want to thank
13 you for appearing and answering questions today. Your
14 cooperation is very important in the investigation as
15 we work to determine the cause of the accident. We
16 request that you not discuss your testimony with any
17 person aside from your personal representative or
18 Counsel. After questioning other witnesses, we may
19 call you if we have any follow-up questions. If at
20 any time you have additional information regarding the
21 accident that you'd like to provide to us, please
22 contact us at the contact information previously
23 provided.

24 If you wish, you may now go back over any
25 answer you've given during this interview and you may

1 also make any statement that you'd like to make at
2 this time.

3 ATTORNEY JONES:

4 Let me talk with him outside briefly
5 before we do that.

6 ATTORNEY BABINGTON:

7 Let's go off the record.

8 COUNSEL CONFERS WITH CLIENT

9 ATTORNEY BABINGTON:

10 Let's go back on.

11 ATTORNEY JONES:

12 Back on the record. Mr. Blake would like
13 to maybe elaborate a little bit on your questions, Mr.
14 McAteer, on the red shirting issue. We're going to
15 use your term now, sir. Go ahead, Mr. Blake.

16 A. I never heard that before. That's the reason it
17 threw me off.

18 ATTORNEY MCATEER:

19 I apologize.

20 A. I have a brother who works there still yet, and I
21 have a son that works there. My son, you know, hurt
22 his hand, and they wanted him to come back and stay in
23 the lamp house. You know, they called it light duty.
24 You know, they done that. You know, my brother broke
25 his leg and he come back before the doctor released

1 him, you know. And that's about the only statement I
2 got.

3 ATTORNEY MCATEER:

4 Can you remember the years of those
5 two ---?

6 A. No, sir, I can't.

7 ATTORNEY MCATEER:

8 That's all right. That's all right.

9 Thank you, Mr. Blake. Thanks for putting up with my
10 northern West Virginia language here. I'm sorry.

11 ATTORNEY JONES:

12 You've probably picked up on some of our
13 terms down here, too, that you've been here ---

14 ATTORNEY MCATEER:

15 I have been.

16 ATTORNEY JONES:

17 --- that you will take back with you in
18 your further travels.

19 ATTORNEY MCATEER:

20 I expect I will. Thank you.

21 ATTORNEY BABINGTON:

22 Is there anything else?

23 ATTORNEY JONES:

24 Nothing further. We don't have any
25 statement to make. We'll --- if we recall something,

1 we'll get back with this board and be glad to come
2 back before you if we learn or if we remember anything
3 additional other than what's been brought out today.

4 ATTORNEY BABINGTON:

5 Thank you. And Mr. Blake, thank you so
6 much for coming and talking with us.

7 * * * * *

8 STATEMENT UNDER OATH CONCLUDED AT 10:38 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

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