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Transcript of the Testimony of ^{(b)(7)(C) & (b)(7)(D)}

Date: ^{(b)(7)(C) & (b)(7)(D)}

Case:

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OF

(b)(7)(C) & (b)(7)(D)

taken pursuant to Notice by Alicia R. Brant, a
Court Reporter and Notary Public in and for the
State of West Virginia, The National Mine
Health & Safety Academy, 1301 Airport Road,
Room C-137, Beaver, West Virginia, on Tuesday,
(b)(7)(C) & (b)(7)(D) , beginning at (b)(7)(C) & (b)(7)(D) .

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

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P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is May 25th, 2010. I'm with the Office of the Solicitor, United States Department of Labor. With me is John Godsey, an accident investigator with the Mine Safety and Health Administration, 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 appearances for the record.

MS. SPENCE:

I'm Beth Spence with the Governor's independent team

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 Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today. John Godsey will be conducting the initial questioning. All members of the Mine Safety and

1 Health Act Investigation Team and all members of the
2 State of West Virginia Act Investigation Team
3 participating in the investigation of the Upper Big
4 Branch Mine explosion shall keep confidential all
5 information that is gathered from each witness who
6 voluntarily provides a statement until the witness
7 statements are officially released. MSHA and the
8 State of West Virginia shall keep this information
9 confidential so that other ongoing enforcement
10 activities are not prejudiced or jeopardized by a
11 premature release of information. This
12 confidentiality requirement shall not preclude
13 investigation team members from sharing information
14 with each other or with other law enforcement
15 officials. Your participation in this interview
16 constitutes your agreement to keep this information
17 confidential.

18 Government investigators and specialists
19 have been assigned to investigate the conditions,
20 events and circumstances surrounding the fatalities
21 that occurred at the Upper Big Branch Mine-South on
22 April 5th, 2010. The investigation is being conducted
23 by MSHA under Section 103(a) of the Federal Mine
24 Safety and Health Act and the West Virginia Office of
25 Miners' Health, Safety and Training. We appreciate

1 your assistance in this investigation.
2 You may have your personal attorney
3 present during the taking of this statement or another
4 personal representative if MSHA has permitted it. And
5 you may consult with your attorney or representative
6 at any time. Your statement is completely voluntary.
7 You may refuse to answer any question. You may
8 terminate your interview at any time or request a
9 break at any time. Since this is not an adversarial
10 proceeding, formal Cross Examination will not be
11 permitted; however, you may ask clarifying questions
12 as appropriate. For the record, do you have a
13 personal representative with you today?

14 (b)(7)(C) & (b)(7)(D) :

15 No.

16 ATTORNEY BABINGTON:

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

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

9 (b)(7)(C) & (b)(7)(D) :

10 I don't want my name mentioned unless it
11 has to be, if that's ---?

12 ATTORNEY BABINGTON:

13 Yes, okay. So for the record, we'll make
14 a note of --- we'll keep your identity confidential
15 for as long as possible.

16 MS. SPENCE:

17 To the extent provided by law.

18 ATTORNEY BABINGTON:

19 Yeah, to the extent provided by law.

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

1 Since we will be interviewing other individuals, we
2 request that you not discuss your testimony with any
3 person aside from your personal representative or
4 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 to
8 rephrase it. Please answer each question as fully as
9 you can, including any information you have learned
10 from someone else. I'd like to thank you in advance
11 for your appearance here. We appreciate your
12 assistance in this investigation. Your cooperation is
13 critical in making the nation's mines safer.

14 After we've finished asking questions,
15 you will have an opportunity to make a statement and
16 provide us with any information that you believe to be
17 important. If at any time after the interview you
18 recall any additional information that you believe
19 might be useful, please contact Norman Page at the
20 contact information previously provided.

21 Finally, any statements given by miner
22 witnesses to MSHA are considered to be an exercise of
23 statutory rights and protected activity under Section
24 105(c) of the Mine Act. If you believe a 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 Can we have a conversation off the
7 record?

8 ATTORNEY BABINGTON:

9 Off the record.

10 OFF RECORD DISCUSSION

11 ATTORNEY BABINGTON:

12 Just to clarify, we had a brief
13 discussion about the witness's request to have his
14 identity to be kept confidential. And the
15 understanding, if I'm correct, is that his identity
16 will remain confidential until the completion of the
17 investigation when the transcript would be released.

18 Is that how you understand?

19 (b)(7)(C) & (b)(7)(D) :

20 Yes.

21 ATTORNEY BABINGTON:

22 Okay. Terry?

23 MR. FARLEY:

24 Okay. (b)(7)(C) & (b)(7)(D) I want to also advise you,

25 in accordance with West Virginia State Law, you have

1 protection against discrimination. Chapters 22A
 2 Article 1, Section 2 of the West Virginia Code
 3 protects miners against discrimination from their
 4 employers when you testify in these type of
 5 proceedings and whenever they're exercising their
 6 safety rights, and I want to give you a copy of the
 7 memo which provides an address for the West Virginia
 8 Board of Appeals which hears complaints on such
 9 matters. This memo also includes my phone number
 10 along with a phone number for a gentleman named Bill
 11 Tucker, who's also the other leading investigator for
 12 the State. So if you have any problems, you can call
 13 him.

14 (b)(7)(C) & (b)(7)(D) :

15 All right. Thank you.

16 MR. FARLEY:

17 Yes, sir.

18 -----

19 (b)(7)(C) & (b)(7)(D) , HAVING FIRST BEEN DULY SWORN,

20 TESTIFIED AS FOLLOWS:

21 -----

22 EXAMINATION

23 BY MR. GODSEY:

24 Q. I just want to thank you for coming here today,

25 (b)(7)(C) & (b)(7)(D) Please state your full name and spell your

1 last name?

2 A. (b)(7)(C) & (b)(7)(D) .

3 Q. Your address and your telephone number?

4 A. You want physical or ---?

5 Q. Yes.

6 A. (b)(7)(C) & (b)(7)(D)

7 Q. And your telephone number?

8 A. (b)(7)(C) & (b)(7)(D)

9 Q. Are you appearing here today voluntarily?

10 A. Yes.

11 Q. Has anyone other than a government representative
12 interviewed you since the accident?

13 A. No.

14 Q. How many years of mining experience do you have?

15 A. Going on (b)(7)(C) & (b)(7)(D) .

16 Q. Just give us a brief description of what --- your
17 mining history for those four years.

18 A. (b)(7)(C) & (b)(7)(D)

19 (b)(7)(C) & (b)(7)(D)

22 Q. What other companies --- have you worked at UBB
23 all this time, or ---?

24 A. (b)(7)(C) & (b)(7)(D) .

25 Q. Okay. Where did you start at?

1 A. That's where I started.

2 Q. Upper Big Branch?

3 A. Yes.

4 Q. Okay. (b)(7)(C) & (b)(7)(D) ago. You said you are presently
5 employed?

6 A. Yes.

7 Q. Okay. Where is it?

8 A. (b)(7)(C) & (b)(7)(D) .

9 Q. What was the first part?

10 A. (b)(7)(C) & (b)(7)(D)

11 Q. And when did you start?

12 A. (b)(7)(C) & (b)(7)(D)

13 Q. Yes.

14 A. It was about two weeks after the explosion.

15 Q. What's your present job there?

16 A. (b)(7)(C) & (b)(7)(D)

17 Q. Now, all the following questions will pertain to
18 Upper Big Branch. It won't pertain to anywhere you're
19 working at now; okay? What was your first day of
20 employment at Upper Big Branch?

21 A. I know it was (b)(7)(C) & (b)(7)(D) . I don't know exactly.

22 I can't remember exactly when. I just know it was

23 (b)(7)(C) & (b)(7)(D)

24 Q. What was your first job assignment, do you

25 remember at Upper Big Branch?

1 A. (b)(7)(C) & (b)(7)(D) is what I

2 started out doing.

3 Q. What certifications do you have?

4 A. (b)(7)(C) & (b)(7)(D) and just a black hat.

5 Q. Do you have a certification for a foreman
6 certification?

7 A. No.

8 Q. What areas of the mine did you visit on the first
9 day that you were employed with Upper Big Branch?

10 A. Let's see. We went to Three North Head. We
11 shoveled at Three North Head and Two North Tail.

12 Q. Did you get a tour of the mine?

13 A. No.

14 Q. Do you remember who accompanied you or who was
15 your supervisor?

16 A. Who I was with?

17 Q. Yes.

18 A. Scott Halstead.

19 Q. And what was his job?

20 A. He was fire boss.

21 Q. Is that who you --- is he the one that directed
22 you that day?

23 A. Yes.

24 Q. Okay. Did you receive any training prior to being
25 assigned a job at UBB, Upper Big Branch?

1 A. They sent us through what they call MIT training.

2 Q. Do you remember who gave you the training?

3 A. I know Mike Vaught was there. That's the only one
4 that I know. There was like two or three of them but
5 I just remember Mike.

6 Q. Okay. Where did you receive this training?

7 A. At the office there at Performance.

8 Q. When was your last annual refresher training
9 received?

10 A. It was this year. I think it was March.

11 Q. Do you remember who gave the training?

12 A. We got through a big class. I mean, there was
13 like a bunch of different instructors.

14 Q. What was your job title on April 5th?

15 A. (b)(7)(C) & (b)(7)(D)

16 Q. What time did you arrive for your employment?

17 A. (b)(7)(C) & (b)(7)(D)

18 Q. Okay.

19 A. I worked that (b)(7)(C) & (b)(7)(D), and then I was off

20 (b)(7)(C) & (b)(7)(D), and I was supposed to go back

21 (b)(7)(C) & (b)(7)(D).

22 Q. What section did you work on?

23 A. (b)(7)(C) & (b)(7)(D).

24 Q. What portal --- what time do you usually get
25 there?

1 A. What time did I go in?

2 Q. What time did you arrive at the mine site?

3 A. Around (b)(7)(C) & (b)(7)(D) .

4 Q. And do you have a lot of conversations with your
5 other miners?

6 A. Yes.

7 Q. And does your foreman, does he ever give you
8 instructions prior to doing underground, what you're
9 doing that night?

10 A. No, not really. (b)(7)(C) & (b)(7)(D)

11 (b)(7)(C) & (b)(7)(D)

12 (b)(7)(C) & (b)(7)(D) on

13 the longwall on the headgate and then we would go ---

14 we just --- you know, (b)(7)(C) & (b)(7)(D)

15 (b)(7)(C) & (b)(7)(D) and go to

16 Headgate 22.

17 Q. Who was your last supervisor? Who was your
18 supervisor at Upper Big Branch?

19 A. The foreman on the section was (b)(7)(C) & (b)(7)(D) .

20 Q. (b)(7)(C) & (b)(7)(D)

21 A. Uh-huh (yes) .

22 Q. (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D)

24 A. Yes.

25 Q. Do you carry a spotter with you?

1 A. I carry the 3-gas Solaris.

2 Q. Solaris, okay. What portal --- do you all go from
3 outside to the section?

4 A. (b)(7)(C) & (b)(7)(D) over to the Ellis Portal.

5 Q. Okay. And you all come underground about what
6 time, you told me?

7 A. We would (b)(7)(C) & (b)(7)(D)

8 Q. How long would it take you to arrive on your
9 section, or the end of the track?

10 A. When we went to the Ellis Portal, anywhere from 20
11 to 35 minutes.

12 Q. Can you give a description of what the track was
13 like from a portal to the end of the section where you
14 got off like a rock dusting, do they have --- what did
15 the rock dusting look like?

16 A. When we left Ellis Portal and we would be going
17 in, you went, I would say, 20 to 30 breaks and then we
18 went --- the track and the belt line come together.
19 Now, that area stayed black a pretty good bit. I
20 mean, it was --- you could tell it had been rock
21 dusted from time to time, but I mean, it was mainly
22 black because you would have to take your time just to
23 be able to watch the track to make sure there wasn't
24 nothing on the track.

25 Q. Do you have a lot of velocity air on that area?

1 A. Yes.

2 Q. And which way was it traveling?

3 A. Outby. It was traveling towards the outside.

4 Q. Now, this was near the end of the 1st of April it
5 was like that, do you remember?

6 A. Yes. That area stayed like that.

7 Q. Did you all ever report it to anybody?

8 A. Yeah. They had one rock dust crew for the whole
9 mines, and they worked the hoot owl. And we hardly
10 ever seen them because they were always doing other
11 things instead of rock dusting like they should have
12 been. (b)(7)(C) & (b)(7)(D)

13 (b)(7)(C) & (b)(7)(D)

15 (b)(7)(C) & (b)(7)(D) rock duster go haul something for
16 somebody else, and they wouldn't get much rock dusting
17 done that night.

18 Q. You said (b)(7)(C) & (b)(7)(D) but rock dusting most
19 of the time?

20 A. Most of the time.

21 Q. Did your supervisor travel with you in the
22 mantrip?

23 A. Yes.

24 Q. And what did he say? Did he ever say anything
25 about the dust?

1 A. No, he never said anything about it. I mean, not
2 to us. I mean, I don't know if he ever said anything
3 to anybody else or not.

4 Q. What about accumulation that's just out --- I
5 mean, I guess you were speaking about float dust?

6 A. Yeah.

7 Q. Did you see much accumulation of coal or find coal
8 beneath the belt or beside the belt?

9 A. No. That area stayed well shoveled. They had one
10 guy that shoveled most of the time in that area.

11 Q. What about the rest of the way up? At the
12 transfer points and where they had airlock doors,
13 between airlock doors, did they have a lot of float
14 dust?

15 A. Are you talking like the airlock doors for the
16 intake or ---?

17 Q. If you went into the belt or anytime that you was
18 in an area where the beltline ran through an airlock
19 door?

20 A. That I'm aware of the beltline never ran through
21 airlock. I mean, other than, like you'd have like
22 block and you'd have doors, you know, man doors that
23 you go through. I don't know exactly what that's
24 called. I've heard it called a bunch of different
25 things.

1 Q. Okay. How about the CO monitors? Did you all
2 ever have any problems with your CO monitors going off
3 into alert or alarm?

4 A. They would go off from time to time. I mean, we
5 would have people go check them and reset them, you
6 know, as they went to them and checked them.

7 Q. What was usually the problem?

8 A. Never ---.

9 Q. Did you ever find out?

10 A. No. Just they would go off and they would go
11 reset them and everything would be fine. I mean, it
12 wouldn't, you know, go all the way down the line. It
13 would just be one certain one. It'd go off from time
14 to time and, you know, it'd switch around. It
15 wouldn't stay one constant CO monitor.

16 Q. Would you call that like a nuisance alarm?

17 A. We would --- like if we was on a section and the
18 one on the section tailpiece, you know, close to the
19 section tailpiece would be going off, they would call
20 up and have us go check it to see if there was
21 something wrong or if not we would reset it right
22 away. That's the only time I've ever fooled with
23 resetting one, and I mean, (b)(7)(C) & (b)(7)(D) ,

24 (b)(7)(C) & (b)(7)(D) .

25 Q. Oh, another question, did you have to call to get

1 the roadway?

2 A. Yes.

3 Q. Okay. And do they have block lining or like if
4 you go to Point A and it's clear and you may have a
5 green light and you get ahead at the next point and
6 have a red light where you couldn't travel on it?

7 A. No. We would have to call --- we would call from
8 the end of the track on the section and they would
9 give us a certain point like the mouth of the
10 longwall, and we would stop there and call, and if
11 there was something coming, we'd sit there and wait
12 and we'd get out of the way or, you know, whatever
13 needed, and then we would call after they cleared to
14 get the road on out and they would have like different
15 points. I mean, we've called from like 78 Break, at
16 42 Break, Ellis Switch, which is where it split off
17 and you'd go to Ellis Portal or go to the UBB side,
18 and we would call there. But like if we was coming
19 out, that was like the last place we would call until
20 we got outside and we'd call them to let them know we
21 was outside.

22 Q. Were you ever en route and you met a vehicle ---
23 mantrip coming on the track you was on, where he
24 wasn't supposed to be on there?

25 A. Yes.

1 Q. Did that happen very often?

2 A. I've had it happen to me quite a few times.

3 Q. Have you ever had an accident, anybody hurt or
4 anything like that?

5 A. Not that way, no. I mean, I know they had one
6 accident to where motor met a jeep, and the guy that
7 was on the jeep bailed off. I mean, if he would have
8 stayed on the jeep, then, yes, it would have been
9 pretty bad.

10 Q. Did he receive any injuries?

11 A. No.

12 Q. What about the ventilation controls from Ellis
13 Portal, the stoppings? Were they held or were they
14 maintained?

15 A. Like people checking them or ---?

16 Q. No. How were they constructed? Were they kept in
17 good condition, fair condition, poor, holes in them?
18 Were any of them getting weight crushing out?

19 A. No. There was --- right at Ellis Switch, which
20 would be what used to be called Four North Head, but
21 they extended the head on down but left the drive
22 units and everything in one right there where the head
23 was originally at. Right in that area there was some
24 stoppings there that we was having problems with
25 crushing out, but we --- well, I never done it, but

1 I've been through the stoppings there and they had
2 built another stopping on the other side of it, you
3 know, to --- I mean, it had the man door in the front
4 one and it'd be kind of crushing out, you know, had a
5 hole in and they would build one like behind it and
6 put another man door in it.

7 Q. What about the roof and the ribs in the floor in
8 the track?

9 A. Just on the track or ---?

10 Q. Yeah. On the track and belt, just on your way to
11 the section.

12 A. The roof and ribs was pretty good until we got up
13 next to the Glory Hole. When we got up next to the
14 Glory Hole, it was kind of bad conditions with the
15 top. There was one place up next to the Glory Hole
16 that they had dangered off because it was so bad. It
17 was just a crosscut that was dangered off.

18 Q. Did you ever find any methane up in that area?

19 A. At the Glory Hole?

20 Q. Yes.

21 A. Yeah. (b)(7)(C) & (b)(7)(D)

22 (b)(7)(C) & (b)(7)(D)

1 A. (b)(7)(C) & (b)(7)(D) somewhere in that area.

2 Q. Do you remember how much oxygen you had?

3 A. It stayed with 20.8 on ---.

4 Q. Did you ever feel any heat in that area?

5 A. Never felt any heat but it was always hot in that
6 area.

7 Q. Do you know what caused it?

8 A. No. I don't know if it was just --- we really
9 didn't have a lot of air circulating through that
10 area. I mean, it wasn't like a good breeze, you know
11 what I mean? I mean, it was moving, but not good
12 enough to kind of keep it cool.

13 Q. Comfortable?

14 A. Yeah.

15 Q. Okay. Let's go back just a little bit. When you
16 come on the track to the switch here, did you have to
17 go some airlock doors to get into the back?

18 A. Are you talking about the 78 Break Switch?

19 Q. 78 Break Switch.

20 A. When you went towards the longwall and the
21 Headgate 22, we would have to go through --- I call it
22 two sets of doors. I mean, it's --- there's two ---
23 you know, you go through one door, close it, and then
24 go to another door and open it. I call that a set.

25 Q. Have you ever, either going or coming, found the

1 doors open?

2 A. At one time we was having problems with the outby
3 set of doors. They would open theirselves. I mean,
4 they weren't on electronic jacks or anything at that
5 time. When we first put those doors in, it was on
6 electronic jacks but they finally gave out and they
7 just took them off and you had to manually open them.

8 Q. When was that, do you remember?

9 A. I'm wanting to say it was two to three weeks
10 before the explosion. Because we had gotten shut down
11 with production and everything and we had to work on
12 ventilation, and if I'm not mistaken, that's when the
13 air reversed on the longwall. The return air was
14 going outby instead of going inby to the exhaust fan.
15 We switched those doors around, and they stayed shut
16 then.

17 Q. Did you all --- I mean, I'm getting a little ahead
18 of myself, but did you all ever --- did any of your
19 fellow miners discuss what would happen if those doors
20 had been left open and you had a fire in that area,
21 about your escapeway?

22 A. Yes. I mean, if they got left open or got opened
23 somehow, the air --- I mean, the smoke would come into
24 our intake.

25 Q. Did you all ever discuss that?

1 A. Yes.

2 Q. Does it concern you all pretty good?

3 A. Yes. I mean, the --- (b)(7)(C) & (b)(7)(D)

4 (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D) . We need to
10 get the coal.

11 Q. Who told you that?

12 A. It came from Chris Blanchard is what I was told.

13 I mean, the mine foreman and the superintendent was
14 the ones that told us, we decided to put up doors.

15 Q. Who were they?

16 A. Rick Hodge was the superintendent at that time and
17 --- I'm sorry. The mine foreman didn't work that
18 vacation. It was --- Rick Hodge worked and we had
19 another boss where he had his boss papers that was
20 kind over top of us because they was a bunch of red
21 hats working on this. Mike Kiblinger.

22 Q. Did they explain to you why they wanted to go with
23 the doors instead of the overcast?

24 A. Need to get coal is all they said. I mean, they
25 said we'd come back and put overcast in later.

1 Q. Do they put production ahead of safety?

2 A. If you ask me, yes. Because at that time --- I

3 mean, that (b)(7)(C) & (b)(7)(D)

4 (b)(7)(C) & (b)(7)(D)

8 (b)(7)(C) & (b)(7)(D) . And to me, that was the main reason

9 they said we had to get in the coal. You know, that's

10 kind of what got discussed. You know, I overheard it

11 was because they wouldn't need no coal running unless

12 one section got in the coal.

13 Q. Did this happen anywhere else where you had some

14 kind of problem like that and they wanted to get back

15 in coal before you correct the problem on the sections

16 or longwall or anywhere in the mine, where they had

17 ordered you all to get back producing and then worry

18 about those problems later?

19 A. Once we got (b)(7)(C) & (b)(7)(D) , we come to the

20 tailgate, the One North Tailgate, and one section,

21 which was --- who was driving the Headgate 22, they

22 was moved down to drive the Headgate One North. And

23 when we got up in here we was having air problems. I

24 mean, both sections was having air problems and it was

25 low air, sometimes we wouldn't have hardly at all, I

1 mean, even to turn an anemometer. And we had a boss
2 --- we went up there one night and --- or one evening
3 and we was going to run coal and we couldn't get no
4 air on the section, so he shut us down, and we put
5 curtain over top of fly pads, we had tightened up
6 curtain as much as possible. We done a bunch of
7 different things with the curtain, you know, just
8 tightening it, putting more over top, like I said, the
9 fly pads and we still couldn't get air and they told
10 us not to worry about it, to get coal.

11 Q. Who was the foreman?

12 A. The one that was boss of us at the time?

13 Q. Yes.

14 A. They call him Hammer, Brian Collins.

15 Q. Do you know who told him to go ahead ---?

16 A. Go ahead and run coal?

17 Q. Yeah.

18 A. We had an evening shift mine foreman at that time.

19 His name was Randall Tolliver.

20 Q. Do you remember about what time frame this was?

21 A. Like date?

22 Q. As close as you can get it. I know you can't get
23 to the day.

24 A. They started wall September of '09. This was in
25 '08. That's about all I can tell you is '08. I don't

1 know exactly what month or anything like that.

2 Q. How did they correct the problem?

3 A. They never did. Not until we got drove up for the
4 Bandytown fan.

5 Q. So you're saying they mined from that point all
6 the way to Bandytown fan with a bad air problem?

7 A. Yes. We had low air problems all the time.

8 Q. Was it below regulation?

9 A. Yes.

10 Q. What section was that again?

11 A. It would be the Tailgate One North. They called
12 this Two section at that time. They hadn't come up
13 with the names like headgate and tailgate yet. They
14 just called this One section, Two section.

15 Q. Can you think of any other time that they put
16 production over safety? Like any of them, like the
17 Headgate 22 having low air and tell them to go ahead
18 and work?

19 A. We had low air all the time. I mean, we ---.

20 Q. How much are we talking about low air?

21 A. There was an inspector come up one night with us
22 and wouldn't let us work in the face anywhere. He
23 wouldn't let us pass the power center because he
24 couldn't get over 12,000. And we had the problem,
25 which --- I mean, in my opinion, was where they had

1 the doors set up for the intake on the track. Instead
2 of having the overcast, we would have what I would
3 call air spurges. You know what I mean? You can tell
4 when the doors was open and when you close them.

5 Q. Like fluctuation?

6 A. Yes. I mean, you'd --- he was getting frustrated
7 that night because he would go up there and get 9,000
8 and come back down to the power center and they would
9 holler outby and tell them that they needed more air,
10 that it wasn't working, and I don't know what they was
11 doing outby or whatever, but they would, you know,
12 talk back and forwards and they had one boss, one
13 outby boss that was telling the inspector that we was
14 allowed to run with 12,000. We didn't have to have
15 15,000, because the inspector was saying that we
16 needed 15,000 to even be in the face. And he had to
17 shut down the whole shift.

18 Q. Who was the foreman?

19 A. Kyle Anderson.

20 Q. Do you know at any time that a foreman or anybody
21 that would go outby and make ventilation changes
22 during a shift when you all had problems like that?

23 A. Not when we had problems like that, no.

24 Q. What time frame was this when they shut you down?

25 A. When (b)(7)(C) & (b)(7)(D) and

1 the first thing (b)(7)(C) & (b)(7)(D)

2 (b)(7)(C) & (b)(7)(D)

. I mean, you know, curtain

3 was under the fly pads, because we had low air

4 problems, like I said, and I would make sure, you

5 know, that it was ventilated right, which I never

6 hardly found anything other than like curtain being

7 down off the fly pads or something like that. I mean,

8 it wasn't nothing like ventilating the face and

9 curtain or anything, but I would do that. But that

10 night that's what I done and I was going back to the

11 power center and (b)(7)(C) & (b)(7)(D)

12 (b)(7)(C) & (b)(7)(D)

13 power center, the inspector was there, so it took us

14 35 minutes to get there. And I mean, that put us a

15 little after 12 at the end of the track. And we would

16 have to walk anywhere from, at that time, I'd say 15,

17 20 breaks to the section.

18 ATTORNEY BABINGTON:

19 And what date was that approximately?

20 A. Maybe around the end of March.

21 BY MR. GODSEY:

22 Q. Of this year?

23 A. Yes. Like the middle of March, end of March,

24 somewhere in that area. But we would walk up there

25 and I'd do that --- I'd say pushing one o'clock by the

1 time I done all that and got back to the power center
2 and he was at the power center, and that's when he
3 looked at us, I asked him, you know, how was he doing
4 and everything. He asked me what I've done and I told
5 him that (b)(7)(C) & (b)(7)(D)

6 (b)(7)(C) & (b)(7)(D)

7 (b)(7)(C) & (b)(7)(D) He said, just walking up through here I can
8 tell you all don't have enough air, and that's when he
9 --- he wouldn't let us up there and he went to check
10 the, you know, air reading and that's when he came
11 back and he knocked the power to the power center.

12 BY MR. FARLEY:

13 Q. Did you all have any methane up there?

14 A. Yes.

15 Q. How much did he find up there?

16 A. Myself or ---?

17 Q. No. The MSHA inspector or your supervisor, or
18 anybody, what's the most amount of methane that you
19 found on the section?

20 A. (b)(7)(C) & (b)(7)(D) percent and a half.

21 Q. What did you all do? Did you all continue to
22 work?

(b)(7)(C) & (b)(7)(D)

23

24

(b)(7)(C) & (b)(7)(D)

25

7 to the face because they always wanted us --- when we
8 got our equipment, they wanted us to put it back where
9 we found it. That way dayshift could come in and run
10 production. And ^{(b)(7)(C) & (b)(7)(D)}

(b)(7)(C) & (b)(7)(D)

11
12
13
14

15 see what was going on, and it was picking up .75. And

16 I ^{(b)(7)(C) & (b)(7)(D)}

17 (b)(7)(C) & (b)(7)(D)

18
19

20 power on my bolter and got the foreman, which was Kyle
21 Anderson. And we went back up there and we got like a
22 spurge of air, and at the time we got back up there,
23 it was down to .75.

24 Q. When was this? When did this happen? Recently?

25 A. Yes. It was this year. I mean, I don't know

1 exactly --- I'm not a good person --- because I was
2 working

3 (b)(7)(C) & (b)(7)(D)

4 Q. Do you know what the average ventilation at the
5 last open crosscut was on the section?

6 A. What, the air reading?

7 Q. Yes.

8 A. I don't know exactly what it was. I know that
9 they would call out like 15,000 to 16,000 on fire boss
10 books.

11 Q. How much did you all have to maintain?

12 A. MSHA wanted us to maintain 20,000.

13 Q. Did you do it?

14 A. No.

15 Q. What are the cuts that you all did up there?

16 A. They was only supposed to be taking 20 foot.

17 Q. What were they taking?

18 A. That's all I know is 20 foot. Because I mean,
19 when we would come in, they would later cut down it
20 would be 20 foot.

21 Q. Did (b)(7)(C) & (b)(7)(D) on your shift?

22 A. No.

23 Q. Have you heard anybody or seen one of the methane
24 monitors on the miner being bridged out?

25 A. No.

1 Q. Did you hear anybody talk about it?

2 A. No.

3 Q. What about the curtain? Do they keep the good
4 curtain up there on the section?

5 A. Yeah.

6 Q. And how many open breaks do they have usually,
7 two, three or four on the return?

8 A. Three --- there would be three open crosscuts in
9 Number One --- you know, from Number One and Number
10 Two. There would be three on belt move nights. I
11 mean, they would punch the third one through on belt
12 move nights. We would move belts that night, but
13 three is the most I've ever seen.

14 Q. After you belted it up, how far from the face was
15 the tailpiece?

16 A. On the belt moving nights?

17 Q. Yes. After you finished moving the belt up, ---?

18 A. After we moved?

19 Q. Yes.

20 A. I'm sorry. Sometimes we would put it --- I mean,
21 counting where the feeder was at, that'd be two open
22 crosscuts.

23 Q. Did you ever help setting the feeder in the
24 tailpiece?

25 A. Setting the feeder, I have. (b)(7)(C) & (b)(7)(D)

1 set the tailpiece.

2 Q. Have you ever been around when they were setting
3 the tailpiece?

4 A. Yes.

5 Q. How about drilling? How far do they drill down
6 the bottom anchor?

7 A. Three foot.

8 Q. Did you ever get any methane or anything out of
9 it, any methane coming out of the bottom?

10 A. Not that I'm aware of. I have had --- I mean,
11 (b)(7)(C) & (b)(7)(D) the bottom go to hooving on us
12 real bad.

13 Q. When was this?

14 A. That was maybe a week, two weeks before the
15 explosion.

16 Q. Did you have as much strange noise --- not strange
17 noise, but noise in the roof and the floors, stuff
18 during that time?

19 A. Like?

20 Q. Like working up high maybe?

21 A. I've been around longwall --- I don't know if you
22 ever been around longwall, but the top talks a lot
23 around longwall. And that night when the --- it
24 happened more than one night on the bottom hooving,
25 but there was one night (b)(7)(C) & (b)(7)(D)

1 hearing a noise. And at that time they was --- we was
2 going through an area where the rider seams ---
3 there's a bunch of rider seams coming together with
4 the coal seam, and they would cut it and then try to
5 get underneath it, but if they couldn't get underneath
6 it, they'd just cut it --- you know, cut it on down.
7 And that's kind of an area --- we had a fall on the
8 longwall around Thanksgiving, and that was kind of the
9 problem that we had there, you know, those rider seams
10 coming together. And they tried to bolt it to keep it
11 up that way and it didn't work and ended up falling,
12 so that's kind of what made me notice it.

13 (b)(7)(C) & (b)(7)(D)

18 (b)(7)(C) & (b)(7)(D) I mean, stuff was dripping off the top and
19 everything whenever you would hear it. And I would
20 watch the top and everything, and I couldn't see
21 nothing moving other than, you know, just small pieces
22 falling. And it finally quieted down and (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D) . Well, (b)(7)(C) & (b)(7)(D) up, we got
24 close to the feeder and we would eat lunch, say, 3:30,
25 four o'clock in the morning, and we would have our

1 buckets (b)(7)(C) & (b)(7)(D) . We'd walk around
2 to the back (b)(7)(C) & (b)(7)(D) to get our buckets in the
3 bottom and you could tell where the bottom had hooved
4 underneath the bolter, where the bolter was sitting at
5 that time.

6 Q. How much did it heave up? A foot?

7 A. That night I would say right at a foot. I mean,
8 just approximately.

9 Q. Did you get any methane out of it?

10 A. No.

11 Q. How about when you were drilling? When it comes
12 down to rider seams, did you ever get much methane
13 when you were drilling?

14 A. I never had any coming out of the hole, I mean, if
15 that's what you're asking.

16 Q. Yes. Was it usually that rider seam?

17 A. It would range anywhere from two to three foot. I
18 mean, you would have --- say, like I call it like bone
19 coal. I mean, it looks kind of wet coal, but it's, I
20 guess, more or less light. I mean, you can crumble it
21 in your hand. You would have coal and that for
22 probably two to three foot sometimes and then you
23 would hit sandstone.

24 Q. Okay. It's a pretty good seam up there above you?

25 A. Yeah.

1 Q. And you don't know whether it had any effect with
2 methane on it?

3 A. No. Like I said, I never got any --- never heard
4 any coming out of the hole.

5 Q. I'm going to change the subject a little bit. And
6 you've worked on the longwall being around it much?

7 A. I've been around longwall, yes.

8 Q. Okay. On this one?

9 A. Yes.

10 Q. At any time when you're advancing longwall that
11 the roof hung for any extended period of time before
12 it fell in behind a shield?

13 A. No. At the beginning when they started those ---
14 (b)(7)(C) & (b)(7)(D)

, and

16 I would talk to them all the time. And they was
17 talking about when they first started up, they hadn't
18 even moved two breaks and it fell, and they was
19 talking most of the time they would have to move
20 almost ten breaks and they'd have one big fall, and
21 then it would fall if they moved up from there on.
22 And they said with this longwall's panel that it fell
23 pretty quick.

24 Q. Did you ever know of a time that it fell like ---
25 you're talking about it hung for a while and put air

1 on the longwall, put methane on the face?

2 A. Not that I'm aware of. I mean, it stayed right
3 behind the shields.

4 Q. Okay. Before they started the longwall, did they
5 have much trouble with methane, getting it started?

6 A. On the longwall face or in behind the longwall?

7 Q. In behind the longwall before they start, you
8 know, ---?

9 A. Well, when they drove towards the Bandytown fan, I
10 heard them talk, that they had burned up two or three
11 detectors because methane went so high.

12 Q. Is that during September ---?

13 A. It was probably close to September.

14 Q. Of 2009?

15 A. Yeah. I mean, it may have been before --- I mean,
16 it was close to the time (b)(7)(C) & (b)(7)(D) the longwall
17 because they was trying to get everything drove up to
18 the Bandytown fan and get it drilled and everything
19 before the longwall started. So it was around that
20 time.

21 Q. Did they evacuate the mine when this happened?

22 A. I know the inspectors have pulled them back out
23 --- excuse me, they pulled them outby from the face.

24 Q. Well, did it take the inspectors to do it, the
25 company personnel wouldn't remove ---?

1 A. I never heard --- I mean, I didn't work up there
2 at that time, because like I said, (b)(7)(C) & (b)(7)(D)
3 (b)(7)(C) & (b)(7)(D)

5 Q. Staying on the longwall just a little bit, have
6 you had any problems on the --- was you there when
7 they drove up to Headgate Number One North? This
8 panel here.

9 A. On that section or ---?

10 Q. Was you working on there then?

11 A. (b)(7)(C) & (b)(7)(D) at that time, but I ---
12 after they drove up, say, right there for the longwall
13 face, we started at the mouth of the longwall panel in
14 the Number One entry, putting (b)(7)(C) & (b)(7)(D) and
15 stuff for the beltline crew for the longwall.

16 Q. And what's a monkey face?

17 A. That's where you put the chain in, hang the
18 structure.

19 Q. Okay. I got you. Do you know of any problem that
20 they had on the --- driving that One North Headgate
21 panel up, roof or water?

22 A. They started having problems with the water after
23 they got past where the longwall face was supposed to
24 be, yes. Around 80 Break is where the longwall face
25 started.

1 Q. But once they started the longwall, did they ever
2 encounter any problems with the roof or anything
3 anywhere that curtailed them from getting as much coal
4 as they normally been, or were they ever out of seam?
5 Were you aware of that?

6 A. They got out of the seam whenever --- like I was
7 telling you, those rider seams was coming together.
8 They got out of the coal a little bit then to stay
9 against the sandstone tops so they wouldn't have any
10 problems with the shields pushing or anything.

11 Q. Did the men try to push it --- try to hurry it
12 through that area where you were?

13 A. They would run it all three shifts at that time.

14 Q. How many days a week?

15 A. They run the longwall seven days a week. They had
16 three crews that would --- I mean, I guess an A, B, C
17 crew you want to call it. Say, A and B would work so
18 many days and then C crew would float A crew out and
19 they'd work so many days and then C crew would float
20 the B crew out, and A crew would come back, but they
21 like rotated. I mean, they didn't work like one solid
22 shift. They would work evening shift and dayshift. I
23 don't know how to explain it. I mean, they fixed to
24 where, you know, they would all work dayshift, you
25 know, so many days, you know, to have time with family

1 and stuff like that.

2 Q. Did any of the upper management above anyone at
3 Performance ever come up there and looked that you're
4 aware of?

5 A. At that time?

6 Q. Yes, when they were having trouble with the
7 longwall.

8 A. Not that I'm aware of. I mean, I heard people
9 talk about Chris Blanchard coming in to look at it,
10 but I never --- like I said, ^{(b)(7)(C) & (b)(7)(D)}
11 ^{(b)(7)(C) & (b)(7)(D)}

12 Q. And on March 9th, they had a pretty good
13 ventilation change on the longwall.

14 A. Yeah. That's when I was talking about the air
15 reversed and come outby on them.

16 Q. And I guess they had to change the air and put the
17 air instead of going outby, going inby?

18 A. Yes. It was supposed to go back to the Bandytown
19 fan.

20 Q. Do you know the reason why that was going outby on
21 the tailgate?

22 A. I never heard anybody say.

23 Q. How long did it take them to correct this problem?

24 A. The longwall was down for, I would say, two to
25 three days.

1 Q. Was the other sections running?

2 A. Let's see. No. They had shut us all down from
3 there inby.

4 Q. I mean, did they shut out the mine, the outby or
5 any of these other barrier panels or the sections
6 outby towards the Upper Big Branch?

7 A. Now, that I don't know. (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D)

10 Q. Okay. Before the --- when the air was going
11 outby, did you all have any problems with ventilation
12 on Headgate 22?

13 A. Before ---?

14 Q. While the air was going outby.

15 A. While it was going outby?

16 Q. Going outby. Did you all have any fluctuations or
17 any problems with ventilation on Headgate 22?

18 A. We always had low air. I mean, it was a constant
19 thing until after that night that the inspector shut
20 us down. They done a ventilation change in the area
21 of the mouth of Headgate 22. And they gave us a
22 little more air on Headgate 22, but that was --- March
23 is when they done that, I would say.

24 Q. Of 2010?

25 A. Yes.

1 Q. What effect did that have on your --- or what
2 would they do to correct that to increase your air?

3 A. That I don't know. I mean, I wasn't helping with
4 the ventilation change. (b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

5

(b)(7)(C) & (b)(7)(D)

6 and I asked them, I was
7 like, well, when are you all going to do this
8 ventilation change? And they said that they would
9 call us out before they started doing the ventilation
10 change, and that was (b)(7)(C) & (b)(7)(D) the
11 percent and a half of methane.

12 Q. Were you ever worried up there on that section or
13 had concerns for any fellow workers or be concerned of
14 being --- by working up there on 22 Headgate?

15 A. I mean, with like what?

16 Q. With the problems like they had or ---.

17 A. With the methane or low air?

18 Q. Either one.

19 A. We always talked about the low air. Like I said,
20 it was a constant thing with the low air problem until
21 they, you know, our air picked up then we never hardly
22 talked about it at all. (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D)

25 (b)(7)(C) & (b)(7)(D)

You know, I just

1 look at it as I was walking through. (b)(7)(C) & (b)(7)(D)

2 (b)(7)(C) & (b)(7)(D)

8 A. Sandstone.

9 Q. Do you know how thick the sandstone was above you?

10 A. It was the layered sandstone. There was one,
11 you'd get up so far and they was, I'd say, eight foot,
12 somewhere in that area.
(b)(7)(C) & (b)(7)(D)

13 (b)(7)(C) & (b)(7)(D)

14

15

16 Q. Did you ever have any falls up there or slick and
17 slides or any deformities in your roof?

18 A. Not that I'm aware of on Headgate 22, no.

19 Q. Okay. When the mine was running, and if you was
20 ever up there and hear anybody talking in the mine,
21 did they ever run the miner with the scrubbers on?

22 A. Not that I'm aware of. I mean, (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D)

24 I mean, they would
25 be shut down and meeting us in between the section at
the end of the track.

1 Q. Did they ever talk to you about having low air
2 while they were mining in the face where they were
3 cutting?

4 A. I never heard anybody talk to me about it. Like I
5 said, about the only guys that I ever seen was, you
6 know, just switching out. That's the only time I
7 really seen them guys after that and when (b)(7)(C) & (b)(7)(D)
8 (b)(7)(C) & (b)(7)(D)

9 Q. How many people were assigned --- how many workers
10 on Headgate 22? (b)(7)(C) & (b)(7)(D)

or ---?

12 Q. Well, on your shift.

13 A. (b)(7)(C) & (b)(7)(D) , let's see, there would be ten at
14 least.

15 Q. Is that including your boss?

16 A. Yes. That's including boss and electricians.

17 Q. Did you ever have conversations (b)(7)(C) & (b)(7)(D)

18 (b)(7)(C) & (b)(7)(D) about the problems up there? If you
19 had any concerns, asked you if you all was having the
20 same problem as they were?

21 A. Just low air. I mean, they talked about having
22 low air.

23 Q. Do you know anybody that was ever kind of afraid
24 to go to work up there? Anybody ever talk about it?

25 A. Not, you know, like afraid to go up there. Just

1 concerned with like the low air problems and having
2 methane from time to time.

3 Q. Have you ever had any real concerns about going
4 underground or anything on your shift or problems up
5 there?

6 A. I'll put it this way, I mean, myself, I thought
7 there was something going to happen for --- before the
8 longwall came when they was talking about having ---
9 when we all had the low air problems as we was driving
10 the headgate and tailgate. I always said something
11 was going to happen, but I never knew what, you know,
12 I never thought it would be something like this. I
13 mean, personally I thought it would be a roof fall,
14 you know, on a section or something against the guys.

15 Q. Did this surprise you, the accident?

16 A. It's surprised me with, you know, that it happened
17 like this. I mean, you know, like three crews. I
18 mean, you know, it surprised me like that. I always
19 thought it would be if they hit anything like that, it
20 would be, you know, just small ignition. I mean, I
21 never imagined it would ignite like this.

22 Q. Did you know --- ever been around or heard anybody
23 that had ignition on there?

24 A. No.

25 Q. What about along the longwall, have you heard ---

1 do they cut a lot of rock up there?

2 A. I know at one point they was on the tailgate side.
3 They was talking about the coal rolled. You know, the
4 coal seemed much smaller and they was cutting a lot of
5 sandstone.

6 Q. You might not know this, but did one shift cut
7 more rock than the other?

8 A. I'm not sure, because I know they talked about
9 when they was running the longwall, they would have
10 --- I don't know. Give me a minute here just to kind
11 of think of how to explain it. Like, one crew would
12 cut so much on the tail --- you know, when they make
13 their passes, one crew would cut all the way out on
14 tail so many times, but they would come like mid-face
15 to three-quarters of the face and then they would turn
16 around and go back towards the head to keep from
17 cutting so much rock to try, I guess, try to pick up
18 production to run more coal.

19 Q. You said you didn't work very much. Did you ever
20 hear of any kind of like little pops or anything,
21 while they were cutting it? Like pops in the face or
22 sparks or anything?

23 A. Not that I'm aware. I mean, I watched the wall
24 run quite a bit while it was up there, you know, when
25 they was running on the hoot owl, or like the evening

1 shift was still running, I'd go up there and kind of
2 watch it, because I mean, I was kind of amazed. It
3 had been the first time I'd ever been around longwall,
4 and I never seen any sparks.

5 Q. Did it have a ring of fire in it when they were
6 cutting sandstone?

7 A. Not while I was watching it. I mean, I never
8 heard anybody say anything like that.

9 Q. How about --- did you ever hear the tailgate ever
10 being blocked for roof falls or ---?

11 A. Not that I'm aware of. They was talking about
12 they was coming into some bad conditions at one time,
13 but that was --- like I said, where the rider change
14 was coming together, and I guess the pressure of them
15 pulling out, that they was having problems with the
16 top trying to fall.

17 Q. Have you ever had a chance to look at the overlays
18 above this mine?

19 A. I know ---.

20 Q. The mines above it, the Powellton seam?

21 A. I know --- they said that there was mines above
22 us, but I never got a chance to see the mine.

23 Q. What about water on longwall, did they have much
24 --- any water on ---?

25 A. At one point, yeah.

1 Q. Where was it coming from?

2 A. The top.

3 Q. Small amount, large amount?

4 A. If you would count the whole face, it was quite a
5 bit.

6 Q. Did they have any --- did they have any pumps, or
7 air pumps, or electrical pumps on the face, on the
8 walkway?

9 A. They had electrical pumps in between the shields
10 and the pans.

11 Q. Did they have one or two, or did they have ---?

12 A. At one point, I would recall maybe three. They
13 would kind of piggy back up from one to the other to
14 get it off the face.

15 Q. Do you know about where they were at when this
16 happened?

17 A. I can't remember if it was before Thanksgiving or
18 after. It was after Thanksgiving, so I would say
19 around December.

20 Q. And could you point out on the map, or show us
21 about where that was?

22 A. What's this mark here for, the red? The lines in
23 it there.

24 Q. I think it's a roof fall.

25 A. That's what I kind of thought, but I didn't see a

1 box stating what ---.

2 Q. That's two crosscuts inby 22930. It's the Number
3 Two entry on the One Headgate. Do you know of any
4 problems they had in that headgate entry back behind
5 the longwall face?

6 A. Like what?

7 Q. Like water on the roof.

8 A. Water, they had problems behind the wall water,
9 and at one time they was having problems with the
10 stopping line between Two and Three crushing out.

11 Q. Did you know if they ever had air blockage back
12 there?

13 A. Not that I'm aware of, no.

14 Q. Did you ever talk to anyone about the check
15 curtains across the headgate entries that directs air
16 across the longwall having good pressure on them, or
17 no pressure, or ---?

18 A. Every time I ever seen them, they've had a lot of
19 pressure on them, because they would sit sand jacks
20 --- more and less, I guess, using them like pogo
21 sticks, and behind the curtain to hold the curtain
22 down to push it across face.

23 Q. How much --- did you ever know how much air they
24 had going across the headgate?

25 A. I've heard, I'd say, 150,000. I mean, I've heard

1 more than that, but I can't really recall. I know it
2 was over 150,000.

3 Q. Do you know whether they used belt air for
4 ventilation up there?

5 A. No.

6 Q. Did you all use belt air on your section?

7 A. No. Say, the feeder would be setting in one
8 crosscut --- I mean, our intake come up Number Two
9 entry. Our belt come up Number One entry.

10 Q. Okay.

11 A. And we would --- say, like the power center was
12 setting in Number Two and there'd be, like, two ---
13 two open crosscuts in front of it. The feeder always
14 sat across from the power center. And the way that
15 they had the ventilation is it come up Number Two and
16 went over to --- they had it to where it would go over
17 to Number One, you know, with curtain fly pads. And
18 it would go up Number One and then it would, you know,
19 sweep across the section that-a-ways.

20 Q. Did you all have any battery chargers up there on
21 the headgate?

22 A. On which headgate?

23 Q. On headgate --- the present longwall headgate,
24 Number One North Headgate?

25 A. For the ---.

1 Q. Scoops or anything?

2 A. For the scoops and the haulers, yes.

3 Q. Where did they keep those at? Can you point on
4 the map where ---?

5 A. Last --- the last time I was on the wall, they was
6 inby this point here (indicating). I don't know
7 exactly what break that would be.

8 Q. Were they inby the longwall face?

9 A. No, they always stayed outby the longwall face.

10 Q. Okay. What entry were they in?

11 A. They would keep them in between Two and Three.

12 Q. And they all --- and you say they always kept them
13 outby?

14 A. Yes.

15 ATTORNEY BABINGTON:

16 And just to clarify on the map, you're

17 pointing to an area that looked to be ---?

18 A. I think it was, like, 28 Break. I mean, I bolted
19 this area here (indicating), because I bolted the
20 intersections from when we had the fall in the --- in
21 around Thanksgiving, which I was doing it before then,
22 but I bolted from then all the way down. Like I said,
23 around 28 Break, 29 Break, somewhere in that area is
24 the last time I was on the longwall.

25 BY MR. GODSEY:

1 Q. (b)(7)(C) & (b)(7)(D) ?

2 (b)(7)(C) & (b)(7)(D)

3 Q. Did you have a supervisor there then when you did
4 that?

5 A. Who stayed with us or ---?

6 Q. Yeah, and checked on you?

7 A. Yeah, he checked on us. I mean, he was constantly
8 walking to the face and he'd walk outby and back and
9 forth all night.

10 Q. Did you ever have any --- have any problems over

11 (b)(7)(C) & (b)(7)(D)

13 A. The ribs would pop out. I mean, you know, I guess
14 what I'm trying to say is, you know, once the longwall
15 would get so far to, you know, away from us, I mean,
16 you know, the pressure I guess, putting everything on
17 the blocks of coal, the ribs would roll out.

18 Q. Okay. Do you know how many methane monitors they
19 had on the longwall?

20 A. The only one I know is on the shearer.

21 Q. Do you know who all carried methane spotters up
22 there?

23 A. The shearer operators and the boss. He carried
24 the 3-gas Solaris (b)(7)(C) & (b)(7)(D)

25 Q. Has the longwall --- do you know what --- ever

1 hear of a gas off of one percent or more?

2 A. Not on this panel, no.

3 Q. Okay. On previous panels you had?

4 A. I think it --- I think it was Headgate 17 of when
5 they was there before. They had a problem with
6 methane. It gassed the whole mines out. They had to
7 wait until, you know, it finally gassed off.

8 Q. Okay. And that's been, that's been sometime ago?

9 A. Yeah. I mean, the guys that I work with had told
10 me about it.

11 Q. Have you ever heard of or anybody told you that
12 they continued to work on the longwall, running the
13 longwall while the methane monitor on the shearer or
14 tail or whatever was not operating?

15 A. I'm sorry.

16 Q. I mean, did anybody --- did you say, well, we ran
17 coal up on longwall all night and the methane monitor
18 was down, but they continued to work?

19 A. Oh, no. I've never heard of anything like that.

20 Q. Okay. Have you been on ---?

21 ATTORNEY BABINGTON:

22 It's been about an hour, so let's take a
23 quick break.

24 SHORT BREAK TAKEN

25 ATTORNEY BABINGTON:

1 Let's go back on. All right. We're
2 going to just have a couple follow-ups on what we've
3 talked about so far. Terry, you can go ahead.

4 EXAMINATION

5 BY ATTORNEY FARLEY:

6 Q. You were talking about a ventilation change in
7 March; right? (b)(7)(C) & (b)(7)(D) at the
8 time; is that right?

9 A. Uh-huh (yes).

10 Q. Okay. So (b)(7)(C) & (b)(7)(D) when the actual
11 ventilation change took place; is that correct?

12 A. They was in the process of making it. I mean, if
13 you ask me, it was, because I mean you could tell the
14 difference in the air.

15 Q. Yeah.

16 A. Because like I said, that's (b)(7)(C) & (b)(7)(D)
17 a percent and a half of methane.

18 Q. But you were actually underground on the 22
19 Headgate section when that occurred?

20 A. Yes, (b)(7)(C) & (b)(7)(D) .

21 Q. Okay. Now, let me back up.

22 A. But they --- I'm sorry. I would say it was around
23 (b)(7)(C) & (b)(7)(D) they told us to go outside, that they was
24 going to finish the air change.

25 Q. Okay.

1 A. I mean, so we did evacuate eventually that night,
2 but I mean, to me at that --- you know, the time that
3 we was up there, they was in the process of doing
4 stuff.

5 Q. Okay. You could feel ---

6 A. Well ---.

7 Q. --- changes in the air movement?

8 A. Yeah, I mean, I guess I could say it a little
9 better. When we got up there, the high voltage sign
10 that hangs from the top in front of the power center,
11 it was swinging back and forwards. And say, ^{(b)(7)(C) & (b)(7)(D)}
12 ^{(b)(7)(C) & (b)(7)(D)} I would say.

13 And I come down and the sign was still. I mean, it
14 wasn't moving at all.

15 Q. So the air movement ---

16 A. Dropped.

17 Q. --- was visibly changed ---

18 A. Yeah.

19 Q. Okay. --- prior to your evacuation? Okay. Now,
20 maybe I missed this, but ^{(b)(7)(C) & (b)(7)(D)}

21 ^{(b)(7)(C) & (b)(7)(D)}

22 A. I could show you the area that I was at. I can't
23 really remember, because ---.

24 Q. Was it last year?

25 A. I actually --- it was back before Thanksgiving,

1 because like I said, I^{(b)(7)(C) & (b)(7)(D)} on
2 the wall, because that's when we was coming through
3 that bad top. And they was talking about, you know,
4 it was starting to get pretty bad,^{(b)(7)(C) & (b)(7)(D)}
5 ^{(b)(7)(C) & (b)(7)(D)}

6 to try to hold it up and anything else that we would
7 see that might endanger anything. So it was back
8 before Thanksgiving^{(b)(7)(C) & (b)(7)(D)}

9 Q. Okay. Now, if I'm following you correctly, your
10 experience on 22 Headgate, is it fair to say that
11 ventilation problems was common knowledge there?

12 A. Yes. Now, I mean I was with,^{(b)(7)(C) & (b)(7)(D)}
13 ^{(b)(7)(C) & (b)(7)(D)} . I mean, when they
14 started, I went over there. I mean, like I said, like
15 I was saying earlier, at one point we was switching
16 back and forwards of^{(b)(7)(C) & (b)(7)(D)}
17 ^{(b)(7)(C) & (b)(7)(D)} , and then we would go over
18 on Headgate 22 section the^{(b)(7)(C) & (b)(7)(D)}
19 ^{(b)(7)(C) & (b)(7)(D)}

20 Q. Okay. But now, after this ventilation change in
21 March that we just discussed, ---

22 A. Uh-huh (yes).

23 Q. --- did the overall ventilation of 22 Headgate
24 section improve?

25 A. It improved some. I mean, it wasn't like --- I'll

1 put it this way. (b)(7)(C) & (b)(7)(D)

2 (b)(7)(C) & (b)(7)(D)

3 (b)(7)(C) & (b)(7)(D) I was wearing a T-shirt and ---

4 Q. Okay.

5 A. --- you know.

6 Q. All right.

7 A. I mean, it was --- you could tell the air change
8 --- you know, more air, but I mean, it wasn't like a
9 whole lot, you know?

10 Q. Okay. Now, I think you indicated that you saw
11 some bottom hooving on 22 Headgate about two weeks
12 before the explosion?

13 A. Two to three weeks, yeah.

14 Q. Okay. Now, was that in the face area or was that
15 outby somewhere?

16 A. The one night it was just in front of the feeder,
17 so I would say two to three breaks, if that?

18 Q. Okay. On the working section?

19 A. Yeah.

20 Q. Okay.

21 A. There was one night. I hadn't mentioned this yet
22 on the bottom hooving, since you're kind of back on
23 that subject, before I forget again.

24 Q. Okay.

25 A. There was (b)(7)(C) & (b)(7)(D) . It may

1 (b)(7)(C) & (b)(7)(D)

2 (b)(7)(C) & (b)(7)(D) . I can't really remember. It was somewhere,
3 you know, close together, the two times.

4 The electricians were working on the left miner
5 and it was next to the last open crosscut. It was
6 closer to the face, you know. It was kind of in
7 between the face and the last open crosscut. They was
8 working on the miner, but they had the maintenance
9 scoop parked in the intersection of the last open, and
10 the miner was sitting just on the inby side of it.

11 And we had heard things, you know, from the face
12 area all night long that some --- but they had a cut
13 down and where it was, the laminate sandstone, I
14 thought, maybe, you know, just the top was working a
15 little bit in that area. And we kept hearing things,
16 and all of a sudden --- I mean, I don't know exactly
17 what time it was or anything --- all of a sudden, all
18 three electricians come running with their bolter,
19 hollering, run.

20 So I mean, anybody --- it's instincts, you know.

21 You got three guys coming at you, running and telling
22 you to run, I (b)(7)(C) & (b)(7)(D) running
23 myself, because I mean it was talking so bad, I mean
24 you could hear it overtop of the machine running.

25 Q. And that's on 22 Headgate?

1 A. Yes. And after everything calmed down, we ---.
2 We was sitting at the feeder. Everything kind of
3 calmed down and it quit talking and we had walked back
4 up and I --- you know, (b)(7)(C) & (b)(7)(D)
5 (b)(7)(C) & (b)(7)(D)

. And we never
7 heard anything out of them or anything, but we got
8 (b)(7)(C) & (b)(7)(D) and
9 started back towards the face with it because they had
10 put the miner in the way where the bolter was sitting
11 at. And we walked up there and was just talking to
12 them because, you know, we all kind of talk, I mean,
13 throughout the night.

14 And we went up there and the bottom had hooved. I
15 mean, there was, like, a two-foot ledge there. I
16 mean, that's how bad the bottom had hooved. The miner
17 was sitting flat when they started working on it, and
18 after the bottom hooved, it was sitting at an angle.

19 And there was a waterhole in the face of one and
20 the water disappeared, but the bottom had hooved from
21 up in One all the way to Number Two, that I'm aware
22 of, that night. And like I said, I mean, there was,
23 like --- in the Number One entry there was, like, a
24 two-foot ledge where the bottom had hooved so bad.

25 Q. Okay. Now, can you give me an approximate date?

1 When did this happen?

2 A. It was in March. I'm thinking March.

3 Q. Okay.

4 A. Somewhere in that area. I mean ---.

5 Q. All right.

6 A. I mean, I don't know exactly what number that
7 would be. I mean, it's not marked.

8 Q. I can see a spad number there if you want to grab
9 a magnifying glass.

10 A. Let me see. Let me count here. I would say spad
11 number 24571, through that area to towards the face.
12 That's when we started having bottom hooving problems.

13 Q. All right. And this was major hooving, very
14 visible?

15 A. Oh, yeah.

16 Q. Okay. All right. Why don't we change directions
17 here? I think the (b)(7)(C) & (b)(7)(D) was Saturday,
18 April 3rd; is that right?

19 A. Yes.

20 Q. Okay. And you'd been (b)(7)(C) & (b)(7)(D) night?

21 A. Yes.

22 Q. Which would have been the Wednesday shift after
23 that, because that was your three-day weekend?

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

25 Q. Okay. In conversations with any of your

1 co-workers, are you --- have you learned that there
2 might have been a ventilation change sometime on April
3 4?

4 A. Nobody's ever said anything about a ventilation
5 change, no.

6 Q. All right, okay. All right. But was the longwall
7 usually idle on the midnight shift?

8 A. After we come to the top, it would --- as far as I
9 know, the longwall stayed idle on the hoot owl shift.

10 Q. Okay. All right. I think, ^{(b)(7)(C) & (b)(7)(D)} on
11 April the 3rd, ^{(b)(7)(C) & (b)(7)(D)} 22 Headgate. When was the
12 last time ^{(b)(7)(C) & (b)(7)(D)} the longwall area?

13 A. I'd say around --- like I said, I'm not real good
14 with ---. I know it was ^{(b)(7)(C) & (b)(7)(D)}
15 ^{(b)(7)(C) & (b)(7)(D)} maybe.

16 Q. ^{(b)(7)(C) & (b)(7)(D)} ?

17 A. Yeah.

18 Q. Okay. All right.

19 A. Like I said, ^{(b)(7)(C) & (b)(7)(D)} ,
20 I'm thinking either 28 or 29 right here (indicating).

21 Q. Okay.

22 A. I mean, it's ---.

23 Q. All right. So it'd been a few weeks since you'd
24 been down there?

25 A. Yeah.

1 Q. Okay. All right.

2 EXAMINATION

3 BY MS. SPENCE:

4 Q. I just had one question, sir. The time you were
5 talking about the problem with the methane that gassed
6 the whole mine out ---

7 A. Okay.

8 Q. --- on Headgate 17; is that right?

9 A. Uh-huh (yes).

10 Q. Do you know what time period that was,
11 approximately?

12 A. They said it was back in '98. I mean, I wasn't
13 working there, but I mean, guys that I was working
14 with, you know, the whole time I've been down there,
15 that was something big, you know? They said it
16 sounded like a jet engine sitting on the face,
17 running.

18 Q. And that was 1998?

19 A. I'm thinking that's what they said.

20 Q. Okay.

21 A. I can't really remember. I know it was Headgate
22 17, I think. I mean, I'm not --- it was somewhere in
23 that area.

24 MS. SPENCE:

25 Thank you. That's all I have.

1 EXAMINATION

2 BY MR. GODSEY:

3 Q. You talked about that when it was heaving up there
4 where it raised the miner up and all that. How did
5 you all do? Did y'all go back and cut the bottom?

6 A. I don't know exactly how they done that. I mean I
7 never --- we didn't do it. I mean, we didn't go back
8 and do anything like that.

9 Q. Did you talk to anybody?

10 A. I didn't talk to anybody that said anything about
11 doing that, no.

12 Q. What was the foreman's reaction to that?

13 A. I'm not sure. I mean, when he walked to the
14 face ---.

15 Q. When he saw it, what did he do?

16 A. He wasn't there. He wasn't on the section at that
17 time. He was outby. They would gather up their belt
18 moves on the hoot owl shift, and the hoot owl foreman
19 would come up, you know, fire boss the faces and
20 everything.

21 Q. Who did you all --- did you all report that to
22 anybody?

23 A. We let the dayshift know when they come in. I
24 mean, we told the boss and everything of dayshift.

25 Q. How much time frame was that between the time it

1 happened and the time you --- anybody was informed?

2 A. That was probably four o'clock in the morning, I
3 would say, that it happened. (b)(7)(C) & (b)(7)(D) ---
4 the dayshift would get up there about 6:30, I would
5 say. You know, in between 6:30 and 6:40, somewhere in
6 that area. And we told (b)(7)(C) & (b)(7)(D) about it. I mean ---.

7 Q. What was his reaction?

8 A. (b)(7)(C) & (b)(7)(D) I mean that's just --- (b)(7)(C) & (b)(7)(D)
9 That's (b)(7)(C) & (b)(7)(D) talked, and ---. He was like, (b)(7)(C) & (b)(7)(D)
10 (b)(7)(C) & (b)(7)(D) you know? And I mean, I don't --- like I said,
11 I don't know if they ever went back and done anything,
12 but I know when they took the maintenance scoop from
13 Number One, you know, taking it back outby to take it
14 off the section, you could hear the bottom crunching
15 back down all the way across to Number Two, and I
16 guess as they come out on Number Two --- you know,
17 coming back down Number Two because there wasn't no
18 open crosscut there between Two and --- Two and Three
19 that night.

20 Q. Did it do it down the middle entry, along the rib
21 or ---?

22 A. It started in the middle of the entry and went
23 towards the rib at the last open. Now, I mean, it
24 was, say, like, four foot off the rib. And when it
25 got to about middle-ways of the intersection --- yeah,

1 I mean, it's still coming down Number One. It come,
2 it come outby the last open in Number One, but when it
3 got to, like, midways of the last open, it kind of
4 went towards Number Two, also.

5 Q. What did it do to the ribs? Anything?

6 A. No, nothing that I'm aware of. I mean, I don't
7 know because I wasn't up there when it happened, you
8 know.

9 Q. Yeah.

10 A. And before it happened or anything took --- like I
11 said, they was up there working on the miners.

12 Q. Okay. You said a statement earlier that there was
13 an area up there that you was afraid of, or not afraid
14 of, that you watched constantly whenever --- do you
15 know where that was?

16 A. I don't know. I mean, it's --- is this
17 representing the tent? I mean, it's like a star
18 for ---.

19 Q. I don't see ---.

20 A. Because I mean they got one ventilation on here.

21 ATTORNEY BABINGTON:

22 I don't think so. Are you referring to
23 --- there's a star-shaped --- there's a star-shape
24 around spad ---.

25 MR. GODSEY:

1 74499?

2 ATTORNEY BABINGTON:

3 Yeah. Is that roughly the area?

4 A. I don't know. I was just kind of --- because I
5 mean, if I knew exactly where the fresh air tent was
6 at, that I could kind of go from there. That's the
7 reason I was asking what that would be. I mean,
8 there's one there and ---.

9 BY MR. GODSEY:

10 Q. Could that be the refuge?

11 A. That's what I was thinking. The air tent was what
12 we called them.

13 Q. Okay.

14 A. Fresh air base. Yeah. I would be somewhere in
15 that area around where the tent was at. I mean, it
16 may be outby, it may be inby. Somewhere in that area
17 is where I was thinking it was at.

18 Q. Did y'all have any water much on that section?

19 A. No. I mean ---?

20 Q. Like, local slags or water?

21 A. We had some problems with water. I don't know if
22 it was running the sprays too long or what it was. I
23 mean, we would have water --- closer to the explosion
24 time there was water in the face of One that kind of
25 stayed there, so I mean ---.

1 Q. And it was coming from ---?

2 A. I'm not sure.

3 Q. Okay.

4 A. I mean, I just know it accumulated in Number One.

5 I mean in, I'm sorry, Number Three. It stayed in

6 Number Three. That's where it was staying at.

7 Q. Okay. From the map of the Headgate 22, did you
8 see anymore heaving or any further problems up through
9 there?

10 A. No.

11 Q. Have you ever been on the Eight North section?

12 A. No, I've never been up there.

13 Q. How about on the Tailgate 22?

14 A. No. Well, when they first started driving up in
15 here (indicating) ---

16 Q. Uh-huh (yes).

17 A. --- down to Tailgate 22, I've been over kind of
18 like there at the mouth of this section.

19 Q. Did you hear, ever hear anybody talk about having
20 water much, any water problem on that section?

21 A. I heard that they had water coming on, yeah. I
22 mean I don't know where it was coming from or anything
23 like that.

24 Q. Did they say how much water it was? Did they have
25 to set pumps and stuff?

1 A. I've heard them set pumps, you know, pump it off
2 of the face.

3 ATTORNEY BABINGTON:

4 Just a quick, clarifying question.

5 Earlier you mentioned ^{(b)(7)(C) & (b)(7)(D)} ?

6 A. That was the boss on dayshift on Headgate 22.

7 ATTORNEY BABINGTON:

8 Would that be ^{(b)(7)(C) & (b)(7)(D)} ?

9 A. Yes. I couldn't put that --- I mean, I know his
10 real name and everything, but I couldn't really
11 picture it at the time. I'm sorry.

12 ATTORNEY BABINGTON:

13 No problem.

14 BY MR. GODSEY:

15 Q. Do you know of any other problems that you had on
16 Headgate 22 that we haven't talked about?

17 A. No, no. I mean, we've talked about the air
18 problems, hooving, methane and water. I mean ---.

19 Q. How many miners did --- continuous miners did they
20 have on the section?

21 A. Two.

22 Q. How many ^{(b)(7)(C) & (b)(7)(D)} are there?

23 A. ^{(b)(7)(C) & (b)(7)(D)}

24 Q. Did ^{(b)(7)(C) & (b)(7)(D)} of them the same
25 time ---

1 A. No.

2 Q. --- or did they ever run --- you ever hear of ---
3 did you ever hear of ---?

4 A. Not that I'm aware of, no.

5 Q. How about on Tailgate 22? Did you hear anybody
6 ever talking about running both miners at the same
7 time?

8 A. No.

9 Q. Okay. And you said you did work on the longwall
10 or been around the longwall?

11 A. Yeah.

12 Q. Did you ever see them have much cutting, torches
13 or welding up there?

14 A. When they would take slack out of the face chain
15 and out of the stage loader chain, they would use
16 torches and they'd cut the chain links to cut them out
17 and everything.

18 Q. Where would that most be done at, what part of the
19 longwall?

20 A. They done that on the headgate side, I mean, right
21 here (indicating) --- towards the stage loader. I
22 mean ---.

23 Q. In that vicinity.

24 A. Yeah, in the headgate entry.

25 Q. Did they have any procedures that they would go

1 through when they did do some cutting up there?

2 A. Other than taking the gas test. I mean, I ---.

3 Q. Well, what did they do when they had to do some
4 cutting up there? What would they do that you're
5 aware of?

6 A. They'd take a gas test and let the foreman at that
7 time know that they was going to be doing cutting.

8 Q. Did you know --- did you know if they ever, after
9 they finished up, looked for hot spots or any ---
10 water the area down or rock dust it and make ---?

11 A. They would water it down.

12 Q. Did you ever know if they ever did some cutting
13 where they may have left --- found maybe a small fire
14 there or something?

15 A. Not that I'm aware of, no.

16 Q. Have you ever discussed any safety concerns with
17 management that you had or other employees have had?

18 A. I had a discussion with the safety, the safety man
19 at one time about putting more First Aid boxes
20 throughout the mines. I mean, other than ---.

21 Q. Who was that?

22 A. Greg Raines. That was who it was at the time.

23 Q. Greg ---?

24 A. Raines.

25 Q. And he was a safety ---?

1 A. Yeah, he was the safety man at Performance at ---.
2 What it was, ^{(b)(7)(C) & (b)(7)(D)} and we was on the area that we
3 called Lower Branch and we didn't have a First Aid box
4 on the motor with us, and there was another crew on
5 Lower Branch, also, getting belt structure. And we
6 had come off Lower Branch and we run into them, and
7 they had a First Aid box on theirs, and that was the
8 only First Aid box that we could find for where I was
9 at to outside. And I mean, I discussed that, and then
10 after I discussed that with the safety director, I
11 guess, you would call him, they put First Aid boxes,
12 you know, the three First Aid boxes all the way
13 through the mines.

14 Q. What was his attitude toward that? Did he give
15 you, you know ---?

16 A. He didn't know that we didn't have First Aid boxes
17 on the mantrips and --- on some of the mantrips and
18 motors.

19 Q. Okay. You know that Massey has a safety number,
20 an 800 number?

21 A. Uh-huh (yes).

22 Q. Have you ever called that?

23 A. No.

24 Q. Have you ever called MSHA's hotline or know of
25 anybody that's called MSHA's hotline or Massey's

1 hotline?

2 A. No.

3 Q. Have you ever been told not to report an accident?

4 A. No.

5 Q. Do you know of anybody that has been told not to
6 report an accident?

7 A. No, not that I'm aware of.

8 Q. Are you familiar with the term light duty?

9 A. Yes.

10 Q. Did they have very many miners or people up at UBB
11 working on light duty?

12 A. (b)(7)(C) & (b)(7)(D)

16 Q. What was wrong? What accident you had ---
17 accident did you have?

18 A. (b)(7)(C) & (b)(7)(D)

1 (b)(7)(C) & (b)(7)(D)

5 Q. Where did it hit you?

6 A. (b)(7)(C) & (b)(7)(D) .

7 Q. What was the damage? Did it hurt you pretty bad?

8 A. I still have problems today. I mean, (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D) . I mean ---.

10 Q. Did you go to the hospital?

11 A. Yes.

12 Q. What did the doctor --- what did the doctor say?

13 A. They told me that (b)(7)(C) & (b)(7)(D)

14 (b)(7)(C) & (b)(7)(D)

18 , you
18 know, like sitting in an office answering phones or
19 something like that, it would be fine. But if they
20 wanted me to do anything else, come back to him and he
21 would put me off work.

22 Q. When did this happen?

23 A. It was (b)(7)(C) & (b)(7)(D)

24 Q. What did the company say when you went up and told
25 them that (b)(7)(C) & (b)(7)(D) ?

1 A. That was fine. (b)(7)(C) & (b)(7)(D)

2 (b)(7)(C) & (b)(7)(D)

3 Q. Did the company ever try to keep --- did they want
4 people to not go, have a lost workday and --- or just
5 if you get hurt, just come on back and we put them on
6 light duty? Was that kind of like a practice?

7 A. At one point, I mean, one of the guys that got
8 killed, Ricky Workman, he had a hernia. He got a
9 hernia working underground. And you know, he went to
10 the doctor and they put him on light duty until they
11 could do surgery on him and everything.

12 And they didn't want to let him do light duty, but
13 they kind of let him do light duty until surgery,
14 because I mean, once he had the surgery, he was going
15 to be off anyways. But they didn't want --- didn't
16 want to let him do it, but when I done it --- when I
17 got hurt, you know, they --- I went back and told them
18 everything and they said that would be fine.

19 And there was a lady working there, also. She had
20 broke her foot before that, and they put her on light
21 duty, and she was outside dispatching. And I mean,
22 she helped, you know, in the office and she dispatched
23 on the hoot owl.

24 Q. Do you know when this happened, about the time
25 frame of that?

1 A. I know it was (b)(7)(C) & (b)(7)(D) .

2 Q. About --- do you know how long?

3 A. I guess maybe a month, two months, something like
4 that. I mean, I'm not quite sure exactly, (b)(7)(C) & (b)(7)(D)
5 (b)(7)(C) & (b)(7)(D)

6 And the safety director told me to try to get light
7 duty and to come back to work to keep from having the
8 lost time accident.

9 Q. Who was that?

10 A. We went through three of them.

11 Q. Was it a Cornett?

12 A. I think it was Berman. I'm not quite --- I mean,
13 like I said, we went through three. I can't really
14 remember who it was at that time. I think it was
15 Berman, but he told me (b)(7)(C) & (b)(7)(D)

16 (b)(7)(C) & (b)(7)(D)

17 (b)(7)(C) & (b)(7)(D) you know? I'd
18 stay light duty.

19 And when I come in the next day and told the
20 superintendent, he kind of got upset about it, because
21 he said that Berman didn't run his coal mines, you
22 know? And which, you know, it didn't matter to me. I
23 mean, I could have went back and told them, you know,
24 they don't want me on light duty. You know, you have
25 to write me a --- you know, give me an excuse, saying,

1 you know, I can't work or whatever. And but he agreed
2 with it. He talked to Berman and agreed with it and
3 he said that that would be fine. (b)(7)(C) & (b)(7)(D)

4 (b)(7)(C) & (b)(7)(D) and then I went back underground.

5 Q. Did you say that was January?

6 A. (b)(7)(C) & (b)(7)(D) this year that was.

7 Q. Of (b)(7)(C) & (b)(7)(D)

8 A. Yes.

9 Q. Do you know of anybody else who had this happen to
10 them, that they had injured and instead of going on
11 lost time they just give them light duty to come back
12 and do dispatcher work or do clerk work or whatever?

13 A. As far as I know, they've been (b)(7)(C) & (b)(7)(D) .

14 Q. Do you know who all they were, the names?

15 A. (b)(7)(C) & (b)(7)(D)

16 (b)(7)(C) & (b)(7)(D) Can't remember who the other one was. He
17 hurt his hand is the only reason I remember. They had
18 him outside dispatching because he hurt his hand. He
19 bolted top. I can't remember his name, though.

20 Q. Who was the superintendent at the time?

21 A. Of my accident or ---?

22 Q. Yeah.

23 A. Which one, this year or ---?

24 OFF RECORD DISCUSSION

25 ATTORNEY BABINGTON:

1 Who's the superintendent?

2 BY MR. GODSEY:

3 Q. The one that --- the one that had the argument,
4 not the argument, that him and Berman or whatever had
5 talks about (b)(7)(C) & (b)(7)(D) and he said he didn't run
6 it in his mine.

7 A. Everett Hager.

8 Q. Are you aware of any oncoming shift that was
9 cancelled due to some kind of problem at the mine,
10 safety problem?

11 A. We would come in and we --- when the air reversed
12 --- I mean, I give that as an example. When the air
13 reversed, you know, we come in and it's how it
14 happened. We would come in and they would tell us,
15 you know, we got to do ventilation, work on
16 ventilation or something. And they would send part of
17 us home and keep part of us.

18 Q. Do you feel that Upper Big Branch had a handle on
19 ventilation? Do you think they knew what they were
20 doing?

21 A. No. I mean, it wasn't the part of knowing what
22 they was doing. There was too many of them trying to
23 work on ventilation. I mean, it was --- one person
24 would say, let's do it like this, and then the other
25 one would say, well, let's do it like this later. Or

1 you know, like, later on, you know, they'd have
2 another problem with ventilation and the other one
3 would say, well, let's do it this way and see if it
4 works or ---.

5 Q. Would you say that they just tried to patchwork to
6 it, just tried to fit the situation ---?

7 A. To keep running?

8 Q. Yeah.

9 A. Is that what you're saying? Yeah.

10 Q. Do you remember any time that during a shift that
11 you were sent home because of a ventilation problem or
12 a methane problem or any other problem?

13 A. (b)(7)(C) & (b)(7)(D) home a few times for a ventilation
14 problem. That was when --- I mean, it was the only
15 time that I can recall. I mean, it may have happened
16 more, but I remember this well. It's because before
17 this wall started up, we was --- we had six motors at
18 the time. We had got four of them with flatcars and
19 we was --- we'd go behind the wall. I mean, it was
20 before they started up or anything like that.

21 (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D) And they had had some inspectors come in that
24 morning that went to the wall, and whenever we got up
25 there to go in behind the wall to get them, they sent

1 us outside because they said the air wasn't right.

2 Q. Do you remember when this was?

3 A. It was back before September of '09. I mean, it
4 was ---.

5 Q. Okay.

6 A. It was right at the time the wall started, but
7 before the wall started.

8 Q. Did they have a --- what you're saying, are you
9 saying that they had a hard time starting the wall ---
10 starting the longwall and getting it going?

11 A. Well, I don't know exactly how to explain it. I
12 mean, it was before the wall was ready to start.

13 Q. Okay.

14 A. And they hadn't made the change to where the wall
15 --- like, for, like, the ventilation for the wall.
16 They hadn't made that change yet, but they had all the
17 wall set up. And they sent us outside. I mean, the
18 wall didn't start up, but even after that, I mean it
19 was a little while after that before the wall started
20 because they hadn't got the Bandytown fan running yet.

21 Q. Are you aware that when they started the longwall
22 up, they had a large --- a problem with dust where the
23 ventilation wouldn't control it, where they didn't
24 have the ventilation controls in place they needed
25 behind the longwall?

1 A. Was I aware of that?

2 Q. Yeah, anybody talk to you about that?

3 A. No.

4 Q. Well, I mean, I'll just ask you. Did you ever
5 hear that?

6 A. I mean, they said, you know, the wall was always
7 dusty, but I mean, they had --- I know before when
8 they was there they had special helmets that they had
9 bought for them because of it being so dusty.

10 Q. When was the last time that you traveled the
11 primary escapeway from your work position? Or have
12 you traveled it?

13 A. I have traveled it. It just --- I can't remember
14 exactly when.

15 Q. Was it in the past six months?

16 A. It was around the time of the wall starting up. I
17 mean, it may have been after the wall, and it may have
18 been before, because I remember, we walked in front of
19 the longwall.

20 Q. So you're saying the last time you'd walked the
21 primary escapeway is back before the longwall started?

22 A. Yeah, it was in '09.

23 Q. Have you ever ^{(b)(7)(C) & (b)(7)(D)} Headgate 22?

24 A. No. I mean, we --- at one time ---. I mean, I've
25 walked, say, from --- I mean, we was coming in at one

1 time right here at 29 Break on the Headgate One North.
2 And we would --- sometimes we would have to walk all
3 this right here. I mean, this part of the primary
4 escapeway, to get to the section. I mean, I've walked
5 that area. I mean ---.

6 Q. Okay. Let me ask you another question. How did
7 they get the air to the Tailgate 22? Do they put it
8 through a regulator, the intake to the section?

9 A. No, I don't know exactly how they have that set
10 up.

11 Q. Did they have any regulators in the returns or
12 anything? Were you aware of what headgates went to
13 the mouth of it?

14 A. They had a regulator for this overcast right here
15 (indicating). I don't know exactly ---.

16 Q. You're talking about the Number Two Entry or
17 Number, Headgate 22?

18 A. Well, it was in between Two and Three on Headgate
19 22. I think it --- they had this overcasts set up for
20 the Tailgate 22 Section, you know, to return.

21 Q. Was it right here (indicating)? Was it right
22 here?

23 A. It was in between this area, yeah.

24 Q. Okay.

25 ATTORNEY BABINGTON:

1 So around spad number 02 --- or sorry,
2 24127? Around there? This spad right there.

3 A. Yeah.

4 ATTORNEY BABINGTON:

5 Okay.

6 BY MR. GODSEY:

7 Q. Did you fully understand the ventilation of this
8 mine for the parts that you worked on? Was it ever
9 explained to you?

10 A. Why we was doing it like that or --- I mean, I'm
11 sorry?

12 Q. No, it was my fault. Did you really understand
13 the ventilation, how your section was supposed to be
14 ventilated?

15 A. I never understood exactly why they had it ---
16 they had the intake coming up, you know, to the Number
17 Two entry, but I never could figure out why they had
18 it returning to where it would go up towards the --- I
19 guess they called that the Eight North section. I
20 mean, they called it the head of North Eight, is what
21 I always called it.

22 Q. So are you saying that the return air came off the
23 Number Three entry of Headgate 22, came down and went
24 over into the --- going towards the Eight North
25 section?

1 A. That's what I was --- that's how it was explained
2 to me.

3 Q. Yeah. Okay. And you did say earlier that the
4 ventilation did concern you?

5 A. Yes.

6 Q. And/or the lack of it concerned you.

7 A. The lack of air, yeah.

8 Q. And did you feel the company had --- you may have
9 said this, but forgive me if I ask you again, but do
10 you feel they had complete control of the ventilation?

11 A. No. To me, they changed, tried to change the
12 ventilation too much to ---.

13 Q. Did they have anyone who was in charge of
14 ventilation, any one individual who was responsible
15 for the ventilation, ventilation changes?

16 A. Not that I'm aware, no.

17 Q. Have you ever been in the area between the
18 Headgate of --- I maybe asked you this earlier ---
19 Headgate Number One North and Tailgate 22?

20 A. Excuse me, huh?

21 Q. Have you ever been in this area right here between
22 the Headgate Number One North and the mouth of the
23 Tailgate 22 section in the near past?

24 A. When they first started up the Tailgate 22.

25 Q. Uh-huh (yes), yeah.

1 A. Excuse me.

2 Q. I may have asked you this. Was those airlock
3 doors in there then between the ---?

4 A. That would more or less separate Tailgate 22 and
5 the longwall; right?

6 Q. Right.

7 A. At that time, yes, because they was --- the
8 Tailgate 22 was getting their supplies from the
9 Headgate One North, ---

10 Q. Did you ever ---?

11 A. --- because they hadn't got the track laid yet.

12 Q. Did you ever find or hear of that, those doors
13 being left open?

14 A. No.

15 ATTORNEY BABINGTON:

16 To clarify, the doors you're referring to
17 are at around spad 23795?

18 MR. GODSEY:

19 Yes.

20 A. Well, these here (indicating).

21 ATTORNEY BABINGTON:

22 Okay.

23 A. I don't know exactly what number that is.

24 ATTORNEY BABINGTON:

25 Okay.

1 A. I can't really tell, because ---.

2 ATTORNEY BABINGTON:

3 Yeah, there isn't really one there. But

4 it's basically in the crosscut One entry closer to the
5 longwall panel ---

6 A. Yeah.

7 ATTORNEY BABINGTON:

8 --- from that spad number I previously
9 had said?

10 A. Yes.

11 BY MR. GODSEY:

12 Q. In your opinion or your thoughts, what is
13 management's attitude towards safety and production?

14 A. To me, he took production over safety.

15 Q. I think you told me that.

16 A. I mean --- well, wait a minute. What kind of, I
17 mean, management are you talking about? That's all.

18 Q. Upper B, Upper BB management?

19 A. I mean, like, upper management or, like,
20 superintendent?

21 Q. Either one. Superintendent, how was their ---?

22 A. The superintendent, he didn't take, you know,
23 safety over production, but the president ---.

24 Q. Okay. What about a president above?

25 A. I don't know above Chris Blanchard. I mean, I

1 don't know them. I really never heard from any of
2 them.

3 Q. Okay. Have MSHA and State inspectors ever
4 conducted examinations while you were working or had
5 been on a section? You told me earlier they had.

6 A. Yeah.

7 Q. Okay. Did you know they were coming?

8 A. No.

9 Q. No one ever called and ---?

10 A. Not until, not until he got there. I mean ---.

11 Q. Okay. Whatever you were on, did you ever hear any
12 other miners say that when an inspector was coming to
13 their section that they would be --- air would be ---
14 regulators would be adjusted to put air to another
15 section while the inspector was going there, State or
16 Federal?

17 A. Not that I'm aware, no.

18 Q. Did you have any second thoughts about talking to
19 a State or Federal inspector? I mean, did you think
20 that if you talked to me or someone that they may look
21 down on you or get on you for doing that or question
22 you why you were doing it?

23 A. No, I had one --- the one that just come up there
24 that night I was telling you about, he asked us
25 questions on, you know, how the top was and (b)(7)(C) & (b)(7)(D)

1 (b)(7)(C) & (b)(7)(D) like that. I mean, he would ask us
2 questions like that, and if we, if we thought the
3 ventilation problem was an ongoing thing. I mean,
4 other than that he really didn't ---.

5 Q. Were you afraid to talk to an inspector in front
6 of your supervisor?

7 A. No.

8 Q. Did you ever talk to a --- you said you did talk
9 to an inspector over safety concerns?

10 A. What do you mean? I mean ---.

11 Q. You said that you --- did you talk to ---?

12 A. Oh, yeah, he asked us if we was concerned about
13 the low air problems that, you know, it was an ongoing
14 thing.

15 Q. Any other section you been on where this happened?

16 A. That they ---?

17 Q. Where a --- I mean, an inspector was there and you
18 had a problem and you talked to him about it?

19 A. No.

20 Q. What was the workforce view of the --- thought of
21 the method of --- what does the workforce think of
22 management? That's Upper Big Branch management and
23 the management above them.

24 A. What, like, my ---?

25 Q. Superintendent Dan, and what did you think about

1 the Superintendent Dan? What was your attitude toward
2 them?

3 A. My fellow workers?

4 Q. All the workers that you talked to.

5 A. Like, superintendent and all them, they --- I
6 mean, we didn't --- nobody had a problem with them.

7 It was, like, president would, you know --- the
8 president would call and make decisions for the
9 superintendent, was more or less what happened. And I
10 mean, he was making us work, say, seven day --- I
11 mean, he made us work seven days a week. I mean, at
12 times. And a lot of us didn't like him because of the
13 way he tried to run things. I mean, it was working
14 vacations every year, every time they come around,
15 every Sunday. I mean, it was just ---.

16 ATTORNEY BABINGTON:

17 And to clarify, who is the president?

18 A. Chris Blanchard.

19 BY MR. GODSEY:

20 Q. Did you ever have a vacation cancelled?

21 A. Yes.

22 Q. When was it?

23 A. I didn't get a vacation one last year.

24 Q. For what reason?

25 A. Fourth of July, it was get the wall set up. That

1 wall had to be set up. And we got the wall set up and
2 it set for a long period of time before it could even
3 run because they didn't have the exhaust fan --- you
4 know, drove up to the exhaust fans yet.

5 Q. Who canceled your vacation?

6 A. I don't know what part of upper management it come
7 from, but Jack Roles was the one that told me I had to
8 work.

9 Q. Who was Jack Roles?

10 A. He was the longwall coordinator.

11 Q. How often are you searched for smoking laws?

12 A. I've been searched quite a few times. I don't
13 know, like, time frame or anything like that.

14 Q. Is it often, once a month?

15 A. Yeah. I mean, it's often. I mean, it didn't ---.

16 Q. Who does the search?

17 A. Kyle Anderson would do the search on us.

18 Q. Where do the searches usually take place?

19 A. Outside.

20 Q. Did you ever have any on the section?

21 A. No.

22 Q. Have you ever found smoking articles underground?

23 A. No.

24 Q. Has anyone you know of ever found any?

25 A. No.

1 Q. Is there anything else that I'm not going to ask
2 you today or Terry or anybody asked you that you need
3 --- that you may --- that you're aware of something
4 that we didn't ask you that you'd like to tell us?

5 A. Other than low, low dusting. I mean, you know,
6 like, low rock dusting, they didn't do a lot of it. I
7 mean, I think I mentioned that already.

8 Q. Yeah. We talked about float dust, talked about
9 Ellis Switch or Ellis ---?

10 A. Ellis --- it was on the Ellis Five belt is where
11 it was at.

12 Q. Okay. How many feet along that belt would you
13 guess that was, 100 feet, 200, 300?

14 A. Oh, I'd probably say it was ---.

15 Q. 500, 600?

16 A. Can I look at that map over there? I could tell
17 you more.

18 ATTORNEY BABINGTON:

19 Absolutely. Sure.

20 A. I would say approximately 4,000 to 6,000 feet.

21 BY MR. GODSEY:

22 Q. Close to a mile?

23 A. Probably.

24 Q. And it was that --- was it that way usually? I
25 mean, was it about every time you went in, you found

1 that?

2 A. Yeah.

3 Q. Is there any other condition like that that you're
4 aware of that I haven't asked you that they didn't
5 correct?

6 A. Not that they didn't correct, that I'm aware of.
7 I mean, that was the only belt line that we had that
8 was on the track entry at that time.

9 Q. I know you've had time to think about it. I guess
10 we all have. Have you thought of any, like --- how
11 the explosion --- how it occurred? Where'd it come
12 from?

13 A. I've thought about it. I mean, I really don't
14 know. I can't really pinpoint it because they said
15 that the wall was running at that time, that day. I
16 mean, it could have been ---. They could have hit a
17 gas pocket or something and hit that sandstone arch
18 that --- you know. But that big of an explosion, I
19 don't think that could happen. I mean, not for it to
20 be that big.

21 I mean, we had --- I mean, I'm trying to --- we
22 had seals. Like, I mean, you can see it. They was,
23 like, 15 sets of seals, I think, if not more. But as
24 I've heard is, they found the first crew around 42
25 Break. If I'm not mistaken, there was a set of seals

1 in that area, also.

2 I mean, it could have been seals leaking. I know
3 that they got, got a violation for air going the wrong
4 direction off of the seals from, I think it was, like,
5 set 15 to set 8. I mean, it could have --- I mean,
6 they could have been a seal bust and start leaking
7 that day or ---. I mean, there's so many seals in
8 that mine that it's really hard to tell.

9 Q. Do you know of any time or heard of any of those
10 seals giving crushing out or having problems with
11 them, maintaining their integrity?

12 A. They had problems with the seals at --- I call it
13 1 ---. It was around --- we had a spur at 128 Break,
14 which would have been on Three North at that ---. I
15 mean, I don't know exactly what they would call it. I
16 mean, it was --- Three North Belt used to run through
17 that area. I mean, you know, that vicinity that the
18 --- I mean the seals would be on ---. Like, if you
19 was going the inby in the mines on the left side, the
20 seals would be.

21 And we had a spur track at 128 Break, and they had
22 some problems out on the other seals. They had to
23 come in and --- they'd, you know, have them re-spray
24 them.

25 Q. Did you ever talk to the fire bosses who made

1 those seals or weeklys, or ---?

2 A. I did ^{(b)(7)(C) & (b)(7)(D)} to the Ellis Portal. I mean,
3 I was real good friends with them, because I'd work
4 --- I had to end up working with all the fire bosses
5 at one point on that side.

6 Q. Okay. Did you ever know anybody ^{(b)(7)(C) & (b)(7)(D)}
7 that --- a fire boss, or not fire boss, but who did
8 weekly examinations?

9 A. On the seals or ---?

10 Q. Or on anything weekly on their belts or belts,
11 airways?

12 A. Not on ^{(b)(7)(C) & (b)(7)(D)}. I mean, he would --- like,
13 if he had a doctor's appointment or something, the guy
14 that done the airways, he would come in and work,
15 like, on hoot owl so he could go to his doctor's
16 appointment, but he normally done it on dayshift.

17 Q. Do you feel that on a pre-shift that they did
18 adequate examination of the belt lines and the power
19 centers and all that? Did they have enough people to
20 do it?

21 A. No, they needed more. I mean, they got it done,
22 and as far as I know it was done right. I mean, I
23 trusted the fire bosses that was on my shift, you
24 know? They had --- didn't have enough fire bosses to
25 do a whole --- the whole mine, you know what I mean,

1 like it should have been.

2 Q. Right.

3 A. I mean, they was pressured for time. You know,
4 they would have to really rush to get it done.

5 Q. In other words, they didn't have --- they could
6 not do an adequate examination? Do you feel they
7 couldn't do an adequate --- with the time frame they
8 had, that they could do an adequate ---?

9 A. Not like they should have. I mean ---

10 Q. Well, you said that ---.

11 A. --- I'm not saying, I'm not saying the fire
12 bosses, you know, wasn't doing their job of doing what
13 they was supposed to do, you know? They would have to
14 --- what I'm trying to say is they have to do it so
15 quick, you know, I don't --- they may have missed
16 something from time to time, just what I was trying to
17 say, yeah.

18 Q. In other words, they just went --- they did this
19 ---. They went through it, like, in motions to get it
20 done?

21 A. I mean, it wasn't like that. I mean, they would
22 check everything, but I mean, they would have to go
23 through and do it so quick. I mean, they may have
24 missed something. I mean, you know --- it's just
25 because they was so short-handed.

1 Q. All right.

2 A. And if they didn't get it done in enough time,
3 they got jumped onto because production would be held
4 up or, you know, something would happen, you know,
5 like the dayshift couldn't come in or --- I mean, it
6 had happened quite a few times of them not getting
7 everything fire bossed in time. And dayshift would be
8 late being able to come in, because when I was on
9 dayshift, you know, we sat outside for a certain
10 amount of time waiting on them to do it, you know?

11 Q. What did the management say to the fire bosses
12 when they were late and didn't get done in time?

13 A. They'd just jump onto them and tell them they need
14 to pick up the pace to get it done.

15 Q. Did they ever go to work without getting the full
16 --- the mine completely pre-shifted?

17 A. No, not that I'm aware of. I mean ---.

18 Q. But they could have done a better job, you think?

19 A. Yes. If they had more fire bosses they --- I mean
20 it could have been done a lot better.

21 Q. Is there anyone else that you can think of we
22 could talk to that could maybe give us some
23 information about this accident?

24 A. No. I mean, not now, no.

25 Q. Well, if you think of someone, appreciate it if

1 you'd might let them know. Has anyone offered
2 anything or made any promises to you in exchange for
3 appearing here?

4 A. No.

5 Q. And I asked you earlier, did this accident
6 surprise you?

7 A. Did it surprise me? I mean, this big of a deal,
8 yeah, but I've said it for a long period of time that
9 something was going to happen. I just didn't know
10 what it was.

11 Q. And you said earlier something about there was a
12 crosscut or something at Glory Hole that dangered off.
13 Do you know when that was?

14 A. I don't know when they dangered it off. I mean, I
15 just know from where I worked up in that area, I seen
16 it. You know, they had tape.

17 Q. But it was dangered off?

18 A. Yes.

19 Q. Did you ever hear of anyone getting down in that
20 area over low oxygen or any condition in there that
21 they had to go rescue them out?

22 A. No.

23 Q. And you said earlier that the Jeep hit a motor and
24 stuff. Do you know about when that happened?

25 A. Gosh, that's been a long time ago. Not exactly,

1 no.

2 Q. And you may have told me, but just exactly how did
3 that happen?

4 A. The road was gave --- you know, what I'm calling
5 the road, you know, it was ---. You know, they said
6 that the track was clear for the motor to come out and
7 they was a jeep coming in. And I don't know if the
8 dispatcher just overlooked, you know, didn't really
9 realize, you know, that he was still on the track or
10 what. They had gave the road to the motor to come out
11 and the jeep was coming in.

12 Q. So ---?

13 A. What it was is they come around the curb. The
14 jeep had come around the curb and the motor was coming
15 up straight, and about the time, you know, they kind
16 of seen each other and the guys bailed off the jeep
17 and ---.

18 Q. That could have been --- that could have had a
19 serious accident, then?

20 A. Oh, yeah. Yeah, I mean, it destroyed the jeep to
21 where they couldn't fix it.

22 Q. Okay. And you said earlier that (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D)

24 A. Uh-huh (yes).

25 Q. How long did you work (b)(7)(C) & (b)(7)(D) ?

1 A. The first time, probably two to maybe three
2 months.

3 Q. When was this?

4 A. (b)(7)(C) & (b)(7)(D) .

5 Q. Did they give (b)(7)(C) & (b)(7)(D) --- did ya'll
6 have the AMS system in, the CO monitors and all that?

7 A. We had the CO monitors.

8 Q. Okay.

9 A. What do you call them?

10 Q. Atmospheric monitors. You know, CO sensors or if
11 they had a fire it would, you'd get alerted five or a
12 alarm ---?

13 A. Yeah. We had that.

14 Q. Okay. Did you ever have any time that while you
15 (b)(7)(C) & (b)(7)(D) that it went into alarm?

16 A. (b)(7)(C) & (b)(7)(D) time that I can remember. I mean ---.

17 Q. And you'd never --- what was the cause of it?

18 A. They went and checked the area and couldn't find
19 nothing because we had to --- every time one went off,
20 we would have to get ahold of somebody to go check it
21 and we would have to log it down on paper, that ---
22 you know, who checked it and who reset it.

23 Q. Did you ever --- I'm not trying to put you on the
24 spot or anything, but did you ever call ahead when a
25 --- if an inspector come on the property there, did

1 you ever call the sections and tell them that there
2 was an inspector out there?

3 A. No.

4 Q. Were you ever instructed to do that?

5 A. No.

6 Q. Okay. Did you ever hear any --- while you were
7 dispatcher, you're always on the phone or something,
8 you know. You're really their central guy. You know
9 what's going on underground for relaying information.
10 Did you ever hear of any, anything that upper
11 management --- maybe a call? Not the mine management.
12 I'm talking about the one above them, corporate,
13 whatever, call and tell, give directions for a section
14 to get back on coal, or in case of --- because of a
15 safety problem?

16 A. They would call and asked, you know, how
17 production was going, and I would tell them and they
18 --- if something happened, you know, one had low
19 footage or something, they'd kind of get upset and
20 they'd asked why and that would be it. I mean, they
21 never instructed me to tell them to get back in the
22 coal or anything.

23 Q. Did you know who that was?

24 A. I mean, I've had --- I don't know, remember
25 exactly who it was because they would be the

1 vice-president, president. They would be quite a few
2 people call every night.

3 Q. Did the CEO ever call you?

4 A. No.

5 Q. The main man over ---?

6 ATTORNEY BABINGTON:

7 To clarify. Who is the vice-president?

8 A. James Ferguson at the --- at that time when I was
9 dispatching, that's who it was.

10 MR. GODSEY:

11 Bear with me just a little bit.

12 ATTORNEY BABINGTON:

13 How about we take a quick break?

14 SHORT BREAK TAKEN

15 MR. GODSEY:

16 All right. Let's go back on.

17 BY MR. GODSEY:

18 Q. Okay. You said earlier that you had a fire boss
19 that you trusted?

20 A. I trusted the ones on my shift, yeah.

21 Q. Who were they?

22 A. One was ^{(b)(7)(C) & (b)(7)(D)}

23 Q. What's his name, now?

24 A. Allman. I don't know exactly how he spells it.

25 Q. Okay. Who was the other one?

1 A. (b)(7)(C) & (b)(7)(D)

2 Q. Okay.

3 A. And there was one more. I mean, it was ---
4 sometimes you'd have two; sometimes you'd have three.
5 I mean I can't remember who the third one was at that
6 time.

7 Q. Okay. And earlier you said that when you were up
8 there and that you had a problem in the section and
9 you all took off running and electricians were coming
10 at
11 you; ---

12 A. Uh-huh (yes).

13 Q. --- do you remember who they were?

14 A. The electricians?

15 Q. Uh-huh (yes).

16 A. (b)(7)(C) & (b)(7)(D)

17 Q. Now, where did you stop? How far did you run?

18 A. Me or ---?

19 Q. Everybody.

20 A. Well, the electricians right around probably, I'd
21 say three --- almost three breaks. We stopped at the
22 feeder. I'd run probably about a break. And you
23 know, we all kind of stopped and turned around and
24 looked to see what was actually going on.

25 Q. Been there, done that. About how long did you

1 wait before you went back up there?

2 A. We sat there probably 30, 45 minutes, you know,
3 kind of listening to it, and then it finally just
4 calmed down completely.

5 Q. Okay. And what did you do the rest of your shift?
6 Did you go back up or ---?

7 A. (b)(7)(C) & (b)(7)(D) . I mean, like I
8 said, I was real (b)(7)(C) & (b)(7)(D) . I mean, it
9 didn't happen close to me. It was up there and I ---.

10 Q. Okay. I think you've answered just about some of
11 these. Have you ever worked on a motor crew?

12 A. On a motor crew?

13 Q. On the motor crew here?

14 A. Yes.

15 Q. Did you ever bring a motor through the airlock
16 doors we were talking about earlier?

17 A. Yes.

18 Q. Did you all disconnect your flatcars and stuff or
19 did you bring the whole unit through at one time?

20 A. Myself, yes. I mean, I'll be truthful with you.

21 Q. You left them open?

22 A. We didn't leave them open. I mean, we was hauling
23 the shields and we would go through the first --- you
24 know, the first two, and the motor in front of --- you
25 know. And the head motor, he would open up the second

1 set and we'd, you know, go through and I'd shut ---

2 I'd shut them behind us.

3 Q. Was that normal practice, though ---

4 A. When we first ---.

5 Q. --- for everybody?

6 A. When we first started hauling shields, yes, and we
7 didn't do that, but maybe a day and we got ---. What
8 it was is we was --- it's a downhill slope right there
9 (indicating) where the doors are at. And I'd never
10 hauled shields and the guy that was with me never
11 hauled shields. And we had a boss that traveled with
12 us at that time, and he would ride the head motor and
13 he would open the doors up and, you know, we'd come
14 through and he would shut them. But if he wasn't with
15 us, you know, I would do it, you know.

16 Q. Who was he?

17 A. Timmy Davis.

18 Q. That was your --- that was the foreman that was
19 with you?

20 A. He was the boss that was with us, yeah. But I
21 mean we never actually left them open for a long
22 period of time, but we got --- it kind of relieved us,
23 you know, the upper management, you know, like,
24 superintendent and all them. They kind of looked at
25 us and told us, you know --- they knew what we was

1 doing and they told us that we didn't need to do that.
2 And it kind of scared us to go through one at a
3 time because of the doors. We didn't want to knock
4 them down and get in major trouble, because they have
5 fired people for running through the doors. And we
6 didn't want to take that chance, you know, of losing
7 our job. And they told us if we knocked them down,
8 you know, we'd replace them after that, you know.

9 Q. Do they have the --- well, you worked as a
10 dispatcher. Is there any way on the surface that they
11 can monitor where the longwall is mining the sections
12 or mining --- when they're down?

13 A. Other than the boss calling out, no.

14 Q. What about water pressure? Can you look at the
15 water pressure and tell whether the sections are
16 running?

17 A. No.

18 Q. How often did upper management --- well, I'm
19 talking about the superintendents go underground and
20 below --- you know, and below him?

21 A. Like the superintendent's mine foremen?

22 Q. Yeah.

23 A. They was underground all the time that I know of.
24 I mean, unless they --- the only time that they didn't
25 come underground is if they had a meeting that they

1 had to go to or something like that.

2 Q. Okay. I want to ask you one last question, and
3 this is just a rumor I've heard. Did anyone --- did
4 you ever see anyone or anybody talk about having to
5 hide to eat lunch?

6 A. Hide to eat lunch?

7 Q. Yeah, afraid to be seen by management?

8 A. Not that I'm aware of. I mean, I've eaten lunch
9 in front of them before. They walked up on me and my
10 bolt partner quite a few times, us being --- eating
11 lunch.

12 MR. GODSEY:

13 Okay. I believe that's about it.

14 ATTORNEY BABINGTON:

15 Terry, you got ---?

16 MR. FARLEY?

17 I have two.

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. A while ago, I think, someone asked you what you
21 thought might've happened in the accident, and you
22 said that they said the wall was running at the time.
23 Who was they?

24 A. Just people that had worked that day, and you
25 know, that may ---.

1 Q. But nobody in particular?

2 A. No. I mean I've heard it from quite a few people
3 that worked that day. They said that --- well, I mean
4 I can give you ---

5 Q. Anybody you ---?

6 A. --- the information there. No, not right off.

7 Q. Okay.

8 A. I mean, not right offhand. I mean, I can't name
9 nobody that's told me that.

10 Q. Okay. You also indicated that you were dispatcher
11 for a while. Was that on the midnight shift?

12 A. I dispatched on the evening shift, yeah. The time
13 that I dispatched for the two to three months, I
14 dispatched evening shift.

15 Q. Okay. Now, if you're a dispatcher, you're by the
16 phone; right?

17 A. Yeah.

18 Q. And you hear all the calls coming in and out of
19 the mine; right?

20 A. Yes.

21 Q. Did section foremen routinely call out production
22 reports?

23 A. Yes.

24 Q. Okay. What did they normally say? What did that
25 report involve? Would it involve, we've mined X

1 number of feet, X number of cuts? What did they
2 routinely say?

3 A. They would tell you how much footage they had run
4 so far, how many shuttle cars. And if there was down
5 time, like, you know, if a miner went down, feeder
6 went down, belts went down, they would turn in.

7 Q. Okay. How often during the average shift do they
8 call out with that report?

9 A. Well, once the wall started up, they was calling
10 out every 30 minutes.

11 Q. Okay. Did they do that every shift, every day?

12 A. Yes. Yes, every ---- any time they was running
13 they was calling out every 30 minutes.

14 Q. Okay.

15 A. And I mean, when they would call out just for the
16 wall, we would have to fax that report every 30
17 minutes.

18 Q. Okay. When they called those production reports
19 out, who took that report?

20 A. I would. I mean, the dispatcher ---.

21 Q. Did you write it down?

22 A. Yes.

23 Q. Okay. Did you write it down every shift, every
24 time they called?

25 A. Yeah, every 30 --- well, when I dispatched when

1 the walls was running, it was every hour. But they
2 moved it to every 30 minutes that the wall would call
3 out on production, because they --- I don't know
4 exactly what the reason was that them needing it every
5 30 minutes on the evening shift. I mean, dayshift was
6 30 minutes and then the evening shift would be an
7 hour, and then they switched it on for --- you know.

8 Q. After you wrote it down, what did you do with it?

9 A. I would fax it to president and vice-president.

10 And at the end of the shift, you know, when they
11 called out their final report, I would fax it to the
12 office. You know, I'd fax it to all three of them,
13 you know, at the end of the shift, but every 30
14 minutes it was president and vice-president.

15 Q. Was it the dispatcher's job on every shift to
16 collect this information?

17 A. Yeah. Well, dayshift the purchasing agent would
18 take dayshifts unless, like, on Sundays, the
19 dispatcher would if the ---.

20 Q. Okay.

21 A. I mean, if the purchasing agent wasn't working
22 like on a Saturday, the dispatcher would take on
23 dayshift.

24 Q. Okay. Do you know who the purchasing agent was on
25 the dayshift?

1 A. Greg Clay.

2 Q. Greg Clay.

3 MR. FARLEY:

4 All right. Thank you very much.

5 RE-EXAMINATION

6 BY MS. SPENCE:

7 Q. I just have one. Did Massey have any kind of a
8 stop smoking program to keep tobacco out of the mine?

9 A. Not that I'm aware of. I mean, we didn't smoke
10 around the mines or anything, but ---.

11 Q. There wasn't any kind of program?

12 A. Not that I'm aware of, no.

13 Q. Okay.

14 MR. O'BRIEN:

15 Thank you.

16 ATTORNEY BABINGTON:

17 Okay. On behalf of MSHA and the Office
18 of Miners' Health, Safety and Training, I want to
19 thank you for appearing and answering questions today.
20 Your cooperation is very important in the
21 investigation as we work to determine the cause of the
22 accident. We request that you not discuss your
23 testimony with any person aside from your personal
24 representative.

25 After questioning other witnesses, we may

1 call you if we have any follow-up questions that we
2 have to ask you. If at any time you have additional
3 information regarding the accident that you'd like to
4 provide to us, please contact Norman Page at the
5 contact information previously provided to you.

6 A. Okay.

7 ATTORNEY BABINGTON:

8 If you wish, you may now go back over any
9 answer you've given during this interview. You may
10 also make any statement that you'd like to make at
11 this time.

12 A. I don't have anything.

13 ATTORNEY BABINGTON:

14 Okay.

15 A. I mean, not that I can think of or anything right
16 now.

17 ATTORNEY BABINGTON:

18 I think we've covered just about
19 everything, but ---.

20 A. Yeah.

21 ATTORNEY BABINGTON:

22 All right. Again, I want to thank you
23 for your cooperation in this matter. Off the record.

24 * * * * *

25 STATEMENT UNDER OATH CONCLUDED AT 8:15 P.M.

1 STATE OF WEST VIRGINIA)
2)

3
4

CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

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

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

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



20
21
22 *Alicia R. Brant*
23
24
25